

411-318-0020

Notification  
of  
Planned Action

November 2014  
Chelas Kronenberg

OAR references to the 411-318 rule are based on proposed language and is  
subject to change with public comment period and finalization of Oregon Administrative Rules on  
December 29<sup>th</sup>, 2014

[ 1 ]

## What is purpose of Notification of Planned Action (NPA)

- Informs the individual/guardian:
  - About a denial or change in their services
  - The date when the change will be effective
  - About the rules used in the decision
  - About their hearing rights or Due Process before an unfavorable action is taken

[ 2 ]

The following terms are used synonymously:

- Notification of Planned Action
- Notice
- NPA
- Decision Notice

# When to issue a NPA

OAR 411-318-0020(1)

- Any time a service is:
  - Denied - application for DD services, new request for services and found ineligible for that service
  - Terminated – determined no longer eligible for DD services or new assessment determines no longer eligible for service. Terminations are when a service is going to end.
  - Reduction – when a plan is being reduced as a result of a new assessment (lower number of hours of support)
  - Suspension – current service level is suspended (person is in hospital, no employer of record to assign services or verify timesheets, person is temporarily out of the Country and unavailable to receive services – less than a calendar month)

**Anytime you are telling an applicant or individual 'no', you must do so by issuing a Notification of Planned Action**

[ 3 ]

One notice per issue. 1 issue=1 notice. 2 issues=2 notices etc.

It is recommended that you consult with ODDS when you have identified a Suspension notice may be necessary.

# Effective Dates of Action

411-318-0020(2)(b)

- Date of Notice = date that the Notice is being mailed or hand delivered
- Denials = same date of Date of Notice
- Terminations, Reductions, Suspensions
  - issuing notice on or before the 18<sup>th</sup> of the calendar month = effective date of action is the last day of the calendar month.
  - Issuing notice on or after the 19<sup>th</sup> of the calendar month = effective date of action is the last day of the NEXT calendar month.
  - Other – situations may arise when the schedule above does not work. Regardless of situation – effective date of action must be no LESS than 10 days.

[ 4 ]

## Effective Dates of Planned Action

– Denials are the same date as the Date of Notice because we do not need to give the individual a ‘heads up’ that the office will be denying the service.

- Terminations, Reductions and Suspension require that the individual receives a prior ‘heads up’ that their services will be changing to a lesser amount. Medicaid law requires that at least 10 days of notice is given before the action is taken.

## Notice must include

OAR 411-318-0020(2)(a-g)

- Use form 0947 (includes all rule required points)
- Must be addressed to individual and legal guardian (if applicable)
- Service being impacted (in-home attendant care hours, communication device, DD eligibility etc.)
- Reason for Action – do not copy language from OAR. Provide a brief explanation in common or “lay” terms that the individual can understand, about the action that is being taken.
- OAR citation – identify specific rule down to subsections
- Notification that individual may be required to repay the Department for any continuing benefits during hearing if the Final Order is not favorable to the individual

( 5 )

All of these criteria are included on the Notification of Planned Action. If they do not, the notice is inadequate.

If the case goes to an administrative hearing, an inadequate decision notice will be treated the same as no notice at all. Without giving (adequate) notice, we cannot take any negative action.

## Writing OARs - practice

- An ANA was completed for an adult who is receiving supports through a Brokerage. The individuals assessed hours are less than they were for the previous plan year. Because this will reduce the individuals' service plan, a Notification of Planned Action must be sent.

Must include OAR citation (*Note: cited OARs are from temporary emergency OARs 07/01/2014*):

- 411-340-0020(58)(a)(C); 411-340-0020(72);  
411-340-0020(103); 411-340-0130(5)
- *Could also write this way: 411-340-0020(58)(a)(C); (72); and (103); 411-340-0130(5)*
- Your Individual Support Plan has been reduced as a result of the Functional Needs Assessment that was completed on July 29th. Your Service Level is now authorized for 100 hours per month of attendant care hours. Last year your Service Level was authorized for 153 hours per month of attendant care hours.

