



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 411

DEPARTMENT OF HUMAN SERVICES

AGING AND PEOPLE WITH DISABILITIES AND DEVELOPMENTAL DISABILITIES

FILED

10/28/2025 2:01 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: ODDS: Employer Model Agencies for Individuals with Intellectual or Developmental Disabilities (411-450)

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/03/2025 11:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
Christina Hartman
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/20/2025

TIME: 11:30 AM

OFFICER: Staff

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-669-254-5252

CONFERENCE ID: 1608995030

SPECIAL INSTRUCTIONS:

A rule hearing is a chance for people to share comments about the proposed rule changes. Please join within the first 15 minutes. The rule hearing will end after 30 minutes if no one joins or provides comments.

Questions about the rule content or other developmental disabilities services are not answered during a rule hearing. If you have questions about the rules or need help registering for the rule hearing, please email ODDS.Rules@odhs.oregon.gov or call (971) 413-4225.

Language Access and Support:

<https://www.oregon.gov/odhs/Pages/language-assistance.aspx>

We provide free help so everyone can use our services.

Some examples:

- Sign language and spoken language interpreters
- Written materials in other languages
- Braille

- Real-time captioning (CART)
 - Large print
 - Audio and other formats
-

DATE: 11/20/2025

TIME: 5:30 PM

OFFICER: Staff

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-669-254-5252

CONFERENCE ID: 1605504943

SPECIAL INSTRUCTIONS:

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NEED FOR THE RULE(S)

The Oregon Department of Human Services (ODHS), Office of Developmental Disabilities Services (ODDS) needs to make changes to the rules in OAR chapter 411, division 450 about community living supports to include Employer Model Agencies (formerly known as Agency with Choice).

Employer Model Agencies are a new in-home service option that offers a more self-directed way for people with intellectual or developmental disabilities (I/DD) to receive community living supports, without requiring them to take on full employer responsibilities.

ODDS needs to make these rule changes to implement Senate Bill 1521 (2024) by January 1, 2026. Senate Bill 1521 directed ODDS to create a new in-home service option known as agency with choice services. This new service option will be delivered by Employer Model Agencies. Other options for community living supports are still available, including supports provided by a personal support worker or a Standard Model Agency.

The rule changes:

- Establish standards for Employer Model Agencies.
- Replace the community living supports endorsement with the Employer Model Agency endorsement.
- Require all provider agencies delivering community living supports (excluding day support activities) to adopt policies that reduce the impact to a person receiving services when an agency employee is unavailable to deliver a scheduled support.

ODDS might need to make other changes to provide clarification or address issues raised during the public comment period. These changes will be minor and will not affect services or introduce new requirements.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

1. Enrolled Senate Bill 1548 (2022). Available at:

<https://olis.oregonlegislature.gov/liz/2022R1/Downloads/MeasureDocument/SB1548/Enrolled>

2. Enrolled Senate Bill 104 (2023). Available at:

<https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB0104/Enrolled>

3. Senate Bill 1521 (2024) overview, text, analysis, testimony. Available at:

<https://olis.oregonlegislature.gov/liz/2024R1/Measures/Overview/SB1521>

4. OAR chapter 411, division 323 about agency certification and endorsement to deliver developmental disabilities services in community-based settings. Available at:

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1805>

5. OAR chapter 411, division 370 about provider enrollment, service billing, and service payment for developmental disabilities services. Available at:

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1819>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The rule changes may affect all Oregonians, especially:

- People with intellectual or developmental disabilities (I/DD) and their families; and
- Providers delivering community living supports to people with I/DD.

The Employer Model Agency service option is a step forward in addressing systemic disparities in developmental disability services. It may directly or indirectly advance racial equity in Oregon by reducing administrative burdens for people receiving community living supports and their families, which can be especially beneficial for immigrant families and non-English speakers.

The Employer Model Agency service option promotes autonomy and dignity in service delivery by offering a self-directed model similar to hiring a personal support worker, without requiring someone to act as the legal employer. This could significantly expand access for communities that have historically faced systemic barriers.

ODDS is committed to ensuring that the benefits of the Employer Model Agency service option are equitably distributed and that unintended harms are minimized. To support this, ODDS has taken several proactive steps:

- Gathering broad community feedback through the public rulemaking process, including allowing additional time for public comments and input from the Rules Advisory Committee (RAC).
- Considering alternative approaches to reduce economic or operational burdens.
- Ensuring diverse perspectives by opening the RAC to everyone who signed up (over 80 people) rather than limiting the number of participants.

