



# Oregon

John A. Kitzhaber, MD, Governor

## Department of Human Services

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To: Christina Hartman  
DD Rules and Policy Analyst

From: Kimberly Colkitt-Hallman, Administrative Rules Coordinator  
Aging and People with Disabilities and  
Developmental Disabilities

Subject: Hearing Officer's Report  
*November 19, 2014 Rulemaking Hearing for  
ODDS - Community Developmental Disability Programs*

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The purpose of the hearing was to take public testimony regarding the proposal of the Department of Human Services (DHS), Office of Developmental Disability Services (ODDS) to update the rules in OAR chapter 411, division 320 for Community Developmental Disability Programs (CDDPs).

The proposed rules:

- Make permanent temporary rule language that became effective on July 1, 2014;
- Incorporate the general definitions in OAR 411-317-0000, align the definitions with ORS 427.005, clarify adaptive behavior and adaptive behavior assessments, update the definitions to reflect correct terminology, and include definitions for terms created by the temporary rulemaking;
- Implement Senate Bill 22 by updating the rights of individuals and providing a uniform dispute resolution process by incorporating the complaint, Notification of Planned Action, and hearing rules adopted in OAR chapter 411, division 318;
- Modify and clarify eligibility for developmental disability services to provide clear direction to eligibility specialists and mirror federal regulations and statutory intent. Specifically, the rule changes:

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- Clarify adaptive behavior, the adaptive behavior assessments that may be used to determine developmental disability eligibility and level of care, and who may perform an adaptive behavior assessment;
- Clarify intellectual disability and the documentation required if an individual is not able to participate in an intellectual functioning assessment due to profound intellectual disability;
- Specify that a General Abilities Index score may be used in place of a Full Scale IQ in the event a qualified professional determines the General Abilities Index score is more valid than the Full Scale IQ;
- Include "motor impairment" in the list of conditions, diagnoses, or syndromes for which adaptive impairment may not be primarily attributed to;
- Clarify developmental disability, including specifying that "other developmental disability" may not be a motor impairment;
- Clarify determinations for children less than 7 years of age, including using a physician's statement only if a formal assessment is not available and using the school aged requirements to determine eligibility for children who are at least 5 years of age and who have had school aged testing completed; and
- Adjust timelines for the application process and clarify the criteria for a completed application;
- Correct language associated with financial eligibility for services and bring the rule into closer compliance with the Community First Choice 1915(k) state plan by:
  - Recognizing that assistance with OSIPM and OHP Plus are appropriately identified as case management services; and
  - Eliminating certain timeframes for activities that are not able to be accomplished as currently written. The changes will allow for greater flexibility in meeting the overall expectations for timely access to services;
- Require exit of an individual unavailable to participate in service planning due to incarceration;
- Require that appropriate placement setting options are offered prior to entry and transfer as described in ORS 427.121;
- Assure compliance with the Community First Choice 1915(k) state plan by:

- Assuring a Level of Care determination is completed;
- Assuring a functional needs assessment is completed; and
- Assuring federal requirements associated with person-centered planning occurs consistent with CFR 441.540;
- Require that individuals participate in the assessment process;
- Incorporate the requirement for individuals of working age to have a Career Development Plan attached to their Individual Support Plan (ISP);
- Require that an ISP be provided in a format and language understandable to an individual;
- Comply with case management monitoring requirements found in the Community First Choice 1915(k) state plan by requiring a case management contact at least once every three months;
- Require a plan of improvement within 45 days of a compliance review conducted every two years;
- Reflect new ODDS terminology and current practice; and
- Correct formatting and punctuation.

### **Public Testimony**

No one testified at the rulemaking hearing on November 19, 2014.

### **Written Comments**

#### **Lincoln County Developmental Disabilities, Kathleen Alexander, Eligibility Specialist – Exhibit #1**

The written comments provided by Ms. Alexander are summarized in Attachment A.

#### **Clackamas County Developmental Disabilities Program, Stacie Mullins, Eligibility Specialist – Exhibit #2**

The written comments provided by Ms. Mullins on behalf of "Metro Eligibility Specialists" are summarized below.

OAR 411-320-0080 incorporates a requirement that documentation for children less than 7 years of age must not be more than 3 years of age. Ms. Mullins and the other specialists feel this requirement should not apply to young children. Ms. Mullins states that children 0-5 years of age, regardless of ability, develop and learn at a much faster rate than adults and school-age children. Ms. Mullins says children with developmental

disabilities are assessed using standardized testing, and those tests are compared to those of non-disabled same age peers. Ms. Mullins says it is "a known fact" as disabled children age, the gap in cognitive and adaptive functioning between them and their non-disabled peers increases, which causes scores to go down over time.

Ms. Mullins says the rate of development for young children happens so quickly an assessment completed at 6 months may not represent functioning at 12-18 months, and will not accurately represent the child's functioning at 3 years of age or later. Ms. Mullins says there have been many instances, since the rules became effective, where specialists are faced with screening young children who seem to have severe to profound developmental delays, but assessments done in the last 3 years do not support eligibility for the child's current level of functioning. Ms. Mullins states that specialists are not necessarily able to find a provider willing to test young children, some counties are seeking new testing which has led to an increase in administrative exam costs for a population specialists have not previously sought testing for, and some counties are just denying eligibility based on the rule change. Ms. Mullins states before the rule change, there was flexibility to use a physician's statement to make young children eligible in situations where standardized testing would not have been required again until school-age eligibility needed to be determined.

Ms. Mullins states that aside from the fiscal impact of more testing, seeking evaluations on young children goes against other proposed rule changes that recommend "delaying re-determinations for young kids until age 9 in order to avoid excessive testing." Ms. Mullins and the other specialists do not think advocates or the public is aware of what is occurring or the impact it has had. Ms. Mullins states the specialists did not see it coming and provided four examples that highlight the issues they are facing with this rule change.

The first example is a child 2 years and 10 months of age that was diagnosed with a genetic syndrome at 6 months and is experiencing profound delays in all areas of functioning. The syndrome is known to be associated with severe to profound developmental delays and the child's current primary care physician and developmental pediatrician have verified these delays in a physician's statement. The delays are also noted heavily in current medical records, but the child had standardized testing at

2 months (before diagnosis of the syndrome) and the assessments did not indicate significant delays. Standard Early Childhood testing has not been updated since the child was 2 months. Before the rule change, specialists could have used the physician statement to make the child eligible and testing would not have been required until the child reached school-age eligibility. However, because of the rule change, this child would be denied eligibility because standardized testing was completed within the three year requirement in the rule.

The second example is an 18 month old child diagnosed just after birth with a very rare congenital abnormality of the brain that results in a wide range of neurological impairments. Individuals with this condition generally die in childhood or in early adulthood. In the example it states research on this condition indicate the child will eventually have significant and global developmental delays in all areas. This child was tested at 2 months with only one low area of adaptive functioning (the rule requires two). Before the rule change, this child would have been eligible based on a physician's statement if the physician could verify the condition "would *likely* cause significant developmental delays in at least two areas." This condition is known to likely cause delays in all areas and lead to death. The specialists say because of the rule change, the child would not be eligible.

The third example is a child 4 years of age diagnosed with Down Syndrome, a widely recognized developmental disability known to cause varying degrees of cognitive and adaptive delays. The child had early childhood testing over two years ago resulting in significant deficits in one area, cognitive functioning, but in other areas of adaptive functioning was barely above the standard deviation requirement. Since the testing was completed within the last three years and a physician's statement can only be used in the absence of standardized testing, the child would not be eligible. Prior to the rule changes, specialists could have used a physician's statement to make the child eligible because the testing completed over two years ago is not likely to provide an accurate assessment of current functioning and because the condition will likely result in significant deficits in cognitive and adaptive functioning in the future (and likely throughout the individual's life).

The fourth example is of another child who is 4 years of age and was diagnosed as having some developmental delays early on due to

Hydrocephalus. However, assessments at age 2 did not indicate significant impairments in at least two areas of adaptive behavior. At 2 years of age, the child had a shunt malfunction and revision, developed a significant and uncontrolled seizure disorder, and was diagnosed with epilepsy. This child now experiences significant delays. The child is non-verbal, non-ambulatory, legally blind, and likely has significant cognitive delays. Since the standardized testing was done prior to the issues the child now faces, the standardized testing does not accurately reflect the child's current functioning. The significant decline in the child's functioning is well documented in medical records, but the child is not eligible because the standardized testing completed within three years holds more weight than the physician's statement and current medical records. Before the rule changes, specialists could have made this child provisionally eligible based on the physician's statement and supporting documents.

Ms. Mullins states it is the belief of the eligibility specialists that the changes have had unforeseen consequences. Ms. Mullins was on the Rule Advisory Committee (RAC) and according to her reports it was said over and over there would be no "significant changes to current eligibility criteria" and ODDS was just trying to clean up the language and more accurately reflect current practices. Ms. Mullins said little time was spent discussing eligibility of young children and the language was an attempt to address the issue that eligibility specialist face when "check boxes" on a physician's statement conflict with scores on standardized tests. Ms. Mullins believes ODDS did not foresee the language changes would have such a significant impact on "obviously eligible young children."

The eligibility specialists believe there are a few solutions to be considered. The eligibility specialists say the biggest issue they face is that standardized testing accepted within three years does not provide accurate assessments of a young child's functioning. The eligibility specialists feel if a physician's statement can only be used in the absence of standardized testing, the standardized testing should be no more than 6 months to 1 year old for children less than 7 years of age. The eligibility specialists say research on child development for consultation with developmental pediatricians and early childhood specialists could shed more light on a recommended timeline (6 months may even be too long for young children). The eligibility specialists said if there is not an appropriate agreed upon timeline, they recommend going back to how the rule read

before. The old rule allowed for more flexibility to ensure eligibility specialists were able to serve "obviously eligible young children in the examples above who are, in fact, experiencing significant impairments in all areas of functioning." The specialists feel the rule should not be more restricting for individuals with more significant support needs.

The rule language for OAR 411-320-0080 and the response of ODDS is included in Attachment A.

**Oregon Nurses Association (ONA) and Oregon Society of Physician Assistants (OSPA) – Exhibit #3**

The written comments provided by ONA and OSPA are summarized in Attachment A.

**OSPA, Elizabeth Remley, Senior Vice President, Thorn Run Partners – Exhibit #4**

The written comments provided by OSPA are summarized in Attachment A.

