

# Supported Living Settings

Oregon Administrative Rule Changes  
Chapter 411, Division 328

# Disclaimer



OAR references to the 411–328 Supported Living Settings rule are based on proposed language and is subject to change with public comment period and finalization of Oregon Administrative Rules on December 29<sup>th</sup>, 2014.

This power point does not contain all of the content in the Supported Living Settings Rule. It is important that you read the rule in its entirety.

# New Definitions

## 411-328-0560

- ▶ A number of new definitions have been added to the rule that relate to Behavior Support Services.

“Baseline Level of Behavior”

“Behavior Data Collection System”

“Behavior Support Services”

“Behavior Data Summary”

“Chemical Restraint”

“Mechanical Restraint”

“Oregon Intervention System”

“Positive Behavioral Theory and Practice”

- ▶ Additional new definitions added to the rule include:

“Career Development Plan”

“Guardian”

“Health Care Representative”

“Hearing”

“OHP Plus”

“Service Level”



# Definitions Removed



- ▶ A number of definitions that are commonly used across all Individuals with Intellectual or Developmental Disabilities Services Rules were moved to a new Definitions Rule 411-317.

# Variances

## 411-328-0620

- ▶ The rule has been updated to clarify that the Department will not grant a variance when the request violates state or federal laws.
- ▶ Clarifies that providers may request an administrative review of a denial of a variance request.
- ▶ Specifies that the Department must receive a request for an administrative review from a provider within 10 business days from the receipt of the denial from the Department.
- ▶ Requires that the provider must send a copy of the written request for an administrative review to the CDDP.

# Medical Services

## 411-328-0630

- Expanded the requirement that a provider must ensure an individual has chosen a primary physician or a primary health care provider.
  - ✓ Physician Assistant                      Nurse Practitioner
- Allows for an individual to receive a medical evaluation from a qualified health care provider, and not just limited to a physician.
- Allows for the provider to be able to accept a written order from a physician or qualified health care provider for medications, treatments and therapies.
- Requires that the providers must monitor the health status and physical conditions of an individual. This includes taking action in a timely manner in response to identified changes or conditions that may lead to deterioration or harm to the individual.

# Dietary

## 411-328-0640

The only change in this section of the rule is that the provider is responsible for providing support and guidance for a nutritionally adequate diet as identified in the individual's ISP.

# Individual Summary Sheets

411-328-0690

- ▶ Rule is updated to clarify that a provider must maintain a current one to two page summary sheet for each individual.
- ▶ The record must identify “gender” instead of “sex”.
- ▶ The record must also contain the identified pharmacy that an individual is choosing to use.

# Incident Reports & Emergency Notifications

## 411-328-0700

- ▶ This section of the rule was updated to be consistent with requirements in the 24 hour residential services rule.
- ▶ Copies of incident reports can now be made electronically available to service coordinators and legal representatives.
- ▶ The rule has been updated to require that upon the request of a legal representative a copy of an incident report must be sent or made electronically available within 5 business days of the incident.

“Copies of incident reports may not be provided to the legal representative of an individual when the report is part of an abuse or neglect investigation.”

# Individual Rights, Complaints, Notification of Planned Actions 411-328-0720

There are significant changes to this section of the rule.

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

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

A training has been provided on Notices, Complaints and Hearings. Look for the power point on our website.



## RIGHTS

411-328-0720 (1) (a)-(c) (A)-(Y) (d)-(g)

Individuals must be informed at the start of supported living services, by request and annually thereafter of:

- The rights guaranteed in the rule.
- The contact information for the protection and advocacy system described in ORS 192.517 (1).
- The procedures for reporting abuse.
- 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 training has been provided on Rights. Look for the power point on our website.**

- ▶ Rights and procedures associated with exercising the rights must be:
  - ✓ Prominently posted in a location readily accessible to individuals.
  - ✓ Made available to representatives of the individual.



# Complaints

## 411-328-0720 (2) (a)-(b)

- ▶ All complaints made by an individual or on behalf of an individual must be addressed in accordance with OAR 411-318-0015.
- ▶ Upon entry, if requested and annually thereafter, policy and procedures must be explained and provided to individuals and their legal or designated representatives.
- ▶ OAR 411-318-0015 contains all the requirements associated with complaints including provider requirements to maintain compliant logs.

**Be sure to review this administrative rule.**

# Notification of Planned Action

411-328-0720 (3)



“When a developmental disability service is denied, reduced, suspended, or terminated a written advance Notification of Planned Action (form SDS 0947) must be provided.”

Refer to OAR 411-318-0020 for requirements specific to Notification of Planned Actions.