While there may be temporary confusion during the transition, ODDS is committed to equitable service delivery, transparency, and minimizing disruption for people with I/DD, their families, and providers. Ongoing monitoring and inclusive implementation are essential to ensure that the benefits reach all communities equitably and that unintended harms are mitigated. Intentionality around data collection will also help identify gaps and barriers, particularly where communities of color may be disproportionately affected.

FISCAL AND ECONOMIC IMPACT:

The fiscal and economic impact around the Employer Model Agency service option (formerly known as Agency with Choice) centers on the shift in employer responsibilities and funding structures. Under this approach, employer functions are centralized within certified Medicaid agencies, reducing the administrative burden on people receiving community living supports. For people receiving services and their families, Employer Model Agencies offer a middle ground; providing more support than hiring a personal support worker directly, while allowing greater autonomy than traditional Standard Model Agencies. This model is designed to be fiscally accountable, balancing self-direction with centralized oversight and guidance. Specific fiscal and economic impact is described below in the cost of compliance statement.

The fiscal and economic impact was evaluated as part of the Rules Advisory Committee process and is based on data and information currently available to ODDS.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) ODDS does not expect any new cost of compliance for ODDS or other state agencies. There is also no direct cost to individuals receiving services because supports delivered by an Employer Model Agency are a Medicaid-funded service option.

Case Management Entities (units of local government): Minimal impact in direct costs.

Providers: No impact outside the current requirements and responsibilities of community living support providers.

Members of the public: Potential for financial relief for family caregivers who are interested in being employees of the Employer Model Agency, which would improve household financial stability.

(2)(a) The proposed rule changes affect provider agencies endorsed to deliver community living supports. There are approximately 77 active providers endorsed for community living supports that will be endorsed as an Employer Model Agency. Some of these providers may be considered a small business as defined by ORS 183.310.

(2)(b) No impact outside the current requirements and responsibilities of community living support providers.

(2)(c) No impact outside the current requirements and responsibilities of community living support providers.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were invited to participate on the Rules Advisory Committee and are included in the public review and comment period.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

411-450-0020, 411-450-0070, 411-450-0080, 411-450-0095

RULE SUMMARY: OAR 411-450-0020 about definitions and acronyms for community living supports is being amended to implement Senate Bill 1521 (2024) by:

- Defining "Community Living Supports" as a service.
- Removing the definition for "Community Living Supports Agency" and adding a definition for "Employer Model Agency".
- Updating the definition of "Standard Model Agency".

Other minor changes may be made to this rule to provide clarity or address issues raised during the public comment period. These changes will not affect services or introduce additional requirements.

CHANGES TO RULE:

411-450-0020

Definitions and Acronyms for Community Living Supports

In addition to the following definitions and acronyms, OAR 411-317-0000 includes general definitions for words and terms frequently used in OAR chapter 411, division 450. If a word or term is defined differently in OAR 411-317-0000, the definition in this rule applies.¶

(1) "ADL" means "Activities of Daily Living" as defined in OAR 411-317-0000 and described in OAR 411-450-0060.¶

(2) "Alternative Resources" is defined in OAR 411-317-0000.¶

(3) "Assessor" is defined in OAR 411-317-0000.¶

(4) "Attendant Care" is defined in OAR 411-317-0000 and described in OAR 411-450-0060.¶

(5) "Authorized ISP" means an Individual Support Plan that meets the criteria in OAR 411-415-0070(8)(e).¶

(6) "CDDP" means "Community Developmental Disabilities Program" as defined in OAR 411-317-0000.¶

(7) "Children's Extraordinary Needs (CEN) Program" is defined in OAR 411-440-0020 and described in OAR chapter 411, division 440. ¶

(8) "Class" means group attendant care that is regularly occurring, organized, and structured around specific supports in activities of daily living or instrumental activities of daily living intended to maintain or enhance an individual's skill level in the activities of daily living or instrumental activities of daily living. ¶

(9) "Community Living Supports Agency" means a ~~provider agency certified under OAR chapter 411, division 323 and endorsed to these rules, excluding OAR 411-450-0090, to deliver community living supports~~ attendant care, skills training, and relief care. ¶

