

Adult Foster Homes for Individuals with I/DD

Oregon Administrative Rule Changes
Chapter 411, Division 360

Disclaimer

OAR references to the 411- 360 Adult Foster Home for Individuals with I/DD rule are based on proposed language and is subject to change with public comment period and finalization of Oregon Administrative Rules on December 29th, 2014.

This Power point does not contain all of the content in the Adult Foster Home Rule. It is important that you read the rule in its entirety.

New Definitions

411-360-0020

New definitions added to the Adult Foster Home rule:

- Brokerage
- Career Development Plan
- Community Nursing Services
- Individual Education Plan
- Oregon Health Plan (OHP) Plus
- Person Centered Planning

Terms and Definitions Removed

A number of terms and definitions that are commonly used across all ODDS rules were removed and added to a new Definition rule, Chapter 41, Division 317. Some of the terms remain with a reference to the new Definition rule or other ODDS rules (such as the Community Developmental Disability Program Rule Chapter 411 Division 320).

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

- Board of Nursing Rules (OAR 851-045 and 851-047)
- Community Developmental Disability Program (OAR 411-320-0020)
- Community First Choice State Plan (OAR 411-317-0000)
- Family Member (OAR 411-317-0000)
- Home and Community Based Waivered Services (OAR 411-317-0000)
- Level of Care (OAR 411-320-0020)
- Medication (OAR 411-317-0000)
- Nurse (OAR 411-317-0000)
- Nursing Care
- Prescription Medication (OAR 411-317-0000)
- PRN (Pro re nata) (OAR 411-317-0000)
- Skills Training

Updated Terms & Definitions

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

- Activities of Daily Living (also moved to definitions rule)
- Administration of Medication (also moved to definitions rule)
- Care
- Case Management (also moved to definitions rule)
- Choice
- Crisis
- Delegation
- Developmental Disability
- Director
- Exit
- Functional Needs Assessment

Updated Definitions Continued:

- Guardian
- Hearing
- Instrumental Activities of Daily Living (moved to definitions rule)
- Individual Support Plan (ISP)
- Licensed Health Care Provider (moved to definitions rule)
- Nursing Service Plan
- Qualified Mental Health Professional
- Respite Care
- Special Diet
- Substantiated
- Transition Plan

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

Variations

411-360-0030

- The rule has been updated to clarify that the Department will not grant a variance when the request violates applicable state or federal laws.

Community Nursing Services

411-360-140(11)

Standards & Practices for Health Care

- This section of the rule was updated to identify Community Nursing Services. These services include Nursing assessments (including medication reviews) Care coordination, Monitoring, Delegation and training of nursing tasks, Teaching and education of the provider and Contact and communication by RN with services coordinator.
- The rule allows for initial assessment and requires a nursing reassessment every 6 months or sooner if a change in medical conditions require an update to the Nursing service plan.
- Community Nursing Services exclude direct nursing care.
- A Nursing Service plan must be completed.
- The service coordinator authorizes the provision of Community Nursing Services.
- The AFH Provider must implement the Nursing Service Plan and coordinate with the RN & ISP to assure nursing services provided are sufficient to meet the health needs of the individual.

Community Nursing Services
411-360-140(11)
Standards & Practices for Health Care

A registered nurse providing community nursing services must comply with record and documentation requirements outlined in Long Term Care Community Nursing rule OAR 411-048, department direct contracts (if applicable) and service record requirements outlined in this rule.

Under 411-360-140 (12) Delegation and Supervision of Nursing Tasks language was changed to state Nursing Tasks must be delegated by a registered nurse to a provider, resident manager and a substitute caregiver

Individual Support Plan OAR 411-360-0170(4)(b) Documentation and Record Requirement

Under ISP documentation and record requirements:

- Effective July 1st, 2014 a Career Development Plan must be attached to the ISP of an Adult in accordance with Employment and Day Support Activities rule (OAR 411-330)
- For an individual in employment or other department funded day services a copy of the plan maintained by the provider for employment or day services must be integrated or attached to the individuals ISP.
- Language prohibiting “Habilitation” services as an activity under the six hours of weekly required activities described in the individuals ISP was removed.