**Association of Oregon Community Mental Health Programs (AOCMHP), Cheryl Ramirez, Executive Director – Exhibit #5**

The written comments provided by Ms. Ramirez are summarized below.

AOCMHP represents county health and human services and CDDPs. The feedback is in regards to the fiscal impact statement located in this rule (along with some of the other rules). AOCMHP's concern is the fiscal impact statement does not sufficiently accommodate the CDDP staffing levels needed to "adequately and timely meet" the requirements in the rule. AOCMHP feels that while the Workload Model increases staffing significantly, it does not address the additional work for CDDPs.

AOCMHP says throughout most of the rules there is a "general statement that case management, service coordination [,] and CDDP training have been accounted for in the CDDP budget and will be based on the new CDDP Workload Model developed by the Department." It is also stated "The Workload Model will be revisited on a regular basis to determine which measurements have been impacted by these changes. Until the Workload Model is revisited, the Department is unable to estimate the overall impact of the rule changes." AOCMHP says this language sets the

state, CDDPs, and Brokerages to all be out of compliance with the Centers for Medicare and Medicaid Services (CMS), K-Plan, and ODDS for the following reasons.

The first reason AOMCHP gives is the Workload Model was vetted prior to the addition of work added with:

- K-Plan requirements;
- eXPRS Plan of Care implementation;
- Transition to a new fiscal agent (TNT) for all in-home support without adequate turnaround time for service coordinators to verify time sheets based on the workload, which results in billing problems for personal support workers;
- Requirements of bi-monthly time sheets for personal support workers; and
- New requirements for complaints, Notification of Planned Action (NOPA), and contested case hearings.

The second reason AOMCHP gives is forecasting data, which AOMCHP says is three months behind and does not accurately account for an increase in children less than 18 years of age entering ODDS services. AOMCHP says once a child is eligible, a majority of the families are requesting K-Plan services for their children.

The third reason provided by AOMCHP states the Workload Model has not been reviewed or "revisited" with stakeholders to assure it is up to date. AOMCHP says this means the initial model is already outdated.

AOMCHP's fourth reason is there are additional fiscal impacts that are not considered in the Workload Model, such as costs of sending notices to individuals, work associated with new requirements around personal support workers, and translation of ISPs.

AOMCHP's last reason is there is additional training required for the Career Development Plan, the new ISP roll out in March, the new requirements around NOPAs, and the new core competencies, that are all to be implemented prior to July 2015.

AOMCHP states that while they strongly support the DHS budget request for CDDPs based on the Workload Model, AOMCHP is aware both the

previous new Workload Models for Aging and People with Disabilities and Child Welfare were funded below 95% of the state cost. AOMCHP asserts if this is also the case for CDDPs, they recommend ODDS, CMHP Directors, and DD Program Managers meet right after session to determine the functions prescribed in the rule that will no longer be the CDDP's responsibility.

AOMCHP offers additional recommendations. The first is that the fiscal impact language for CDDPs (local government) in all draft rules read "Not all of the case management costs required in this permanent filing have been accounted for in the original workload model. The Department acknowledges that funding for implementation of new or additional requirements is not provided from January to June 30, 2015[.]" AOMCHP feels it should also say that the Workload Model will be revisited on a regular basis to determine which measurements have been impacted by the current changes and until the Workload Model is revisited, ODDS is unable to estimate the overall impact of the rule changes "and CDDPs will be out of compliance until such time that funding is provided".

AOMCHP's second recommendation is the Workload Model needs to be updated before the start of the legislative session in February to reflect accurate workload and staffing requirements for the 2015-17 biennium.

AOMCHP's third recommendation is that ODDS work with CDDPs to estimate the overall impact of the rule changes along with the specific impact from January 2015 to June 30, 2015.

AOMCHP's final recommendation is that ODDS review the risk of being out of compliance with CMS and the K-Plan and consider delaying some of the requirements in OAR chapter 411, division 320 based on this review, including CDDP and Brokerage responsibilities.

AOMCHP thanks the Department for the opportunity to provide written testimony as AOMCHP was unable to attend the hearing due to a meeting.

**Washington County Developmental Disabilities Program, Mary Lanxon, Program Management Supervisor – Exhibit #6**

The written comments provided by Ms. Lanxon are summarized below.

Ms. Lanxon first states the statement "...costs have been accounted for in the new CDDP Workload Model developed by the Department" make the impact false. Ms. Lanxon says the Workload Model has been developed, but not funded at this time. Ms. Lanxon says whether or not the Workload Model will be funded and at what level will not be determined until the legislative session. Ms. Lanxon says that to assume funding will be adequate or all the changes made in the rules have been accounted for is not accurate.

Ms. Lanxon says when the Workload Model was developed, the changes in the rule were not yet shared, accounted for, and neither were additional workload requirements under the K-Plan or remediation plans ODDS has with CMS. Ms. Lanxon says the earliest funding would be available is July 2015, while the rule is to be implemented starting in January 2015. Ms. Lanxon says funding is already inadequate, and to increase requirements and to continue using existing funding will set CDDP programs up to fail, may lead to compliance problems, and may have negative health or safety impacts on individuals.

Additional comments provided by Ms. Lanxon are summarized in Attachment A.

**Clackamas County Health, Housing, and Human Services, Pat Zullo, Program Manager Developmental Disabilities – Exhibit #7**

The written comments provided by Ms. Zullo are summarized below.

Ms. Zullo states that all state forms need to be translated into Spanish, Russian, and at least one Southeast Asian language. Ms. Zullo states the information in these forms is critical for individuals and their families in that it informs them of expectations and services. Ms. Zullo states interpreters and phone translators are not good substitutes to written forms and documents.

In regards to the fiscal impact statement, Ms. Zullo says the Workload Model needs to be revisited and updated to incorporate new requirements in the rules that were not known or accounted for in the existing Model (which will have additional but unknown costs to local programs). Ms. Zullo says while K-Plan services have been a huge benefit to those receiving the services, the workload of service coordinators and supervisors have

increased by at least 300% in the past year. Ms. Zullo states this is compounded with an increase in the number of individuals (35%) who are eligible for services. Ms. Zullo says ODDS also needs to add in the capacity limits from Brokerages that requires CDDPs offer in-home services to individuals while waiting for a Brokerage vacancy. Ms. Zullo says funding to CDDPs has not been adjusted for all the growth and workload. Ms. Zullo says compliance with current rules and Medicaid requirements are "wavering" and timelines for compliance are past due. Ms. Zullo also states the new Workload Model will not be funded until July 2015, which creates another unknown in terms of what percent the Model will be funded at.

Ms. Zullo would like ODDS to put implementation of the new requirements on hold until July and focus on good case management, service to individuals, and basic CMS compliance through June 2015. Ms. Zullo would also like the Department to revisit and update the Workload Model and fully fund it at 95%.

Additional comments provided by Ms. Zullo are summarized in Attachment A.

**AOCMHP, Sarah Jane Owens, DD Specialist – Exhibit #8**

The written comments provided by Ms. Owens are summarized below.

Ms. Owens stated there are areas of inconsistent case management services and requirements in OAR chapter 411, divisions 320 and 340, which can be confusing for both consumers and systems.

Additional comments provided by Ms. Owens are summarized in Attachment A.

**Oregon Council on Developmental Disabilities (Council), Jaime Daignault, Executive Director and Leslie Sutton, Policy Analyst – Exhibit #9**

The written comments provided by Ms. Daignault and Ms. Sutton on behalf of the Council are summarized below.

The Council starts by saying Oregon is strongest when all Oregonians are included in the community, have choice and control over their own lives,

and have supports they need to live healthy, fulfilling lives. The Council works to make this a reality for Oregonians with intellectual or developmental disabilities (I/DD) and their families by systems change and advocacy activities.

The Council had comments on both OAR chapter 411, divisions 320 and 340 and put them together because many of the provisions are in both rules. The following are a summary of the comments:

- "1. The proposed community transportation rules create barriers to self-advocacy, community access and participation, and integration. These services must be restored immediately.
2. Eligibility documentation must be accurate, but not unreasonably burdensome.
3. Rule language must be aligned with Oregon statute
4. Individual rights must reflect federal Home and Community-Based Service (HCBS) rights
5. Choice advising must instruct people on all services, not just "available" services within the particular part of the I/DD system the person uses.
6. Licensed or certified placement settings options should also include less restrictive setting options.
7. Education services for adults must be restored.
8. Comprehensive service entry meetings must include documentation that the place the person will live was chosen by the person.
9. Rental unit home modifications must include the costs to remove the modification when the tenant moves out, if the landlord wants the modification removed.
10. K Plan services must be based on the needs, goals and preferences identified in the assessment and the person-centered planning process.
11. Attendant care should be based on a person's needs, preferences and goals, no matter where the person chooses to receive services.
12. Self-determination, person-centered planning principles, and federal regulations require that ISP meetings must be driven by the person.
13. Chore services should be provided when no one else is responsible for and able to perform or pay for the services."

In regards to eligibility documentation, the Council states that eligibility determinations for I/DD often must establish a "history" of I/DD during an individual's life. The proposed rules require "all previous assessments and medical evaluations prior to the date of the eligibility determination" to

determine this history. The Council says for many individuals, especially those with uncommon diagnoses, the documentation could fill rooms full of documents. The Council also says there is an issue in that some agencies charge a fee when records are requested, and the state does not pay these fees. If an individual had to produce "all" of their records, it could be a significant financial burden that in some cases became a barrier to an individual applying for services at all.

In regards to individual rights, the Council said in March 2014 CMS enacted new rules for HCBS settings. The Council said the rules enacted by CMS ensure individuals receiving services have opportunities to access the "benefits of community living" and receive services in "the most integrated setting". The HCBS rules also include new provisions surrounding person-centered planning.

The Council points out the new HCBS rule provisions are not adequately represented in the new rule language. The Council recommends ODDS create a RAC to examine, update, and amend the existing rules on rights and other rules to closely align with the HCBS requirements. The Council recommends the following rights be added to all "rights" rules so individuals are able to enjoy the benefits of the HCBS rules.

"While receiving developmental disability services, the individual has a right to:

1. Receive services in a place or setting that is integrated in and supports full access to the greater community;
2. Is selected by the individual from among setting options, including non-disability settings;
3. Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
4. Optimizes autonomy and independence in making life choices; and
5. Facilitates choice regarding services and who provides them.

For people receiving services in provider controlled homes or residential programs:

1. The individual has a right to have a rental lease or other legally enforceable agreement providing similar protections;
2. The individual has privacy in their unit including lockable doors, choice of roommates and freedom to furnish or decorate the unit;

3. The individual controls his/her own schedule including access to food at any time;
4. The individual can have visitors at any time; and
5. The setting is physically accessible for the individual."