# Hearings

## 411-328-0720 (4) (a)-(c)

- Upon entry, request and annually thereafter, a notice of hearing rights and the policy and procedures for hearings must be explained and provided to the individual and their legal or designated representative.
- Refer to OAR 411-318-0025 to learn more about processes that must be followed related to denial, reduction, suspension, or termination of services.
- Refer to OAR 411-318-0030 for information on involuntary reduction, transfer or exit from services.

**The posted power point for the OAR 411-318 is also a resource for more information on hearing rights, processes and procedures.**

# Personalized Plans

411-328-0750

- ▶ A Transition Plan is an ISP. Refer to the definition for “transition plan” if you have questions.
- ▶ Plans must be available at the service site.
- ▶ The ISP must be reviewed and updated as necessary within 60 days of implementation of the Transition Plan.
- ▶ Plans must be updated as changes occur throughout the year.
- ▶ Plans must identify service provider type.
- ▶ A Career Development Plan must be attached to an ISP.

**For more information on Career Development Plan requirements please refer to OAR 411-345-0160.**

# Behavior Support

411-328-0760

- ▶ Information in this section of the Rule is now more clearly stated.
  - ✓ Providers must have a written policy that utilizes individualized positive behavioral theory and practice.
  - ✓ Functional behavioral assessments must include a justification of the need to alter the behavior.
  - ✓ The entity conducting the functional behavioral assessment must consider information provided by one or more people who the know the individual.
  - ✓ The result of any psychiatric condition that an individual has must be considered in the assessment process.

## In Supported Living Behavior Support Plans must include:

- ✓ Individualized summary of needs, preferences and relationships.
- ✓ A summary of the function of the behavior.
- ✓ Strategies that are related to the function of the behavior and are expected to be effective in reducing problem behaviors.
- ✓ Early warning signals or predictors.
- ✓ A general crisis response plan that is consistent with OIS.
- ✓ A plan to address post crisis issues.



- ✓ A procedure for evaluating the effectiveness of the plan.
  - Method of collecting and reviewing data.
    - ❖ Frequency, duration and intensity.
- ✓ Instructions for staff on how to implement the behavior support plan.
- ✓ Positive behavior supports that includes the least intrusive intervention possible.





Additional documentation requirements for implementing a Behavior Support Plan include written evidence:

- ✓ That the individual, legal representative (as applicable) and the ISP team are aware of the plan and that any objections or concerns have been documented.
- ✓ The ISP team has approved the plan.
- ✓ Documenting all informal and positive strategies used to develop an alternative behavior.

# Protective Physical Intervention 411-328-0770

Information in this section has been updated to meet current required practices.



- ▶ Only protective physical intervention techniques that are included in the current approved OIS Curriculum - or- are approved by the OIS Steering Committee may be used.

- ▶ The following additional requirements have been added to the rule regarding when PPI techniques are allowable:
  - Health and safety of the individual or others must be at risk.
  - ISP team must authorize the procedures as documented by an ISP team decision.
  - Procedures must be documented in the individual's ISP.
  - Procedures used must be intended to lead to less restrictive intervention strategies.





The OIS Steering Committee must approve any modification of standard OIS physical intervention techniques. The process is as follows:

- Providers must submit a request to the OIS Steering Committee in writing.
- Written approval from the OIS Steering Committee must be obtained prior to any implementation of a modification.
- Documentation of approval must be maintained in the record for the individual.



## Emergency Situations

411-328-0770 (4) (a)-(d)

The use of Protective Physical Interventions (PPIs) techniques that are not a part of a Behavior Support Plan in emergency situations include:

- ▶ Must be reviewed by the Executive Director or designee of the Executive Director within one hour of application.
- ▶ Are only to be used until the individual is no longer an immediate threat to self or others.
- ▶ Providers must now also submit incident reports to Department designee (if applicable) and the legal representative of the individual (if applicable).
- ▶ Incident Reports must be submitted within one business day after the incident.



## Incident Report Documentation 411-328-0770 (5) (a)-(h)

The incident report documentation requirements for use of PPIs have been updated. Incident reports must now also include:

- A description of the incident precipitating the need for the use of protective physical intervention.
- Documentation of any injury.
- The position title of the staff member applying the PPI.
- The name and position title of any staff member witnessing the PPI.

- ▶ The name and position title of the person providing the initial review of the use of the PPI.
  
- ▶ Documentation of a review by the Executive Director or their designee, who is knowledgeable in OIS.
  - ✓ Designee's job description must reflect this responsibility.
  
  - ✓ Review must include follow-up to be taken to prevent a recurrence of the incident.