6

Temp emergency rule filed 07/01/14:

411-340-0020(58) = definition of Functional Needs Assessment, identifies that the FNAT determines the 'service level' for the ISP

411-340-0020(72) = definition of Individual Support Plan

411-340-0020(103) = definition of service level

411-340-0130(5) = describes service limits and references using the assessed needs from the FNAT to determine service level

**DHS**  
Oregon Department of Human Services  
Office of Developmental Disabilities Services

### Notification of Planned Action

Date of notice: \_\_\_\_\_ Effective date of planned action: \_\_\_\_\_

Individual's name: \_\_\_\_\_  
 Individual's date of birth: \_\_\_\_\_ Individual's prime number: \_\_\_\_\_  
 Street address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP code: \_\_\_\_\_  
 Legal guardian's name: \_\_\_\_\_  
 Notifying agency: \_\_\_\_\_  
 Caseworker name: \_\_\_\_\_ Phone: \_\_\_\_\_

If you have questions call please call the caseworker listed above.

**This is to inform you of the planned action listed below.**  
 If you disagree with the action, you have the right to request a hearing per OAR 411-001-0325. Information on how to make a request is on page 2 and 3 of this Notification of Planned Action.

**Planned action**

Your request for \_\_\_\_\_ has been denied.  
 There has been a:  
 reduction  suspension  termination in the listed DD service  
 voluntary reduction of services  voluntary closure of services  
 other reasons for denial listed below:  
 \_\_\_\_\_  
 \_\_\_\_\_

Describe the reason for the action below:  
 \_\_\_\_\_  
 \_\_\_\_\_

The determination is based on the following Oregon Administrative Rule(s) (include subsections, and complete list of records on last page).  
 \_\_\_\_\_  
 \_\_\_\_\_

**If you disagree with this decision, you have the right to request a hearing.**  
 If your case is being denied, parts 1 and 3 on page 2 apply.  
 If your case is being terminated, reduced or suspended, parts 1, 2, and 3 on page 2 apply.  
 If your situation changes, please notify the contact listed above.

Page 1 of 4 SDS 0947 (05/2014)

**Callout boxes:**

- Must be date either in mail, emailed or hand delivered (points to Date of notice)
- Denials = same date as 'Date of Notice' (points to Effective date of planned action)
- Must enter name of CDDP or Brokerage (points to Caseworker name)
- Terminations, reductions, suspensions = follow directions in 411-318-0020(2)(b) (see Notes below) (points to Planned action section)

411-318-0020(2)(b)(A)

Denials = Effective Date of Planned Action = same as Date of Notice

411-318-0020(2)(b)(B)

Reduction, suspension, termination =

Notices issued on or before 18<sup>th</sup> of the months, Effective Date of Planned Action = last day of the *same* calendar month

Notices issued on or after the 19<sup>th</sup> of the month, Effective Date of Planned Action = last day of the *next* calendar month

**DHS**  
Oregon Department of Human Services  
Office of Developmental Disabilities Services

### Notification of Planned Action

Date of notice: \_\_\_\_\_ Effective date of planned action: \_\_\_\_\_  
 Individual's name: \_\_\_\_\_  
 Individual's date of birth: \_\_\_\_\_ Individual's prime number: \_\_\_\_\_  
 Street address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP code: \_\_\_\_\_  
 Legal guardian's name: \_\_\_\_\_  
 Notifying agency: \_\_\_\_\_  
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This is where you indicate what action you are taking

If the existing service is being terminated, reduced or suspended, indicate this by checking the 2<sup>nd</sup> box and marking the appropriate selection

If the service is a new request and is being denied, indicate this by checking the first box, then going to the next section to Describe the reason for the Action

Voluntary changes that are directed by the individual/guardian and cause a reduction, suspension or termination of a service plan must also be identified through a Notification of Planned Action – see end of PowerPoint for information about voluntary changes.

Final draft of form will include drop down options for 'Planned Action' section

11/01/2014

\*\*\*\* Note \*\*\*\* this Notification of Planned Action is under final edits and may have slight adjustments upon final release and posting on the DHS forms website along with formal notification that the form has been updated.

**DHS**  
Oregon Department of Human Services  
Office of Developmental Disabilities Services

### Notification of Planned Action

Date of notice: \_\_\_\_\_ Effective date of planned action: \_\_\_\_\_

Individual's name: \_\_\_\_\_  
Individual's date of birth: \_\_\_\_\_ Individual's prime number: \_\_\_\_\_  
Street address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP code: \_\_\_\_\_  
Legal guardian's name: \_\_\_\_\_  
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 other reasons for denial listed below:  
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\_\_\_\_\_

Describe the reason for the action below:  
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Best practice to begin this section by using a “because” statement.