In regards to choice advising, the Council says information about all services must be provided, not just the services available within a particular part of the I/DD system the individual uses. The Council states people are most successful when they choose which services they receive, where they receive the services, and how they receive them. The Council says individuals often report they are not given a variety of options to constitute a "choice" in that they are only told what is available in a certain part of the system instead of given a choice of a wide array of services or settings. The Council says impartial choice advising should be a tool to help individuals choose services instead of individuals being assigned services.

The Council also talks about education and how education is important to all people, including those with disabilities. Many adults take classes to learn about a variety of things they are interested in. The ODDS rules give people receiving I/DD services, the right to "participate regularly in the community and use community resources, including recreation, developmental disability services, employment services, school, educational opportunities, and health care resources." The Council says in the past, individuals have used educational services for classes to learn to read or communicate with ASL, however, the new rules make it no longer possible for adults to take classes. The Council says the new rules prohibit using support services for educational services of any kind. The Council says the language must be restored to allow those with I/DD the opportunity fulfill their right to "access adult education opportunities."

Additional written comments provided by Ms. Daignault and Ms. Sutton on behalf of the Council are summarized in Attachment A.

**Oregon Self Advocacy Coalition (OSAC), Leslie Sutton, Policy Analyst for the Council – Exhibit #10**

The written comments provided by Ms. Sutton on behalf of OSAC are summarized below.

OSAC first comments on the right to make choices about I/DD services. OSAC states that I/DD services help individuals live in their communities and meet their goals. OSAC says individuals have the most success when they choose: the services they use, how they use the services, where they use their services, and who provides the services. OSAC has a few concerns about the definition of choice advising in the CDDP and support services rules (411-320-0020(21), (22) & 411-340-0020(23), (24)). OSAC feels the definitions must be changed to allow individuals to have "full conversations about the choices we make about our I/DD services".

OSAC feels individuals are at their best when they use services they want. OSAC states "choice includes picking what you do and do not want." OSAC feels choice advising should remind individuals they can choose their services, but also refuse to take services offered to them. OSAC feels if an individual does not want a service, choice advising should remind them they do not have to use that service.

OSAC says individuals receiving services should lead their ISP meetings. OSAC feels when individuals are in charge and have a choice over their services they are most successful. OSAC says when individuals are not in charge, they do not feel like their voice matters in their own lives. OSAC says the best ISPs start with the individual directing the meeting to describe what they want and how they want it. OSAC feels that as children grow up they should be encouraged to run their ISP meeting at an early age because it will teach children to speak up, take charge, and make sure their ISP does what they need it to do. Some rule language supports this thought and other rules appear not to (note from OSAC, see attachment A for more details).

Additional comments provided by Ms. Sutton on behalf of OSAC are summarized in Attachment A.

The public comment period closed at 5 p.m. on November 28, 2014.

## **ODDS Response**

**Fiscal Impact/Workload Model:** ODDS appreciates the efforts to estimate the fiscal impact of the proposed rule changes on CDDPs. The existing caseload model accounts for much of the administrative work efforts and accounts for the context of the work, including any efficiencies that may have been created, work that may be completed simultaneously with other tasks, and other mitigating factors.

**Translation:** ODDS recognizes its obligation to supply forms in languages and formats that can be understood by program participants. Resources are available to meet the obligation.

**HCBS/Individual Rights:** ODDS appreciates the comments made that relate to HCBS but did not make any additional changes at this time. Language to comply with HCBS will be reflected in a future rulemaking.

**Education:** ODDS believes the adopted rules accurately reflect the services available through the Community First Choice state plan and the 1915(c) waivers.

## ATTACHMENT A

Rule Number and Proposed Rule Language	Comment	ODDS Response Permanent Rule Language
<b>411-320-0020 Definitions</b>		
<p><u>(15) "Career Development Plan" means the part of an ISP or annual service plan that identifies:</u></p>	<p><b>Lanxon</b> - The rule mentions "annual service plan", but on (9) it is call "Annual Plan". Align the language.</p>	<p>ODDS considered Ms. Lanxon's recommendation and made additional edits.</p> <p><i>(15) "Career Development Plan" means the part of an ISP that identifies:</i></p>
<p><u>(17) "Case Management Contact" means a reciprocal interaction between a services coordinator and an individual or the legal or designated representative of the individual (as applicable).</u></p>	<p><b>Lanxon</b> - Define reciprocal.</p>	<p>ODDS considered Ms. Lanxon's recommendation but did not make additional edits.</p> <p>The term is being used as generally defined.</p>
<p><u>(210) "Choice" means <del>an individual's</del> <u>the</u> expression of preference, opportunity for, and active role <u>of an individual</u> in decision-making related to services received and from whom, including, but not limited to, case management, <del>service</del> providers, services, and service settings. <del>Personal outcomes, goals, and activities are supported in the context of balancing an individual's rights, risks, and personal choices.</del> Individuals are supported in opportunities to make changes when</u></p>	<p><b>OSAC</b> - OSAC says when individuals choose providers, they want to know about the different kinds of providers, not just "available" providers. OSAC says individuals are told they can pick from providers, but that is only in the part of the I/DD system they use, which limits their options to only I/DD options. OSAC says individuals want to hear about all of their options.</p>	<p>ODDS considered OSAC's comment but did not make additional edits.</p> <p>ODDS is committed to offering choices. Coupled with the rule that requires person-centered practices, ODDS feels there is nothing in the rules that inhibit an individual's choice.</p>

## ATTACHMENT A

Rule Number and Proposed Rule Language	Comment	ODDS Response Permanent Rule Language
<p>so expressed. Choice may be communicated <a href="#">through a variety of methods</a>. <a href="#">Choice may be expressed orally-verbally</a>, through sign language, or by other communication methods.</p>		
<p>(<del>224</del>) "Choice Advising" means the impartial sharing of information <a href="#">to individuals with intellectual or developmental disabilities provided by a person that meets the qualifications in OAR 411-320-0030(4)(c)</a> about:  <del>(a) Case management;</del>  <del>(b) Service options; and other</del>  <del>(c) Service delivery setting options; and</del>  <del>(d) Available providers to individuals with intellectual or developmental disabilities provided by a person that meets the qualifications in OAR 411-320-0030(4)(c).</del></p>	<p><b>OSAC</b> - OSAC says the definition of choice advising needs to let individuals know they can receive services in non-disability settings. HCBS says individuals must choose from different options where they receive services, including non-disability specific options. OSAC says they do not often hear about non-disability specific places where they can receive services and only hear about options available in the I/DD system. OSAC states they want to learn about options outside the I/DD system so they can have a more integrated life.</p> <p>Recommendation: Definition of choice advising should say "places people receive services" instead of "service delivery setting options" because it will make it easier for individuals to understand.</p>	<p>ODDS considered the recommendations of OSAC and the Council and made additional edits.</p> <p>Choice advising is an evolving process, some of which exists outside the scope of administrative rule. All ODDS services are voluntary in the absence of a court commitment. CDDPs provide choice advising according to the specifications in the rules. OAR 411-320-0020(22) and 411-320-0090(4)(l) provide a description and requirement of choice advising to individuals enrolled in and receiving ODDS services.</p> <p>ODDS is committed to offering choices in case management, service types, service settings, and service providers. Coupled with the rule that requires person-centered practices, ODDS feels there is nothing in the rules that would inhibit an individual's choice.</p>

## ATTACHMENT A

Rule Number and Proposed Rule Language	Comment	ODDS Response Permanent Rule Language
	<p><b>Council</b> - Change the definition of choice advising to read:            "Choice Advising" means the impartial sharing of information to individuals with intellectual or developmental disabilities provided by a person that meets the qualifications in OAR 411-320-0030(4)(c) about:            (a) Case management options, including the choice for adults to receive case management from a CDDP or Brokerage;            (b) a wide array of service options, including the choice of which developmental disability services the individual uses or does not use;            (c) a wide array of places the individual receives developmental disability services, including disability or non-disability options for where the individual works, lives, volunteers, and accesses community services, resources and activities; and            (d) The individual's choice of providers to deliver developmental disability supports.</p>	<p>(22) "Choice Advising" means the impartial sharing of information to individuals with intellectual or developmental disabilities provided by a person that meets the qualifications in OAR 411-320-0030(4)(c) about:            (a) Case management;            (b) Service options;            (c) Service setting options; and            (d) Provider types.</p>
<p><a href="#">(25) "Completed Application " means an application required by the Department that:            (a) Is filled out completely, signed,</a></p>	<p><b>Lanxon</b> - The definition of "completed application" indicates an applicant who is unable to sign may make a mark witnessed by another individual. Ms.</p>	<p>ODDS considered Ms. Lanxon's comments and made additional edits.</p>

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<p><a href="#">and dated. An applicant who is unable to sign may sign with a mark, witnessed by another individual; and</a></p>	<p>Lanxon asks if ODDS means another person. Ms. Lanxon states that individual has a specific definition in the rule and she doesn't think ODDS means that the mark can only be witnessed by another individual eligible for service, a guardian, or personal representative.</p> <p>Ms. Lanxon states this definition also needs to match what is described in the application and eligibility determination section. The information does not match a transmittal that was sent out about completed applications either.</p>	<p><i>(25) "Completed Application" means an application required by the Department that:</i></p> <p><i>(a) Is filled out completely, signed, and dated. An applicant who is unable to sign may sign with a mark, witnessed by another person;</i></p>
<p><a href="#">(2827)</a> "Comprehensive Services" means developmental disability services and supports that include 24-hour residential services <a href="#">and attendant care</a> provided in a licensed home, foster home, or through a supported living program. Comprehensive services are regulated by the Department alone or in combination with an associated Department-regulated <a href="#">program for employment-or community inclusion program</a>. Comprehensive services are in-home services provided to an</p>	<p><b>Lanxon</b> - Ms. Lanxon says this definition does not make sense at this time. There is no reason why programs for community inclusion are not included. CDDP consumers are allowed to use any brokerage certified providers for these services. Ms. Lanxon asks "(w)ithout them being included, what exactly is the service the individuals are receiving if case managed by the CDDP?" Ms. Lanxon states there is great confusion surrounding when an entry/exit meeting is or isn't required.</p>	<p>ODDS considered Ms. Lanxon's comments but did not make additional edits.</p> <p>"Programs for Community Inclusion" are not a recognized service. Those programs administer attendant care, which is included in the definition.</p> <p>The remainder of the comments are not specific to this definition, however ODDS recognizes a need for consistency in the application of procedures.</p>