Bill of Rights for Individuals
411-360-0170(9)(e)(O)
Documentation & Record Requirements

- This section of the rule adds a freedom from mechanical restraint in response to a statutory requirement. An exception must be approved by the department.

Qualifications For Department Funded Services

OAR 411-360-0190

Standards for Entry, Transfer, Relief Care, Crisis Placements, Exit and Closures

Changes in rule:

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

Qualifications For Department Funded Services

OAR 411-360-0190

Standards for Entry, Transfer, Relief Care, Crisis Placements, Exit and Closures

Added to the rule:

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

Transfer of Assets

411-360-0190(2)(c)

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

- ✓ An individual **receiving medical benefits under OAR chapter 410, division 200 requesting Medicaid coverage for services in a non-standard living arrangement** (see OAR 461-001-0000) **is subject to the rules regarding transfer of assets** (see OAR 461-140-0210 to 461-140-0300) in the same manner as if the individual was requesting these services under OSIPM. Includes, but is not limited to, the following assets:
 - ❖ Transfer of property when an individual retains a life estate.
 - ❖ An Annuity
 - ❖ A loan by an individual.
 - ❖ An irrevocable trust.

Transfer of Assets

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

Qualifications For Department Funded Services

OAR 411-360-0190

Standards for Entry, Transfer, Relief Care, Crisis Placements, Exit and Closures

Changes to documentation upon entry 411-360-0190(4)(G)(H):

Adds to list of documentation requirements upon entry:

- Most recent assessments
- Nursing Service Plan
- Protocols
- Risk tracking records
- Any support documentation if available

Qualifications For Department Funded Services
OAR 411-360-0190

Standards for Entry, Transfer, Relief Care, Crisis Placements, Exit and
Closures

Immediate Exit 411-360-0190(11)(a)

New OAR language was added in response to statutory requirements regarding the process of immediate exit from AFH-DD for individuals who meet the following conditions:

For Adult Individuals admitted into AFH-DD **on or after July 1st, 2014 and who:**

- Were convicted of a sex crime **and**
- Were on probation, parole or post prison supervision for such crimes **and**
- The individual presents a current risk of harm as identified in rule **and**
- The Adult Foster Care Provider was not notified prior to the entry into the AFH-DD that the individual was on probation, parole or post prison supervision after being convicted of a sex crime.

Qualifications For Department Funded Services
OAR 411-360-0190
Standards for Entry, Transfer, Relief Care, Crisis Placements, Exit and
Closures

Immediate Exit 411-360-0190(11)(a) continued

The rule also outlines the process of:

- Notification by the provider to the central office for criteria review
- Review/determination by ODDS (with involvement from Department of Corrections) whether the case meets criteria for Immediate Exit
- Written notice requirements for the individual including requirements of notice to legal representative or if person lacks capacity and has no legal representative a copy of move out notice must be faxed immediately to the State Long Term Care Ombudsman
- Hearing request requirements

A request for hearing does not delay the exit.

Conditions to a License

OAR 411-360-0250

- Under 411-360-0250(1)(c) the word “reliable” is removed in front of evidence of abuse. Neglect or exploitation was added. The sentence now reads “There is evidence of abuse, neglect or exploitation.”
- Under 411-360-0250(4)(a)(b) the words “contested case” were removed in front of the word hearing as a hearing has the same meaning as contested case hearing.

Suspension of a License

OAR 411-360-0275

- Under 411-360-0275(1)(b) the word “reliable” is removed in front of “evidence of abuse, neglect or exploitation of any individual.”
- Under 411-360-0275(2)(c) the words “contested case” were removed in front of the word hearing as a hearing has the same meaning as contested case hearing.