Example: an individual is receiving in-home services and asks for additional attendant care for support with their ADL/IADLs. After a new assessment (CNA or ANA) and no change of support needs, the attendant care support hours will remain the same as before. The Notification of Planned Action will need to be written you would write something to the effect of:

“You requested that your Individual Support Plan service level (support hours for attendant care in ADL/IADLs) be increased. This service level increase is being denied because after completion of the functional needs assessment, your service level as identified in your Individual Support Plan (ISP) remains the same.”

If individuals are dissatisfied with the results of the ANA, the individual can request a *new* assessment. If they are dissatisfied with their ISP, they can request a hearing.

## Citing OARs

- OARs must be cited to their fullest and closest rule citation.
- DD rules always start with 411, then list:
  - the division of program
  - the rule section
  - the sub section
- Cite ALL OARs that apply to the action that is being taken, including definitions as applicable

[ 10 ]

References from temporary emergency OARs 07/01/2014:  
411-340-0110(3)(a)

411 = Chapter  
340 = Division  
0110 = rule  
(3) = section  
(a) = subsection

## How do people request a hearing?

- Department must receive the request within 90 days of the Date of Notice
  - Orally
  - In writing (email or letter)
  - Completing 0443DD (preferable)
- Department = CDDP, Brokerage, CIIS or ODDS
  - Can also be any other DHS office – APD or AAA
- Late hearing requests may also be accepted based on meeting a condition listed the definition of Good Cause OAR 411-318-0001(20)
  - Department Hearing reps or Administrative Law Judge determines of Good Cause is or is not met.

## Oral Hearing Request

- Have a conversation about what the individual or their representative really wants
- Filling out 0443DD and sending individual a copy of the letter
- Forwarding 0443DD and copy of Notice and supporting records to ODDS
  
- Avoid discouraging the individual from requesting a hearing
- Late hearing requests (being requested more than 90 days after the notice had been sent)

[ 12 ]

This is a new process for DD. This is a federal mandate and both DD and APD are working through this process. Date of request is the date that the individual orally requests the hearing.

# Good Cause

411-318-0005(20)

- If a Request for a Hearing is not received within 90 days, the Hearing Representatives of the Administrative Law Judge may determine that there is “good cause” to accept the late hearing request.
- 411-318-0005(20)
  - Good cause is generally whether the delay was reasonably beyond the individual/claimant’s control

( 13 )

Regardless of when you may have issued a Notification of Planned Action, if an individual or their representative identifies or expresses that they would like to request a hearing, assist them in requesting a hearing by completing the 0443DD form, or offering them the form and they can complete it. The Department Hearing Rep or the ALJ will determine if there is “good cause” to accept the request for a hearing.

ODDS, CIIS, CDDP or Brokerage employees do not make this decision.

The image shows a screenshot of the "SPD/DD Administrative Hearing Request" form from the Oregon Department of Human Services. The form is divided into several sections:

- Department of Human Services (DHS) completes this part:** Includes fields for Date of notice, Cost center, Date of initial hearing request, Date 044300 rec'd by DHS, Case number, Claimant speaks English?, Alternate format, and Claimant primary language.
- Claimant or claimant's representative completes this part:** Includes fields for Name of claimant, Date of birth, Full address, and Phone.
- I am asking for a hearing because I do not agree with the decision to:** Includes checkboxes for Deny services, Terminate services, Reduce services, Suspend services, and Other.
- I received written notice / I did not receive written notice:** Includes a field for Date of notice.
- Program(s) involved:** Includes checkboxes for Comprehensive services, CIIS, Support services, and Other developmental disability services.
- Before you answer this question, please read "part 2" on page 2 of this form.** Includes a question about wanting services to stay the same.
- Please read "part 3" on page 2 of this form for information about expedited hearings.** Includes a checkbox for expedited hearing and fields for Name of representative, Full address, and Relationship of representative to claimant.
- The administrative law judge may conduct a hearing by phone.** Includes a note about telephone hearings and fields for Signature of claimant and Date.
- DHS representative for this matter:** Includes fields for Name, Phone, and Date.

Two callout boxes on the left side of the form provide additional context:

- A box labeled "ODDS completes this section" points to the top section of the form.
- A box labeled "Claimant or representative completes this section based on information found on the NPA" points to the middle section of the form.

In the bottom right corner of the screenshot, there is a page number "14" inside a bracketed box.