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<p>individual with an intellectual or developmental disability when the individual receives case management services from a <u>CDDP community developmental disability program</u>. Comprehensive services do not include support services for adults with intellectual or developmental disabilities enrolled in <u>brokerages</u>.</p>	<p>Ms. Lanxon says it does not make sense that individuals receiving case management from the CDDP require an entry/exit meeting but the same individual receiving brokerage services from the same entity does not. Ms. Lanxon feels these requirements need to line up throughout the system.</p> <p>Ms. Lanxon also asks if waiver services provided through a "voc provider" are a comprehensive service? If so, those individuals are not included in this definition. Ms. Lanxon feels this entire area needs further review and alignment of expectations and definitions.</p>	
<p>(2928) "County of Origin" means:            (a) For an adult, the <u>individual's</u> county of residence <u>for the adult</u>; and            (b) For a child, the county where the jurisdiction of <u>the child's</u> guardianship exists.</p>	<p><b>Lanxon</b> - Ms. Lanxon states this doesn't match (D) on page 86 of the notice.</p> <p><i>OAR 411-320-0100(3)(a)(D) The individual moves out of state or to another county in Oregon. If an individual moves to another county, case management services must be referred and transferred to the new county, unless an individual requests otherwise and both the referring CDDP and the CDDP in the new county mutually agree. In the case of a child</i></p>	<p>ODDS considered Ms. Lanxon's recommendation but did not make additional edits at this time.</p> <p>The term "County of Origin" is not used in conflict with OAR 411-320-0100(3)(a)(D). However, the implication of (3)(a)(D) is that there is an expectation that the "county of origin" retains case management for some children and uses the phrase "parental residency or court jurisdiction" in place of "jurisdiction of</p>

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	<p><i>moving into a foster home or 24-hour residential program, the county of parental residency or court jurisdiction must retain case management responsibility.</i></p> <p>Recommendation: Align the language.</p>	<p>guardianship.” The difference has been noted and will be corrected as part of future rulemaking.</p>
<p>(346) "Designated Representative" means <u>any adult, such as a</u> parent, family member, guardian, advocate, or other person, <u>who is chosen by an individual, not a paid provider for the individual, and</u> authorized in writing by <del>an the</del> individual to serve as the <del>individual's</del> representative <u>of the individual</u> in connection with the provision of funded supports, <del>who is not also a paid service provider for the individual</del>. An individual is not required to appoint a designated representative.</p>	<p><b>Lanxon</b> - Ms. Lanxon asks if this definition indicates individuals that cannot write cannot have a designated representative? Ms. Lanxon does not think that is what is meant.</p>	<p>ODDS considered Ms. Lanxon's comments and made additional edits.</p> <p><i>(34) "Designated Representative" means any adult, such as a parent, family member, guardian, advocate, or other person, who is chosen by an individual or the legal representative of the individual, not a paid provider for the individual, and authorized by the individual or the legal representative of the individual to serve as the representative of the individual or the legal representative of the individual in connection with the provision of funded supports. An individual or a legal representative of the individual is not required to appoint a designated representative.</i></p>

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(404) "Entry" means admission to a Department-funded <del>licensed or certified</del> developmental disability service <del>provider</del> .	<b>Lanxon</b> - Ms. Lanxon says the definitions talk about Department-funded service. Ms. Lanxon says this would require exit/entry as stated later in the rule for all services. Ms. Lanxon states this does not line up with requirements for brokerages for the exact same providers and that "creates havoc in the system". Ms. Lanxon says if this is needed for health/safety it should be required throughout the system, but if not it should be deleted.	ODDS considered Ms. Lanxon's comment but did not make additional edits at this time.  Ms. Lanxon's comments have been noted and will be considered for future rulemaking.
(412) "Exit" means termination or discontinuance of a Department-funded developmental disability service by a Department licensed or certified provider.		
(425) "Functional Needs Assessment" means <del>a the</del> comprehensive assessment <u>or reassessment appropriate to the specific program in which an individual is enrolled</u> that <del>documents</del> : (b) <u>Identifies R</u> risk factors, choices and preferences, service and support needs, strengths, and goals; <u>and</u>	<b>Zullo</b> - Ms. Zullo says the assessment may identify service and support needs and risk factors, but choice/preferences, strengths, and goals should be in the ISP definition. Ms. Zullo says there are only 250 characters available in the Adult Needs Assessment comment box to describe information, and the assessment does not allow much ability to capture choice/preferences, strengths, and goals. The ISP is the document used and recognized as the place where all of this information is captured.  Recommendation:: Remove "choices and preferences, service and support needs,	ODDS considered Ms. Zullo's recommendation and made additional edits.  <i>(42) "Functional Needs Assessment" means the comprehensive assessment or reassessment appropriate to the specific program in which an individual is enrolled that: (a) Documents physical, mental, and social functioning; (b) Identifies risk factors and support needs; and (c) Determines the service level.</i>

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	<p>strengths and goals" from this section, but keep the wording that says it identifies "risk factors". The suggested deleted language is already captured under the ISP definition.</p>	
<p><a href="#">(46) "History" means, for the purposes of an eligibility determination as defined in this rule, evidence of an intellectual disability prior to 18 years of age or an other developmental disability prior to 22 years of age, including all previous assessments and medical evaluations prior to the date of eligibility determination for developmental disability services.</a></p>	<p><b>Council</b> - The Council feels this is burdensome and inefficient. The Council feels it should read "including a reasonable amount of previous assessments and medical evaluations to establish a pattern of eligibility for developmental disability services."</p>	<p>ODDS considered the Council's comments and removed "all" from the definition of history and in the relevant portion of OAR 411-320-0080.</p> <p><i>(46) "History" means, for the purposes of an eligibility determination as defined in this rule, necessary evidence of an intellectual disability prior to 18 years of age or an other developmental disability prior to 22 years of age, including previous assessments and medical evaluations prior to the date of eligibility determination for developmental disability services.</i></p>
<p><del>(5047)</del> "Home" means <del>an individual's</del> <a href="#">the</a> primary residence <a href="#">of an individual</a> that is not under contract with the Department to provide services to <del>an</del> <a href="#">the</a> individual as a certified foster home or licensed or certified residential care facility, assisted living</p>	<p><b>Zullo</b> - Ms. Zullo states there is an issue because this could be perceived to be in conflict with the In-Home Supports for Children Rule. OAR 411-308-0020(29) defines "Family Home" as "the primary residence for a child that is not under contract with the Department to provide</p>	<p>ODDS considered Ms. Zullo's recommendation and made additional edits.</p> <p><i>(47) "Home" means the primary residence of an individual that is not under contract with the Department to provide services</i></p>

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<p>facility, nursing facility, or other residential support program site.</p>	<p>services as a certified foster home for children with intellectual or developmental disabilities or a licensed or certified residential care facility, assisted living facility, nursing facility, or other residential support program site. Family home may include a certified child welfare foster home."</p> <p>APD-PT-14-038 stated "In-Home supports to children living in a family home are available through K-Plan and/or Waiver services, as defined by OAR 411-308-0120. A family home may include a foster home funded by Child Welfare, as defined in OAR 411-308-0020. This is a significant change in practice for both CW and DD systems."</p> <p>Recommendation: Clarify or insert into the definition of home, "A home may include a certified child welfare foster home".</p>	<p><i>to the individual as a certified foster home or licensed or certified residential care facility, assisted living facility, nursing facility, or other residential support program site. For a child, a home may include a foster home funded by Child Welfare.</i></p>
<p>(5448) "IEP" means "Individualized Education Plan"<del>as defined in this rule.</del> <a href="#">An IEP is the written plan of instructional goals and objectives developed in conference with an</a></p>	<p><b>Alexander</b> - Ms. Alexander says "IEP means Individual Education Program, not Individual Education Plan". Ms. Alexander stated that if we Google I.E.P., every line item comes up Individual Education</p>	<p>ODDS considered Ms. Alexander's comments and made additional edits.</p> <p><i>(48) "IEP" means "Individualized Education Program". An IEP is the written</i></p>

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<a href="#">individual, the parent or legal representative of an individual (as applicable), teacher, and a representative of the public school district.</a>	Program.	<i>plan of instructional goals and objectives developed in conference with an individual, the parent or legal representative of an individual (as applicable), teacher, and a representative of the public school district.</i>
<p>(<del>55</del><a href="#">49</a>) "Imminent Risk" means:            (a) An adult who is in crisis and shall be civilly court-committed to the Department under ORS 427.215 to 427.306 within 60 days without the use of crisis diversion services; or            (b) A child who is in crisis and shall require out-of-home placement within 60 days without the use of crisis diversion services.</p>	<p><b>Lanxon</b> - Ms. Lanxon states the definition excludes individuals who would not qualify for commitment under the described ORS. Ms. Lanxon states it should apply to all eligible individuals.</p>	<p>ODDS considered Ms. Lanxon's comments but did not make additional edits at this time.</p> <p>ODDS does not feel this definition presents a barrier to any individual accessing necessary services. The definition is specific to individuals who meet the definition and related criteria for "crisis," which is no longer relevant for accessing any services.</p> <p>The definition and related crisis language throughout these rules will be addressed through future rulemaking.</p>
<p>(<del>64</del><a href="#">55</a>) "Integration" as defined in ORS 427.005 means:            (a) The use by individuals with intellectual or developmental disabilities of the same community resources used by and available to</p>	<p><b>OSAC</b> - To OSAC, integration means equal opportunities to do the same things people without disabilities do. OSAC says the rules say integration is: individuals using the same community resources used by and available to others;</p>	<p>ODDS considered the recommendations of OSAC and the Council and made additional edits.</p> <p><i>(55) "Integration" as defined in ORS 427.005 means:</i></p>