(10) "Day Support Activities" means attendant care supports, delivered by a provider agency, that happen during scheduled, intentional, structured activities in a non-residential setting. Day support activities focus on maintaining or enhancing the skills an individual needs to engage with the community. ¶

(11) "Direct Support Professional" means a person hired, employed, trained, paid, and supervised by a provider agency to provide attendant care services to a client of the agency.¶

(12) "DSA" means "Day Support Activities" as defined in this rule. ¶

(13) "Employer Model Agency" means a provider agency: ¶

(a) Meeting the standards in OAR 411-450-0095.¶

(b) Certified in accordance with OAR chapter 411, division 323.¶

(c) Endorsed to deliver community living supports in accordance with these rules, excluding OAR 411-450-0090.¶

(14) "Exception" means an approval granted by the Department, or the Department's designee, to alter a limit or condition on a service based on an individual's demonstrated need. ¶

(145) "Facility-Based" means a service operated at a fixed site owned, operated, or controlled by a service provider where an individual has few or no opportunities to interact with people who do not have a disability except for paid staff.¶

(156) "Family":¶

(a) Means a unit of two or more people that includes at least one individual, found to be eligible for developmental disabilities services, where the primary caregiver is:¶

(A) A family member as defined in OAR 411-317-0000; or¶

(B) In a domestic relationship where partners share the following:¶

(i) A permanent residence.¶

(ii) Joint responsibility for the household in general, such as child-rearing, maintenance of the residence, and basic living expenses.¶

(iii) Joint responsibility for supporting the individual when the individual is related to one of the partners by blood, marriage, or legal adoption.¶¶

(b) This definition of family is used when determining an individual's service eligibility for community living supports as a resident in the family home.¶¶

(167) "Group Activity" means an organized or impromptu day support activity that involves more than one individual supported by the same provider agency.¶¶

(178) "Healthier Oregon" is defined in OAR 410-120-0000 and described in OAR chapter 410, division 134.¶¶

(189) "Health System Division (HSD) Medical Programs" is defined in OAR 410-200-0015.¶¶

(1920) "Hour Allocation" means the number of monthly hours authorized in an Individual Support Plan for any combination of attendant care, day support activities, skills training services, private duty nursing as described in OAR 411-300-0150, direct nursing services as described in OAR chapter 411, division 380, and state plan personal care as described in OAR chapter 411, division 455. ¶¶

(201) "IADL" means "Instrumental Activities of Daily Living" as defined in OAR 411-317-0000 and described in OAR 411-450-0060. ¶¶

(212) "IDEA" means the Individuals with Disabilities Education Act, 20 U.S.C §1400.¶¶

(223) "Implementation Strategy" means a written description of the steps a provider agency will take to assist an individual to achieve the individual's desired outcomes, increase independence, and build or maintain skills, as identified in the individual's Individual Support Plan or Service Agreement, and assigned to the provider agency to implement. ¶¶

(234) "Informal Arrangement" means a paid or unpaid arrangement for shelter or utility costs that does not include the elements of a rental agreement.¶¶

(245) "ISP" means "Individual Support Plan" as defined in OAR 411-317-0000.¶¶

(256) "Natural Support" is defined in OAR 411-317-0000.¶¶

(267) "ODDS" means the Oregon Department of Human Services, Office of Developmental Disabilities Services.¶¶

(278) "ONA" means "Oregon Needs Assessment" as defined in OAR 411-317-0000 and described in OAR 411-425-0055.¶¶

(289) "Oregon Supplemental Income Program-Medical" is defined in OAR 411-317-0000.¶¶

(2930) "Ownership Interest" means a person that:¶¶

(a) Has an ownership interest totaling 5 percent or more in a provider agency;¶¶

(b) Has an indirect ownership interest equal to 5 percent or more in a provider agency;¶¶

(c) Has a combination of direct and indirect ownership interests equal to 5 percent or more in a provider agency;¶¶

(d) Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by a provider agency if that interest equals at least 5 percent of the value of the property or assets of the provider agency;¶¶

(e) Is an officer or director of a provider agency;¶¶

(f) Is a partner in a provider agency that is organized as a partnership; or¶¶

(g) Is a member of the board of directors of a provider agency.¶¶

(301) "Parent Provider" is defined in OAR 411-440-0020 for the Children's Extraordinary Needs Program. ¶¶