### 0443DD Request for a Hearing

Can be completed by the individual/representative or a Department employee (any provider, CDDP/Brokerage, CIIS or Department employee) when the individual expresses a desire to have a hearing related to a Notification of Planned Action or non "timely" decision to a request for a new service or an increase in an existing service.

**DHS**  
Oregon Department of Human Services  
Seniors and People with Disabilities

### SPD/DD Administrative Hearing Request

**Department of Human Services (DHS) completes this part**

Date of notice: \_\_\_\_\_ Cost center: \_\_\_\_\_ Date of initial hearing request: \_\_\_\_\_ Date 044300 rec'd by DHS: \_\_\_\_\_

Case number, (prime number or DD followed by last 4 digits of SSN): \_\_\_\_\_

Claimant speaks English?  Yes  No Claimant primary language: \_\_\_\_\_

Alternate format:  Yes  No If yes, specify below:

Braille  Audio tape  Large print  Diskette  Oral presentation

**Claimant or claimant's representative completes this part**

Name of claimant: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Full address: \_\_\_\_\_ Phone: \_\_\_\_\_

If you want a hearing regarding developmental disability services or eligibility determination, you or your representative must fill out this form. An employee at your Community Development Disabilities Program Office or Support Services Brokerage can help you complete this form.

**I am asking for a hearing because I do not agree with the decision to:**

Deny services  Terminate services  Reduce services  Suspend services

Other \_\_\_\_\_

I received written notice  I did not receive written notice Date of notice: \_\_\_\_\_

Notifying agency: \_\_\_\_\_

Program(s) involved:  Comprehensive services  OHS  Support services  
 Other developmental disability services (e.g., case management)  Not receiving services

**Briefly explain the decision and why you disagree with it (attach additional sheets as needed):**

**Before you answer this question, please read "part 2" on page 2 of this form.**

Do you want your services to stay the same (not reduced or stopped) while you wait for a hearing?

Yes  No

**Please read "part 3" on page 2 of this form for information about expedited hearings.**

Check this box if you meet the requirements for an expedited hearing:

Name of my representative: \_\_\_\_\_ Phone number: \_\_\_\_\_

Full address of representative: \_\_\_\_\_

Relationship of representative to claimant: \_\_\_\_\_

**The administrative law judge may conduct a hearing by phone.**

In a telephone hearing, the administrative law judge participates by phone. The claimant may be at the developmental disability office or another place. I understand that I will be asked to have an informal conference with an agency representative.

Signature of claimant: \_\_\_\_\_ Date: \_\_\_\_\_

DHS representative for this matter: \_\_\_\_\_ Phone: \_\_\_\_\_

Issue code: \_\_\_\_\_ Date: \_\_\_\_\_

**Callouts:**

- Claimant/representative identifies the reason that they think the claimant should be eligible for the service in question. (Points to "I am asking for a hearing because I do not agree with the decision to:")
- Signature line (Points to "Signature of claimant:").
- Representative: If the claimant has someone representing them during the hearing, that person's information goes here. Cannot be a Department employee acting in that capacity (Points to "Name of my representative:" and "Relationship of representative to claimant:").

[ 15 ]

If a Department employee identifies themselves as the individuals representative on this form, the Department Hearing Representatives will contact both the individual and the representative to identify if there is someone else who can represent the individual during the hearing.

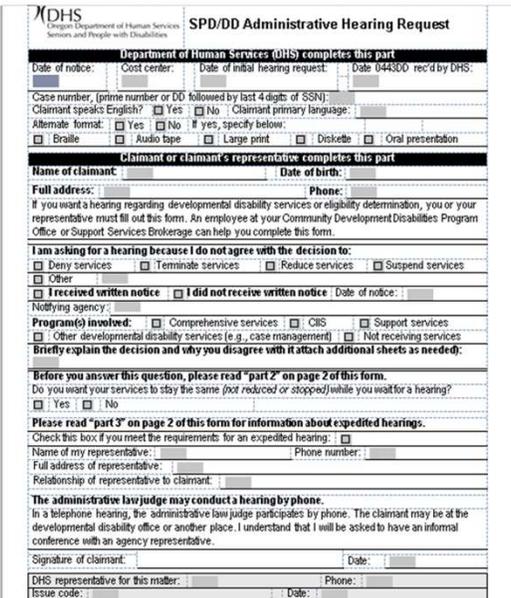
If you receive the oral hearing request, sign your name on 'Signature of Claimant' line and identify your relationship to the claimant.