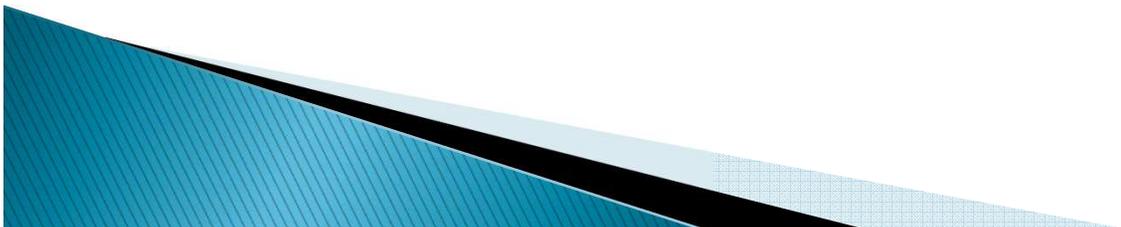
# Sending Incident Reports

411-328-0770 (6) (a)-(d)



- ▶ The Rule now allows for incident reports (IRs) to be sent or made electronically available to services coordinators and the legal representative (if applicable).
- ▶ Providers must now send IRs within five business days of the incident.
- ▶ Includes requirement that services coordinators or Department designee (when applicable) must receive complete copies of IRs.

- ▶ Specifies that IRs made available to a legal representative or other provider must have confidential information about other individuals removed or redacted.
- ▶ Clarifies that IRs that are part of an abuse or neglect investigation may not be provided to a legal representative.
- ▶ Requires that any protective physical intervention that results in an injury must be documented in an IR. Incident reports documenting an injury must be sent or made electronically available to the services coordinator or other Department (designee) within one business day of the incident.





# Behavior Data Summary

411-328-0770 (7) (a) (A)-(F) (b)

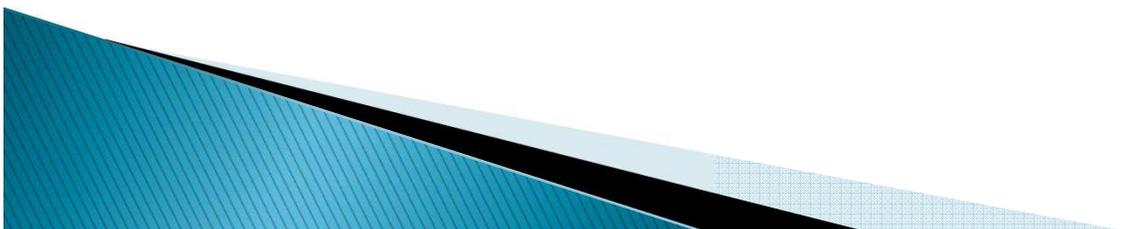
Providers may now substitute a behavior data summary in lieu of individual incident reports when:

- There is no injury to the individual or others.
- A formal written functional behavioral assessment and a written Behavior Support Plan exists.
- The Behavior Support Plan defines and documents the parameters of the baseline level of behavior.

- ▶ The protective physical intervention techniques and the behavior for which the protective physical intervention techniques are applied remain within the parameters outlined in the Behavior Support Plan and OIS curriculum.
- ▶ The behavior data collection system used must continue to record the items described in section (5) (a)–(c) and (e)–(h) of this rule that addresses documentation of protective physical interventions.

“A copy of the behavior data summary must be forwarded or made electronically available every 30 days to the following persons:

- ✓ Individual
- ✓ Services Coordinator
- ✓ Department Designee (if applicable)
- ✓ Legal Representative of the Individual (if applicable)”



# Entry, Exit and Transfer

## 411-328-0790

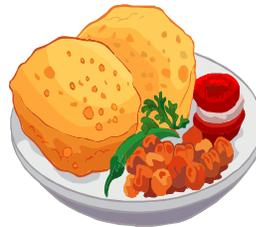
A number of changes have been made in the Qualifications for Department-Funded Services section of this rule as they relate to eligibility for supported living. Changes include in order for an individual to be able for support living they must:

- ▶ Be eligible for OHP Plus.
- ▶ Meet the level of care (LOC) as defined in OAR 411-320-0080.
- ▶ Determined eligible for Developmental Disability services by the CCDP of the county of origin.
- ▶ Eligible for Community First Choice state plan services.



- ▶ In the updated rule language ODDS clarified further that individuals must have access to financial resources to afford living expenses.

- ✓ Food
- ✓ Utilities
- ✓ Rent
- ✓ Other Housing Expenses



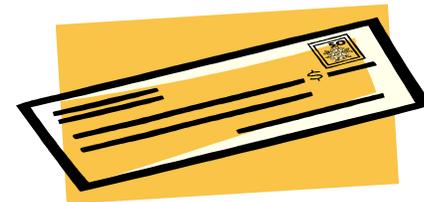
# Transfer of Assets

411-328-0790 (b) (A) (i)-(iv) (B)

- ▶ 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.