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<p>other people;            (b) Participation by individuals with intellectual or developmental disabilities in the same community activities in which people without an intellectual or developmental disability participate, together with regular contact with people without an intellectual or developmental disability; and            (c) Individuals with intellectual or developmental disabilities reside in homes or home-like settings that are in proximity to community resources and foster contact with people in the community.</p>	<p>participation by individual with I/DD in the same community activities as those without I/DD; and that people with I/DD live in homes or home-like settings that are close to community resources and foster contact with those in the community.</p> <p>OSAC feels the rule about participation by those with I/DD in the same activities as people without I/DD, is too narrow. Under the rules, OSAC says a place could be "integrated" if it segregated individuals with disabilities other than I/DD (e.g. a sensory disability or mental illness) from people without disabilities. OSAC states this is not integrated because it doesn't allow equal opportunity to do the same things as those without disabilities.</p> <p>Recommendation: This section should say integration is about participation by people with I/DD in the same community activities as people without disabilities.</p> <p><b>Council</b> - Misquotes ORS when says "without an intellectual or developmental disability" under the ORS it should read "without disabilities".</p>	<p><i>(a) Use by individuals with intellectual or developmental disabilities of the same community resources that are used by and available to other people;</i>  <i>(b) Participation by individuals with intellectual or developmental disabilities in the same community activities in which people without disabilities participate, together with regular contact with people without disabilities; and</i>  <i>(c) Residence by individuals with intellectual or developmental disabilities in homes or in home-like settings that are in proximity to community resources, together with regular contact with people without disabilities in the community.</i></p>

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	<p>Recommendation: Change the language to correctly quote the law and make the definition accurate.</p>	
<p>(7164) "Level of Care" means an individual meets the following institutional level of care for an intermediate care facility for individuals with intellectual or developmental disabilities <del>(formerly referred to as an ICF/MR):</del></p> <p>(a) The individual has <del>a condition of</del> an intellectual disability or a developmental disability as defined in this rule and meets the eligibility criteria <u>in OAR 411-320-0080</u> for developmental disability services <del>as described in OAR 411-320-0080</del>; and</p> <p>(b) The individual has a significant impairment in one or more areas of adaptive <u>behavior as determined in OAR 411-320-0080</u> <del>functioning. Areas of adaptive functioning include self direction, self care, home living, community use, social, communication, mobility, or health and safety.</del></p>	<p><b>Lanxon</b> - Ms. Lanxon says this does not describe Medicaid eligibility as a requirement, but LOC is not approved for individuals without Medicaid. Ms. Lanxon says either the definition or practice needs to change. Ms. Lanxon states the definition seems to indicate an individual approved for LOC would meet the criteria for ICF/MR, which many individuals would not.</p>	<p>ODDS considered Ms. Lanxon's comments but did not make additional edits.</p> <p>LOC and Medicaid are two independent requirements for certain DD services. The definition is accurate, an individual assessed to meet LOC would meet the criteria for ICF/MR.</p>

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<p><a href="#">(65) "Licensed Medical Practitioner" means any of the following licensed professionals trained to diagnose a developmental disability:</a></p>	<p><b>Lanxon</b> - Ms. Lanxon asks how would it be determined they would be "trained to diagnose a developmental disability" or is it assumed? Ms. Lanxon also states the definition is confusing when paired with the definition of qualified professional and clarification is needed.</p>	<p>ODDS considered Ms. Lanxon's comments and made additional edits.</p> <p><i>(65) "Licensed Medical Practitioner" means any of the following licensed professionals:</i></p>
<p><a href="#">(9384)</a> "Productivity" as defined in ORS 427.005 means:            (a) Engagement in income-producing work by an individual that is measured through improvements in income level, employment status, or job advancement; or            (b) Engagement by an individual in work contributing to a household or community.</p>	<p><b>Council</b> - The Council says this misquotes the OAR by breaking the language into two parts, which changes the meaning. The Council says that if ODDS is going to quote statutory language in rule, they must do so correctly.</p> <p>Recommendation: Change the definition to accurately reflect the "form and language" of the definition in the ORS.</p>	<p>ODDS considered the Council's recommendation and made additional edits.</p> <p><i>(83) "Productivity" as defined in ORS 427.005 means regular engagement in income-producing work, preferable competitive employment with supports and accommodations to the extent necessary, by an individual that is measured through improvements in income level, employment status, or job advancement or engagement by an individual in work contributing to a household or community.</i></p>
<p><a href="#">(40491)</a> "Qualified Professional" means, <a href="#">for the purposes of OAR 411-320-0080, any of the following licensed professionals trained to make a diagnosis of a specific</a></p>	<p><b>OSPA</b> - OSPA states the current rules define "licensed medical practitioner" and "qualified professional" differently. PAs are excluded from the "qualified professional" definition and NPs are not.</p>	<p>ODDS considered OSPA's recommendation but did not make additional edits at this time.</p>

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<p><a href="#">intellectual or developmental disability</a>:                      (a) Licensed clinical psychologist (Ph.D., Psy.D.) <del>or school psychologist</del>;                      (b) Medical doctor (MD);                      (c) Doctor of <del>osteopathy</del> <a href="#">Osteopathic Medicine</a> (DO); or                      (d) Nurse Practitioner <a href="#">(NP)</a>.</p>	<p>The definition applies very narrowly to OAR 411-320-0080, which determines eligibility for programs by "qualified professionals."</p> <p>OSPA states the current rule and proposed new rule will not allow PAs to diagnose developmental disabilities for the purposes of program qualification in those aged 7 or older. OSPA says PAs are able to do so for those under the age of 7 because determination by a "licensed medical practitioner" is permitted to suffice.</p> <p>OSPA states that if a PA is a "licensed professional trained to diagnose a developmental disability (per definition (65)), then they should also be a licensed professional trained to make a diagnosis of a specific intellectual or developmental disability" (as described in definition (91)).</p> <p>OSPA says later rules refer to OAR 411-320-0080(3) and (4) when qualifications for program admission are repeated.</p> <p>OSPA states that excluding PAs from the list places a barrier in front of each</p>	<p>ODDS will need to conduct additional research on the topic before changes may be made. OSPA's comments have been noted and will be considered for future rulemaking.</p>

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	<p>disabled person who has a PA for a primary care provider.</p> <p>Recommendation: Add PAs to the list of qualified professionals as it applies to many providers who work in primary care.</p>	
<b>411-320-0040 Program Responsibilities</b>		
<p>(6) FOSTER HOMES. The CDDP must recruit <a href="#">applicants to operate foster homes</a> <del>s-applicants</del> and maintain forms and procedures necessary to license or certify foster homes. The CDDP must maintain copies of the following records:</p>	<p><b>Lanxon</b> - CDDPs do not recruit foster homes.</p> <p>Recommendation: Remove "must" and edit to state "...recruit foster homes if an identified need in a particular CDDP".</p>	<p>ODDS considered Ms. Lanxon's recommendations but did not make any additional edits at this time.</p> <p>The implications of the change were determined too significant to change without using the full rulemaking process, including another RAC. Ms. Lanxon's comments have been noted and will be considered for future rulemaking.</p>
<b>411-320-0060 Individual Rights</b>		
<p><a href="#">(2) Upon enrollment, request, and annually thereafter, the individual rights described in section (4) of this rule must be provided to an individual and the legal or designated representative of an individual.</a></p>	<p><b>Lanxon</b> - Enrollment in what? Case management, eligibility for case management, etc.?</p> <p>Recommendation: Clarify enrollment.</p>	<p>ODDS considered Ms. Lanxon's recommendation and made additional edits.</p> <p><i>(2) Upon entry into case management and request and annually thereafter, the individual rights described in section (4) of this rule must be provided to an individual and the legal or designated</i></p>

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		<i>representative of an individual.</i>
<p><a href="#">(3) The individual rights described in this rule apply to all individuals eligible for or receiving developmental disability services. A parent or guardian may place reasonable limitations on the rights of a child.</a></p>	<p><b>Lanxon</b> - Ms. Lanxon states this does not match transmittal AR 14-063 (11/6/14).</p> <p>Recommendation: Define incapable, Maybe as determined by a judge/court?</p>	<p>ODDS considered Ms. Lanxon's recommendation but did not make additional edits.</p> <p>ODDS is unable to identify a conflict between the referenced transmittal and this rule.</p>
<p><a href="#">(4)(v) Be informed at the start of services and annually thereafter of the rights guaranteed by this rule, the contact information for the protection and advocacy system described in ORS 192.517(1), the procedures for reporting abuse, and the procedures for filing complaints, reviews, or requests for hearings if services have been or are proposed to be terminated, suspended, reduced, or denied;</a></p>	<p><b>Lanxon</b> - Ms. Lanxon requests clarification to phrase "start of services".</p> <p><b>Council</b> - Add the following rights and terminology:            "While receiving developmental disability services, the individual has a right to:            1. Receive services in a place or setting that is integrated in and supports full access to the greater community;            2. Is selected by the individual from among setting options, including non-disability settings;            3. Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint;            4. Optimizes autonomy and independence in making life choices; and            5. Facilitates choice regarding services</p>	<p>ODDS considered the Council's recommendation but did not make additional edits at this time. Language to comply with HCBS will be reflected in future rulemaking.</p> <p>ODDS considered Ms. Lanxon's comment and made additional edits.</p> <p><i>(v) Be informed at entry to a case management service and annually thereafter of the rights guaranteed by this rule, the contact information for the protection and advocacy system described in ORS 192.517(1), the procedures for reporting abuse, and the procedures for filing complaints, reviews, or requests for hearings if services have been or are proposed to be terminated,</i></p>

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	<p>and who provides them.</p> <p>For people receiving services in provider controlled homes or residential programs:</p> <ol style="list-style-type: none"> <li>1. The individual has a right to have a rental lease or other legally enforceable agreement providing similar protections;</li> <li>2. The individual has privacy in their unit including lockable doors, choice of roommates and freedom to furnish or decorate the unit;</li> <li>3. The individual controls his/her own schedule including access to food at any time;</li> <li>4. The individual can have visitors at any time; and</li> <li>5. The setting is physically accessible for the individual." </li></ol>	<p><i>suspended, reduced, or denied;</i></p>
<b>411-320-0070 Service Records</b>		
<p>(3)(a)(K) Admission and exit meeting documentation into any comprehensive service, including any transition plans, crisis diversion plans, or other plans developed as a result of the meeting;</p>	<p><b>Lanxon</b> - Ms. Lanxon states this talks about admission as opposed to entry and exit from comprehensive services, not Department-funded services (terms used in definitions). Ms. Lanxon says these need to align, as it wouldn't make sense to only be required to keep some entry/admission/exit documents.</p>	<p>ODDS considered Ms. Lanxon's comments and made additional edits.</p> <p><i>(K) Entry and exit meeting documentation into any comprehensive service, including any transition plans, crisis diversion plans, or other plans developed as a result of the meeting;</i></p>