## What are Continuing Services?

- If an individual is given notice to Terminate, Reduce or Suspend service, the individual has the right to request that services remain unchanged during the hearing process.
- Individual must request a hearing and continuing services (also called Aid Paid Pending) prior to the Effective Date of Action in order for services to remain the same.
- If a hearing is requested after the Effective Date of Action, may not be eligible for Continuing Services – Department has option to provide continuing services or denying
  - Services may already have ended and would have to be reinstated
  - If individual was in residential services, leaves and later requests continuing services, may not have the same placement option.
- Individual can change their choice of continuing services at any time during the hearing process.

If the claimant has requested and is eligible for continuing services, then authorize continuing services. Hearing Representative sends a notice of eligibility and approval for continuing services, to the individual/claimant or representative

If the claimant has requested, but is NOT eligible for continuing services, then the hearing representative will issue a denial of continuing services.



The image shows a form titled "SPD/DD Administrative Hearing Request" from the Department of Human Services (DHS). The form is divided into several sections:
 

- Department of Human Services (DHS) completes this part:** Includes fields for Date of notice, Cost center, Date of initial hearing request, and Date 044300 rec'd by DHS.
- Case information:** Includes Case number, Claimant speaks English?, and Alternate format (Braille, Audio tape, Large print, Diskette, Oral presentation).
- Claimant or claimant's representative completes this part:** Includes Name of claimant, Date of birth, Full address, and Phone.
- I am asking for a hearing because I do not agree with the decision to:** Includes checkboxes for Deny services, Terminate services, Reduce services, Suspend services, and Other.
- Program(s) involved:** Includes checkboxes for Comprehensive services, OHS, Support services, and Other developmental disability services.
- Before you answer this question, please read "part 2" on page 2 of this form.** Includes a question about wanting services to stay the same.
- Please read "part 3" on page 2 of this form for information about expedited hearings.** Includes a checkbox for expedited hearing and fields for representative name, address, and phone.
- The administrative law judge may conduct a hearing by phone.** Includes a note about telephone hearings.
- Signature and Date:** Fields for the claimant's signature and date.
- DHS representative for this matter:** Fields for the DHS representative's name, phone, and date.

**Continuing Services:**  
If a claimant is currently receiving a service that will be terminated, reduced or suspended and wants to **continue** to receiving the service during the hearing, they identify 'yes' they want the service to remain the same.

[ 17 ]

Continuing services. If an individual is found to be no longer eligible for a service, have a reduction in service or suspension of service, they have the right to request that their services remain the same during the hearing and until the issuance of a Final Order or they withdraw their request for a hearing.

If services are extended past the Effective Date of Action, the claimant/individual may be responsible for services received from the date AFTER the Effective Date of Action until the receipt of the Final Order.

If the individual wins/prevails at the hearing, they will not have an overpayment.

If the individual loses the hearing (Department prevails) they may be responsible for paying back services received from the date following the Effective Date of Action and the service being closed, reduced etc.

## What happens next?

- 0443DD received by Department
  - ODDS will request a copy of the Notification of Planned Action and all supporting documents from the entity who issued the NPA
  - ODDS refers the case to the Department Hearing Representative Unit
  - Hearing rep is assigned
- Coordination of witnesses for the hearing
  - CDDP/Brokerage/CIIS to testify regarding decision that was made
  - ODDS to testify for rule interpretation, policy related decisions, ODDS denied support/service/expenditure

[ 18 ]

ODDS will begin coordinating with the SC/PA or other individual who issued the NPA to be a witness to the hearing.

ODDS shares all records with the Hearing Rep

What records are needed when requested by ODDS? Notification of Planned Action and all records identified on the Notice (records page) *including* progress notes.

# Hearings Representatives

- Hearing Representatives are responsible for:
  - Coordinating informal conference with claimant and/or representative
  - Referring the case to the Office of Administrative Hearings
  - Organizing Exhibits
  - Writing Contested Case Notice (CCN)
  - Interviewing Witnesses during the hearing

[ 19 ]

After the case is referred to the Department Hearing Representatives, ODDS and the local offices will take a back seat. ODDS will work with the CDDP, Brokerage, CIIS to identify who will be the witness for the hearing.