(312) "Primary Caregiver" means the person identified in an Individual Support Plan as providing the majority of services and support for an individual in the individual's home.¶¶

(323) "Progress Report" means a written document that summarizes an individual's progress, the evidence of the progress, and a provider agency's activities undertaken towards achieving the individual's desired outcomes of increased independence and skill building or maintenance, as identified in the individual's Individual Support Plan or Service Agreement.¶¶

(334) "Provider-Owned Dwelling" means a dwelling that is owned by a provider or the provider's spouse, when the provider is proposing to be paid for delivering home and community-based services to an individual, and the provider or the provider's spouse is not related to the individual by blood, marriage, or adoption. A provider-owned dwelling includes, but is not limited to:¶¶

(a) A house, apartment, and condominium.¶¶

(b) A portion of a house, such as a basement or a garage, even when remodeled to be used as a separate dwelling.¶¶

(c) A trailer and mobile home.¶¶

(d) A duplex unless the structure displays a separate address from the other residential unit and was originally built as a duplex.¶¶

(345) "Provider-Rented Dwelling" means a dwelling that is rented or leased by a provider or the provider's spouse, when the provider is proposing to be paid for delivering home and community-based services to an individual, and the provider or the provider's spouse is not related to the individual by blood, marriage, or adoption.¶¶

(356) "PSW" means "Personal Support Worker" as defined in OAR 411-317-075-0010.¶¶

(367) "Rental Agreement" means a payment arrangement for shelter or utility costs with a property owner, property manager, or landlord that includes all of the following elements:¶¶

- (a) The name and contact information for the property owner, property manager, or landlord.¶
 - (b) The period or term of the agreement and method for terminating the agreement.¶
 - (c) The number of tenants or occupants.¶
 - (d) The rental fee and any other charges, such as security deposits.¶
 - (e) The frequency of payments, such as monthly.¶
 - (f) What costs are covered by the amount of rent charged, such as shelter, utilities, or other expenses.¶
 - (g) The duties and responsibilities of the property owner, property manager, or landlord and the tenant, such as:¶
 - (A) The person responsible for maintenance;¶
 - (B) If the property is furnished or unfurnished; and¶
 - (C) Advance notice requirements prior to an increase in rent.¶
 - (378) "Scheduled Support" means an attendant care or skills training support that a representative of a provider agency and an individual agree to at least 48 hours ahead of the anticipated service delivery.¶
 - (389) "Service Level" means the maximum number of hours available to an individual in a month for any combination of attendant care, day support activities, skills training services, private duty nursing as described in OAR 411-300-0150, direct nursing services as described in OAR chapter 411, division 380, or state plan personal care as described in OAR chapter 411, division 455, based on an assessment required by the Department. ¶
 - (3940) "Skills Training" is defined in OAR 411-317-0000 and described in OAR 411-450-0060.¶
 - (401) "Staffing Ratio" means the number of paid providers to the number of individuals in their care at the same time.¶
 - (412) "Standard Model Agency" means a provider agency ~~certified under OAR chapter 411, division 323 and endorsed to:~~ ¶
 - (a) Meeting the standards in OAR 411-450-0090.¶
 - (b) Certified in accordance with OAR chapter 411, division 323. ¶
 - (c) Endorsed to deliver community living supports in accordance with these rules, ~~in~~excluding OAR 411-450-0090, to deliver community living supports.5. ¶
 - (423) "These Rules" mean the rules in OAR chapter 411, division 450.
- Statutory/Other Authority: ORS 409.050, 427.024, 427.104, 430.662, SB 1521 (2024 OR Law, Ch. 92)
- Statutes/Other Implemented: ORS 409.010, 427.007, 427.024, 427.104, 427.181, 430.215, 430.610, 430.662, SB 1521 (2024 OR Law, Ch. 92)

AMEND: 411-450-0070

RULE SUMMARY: OAR 411-450-0070 about community living support providers and provider requirements is being amended to implement Senate Bill 1521 (2024) by replacing “community living supports agency” with “employer model agency”.

Other minor changes may be made to this rule to provide clarity or address issues raised during the public comment period. These changes will not affect services or introduce additional requirements.