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.

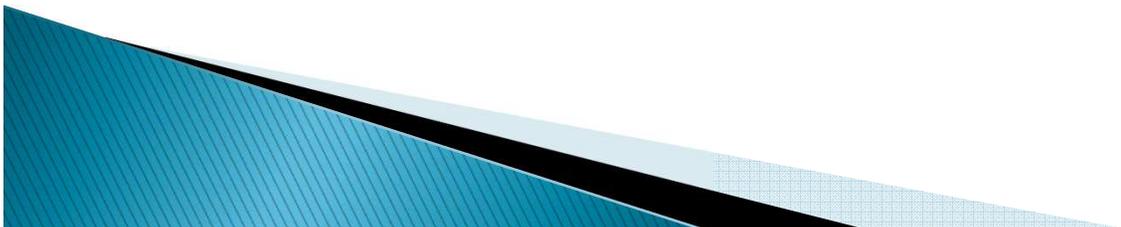


## ENTRY INFORMATION

411-328-0790 (3) (a) (D) (i)-(v) (F)-(J)

- ▶ ODDS is requiring additional individual information that a provider must obtain (when available) prior to or upon an entry ISP team meeting to include:
  - ✓ A medical history and information on health care supports (when available).
  - ✓ Physical Exam made within 90 days of entry.
  - ✓ Results of any dental evaluation.
  - ✓ Record of immunizations.
  - ✓ Record of known communicable diseases and allergies.
  - ✓ Record of major illnesses and hospitalizations.

- ✓ A copy of the most recent needs assessment. This includes obtaining copies of previous needs assessments if the needs of the individual have changed over time.
- ✓ If available, copies of protocols, the risk tracking record and any other support documentation.
- ✓ Copies of records relating to power of attorney, court orders, probation and parole information.
- ✓ Written documentation to explain why preferences or choices of the individual may not be honored at the time (if applicable).
- ✓ A copy of the most recent Behavior Support Plan and assessment.



## Entry Meeting Findings 411-328-0790 (3) (b) (G)

ODDS has clarified further what the individual written transition plan must include medical, behavior and safety supports needed by the individual.

ODDS has clarified that a Transition Plan is an ISP and is valid for up to 60 days and then must be amended and updated accordingly.



## Involuntary Reductions, Transfers and Exits 411-328-0790 (5)

- ▶ ODDS has proposed amending this section to include “reductions”.
  - ✓ Same requirements apply to involuntary reductions as with involuntary transfers and exits.
  - ✓ Individuals have hearing rights for involuntary reductions.



# Transfer Meeting

411-328-0790 (7)

- ▶ This section has been updated to provide clarity on what documentation must be maintained to document a transfer decision.
  - ✓ Includes verification of the voluntary decision to transfer or a copy of the Notice of Involuntary Reduction, Transfer, or Exit.



# Presentation Quick-Reference Guide

New Definitions.....	<a href="#">Slide 3</a>
Definitions Removed.....	<a href="#">Slide 5</a>
Variances.....	<a href="#">Slide 6</a>
Medical Services.....	<a href="#">Slide 7</a>
Dietary.....	<a href="#">Slide 8</a>
Individual Summary Sheets.....	<a href="#">Slide 9</a>
Incident Report & Emergency Notification.....	<a href="#">Slide 10</a>
Individual Rights, Complaints, Notification of Planned Actions.....	<a href="#">Slide 11</a>
Rights.....	<a href="#">Slide 12</a>
Complaints.....	<a href="#">Slide 14</a>
Notice of Planned Action.....	<a href="#">Slide 15</a>
Hearings.....	<a href="#">Slide 16</a>



# Presentation Quick-Reference Guide cont.

Personalized Plans.....	<a href="#">Slide 17</a>
Behavior Support .....	<a href="#">Slide 18</a>
Protective Physical Intervention.....	<a href="#">Slide 22</a>
Emergency Situations.....	<a href="#">Slide 25</a>
Incident Report Documentation.....	<a href="#">Slide 26</a>
Sending Incident Reports.....	<a href="#">Slide 28</a>
Behavior Data Summary.....	<a href="#">Slide 30</a>
Entry, Exit and Transfer.....	<a href="#">Slide 32</a>
Transfer of Assets.....	<a href="#">Slide 34</a>
Entry Information.....	<a href="#">Slide 36</a>
Entry Meeting Findings.....	<a href="#">Slide 38</a>
Involuntary Reductions, Transfers and Exits.....	<a href="#">Slide 39</a>
Transfer Meeting .....	<a href="#">Slide 40</a>