# Informal Conferences

411-318-0025(4)

- This is an opportunity for:
  - The Department/CDDP/Brokerage/CIIS and the claimant/representative to explain different positions
  - Ensure that everyone has all the information
  - Ensure that everyone understands the issue at stake
  - Opportunity to reach a resolution

[ 20 ]

Following the Informal Conference, one of three things are decided:

- 1) Proceed to a hearing
- 2) Claimant/representative withdraws request for a hearing
- 3) Department withdraws the Notification of Planned Action

# Proceeding to a Hearing

- The Department Hearing Representative refers the case to the Office of Administrative Hearings (OAH)
- Hearing Representative notifies all witnesses when the hearing is scheduled
  - This is usually at least a month after referring the case to OAH
- Hearing representative will discuss potential questions with the witnesses prior to the hearing
  - When the CDDP, Brokerage or CIIS has issued a NPA related to a decision that has been made, the witness will be the person who made the decision.
  - When ODDS has completed a Funding Review decision related to the request for service(s), the witness will be ODDS staff.

## Claimant Withdraws

- If the claimant or the representative withdraws their request for a hearing, the decision identified within the Notification of Planned Action stands and the Action must be taken on the date identified within the Effective Date of Planned Action
  - If the Effective Date of Planned Action has already passed, the action is taken immediately and there may be an overpayment
- Order of Dismissal/Withdrawal
  - Issued by the Department Hearing Reps

[ 22 ]

If the claimant disagrees with the results of the assessment, they can withdraw their hearing request and request a new assessment.

## Department Withdraws

- If the Department withdraws the Notification of Planned Action, it is typically because there is a lack of evidence supporting the decision, there is inaccurate or additional information needed or additional information has been submitted.
  - If the Department withdraws the Notification of Planned Action, then services may resume or additional information may be needed before eligibility for the service can be determined.
- Department Hearing Representative
  - Issues Order of Dismissal/ Withdrawal

[ 23 ]

Example – during the informal conference, it may be determined that the CNA/ANA did not accurately capture the individual's support needs and the SC/PA may agree to withdraw the reduction notice (if previous assessment showed a less amount of required support) or the denial notice (if request for additional service was denied when no additional supports were identified on new assessment) and complete a new assessment.

When the Department withdraws a Notification of Planned Action, it means that the situation that the individual was in (or services that they were receiving) revert to the service level that was assessed prior to the NPA being issued.

# Hearings

- If the case goes to a hearing:
  - All hearings are done over the phone unless the claimant/representative requests an in-person hearing
  - No shows = Department prevails/wins
  - After hearing:
    - Final Order is issued usually 3-6 weeks following the hearing.

[ 24 ]

When the hearing is first scheduled, the Office of Administrative Hearings sends the individual and their representative (if applicable) a Notice of Telephone Hearing. This Notice includes instructions on how to submit additional information if the individual chooses, how to call in for the hearing and what to do in order to reschedule if necessary. The Notice of Telephone Hearing includes a contact person's name at the OAH.

## Final Orders

- Summarize Hearing
- Identify Decision to be taken
- Claimant prevails = services implemented or continue
- Department prevails = action must be taken no more than 5 days after receipt of Final Order (ODDS policy – see AR -11-041)
- If the claimant does not agree with the findings in the Final Order, they may appeal to circuit court – instructions on listed in the Final Order.

( 25 )

AR-11-041 identifies termination process and allows the 5 days of services before services must be closed following a Final Order

It is very important to NOT send a new Notice upon receiving a Final Order. Sending a notice AFTER a hearing would give the client new hearing rights, which we don't want to do.

## Dismissing Hearing Requests

- Only a Department Hearing Representative can dismiss a hearing request.
- If a hearing request has been completed and then either the individual or their representative decides not to move forward with the hearing request, or if the issue is resolved prior to the informal conference, the case worker or the individual/representative must communicate the resolution to ODDS or the Department Hearing Representative, who will issue an Order of Dismissal/Withdrawal.
- ALL hearing requests MUST be forwarded to ODDS

[ 26 ]

It is never ok for any Department employee to NOT send in the O443DD hearing request form to ODDS for processing even if the individual changes their mind and tells the caseworker that they do not want a hearing.