CHANGES TO RULE:

411-450-0070

Community Living Supports Providers and Provider Requirements ¶¶

Delivery of community living supports is limited to the following provider types:¶¶

- (1) A personal support worker (PSW) who meets the standards described in OAR chapter 411, division 375.¶¶
 - (a) A PSW is not an available provider type when there is not a common law employer as described in OAR 411-375-0055.¶¶
 - (b) A PSW may not provide community living supports to an individual when the PSW and individual reside together unless:¶¶
 - (A) The PSW is a family member;¶¶
 - (B) The PSW does not own or control the property; or¶¶
 - (C) The individual and the PSW have equal homeowner or rental property rights.¶¶
 - (2) A provider agency certified in accordance with OAR chapter 411, division 323 with an endorsement to operate as either a community living supports employer model agency or a standard model agency. A provider agency cannot simultaneously be a community living supports employer model agency and a standard model agency.¶¶
 - (3) A home health agency with a current license issued in accordance with ORS 443.015.¶¶
 - (4) An in-home care agency with a current license issued in accordance with ORS 443.315.¶¶
 - (5) An adult foster home licensed in accordance with OAR chapter 411, division 360. This provider type may only deliver community living supports, excluding day support activities (DSA):¶¶
 - (a) When the community living supports are delivered in, or based out of, the licensed adult foster home. An adult foster home provider may not provide community living supports to an individual in, or based out of, the home of the individual.¶¶
 - (b) To an adult.¶¶
 - (6) A child foster home licensed in accordance with OAR chapter 411, division 346. This provider type may only deliver community living supports, excluding DSA:¶¶
 - (a) When the community living supports are delivered in, or based out of, the licensed child foster home. A child foster home provider may not provide community living supports to a child in, or based out of, the home of the child.¶¶
 - (b) To a child.¶¶
 - (7) An agency certified in accordance with OAR chapter 411, division 323 and endorsed to OAR chapter 411, division 325 for 24-hour residential programs does not require endorsement to these rules to deliver community living supports, excluding DSA, when the community living supports are delivered in, or based out of, the licensed setting. A provider of a 24-hour residential program may not provide community living supports to an individual in, or based out of, the home of the individual.¶¶
 - (8) Providers qualified to deliver community living supports as described in sections (5) through (7) of this rule are subject to OARs 411-450-0040, 411-450-0050, 411-450-0060, and sections (6) through (28) of OAR 411-450-0080 when delivering community living supports.
- Statutory/Other Authority: ORS 409.050, 427.024, 427.104, 430.662, SB 154821 (20224 OR Law, Ch. 912)
Statutes/Other Implemented: ORS 409.010, 427.007, 427.~~104~~024, 427.104, 427.181, 430.215, 430.610, 430.662, SB 154821 (20224 OR Law, Ch. 912)

RULE SUMMARY: OAR 411-450-0080 about minimum standards for provider agencies delivering community living supports is being amended to implement Senate Bill 1521 (2024) by:

- Replacing “community living supports agency” with “employer model agency”.
- Requiring all provider agencies delivering community living supports (excluding day support activities) to adopt policies that reduce the impact to a person receiving services when an agency employee is unavailable to deliver a scheduled support.

Other minor changes may be made to this rule to provide clarity or address issues raised during the public comment period. These changes will not affect services or introduce additional requirements.

CHANGES TO RULE:

411-450-0080

Minimum Standards for Provider Agencies Delivering Community Living Supports

- (1) CERTIFICATION, ENDORSEMENT, AND ENROLLMENT. To be endorsed to operate a community living support program, a provider agency must have all of the following:¶¶
- (a) A certificate and an endorsement, in accordance with OAR chapter 411, division 323, to deliver community living supports as a community living supports agency or a standard model agency.¶¶
- (b) A ~~Medicaid~~ Agency Identification Number assigned by the Department in accordance with OAR chapter 411, division 370.¶¶
- (2) INSPECTIONS AND INVESTIGATIONS. A provider agency must allow inspections and investigations in accordance with OAR 411-323-0040.¶¶
- (3) MANAGEMENT AND PERSONNEL PRACTICES. A provider agency must comply with the management and personnel practices in OAR 411-323-0050.¶¶
- (4) PRE-SERVICE TRAINING. A provider agency must maintain written documentation of six hours of pre-service training prior to staff supporting individuals that includes mandatory abuse reporting, ISPs, and Service Agreements.¶¶
- (5) PARENT PROVIDER TRAINING. A provider agency must ensure a parent provider completes the training required in OAR 411-440-0060(1), prior to delivering services to their child.¶¶
- (6) CONFIDENTIALITY OF RECORDS. A provider agency must ensure the confidentiality of individuals' records in accordance with OAR 411-323-0060.¶¶
- (7) DOCUMENTATION REQUIREMENTS. Unless stated otherwise, all entries required by these rules must comply with the agency documentation requirements in OAR 411-323-0060. ¶¶
- (8) DAY SUPPORT ACTIVITIES (DSA). For DSA, a provider agency must develop and share the following information with an individual and the individual's case manager: ¶¶
- (a) A written plan or implementation strategies. The written strategies for service implementation must be given to an individual and the individual's case manager within 60 calendar days of providing services for the ISP year. ¶¶
- (b) A risk mitigation strategy or protocol that addresses each identified relevant risk. The risk mitigation strategy or protocol must be given to an individual and the individual's case manager before services begin for the ISP year.¶¶
- (c) Other documents requested by the ISP team.¶¶
- (9) PROGRESS NOTES AND RECORDS. ¶¶
- (a) A provider agency must maintain progress notes regarding the delivery of community living supports. A progress note must include, at minimum, all of the following information regarding the supports rendered to an individual:¶¶
- (A) The date and time the support was delivered.¶¶
- (B) The staff involved.¶¶
- ~~(C) Information regarding delivering the support.¶¶~~
- (C) A description of the nature of the support/tendant care provided and how the support met an identified ADL or IADL support need or was a health-related task included in the individual's ISP or Service Agreement.¶¶
- (b) Progress notes must be made available monthly and upon request by a case management entity.¶¶
- (c) Failure to furnish written documentation upon the written request from the Department, the Oregon Department of Justice Medicaid Fraud Unit, Centers for Medicare and Medicaid Services, or their authorized representatives, immediately or within timeframes specified in the written request, may be deemed reason to recover payment.¶¶
- (d) Records must be retained in accordance with OAR chapter 166, division 150, Secretary of State, Archives

Division.¶

(A) Financial records, supporting documents, statistical records, and all other records (except individual records) must be retained for at least three years after the close of a contract period.¶

(B) Individual records must be kept for at least seven years.¶

(10) ABUSE AND INCIDENT HANDLING AND REPORTING. Complaints of abuse and the occurrence of serious incidents must be treated in accordance with OAR 411-323-0063. ¶

(11) POLICIES AND PROCEDURES. A provider agency must develop and implement policies and procedures required for administration and operation in compliance with these rules including, but not limited to, all of the following:¶

(a) A provider agency must have, and implement, written policies and procedures protecting the individual rights in OAR 411-318-0010 and that:¶

(A) Provide for individual participation in selection, training, and evaluation of staff assigned to provide services to the individuals;¶

(B) Protect individuals during hours of service from financial exploitation that may include, but is not limited to, any of the following:¶

(i) Staff borrowing from, or loaning money to, an individual.¶

(ii) Witnessing wills in which staff or the provider agency may benefit directly or indirectly.¶

(iii) Adding the name of a staff member or provider agency to the bank account or other personal property of an individual without the approval of the individual or their legal representative (as applicable).¶

(b) Policies and procedures appropriate to the scope of service including, but not limited to, those required to meet the minimum standards in sections (15) through (28) of this rule and consistent with the ISPs or written Service Agreements for individuals currently receiving services.¶

(c) A provider agency delivering community living supports, not including DSA, must adopt policies to reduce the impact of the loss of supports to an individual when an agency employee is unavailable to deliver a scheduled support including, but not limited to:¶

(A) A list of employees assigned to work with the individual must be made available upon request from an individual, guardian, designated representative, case management entity, or the Department.¶

(B) The provider agency and the individual, or the individual's legal or designated representative, must develop a plan for the continuity of services during a planned absence or emergency circumstances when the assigned employee is unavailable.¶

(C) The provider agency must ensure the individual, or the individual's legal or designated representative, is notified of any unforeseen changes in the delivery of services, as applicable, such as a change in an agency employee who provides a service, the frequency of a service, and the days and times when services will be provided. Documentation of the notification must be maintained in the individual's record.¶

(12) SERVICE DELIVERY. A provider agency must deliver services according to an individual's ISP or written Service Agreement.¶