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(3)(a)(P) The initial and annual level of care determination on a form prescribed by the Department;	<p><b>Lanxon</b> - Ms. Lanxon wants to know why are CDDPs responsible for maintaining the LOC for a child in residential services. Ms. Lanxon says to "(j)ust keep in the state coordinator file." Ms. Lanxon says it is extra work to continue to request and it should be their responsibility to send it if the Department wants it maintained by the CDDP. Ms. Lanxon says it should really be kept in eXPRS as the permanent record. Ms. Lanxon states that for <u>all</u> individuals, eligibility and LOC information should be maintained only in the state system.</p>	<p>ODDS considered Ms. Lanxon's comments but did not make additional edits at this time.</p> <p>Ms. Lanxon's comments have been noted and will be considered for future rulemaking.</p>
<p>(3)(b) An information sheet or reasonable alternative must be kept current and reviewed at least annually for each individual receiving case management services from the CDDP enrolled in comprehensive services, family support services, or living with family or independently. Information must include:</p> <p>(B) The names, addresses, and telephone numbers of:</p> <p>(ii) The <del>individual's</del> physician and clinic <u>preferred by the individual</u>;</p>	<p><b>ONA/OSPA</b> - ONA and OSPA say primary care providers can be physicians, nurse practitioners, or physician assistants and they want to ensure CDDPs have accurate information about health care providers for each individual the CDDP serves.</p> <p>Recommendation: Use provider neutral language such as "primary care provider".</p>	<p>ODDS considered the recommendations of ONA and OSPA and made additional edits.</p> <p><i>(ii) The primary care provider and clinic preferred by the individual;</i></p>

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<p>(3)(c) A current information sheet or reasonable alternative must be maintained for each individual enrolled in a <del>support services</del> Brokerage. The current information must include the information listed in subsection (b) of this section.</p>	<p><b>Lanxon</b> - Ms. Lanxon asks why would the CDDP maintain current information sheets for each individual enrolled in a Brokerage? Ms. Lanxon says the information is required to be maintained by the Brokerage providing case management to the individual. Ms. Lanxon says CDDPs do not maintain working files for individuals in Brokerages once they are referred over and the case is managed by the Brokerage.</p> <p><b>Owens</b> - Ms. Owens states it is impossible for a CDDP to maintain the information because the Brokerages don't report changes in phone numbers, addresses, physicians, insurance, dentists, employers, or agency services to CDDPs. The Brokerage, as the case management entity for the individual, is required to maintain current records. It appears Brokerages are not required to maintain what is required in OAR 411-320-0070(3)(b)(B)(ii)(Vi) in their records and CDDPs don't have access to this information. The rules for Brokerages also don't require the Brokerage to notify a CDDP.</p>	<p>ODDS considered the comments of Ms. Lanxon, Ms. Owens, and Ms. Zullo and removed the requirement that CDDP's maintain information for each individual enrolled in a Brokerage.</p>

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	<p>Ms. Owens feels this section needs to be revised or if CDDPs are required to have this information, the language in OAR chapter 411, division 340 must be revised to reflect that Brokerages are required to collect the information and the current information sheet (or a reasonable alternative) must be current and sent to CDDPs at least annually or when it is updated.</p> <p><b>Zullo</b> - Ms. Zullo asks that this requirement be deleted as CDDPs do not have open files for individuals in Brokerages.</p>	
<p>(6) TRANSFER OF RECORDS. In the event an individual moves from one county to another county in Oregon, the <del>individual's</del> complete service record <a href="#">for an individual</a> as described in section (3) of this rule must be transferred to the receiving CDDP within 30 days of transfer. The sending CDDP must ensure that the service record required by this rule is maintained in permanent record and transferred to the CDDP having jurisdiction for the <del>individual's</del> services</p>	<p><b>Zullo</b> - Does this only apply to children and adults with county case management? Ms. Zullo says if not, it makes no sense for CDDPs to be involved in the transfer of records if an individual is transferring between Brokerages. Brokerages have the complete file for individuals they support and hold the current information since transfer from the CDDP, so the Brokerage should send the service record to the new Brokerage and county.</p>	<p>ODDS considered Ms. Zullo's recommendation but did not make additional edits at this time.</p> <p>ODDS agrees that streamlining processes for efficiency is of great importance Ms. Zullo's comments have been noted and will be considered for future rulemaking.</p>

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<p><a href="#">for the individual</a>. The sending CDDP must retain the following information to document that services were provided to the individual while enrolled in CDDP services:</p>	<p>Recommendation: Add language to the Support Service OAR that states "the current Brokerage transfers the complete service record to the new Brokerage and CDDP when an individual moves to another county in Oregon."</p> <p>Clarify the requirement in this section that pertains to the movement of individuals receiving CDDP case management.</p>	
<p><b>411-320-0080 Application and Eligibility Determination</b></p>		
<p><a href="#">(1)(a)(B) The CDDP must receive all documentation required to make an eligibility determination as defined in OAR 411-320-0020. Documentation includes, but is not limited to:</a></p> <p><a href="#">(i) All school psychological or comprehensive evaluations since entry into school;</a></p> <p><a href="#">(ii) All medical assessments related to a disability, mental health condition, or physical impairment;</a></p> <p><a href="#">(iii) All psychological evaluations or comprehensive evaluations through private health insurance or other programs;</a></p> <p><a href="#">(iv) All neurological evaluations completed through any entity;</a></p>	<p><b>Council</b> - Recommendation: Remove <u>all</u> from the beginning of each line.</p>	<p>ODDS considered the Council's recommendation and made additional edits.</p> <p><i>(B) The CDDP must receive all documentation required to make an eligibility determination as defined in OAR 411-320-0020. Documentation includes, but is not limited to:</i></p> <p><i>(i) School psychological or comprehensive evaluations since entry into school;</i></p> <p><i>(ii) Medical assessments related to a disability, mental health condition, or physical impairment;</i></p> <p><i>(iii) Psychological evaluations or comprehensive evaluations through</i></p>

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		<p><i>private health insurance or other programs;</i>  <i>(iv) Neurological evaluations completed through any entity;</i>  <i>(v) Records from all residential or psychiatric facilities;</i>  <i>(vi) Records completed through application process for other governmental benefits; and</i>  <i>(vii) Administrative medical examinations and reports, as defined in OAR 410-120-0000, determined necessary and authorized by the eligibility specialist.</i></p>
<p><a href="#">(1)(b) The CDDP may stop the intake process if the documents listed in subsection (a)(B) of this section are not submitted within 90 days of the date that the CDDP received the signed and dated Intake Form (SDS 0552). If the CDDP stops the intake process, a Notification of Planned Action (SDS 0947) must be sent to the person identified on the Intake Form (SDS 0552) as the person seeking services and the legal representative of the person seeking services.</a></p>	<p><b>Lanxon</b> - This doesn't match page 61 on the notice. (1)(b) indicates the CDDP may stop the intake process if documents listed in (a)(B) of this section are not submitted within 90 days of the date the CDDP received the signed Intake form. (10)(c) indicates "the CDDP must make an eligibility determination unless the following applies..." This section language is not consistent with (1)(b). Ms. Lanxon says these must align.</p>	<p>ODDS considered Ms. Lanxon's comments but did not make additional edits.</p> <p>OAR 411-320-0080(1)(b) applies prior to the receipt of a "completed application." OAR 411-320-0080(10)(c) applies after a "completed application" has been received. These rules do not conflict.</p>

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<p><a href="#">(5)(b) Eligibility determinations for children less than 7 years of age must be based on documentation that is no more than three years old.</a></p>	<p><b>Mullins</b> - Ms. Mullins states that while the three year requirement is acceptable for school age children and adults, Ms. Mullins and the metro eligibility specialists feel that this requirement should not apply to young children (reasoning stated above in written comments).</p>	<p>ODDS considered the comments made by the metro eligibility specialists and made additional edits.</p> <p><i>(a) Eligibility determinations for children less than 7 years of age must be based on documentation that is no more than one year old.</i></p>
<p><a href="#">(6)(f)(B) The documentation of an intellectual disability or an other developmental disability must include: (ii) Information obtained after the 17th birthday of an individual for individuals 22 years of age and older.</a></p>	<p><b>Alexander</b> - Ms. Alexander says that Individuals who have school aged eligibility would not be 22. If an individual is already school aged eligible it would have been completed before age 22.</p> <p>Ms. Alexander says she has reported this information to the D&amp;E Coordinator, but the OAR still has the error.</p>	<p>ODDS considered Ms. Alexander's comments and made additional edits.</p> <p><i>(B) The documentation of an intellectual disability or an other developmental disability must include for individuals less than 22 years of age, information no more than three years old.</i></p>
<p><b>411-320-0090 Case Management Program Responsibilities</b></p>		
<p>(4)(g) If an individual loses OSIP-M or OHP Plus eligibility and the individual is receiving case management services through the CDDP, a services coordinator must assist the individual in identifying why OSIP-M or OHP Plus eligibility was lost and whenever possible, assist the individual in <a href="#">becoming reestablishing</a></p>	<p><b>Lanxon</b> - Does not include MAGI Medicaid, only includes OHP Plus and OSIPM.</p> <p><b>Zullo</b> - Ms. Zullo says this is a critical aspect of service coordination and should be a minimum standard for case management services. Ms. Zullo states the current system workload is intensive</p>	<p>ODDS considered the comments of Ms. Lanxon and Ms. Zullo but did not make additional edits.</p> <p>ODDS agrees that discovering information about an individual's Medicaid eligibility can be challenging. There is a how-to guide available in the eXPRS system that describes how to use the</p>

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<p><del>eligibility</del>eligible for OSIP-M <del>or OHP Plus again</del>. The services coordinator must document efforts taken to assist the individual in <del>reestablishing</del>becoming OSIP-M <del>or OHP Plus eligibility</del>eligible in the <del>individual's</del> service record <del>for the individual</del>.</p>	<p>for service coordinators in trying to assist individuals in applying for and obtaining information on OSIPM or OHP Plus eligibility because there are many APD offices that have varying practices (i.e. bank caseloads, worker of the day systems, and a lack of training and knowledge among APD staff regarding DD services). Ms. Zullo states that DD services coordinators spend a significant amount of time coordinating between central office and APD to assure OSIPM and OHP Plus is in place, that coding is correct to assure services and payment flow as they should, and there is very little control over the information systems in place.</p> <p>Ms. Zullo says services coordinators should be able to have a majority of their time focused on the important aspects of services coordination, such as, completing assessments, coordination of resources for individuals, risk assessment and mitigation, protective services, monitoring, and person-centered planning. Ms. Zullo says there needs to be a robust system for OSIPM and OHP application and eligibility that is not time,</p>	<p>system to determine Medicaid eligibility. ODDS will continue efforts to simplify this process.</p>