## Over-Payments

- If someone asks for a hearing and continuing services, they may be required to pay back services/benefits that they were not eligible to receive If they do not prevail or win the hearing
- Over-payment starts accruing the day AFTER the Effective Date of Action
- Over-payment ends the date services are ended (either by choice of if the Department prevails at hearing and the services are ended)

[ 27 ]

This information can also be found on the back of the Notification of Planned Action and the DD Administrative Hearing Request (0443DD) form

## Notice of Overpayments

- If an overpayment occurred during the hearing (which would mean that the individual did not win the hearing), the Department completes the DHS 284 and forwards the information to Office of Payment Accuracy and Recovery (OPAR)
- OPAR issues an overpayment notice to the individual
- Individual/representative can request a hearing on overpayment issue

[ 28 ]

If the individual asked that their services remain the same during the hearing and they do NOT win the hearing, they may be asked to pay back the services that they received (the services that they were not eligible for) during the hearing process.

# Amended Notices

- Why an Amended Notification of Planned Action?
  - A Correction to a Notification of Planned Action
    - Corrected Effective Date of Planned Action
    - Corrected OAR citation
    - Corrected Reason for Planned Action statement
    - Other
  - Amended Notices reset the 'clock' for effective dates and possible overpayments.
  - Department hearing reps may also amend a notice if necessary

[ 29 ]

Whenever an Amended Notification of Planned Action is issued, it **MUST** have a new/current 'Date of Notice' and 'Effective Date of Planned Action', according to OAR 411-318-0020(2)(b).

The Notification of Planned Action must also indicate that it is an *Amended* notice someone on the document. This can be hand written on the top of the form. Added into the Reason for Action statement or otherwise indicated on the form.

## Rescinded Notices

- If a Notification of Planned Action was issued and then it is determined that the action is not necessary or the action will not be taken, the Notice must be rescinded.
- This can be done by writing a letter identifying the following:
  - Date of Notice being rescinded
  - Action that was identified in the Notice, and
  - Reason that Action will no longer be taken

[ 30 ]

There is not a DHS/ODDS form for this letter when the individual has not requested an administrative hearing.

If the claimant has requested an administrative hearing, then the hearing representative will send a form #1117

## Amend or Rescind?

- Amend = if you still plan to take the action identified within the Notice but need to correct something within the document
- Rescind = if you no longer plan to take the action identified within the Notice.
  - Example
    - an assessment showed that the individual went from 1200 hours per year to 1000 hours per year. A Notification of Planned Action was issued and the individual requested that a new assessment was completed.
    - New assessment completed and shows that the individual remains eligible for 1200 hours per year.
    - Case worker must rescind the Notice as no adverse action will be taken

## Voluntary changes

- When an individual or their legal guardian asks for a:
  - Reduction
  - Suspension, or
  - Termination

of their service plan (when plan is revised to show a change for the lesser amount or services are closed entirely) a Notification of Planned Action must be provided to the individual and their legal guardian.

[ 32 ]

Do not send a Notification of Planned Action if the individual or legal guardian just doesn't use all services authorized in a plan. Notices are only required if the plan is changed for a less amount of service or if the individual has asked to be exited out of the service.

# Examples – NPA is required

(not an exclusive list)

When to issue a Notification of Planned Action

## In-Home Services

- Service level attendant care support reduced (this includes “temporary “services being decreased following temporary increase in support needs – this would be done following a needs assessment only) the overall ISP
- Service or attendant care support is denied (this includes one time purchase requests)
- request for increase of service level (support hours, respite, behavioral consultation) is denied
- Individual/guardian request for reduction/termination of services and plan (voluntary).
- Dissatisfaction with support plan
- Ancillary services denied by program or ODDS Funding Review

( 33 )

## Examples (cont.)

### Residential Services

- Service eligibility is denied (individual is not eligible for residential services)
- Qualified provider of choice denied
- Dissatisfaction with support plan
- Ancillary service denied by program or ODDS funding review (not to be confused with provider rates or enhanced services)

# Examples – NPA not required

(Not an exclusive list)

Case worker does NOT issue a Notification of Planned Action:

- Provider issues a Notice of Involuntary Exits/Transfers
  - Department doesn't issue if providers choose to terminate or move the individual
- Provider reductions based on ISP agreement (example: someone has 5 days of employment and reduces to 3 days a week with ISP team agreement)
- When individuals/guardians choose not to use all authorized attendant care hours or services in their plan, but the actual plan is not amended or changed.
- An individual or their designated representative of legal guardian is inquiring about overall DD services. If the inquiry is generic and not a specific request for an item, a NPA is not required.