(13) SERVICE RATES. Service rates, as authorized in the Department's electronic payment and reporting system for individuals authorized to receive community living supports and paid to a provider agency for delivering services as described in these rules, shall be reimbursed at the rate for a community living supportsn employer model agency identified in the Expenditure Guidelines unless the provider agency is endorsed to operate a standard model agency in accordance with OAR 411-450-0090. ¶

(14) BILLING. For a provider agency offering services to the general public, billings for Medicaid funds may not exceed the customary charges to private individuals for any like item or services charged by the provider agency.¶

(15) SERVICE RECORD. A provider agency must maintain a current service record for each individual receiving services. The individual's service record must include all of the following:¶

(a) The individual's name, current home address, and home phone number.¶

(b) The individual's current ISP or written Service Agreement.¶

(c) Contact information for the individual's legal or designated representative (as applicable) and any other people designated by the individual to be contacted in case of incident or emergency.¶

(d) Contact information for the case management entity assisting the individual to obtain services.¶

(e) Records of service provided, including type of services, dates, hours, and staff involved.¶

(f) For skills training, relief care services, and attendant care that does not meet the definition of DSA, an electronic system must record all of the following for a service provided at the time of service:¶

(A) Type of service provided.¶

(B) Individual receiving service.¶

(C) Date of service provided.¶

(D) Location of service.¶

(E) Staff member providing the service.¶

(F) Start time of the service.¶

(G) End time of the service.¶

(16) TRAINING. A provider agency must ensure staff, contractors, and volunteers receive appropriate and necessary training.¶

(17) DRUG-FREE WORKPLACE. A provider agency regulated by these rules must be a drug-free workplace.¶

(18) SAFETY AND EMERGENCY PLANNING. A provider agency that owns or leases a site, delivers services to individuals at the site, and regularly has individuals present and receiving services at the site, must meet all of the following minimum requirements:¶

(a) A written emergency plan must be developed and implemented and must include instructions for staff and volunteers in the event of fire, explosion, accident, or other emergency, including evacuation of individuals receiving services.¶

(b) Posting of emergency information including, but not limited to, posting the following telephone numbers by designated telephones:¶

(A) Local fire, police department, and ambulance service, or "911".¶

(B) The executive director of the provider agency and other people to be contacted in case of emergency.¶

(c) A documented safety review must be conducted quarterly to ensure the service site is free of hazards. Safety review reports must be kept in a central location by a provider agency for three years.¶

(d) When an individual begins receiving services at a service site, a provider agency must deliver training to the individual to leave the site in response to an alarm or other emergency signal and to cooperate with assistance to exit the site.¶

(e) EVACUATION DRILLS. A provider agency must conduct an unannounced evacuation drill each month when individuals are present.¶

(A) Exit routes must vary based on the location of a simulated fire.¶

(B) Any individual failing to evacuate the service site unassisted within the established time limits set by the local fire authority for the site must be provided specialized training or support in evacuation procedures.¶

(C) Written documentation must be made at the time of the drill and kept by the provider agency for at least two years following the drill. The written documentation must include all of the following:¶

(i) Date and time of the drill.¶

(ii) Location of the simulated fire.¶

(iii) Last names of all individuals and staff present at the time of the drill.¶

(iv) Amount of time required by each individual to evacuate if the individual needs more than the established time limit.¶

(v) Signature of the staff conducting the drill.¶

(D) In sites delivering services to an individual who is medically fragile or has severe physical limitations, requirements of evacuation drill conduct may be modified. The modified plan must:¶

(i) Be developed with the local fire authority, the individual or the individual's legal or designated representative (as applicable), and the provider agency's executive director; and¶

(ii) Be submitted as a variance request according to OAR 411-450-0100.¶

(f) A provider agency must provide necessary adaptations to ensure fire safety for sensory and physically impaired individuals.¶

(g) HEALTH AND SAFETY INSPECTIONS. At least once every five years, a provider agency must conduct a health and safety inspection.¶

(A) The inspection must cover all areas and buildings where services are delivered to individuals, including administrative offices and storage areas.¶

(B) The inspection must be performed by:¶

(i) The Oregon Occupational Safety and Health Division;¶

(ii) The provider agency's worker's compensation insurance carrier;¶

(iii) An appropriate expert, such as a licensed safety engineer or consultant as approved by the Department; or¶