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	<p>labor and knowledge intensive for service coordinators.</p> <p>Ms. Zullo says ODDS needs to establish a Quality Improvement process to better coordinate OSIPM/OHP Plus application and eligibility activities between ODDS and APD, provider additional systems for DD service coordinators to track OSIPM and OHP Plus eligibility from the CDDP offices (e.g. regular reporting system that services coordinators can review), and have designated staff in APD offices to assist with these activities for individuals served in the DD system.</p>	
<p>(4)(<del>Ik</del>)(<del>CB</del>) An individual moving into a county with an existing eligibility determination who is not enrolled in support services must receive choice advising within 10 days of the individual's move or of the CDDP learning of the individual's move.</p>	<p><b>Zullo</b> - The importance of choice counseling is recognized, but an individual who is eligible in another county has already received choice counseling as to available service options and is engaged in an ISP when they move to a new county. Ms. Zullo says it is "arbitrary and unnecessary" to add a 10 day requirement to repeat this step. The requirement is also unclear as if it is 10 business or calendar days. Service coordinators will have another date to track with this requirement.</p>	<p>ODDS considered Ms. Zullo's comments but did not make additional edits at this time.</p> <p>Ms. Zullo's comments have been noted and will be considered for future rulemaking.</p>

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	<p>Ms. Zullo thinks the 10 day requirement from choice counseling should be removed to allow service coordinators and individuals flexibility in meeting the requirement. Ms. Zullo thinks choice counseling should be allowed to take place at the 60 day ISP meeting or the first meeting with the service coordinator after the county transfer occurs. Ms. Zullo says service coordinators meet with the individual within 30 days of the county move and could do choice counseling then if there is not a 60 day ISP meeting required.</p>	
<p>(4)(<del>s</del>f) When a services coordinator completes a level of care determination, the services coordinator must ensure that <u>OHP Plus and OSIP-M</u> eligible individuals are:  <del>(B) p</del> Provided a <del>notice-Notification of</del> <u>Hearing r</u> Rights <u>(form SDS 0948);</u> <del>r</del> and  <del>(C) h</del> Have a completed level of care determination that is reviewed annually or at any time there is a significant change. <u>For individuals who are expected to enter support</u></p>	<p><b>Lanxon</b> - (4)(s) Does not include MAGI Medicaid, as those individuals would be eligible for Community First Choice state plan services.</p> <p>The Notification of Rights form mentioned in (4)(s)(B) does not include the word "Hearing" anymore.</p> <p>The phrase "significant change" in (4)(s)(C) is too vague and needs clarification.</p>	<p>ODDS considered Ms. Lanxon's comments on (4)(s) but did not make additional edits.</p> <p>MAGI is a means to access OHP Plus and as such does not need to be called out separately.</p> <p>ODDS considered Ms. Lanxon's comments on (4)(s)(B) and made additional edits.</p> <p><i>(B) Provided a Notification of Rights (form SDS 0948); and</i></p>

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<p><del>services, the services coordinator must complete the initial level of care determination after the individual's 18th birth date and no more than 30 days prior to the individual's entry into the support services brokerage.</del></p>		<p>The requirement in (4)(s)(C) is not new. ODDS expects and trusts the CDDP to continue to exercise appropriate professional judgment when assessing for significant change.</p>
<p>(6) FAMILY RECONNECTION. The CDDP and a services coordinator must provide assistance to the Department when a family member is attempting to reconnect with an individual who was previously discharged from Fairview Training Center or Eastern Oregon Training Center or an individual who is currently receiving developmental disability services.</p> <p>(g) When an individual is located, the services coordinator when the individual is enrolled in case management or the CDDP in conjunction with the personal agent when the individual is enrolled in a <del>support services b</del> Brokerage, must facilitate a meeting with the individual, <del>or as applicable the individual's legal or designated representative,</del> to discuss and determine if the individual</p>	<p><b>Owens</b> - The Brokerage rule (OAR chapter 411, division 340) does not include similar language for family reconnection. The language in section (6)(g) references the service coordinator and personal agent work in conjunction. Ms. Owens says when an individual is enrolled in a Brokerage, the personal agent should facilitate the meeting as the case management entity. She feels this language needs to be added to the Brokerage rule so Brokerages are responsible to prioritize Family Reconnection.</p> <p><b>Zullo</b> - Ms. Zullo says it makes no sense for the CDDP to have to facilitate a meeting with the personal agent. Ms. Zullo suggests deleting the language "CDDP in conjunction with personal agent" in both (g)(A) and (i) and anywhere else in the OAR.</p>	<p>ODDS considered the comments provided by Ms. Owens and Ms. Zullo but did not make additional edits at this time.</p> <p>The comments provided by Ms. Owens and Ms. Zullo have been noted and will be considered for future rulemaking.</p>

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<p>wishes to have contact with the family member.</p> <p>(A) The <del>individual's</del> services coordinator or the CDDP in conjunction with the <del>individual's</del> personal agent, as applicable, must assist the individual, <del>or as applicable the individual's legal or designated representative,</del> in evaluating the information to make a decision regarding initiating contact, including providing the information from the form and any relevant history with the family member that may support contact or present a risk to the individual.</p> <p>(i) If the individual, <del>or as applicable the individual's legal or designated representative,</del> does not wish to have contact, the <del>individual's</del> services coordinator or the CDDP in conjunction with the <del>individual's</del> personal agent (as applicable), must notify the Department. The Department shall inform the family member in writing that no contact is requested.</p>		

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<b>411-320-0100 Coordination of Services</b>		
<p>(1) DESIGNATION OF A SERVICES COORDINATOR OR PERSONAL AGENT.</p> <p>(a) When an individual chooses case management services through a personal agent, the CDDP must send referral information to the appropriate <del>support services</del> Brokerage within 10 days following the <del>individual's</del> decision <u>of the individual unless a later date is mutually agreed upon by the individual, the Brokerage, and the CDDP</u>. If there is no available <del>Brokerage capacity for an individual requesting brokerage services</del>, the individual may receive case management through the CDDP and receive <del>in-home</del> <u>other available</u> <del>chosen</del> supports until <del>Brokerage</del> capacity becomes available.</p>	<p><b>Owens</b> - Ms. Owens says there is not similar language to this in OAR 411-340 and there should be.</p> <p><b>Zullo</b> - Ms. Zullo wants to know why the CDDP would send "referral information to the appropriate Brokerage within 10 days following the individual's decision" if there is no Brokerage capacity. Ms. Zullo says in Clackamas County, 40% of eligible adults choose brokerage services. Ms. Zullo says when there is availability at a Brokerage, 50% of individuals opt not to transfer and remain at the CDDP. This requirement would have costs in staff time that would not be utilized 50% of the time. Ms. Zullo thinks referral information should be sent 30 days prior to the transfer date when a Brokerage notifies a CDDP of a pending vacancy.</p>	<p>ODDS considered the comments provided by Ms. Owens and Ms. Zullo but did not make additional edits at this time.</p> <p>OAR 411-340-0120(13) contains substantially similar requirements for Brokerages.</p> <p>The comments in regards to referral information have been noted and will be considered for future rulemaking.</p>
<p>(2) CHANGE OF CASE MANAGEMENT <del>SERVICE</del> PROVIDER.</p> <p>(b) The individual receiving services, <del>or as applicable the individual's legal or designated representative</del>, may request a new services coordinator</p>	<p><b>Lanxon</b> - Legal or designated representative were removed, so does this mean they cannot request a new services coordinator?</p>	<p>ODDS considered Ms. Lanxon's comments but did not make additional edits.</p> <p>The term "individual" was redefined to include the terms "legal or designated representative". The legal or designated</p>

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within the same CDDP or request case management services from a <del>support services b</del> Brokerage.		representative may continue to request a new services coordinator.
(5) MANDATORY SERVICES. An individual in developmental disability services must accept the following services: (a) Case management <u>provided by a services coordinator or personal agent</u> <del>or support services</del> ;	<b>Owens</b> - Ms. Owens says personal agent should be deleted as this is OAR 411-320.	ODDS considered Ms. Owen's comments but did not make additional changes at this time.  Ms. Owen's comments have been noted and will be considered for future rulemaking.
<b>411-320-0110 Entry and Exit Requirements</b>		
<u>(2) LICENSED OR CERTIFIED RESIDENTIAL PLACEMENT SETTING OPTIONS. In accordance with ORS 427.121, a services coordinator must present at least three appropriate licensed or certified residential placement setting options, including at least two different types of licensed or certified residential settings, to an adult individual eligible to receive services in a licensed or certified residential setting prior to the initial placement of the adult individual into a licensed or certified residential setting. The services coordinator is not required to present the licensed or</u>	<b>Council</b> - The Council says this attempts to enact ORS 427.101, but this was implemented before the HCBS rules. The HCBS rules require individuals select settings in the following way: " The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board." The Council says the language must be amended to reflect	ODDS considered the Council's comments but did not make additional edits at this time.  Language to comply with HCBS will be reflected in a future rulemaking.

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<a href="#">certified residential placement setting options if:</a>	HCBS language to expand the right for people who are considering licensed or certified settings to choose from a variety of options.	
<p>(34) ENTRY MEETING. Prior to <del>an individual's</del> <u>the</u> date of entry <u>of an individual</u> into a Department-funded comprehensive service, the <del>individual's</del> ISP team must meet to review referral material in order to determine appropriateness of placement. The members of the ISP team are determined according to OAR 411-320-0120. <del>The f</del>Findings of the entry meeting must be recorded in the <del>individual's</del> service record <u>for the individual</u> and distributed to the <del>individual's</del> ISP team members. The findings of the entry meeting must include at a minimum:</p>	<p><b>Council</b> - The Council states the entry meeting documentation requirements must reflect the setting where the person resides was chosen by the person. The Council asks the rules be amended to reflect this "federal rule requirement".</p>	<p>ODDS considered the Council's comments but did not make additional edits at this time.</p> <p>The Council's comments have been noted for future rulemaking discussions as part of the adaptation to HCBS requirements.</p>
<b>411-320-0120 Service Planning</b>		
<p><a href="#">(2) LEVEL OF CARE DETERMINATION</a>  <a href="#">(b) A services coordinator must assure that a level of care determination is reviewed for every individual enrolled in a comprehensive</a></p>	<p><b>Lanxon</b> - This indicates the LOC cannot be done earlier than 60 days prior to renewal of the ISP. Ms. Lanxon asks "What if the ISP month changes mid-year due to the introductions of another service and the team determines the Annual ISP</p>	<p>ODDS considered Ms. Lanxon's comments but did not make additional edits.</p> <p>The position of ODDS is that an ISP should be based on a current</p>

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<p><u>service:</u>  <u>(B) No earlier than 60 days prior to the renewal of the ISP</u></p>	<p>date moves?"</p>	<p>determination of the Level of Care.</p>
<p><u>(2)(c) The level of care determination must be documented in a progress note in the service record for the individual.</u></p>	<p><b>Lanxon</b> - The word "determination" is not clear. Ms. Lanxon states the State makes the determination on the LOC and the LOC is stored in the client record with the State's determination. If a progress note on the back end is necessary by the CDDP, this is duplication and creates additional workload.</p>	<p>ODDS considered Ms. Lanxon's recommendation and made additional edits.</p> <p><i>(c) The level of care assessment must be documented in a progress note in the service record for the individual.</i></p>
<p><u>(23) FUNCTIONAL NEEDS ASSESSMENT. A services coordinator <del>or personal agent</del> must complete a functional needs assessment <u>initially and at least annually</u> for each individual <u>who has or is expected to have an ISP at least annually</u>.</u>  <u>(a) The functional needs assessment must be completed:</u>  <u>(A) Not more than 45 days from the date that the individual submitted a completed application or the date the individual became eligible for OHP</u></p>	<p><b>Zullo</b> - Ms. Zullo says it is difficult for service coordinators to track OHP Plus and OSIPM eligibility within the existing system. Ms. Zullo says some of the information is available on eXPRS, but a great deal of service coordination time already goes into contacting local APD offices in order to track OHP Plus/OSIPM eligibility. Ms. Zullo states APD offices have banked caseloads and worker of the day systems that make it time consuming and difficult for services coordinators to obtain information about Medicaid eligibility. Ms. Zullo says if this</p>	<p>ODDS considered Ms. Zullo's comments but did not make additional edits.</p> <p>ODDS agrees that discovering information about an individual's Medicaid eligibility can be challenging, but there is a how-to guide available in the eXPRS system that describes how to use the system to determine Medicaid eligibility. ODDS will continue efforts to simplify this process.</p>

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<p><a href="#">Plus or OSIPM.</a></p>	<p>requirement is retained, APD and CDDPs will need to have support in better coordination of information between offices (consider a LEAN approach) as the current system is workload and time intensive.</p> <p>Ms. Zullo says CDDPs will need better systems for tracking OHP Plus/OSIPM eligibility in eXPRS, have APD provide regular reports to CDDPs, or have identified staff within APD offices that CDDPs can rely on for eligibility information and services coordination.</p>	
<p><a href="#">(3)(b) An adult who is enrolled in comprehensive in-home supports as described in OAR chapter 411, division 330 or a child who is enrolled in in-home supports as described in OAR chapter 411, division 308 must participate in a functional needs assessment and provide information necessary to complete the functional needs assessments and reassessments within the time frame required by the Department.</a>  <a href="#">(C) No fewer than 14 days prior to conducting a functional needs</a></p>	<p><b>Zullo</b> - In regards to mailing a notice of the assessment process, Ms. Zullo states there is no value added in this activity. Ms. Zullo says the service coordinator has already been in contact with the individual and/or family to review the requirement for ANA/CNS and schedule a date for a home visit. Ms. Zullo says there is not a need for the extra time or cost to send a letter. Ms. Zullo thinks this requirement should be deleted because it is an unnecessary activity that adds to workload. If it is not possible to delete it, change the "must" to "shall, if</p>	<p>ODDS considered Ms. Zullo's comments but did not make additional edits.</p> <p>The language is in direct response to ORS 411.099()</p> <p><i>411.099(2)(a) No fewer than 14 days prior to conducting a reassessment for service eligibility, the Department of Human Services shall mail a notice of the assessment process to the individual to be assessed. The notice shall include a description and explanation of the assessment process, an explanation of</i></p>

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<p><a href="#">assessment, the CDDP must mail a notice of the assessment process to the individual to be assessed. The notice must include a description and explanation of the assessment process and an explanation of the process for appealing the results of the assessment.</a></p>	<p>applicable..."</p>	<p><i>the process for appealing the results of the assessment and a description of the rights described in paragraph (b) of this subsection.</i></p> <p><i>(b) The individual being assessed has the right to set the date, time and place of the assessment at a location that is convenient for the individual and to invite other persons to participate in the assessment.</i></p>
<p>(34) INDIVIDUAL SUPPORT PLANS (ISP). Individuals enrolled in waiver or <a href="#">Community First Choice</a> state plan services must have an ISP.</p> <p><a href="#">(f) The ISP must be made available using language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual receiving services and the people important in supporting the individual.</a></p>	<p><b>Zullo</b> - This is a change that could add significant costs to CDDPs for translation and interpretation services. Ms. Zullo is requesting the workload model be adjusted to add in these costs, which would account for thousands of dollars in CDDPs where the services will be most needed. Also, the Public Notice for comment on the Medically Involved children's Waiver, Appendix B-8: Access Services by Limited English Proficiency persons says: "DHS also has a statewide contract that can be utilized when local resources are limited for interpreting and translation." Ms. Zullo requests the availability of this contract be written into this section giving CDDPs access to DHS funds for translation and interpretation</p>	<p>ODDS considered Ms. Zullo's comments but did not make additional edits.</p> <p>This rule concerns the content of the ISP, the comment concerns implementation and would not be appropriate content for this rule. Being subject to change, ODDS does not want to incorporate reference to contracts in rule.</p>

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	services.	
<p>(4)(gh) An ISP must be developed, implemented, and authorized as follows:            (A) FOSTER CARE AND 24-HOUR RESIDENTIAL <del>SERVICES PROGRAMS</del>.            (i) A services coordinator must attend and assure that an annual ISP meeting is held for individuals receiving <u>services in</u> foster care or 24-hour residential <del>services programs</del> and any associated <u>programs for employment</u> <del>or alternatives to employment services</del>.</p>	<p><b>OSAC</b> - Feel the individual should run their own ISP meeting.</p>	<p>ODDS considered OSAC's comments but did not make additional edits.</p> <p>This rule does not inhibit an individual from driving the ISP meeting, but the specialized training and authority of a services coordinator are needed to assure the meeting and its outcomes comply with all applicable rules and policy.</p>
<p><b>411-320-0130 <u>Case Management Contact, Site Visits, and Monitoring of Services</u></b></p>		
<p><u>(1) CASE MANAGEMENT CONTACT. Every individual who has an ISP must have a case management contact no less than once every three months. Individuals with significant health and safety risks as identified in the ISP must have more frequent case management contact. At least one case management contact per year must be face to face. If an individual</u></p>	<p><b>Zullo</b> - Ms. Zullo says health and safety risks have not been identified in the current ISP formats. Ms. Zullo states the new ISP format will have a risk section to complete with an assessment/discussion to determine if risk is mitigated by staff, etc. Ms. Zullo says until there is training and this is implemented, there is nothing documenting this status.</p> <p>Ms. Zullo says language should be added</p>	<p>ODDS considered the comments made by Ms. Zullo and OSAC but did not make additional edits.</p> <p>ODDS has long expected and trusted the services coordinator to use their professional judgment to identify health and safety risks and to attend to them appropriately. Any forthcoming tools will be used to guide that judgment.</p>

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<p><a href="#">agrees, other case management contact may be made by telephone or by other interactive methods. The outcome of the case management contact must be recorded in the progress notes. The purpose of the case management contact is:</a></p> <p><a href="#">(a) To assure known health and safety risks are adequately addressed;</a></p> <p><a href="#">(b) To assure that the support needs of an individual have not significantly changed; and</a></p> <p><a href="#">(c) To assure that an individual is satisfied with the current supports.</a></p>	<p>to this section that says "Effective upon implementation of the new ISP, which includes a section for assessment of risks."</p> <p><b>OSAC</b> - Think people should be able to choose how often they want their case manager to contact them and this should be an individual choice. Some individuals like more or less contact than others.</p> <p>Feel (a) - (c) is not respectful because it makes the conversation focus on negative parts of an individual's support needs instead of an individual's strengths, choices and goals. Feel the language should be made to be more positive as positive conversations will help individuals share more information and can lead to better supports that help individuals to reach their goals.</p>	<p>The minimum contact requirement is a condition for continued access to K plan funded services. An individual may request more frequent contact at any time. Phrasing the purpose of case management contact that preserves the intent have been noted and will be considered for future rulemaking.</p>
<p><b>411-320-0160 Crisis Diversion Services</b></p>		
<p>(1) CRISIS DIVERSION SERVICES. The CDDP must, in conjunction with the <del>CDDP's</del> regional partners <a href="#">of the CDDP</a>, provide crisis diversion services for adults and children with intellectual or developmental disabilities who are enrolled in</p>	<p><b>Zullo</b> - Ms. Zullo says this language needs to be updated to reflect current functions of regional crisis programs. Ms. Zullo suggests defining and refining the language and that inapplicable language be removed.</p>	<p>ODDS considered Ms. Zullo's comments but did not make additional edits at this time.</p> <p>Ms. Zullo's comments have been noted and will be considered for future rulemaking.</p>

**ATTACHMENT A**

Rule Number and Proposed Rule Language	Comment	ODDS Response Permanent Rule Language
developmental disability services and are eligible for crisis diversion services as described in section (3) of this rule and experiencing a crisis risk factor.		
<b>411-320-0170 <del>Complaints</del> Contractor Disputes</b>		
<p>(b2) <del>CONTRACT NOT SUBSTANTIALLY SIMILAR.</del> A <del>service</del> provider may appeal the imposition of a disputed term or condition in the contract if the <del>service</del> provider believes that the contract offered by the CDDP contains terms or conditions that are not substantially similar to those established by the Department in <del>its</del> <u>the</u> model contract. The <del>service provider's</del> appeal of the imposition of the disputed terms or conditions must be in writing and sent to the <del>Department's</del> <u>Director of the Department</u> within 30 <del>calendar</del> days after the effective date of the contract requirement.</p>	<p><b>Zullo</b> - CDDPs don't have contracts with providers anymore.</p>	<p>ODDS considered Ms. Zullo's comments but did not make additional edits at this time.</p> <p>Ms. Zullo's comments have been noted and will be considered for future rulemaking.</p>