(iv) The Oregon Health Authority, Public Health Division, when necessary.¶

(C) The inspection must cover all of the following:¶

(i) Hazardous material handling and storage.¶

(ii) Machinery and equipment used at the service site.¶

(iii) Safety equipment.¶

(iv) Physical environment.¶

(v) Food handling, when necessary.¶

(D) The documented results of the inspection, including recommended modifications or changes and documentation of any resulting action taken, must be kept by the provider agency for five years.¶

(h) FIRE AND LIFE SAFETY INSPECTIONS. A provider agency must ensure each service site has received initial fire and life safety inspections performed by the local fire authority or a Deputy State Fire Marshal. The documented results of the inspection, including documentation of recommended modifications or changes and

documentation of any resulting action taken, must be kept by the provider agency for five years.¶¶

(i) STAFFING. Direct service staff must be present in sufficient number to meet health, safety, and service needs specified in the individual ISP or Service Agreement for each individual present. When individuals are present, at least one staff member on duty must have the following minimum skills and training:¶¶

(A) CPR certification.¶¶

(B) Current First Aid certification.¶¶

(C) Training to meet other specific medical needs identified in individual ISPs or Service Agreements.¶¶

(D) Training to meet other specific behavior support needs identified in individual ISPs or Service Agreements.¶¶

(19) MEDICATIONS AND HEALTH AND MEDICAL NEEDS. A provider agency delivering services to individuals that involve assistance with meeting health and medical needs must:¶¶

(a) Develop and implement written policies and procedures addressing all of the following:¶¶

(A) Emergency medical intervention.¶¶

(B) Treatment and documentation of illness and health care concerns.¶¶

(C) Administering, storing, and disposing of prescription and non-prescription drugs, including self-administration.¶¶

(D) Emergency medical procedures, including the handling of bodily fluids.¶¶

(E) Confidentiality of medical records.¶¶

(b) Maintain a current written record for each individual receiving assistance with meeting health and medical needs that includes all of the following:¶¶

(A) Health status as known.¶¶

(B) Changes in health status observed during hours of service.¶¶

(C) Any remedial and corrective action required and when such actions were taken if occurring during hours of service.¶¶

(D) A description of any known restrictions on activities due to medical limitations.¶¶

(c) If providing medication administration when an individual is unable to self-administer medications and there is no other responsible person present who may lawfully direct administration of medications, the provider agency must:¶¶

(A) Have a written order or copy of the written order, signed by a physician or physician designee, before any medication, prescription or non-prescription, is administered.¶¶

(B) Administer medications per written orders.¶¶

(C) Administer medications from containers labeled as specified per physician written order.¶¶

(D) Keep medications secure and unavailable to any other individual and stored as prescribed.¶¶

(E) Record administration on an individualized Medication Administration Record (MAR), including treatments and PRN, or "as needed", orders.¶¶

(F) Not administer unused, discontinued, outdated, or recalled medication.¶¶

(G) Not administer PRN psychotropic medication. PRN orders may not be accepted for psychotropic medication.¶¶

(d) Maintain a MAR (if required). The MAR must include all of the following:¶¶

(A) The name of the individual.¶¶

(B) The brand name or generic name of the medication, including the prescribed dosage and frequency of administration as contained on physician order and medication.¶¶

(C) Times and dates the administration or self-administration of the medication occurs.¶¶

(D) The signature of the staff administering the medication or monitoring the self-administration of the medication.¶¶

(E) Method of administration.¶¶

(F) Documentation of any known allergies or adverse reactions to a medication.¶¶

(G) Documentation and an explanation of why a PRN, or "as needed", medication was administered and the results of such administration.¶¶

(H) An explanation of any medication administration irregularity with documentation of a review by the provider agency's executive director or their designee.¶¶

(e) Provide safeguards to prevent adverse medication reactions including, but not limited to, all of the following:¶¶

(A) Maintaining information about the effects and side-effects of medications the provider agency has agreed to administer.¶¶

(B) Communicating any concerns regarding any medication usage, effectiveness, or effects to an individual or the individual's legal or designated representative (as applicable).¶¶

(C) Prohibiting the use of one individual's medications by another individual or person.¶¶

(f) Maintain a record of visits to medical professionals, consultants, or therapists if facilitated or delivered by the provider agency.¶¶

(20) TRANSPORTATION. A provider agency that owns or operates vehicles that transport individuals must:¶¶

(a) Maintain the vehicles in safe operating condition.¶¶

- (b) Comply with the laws of the Oregon Driver and Motor Vehicles Division (DMV).¶
- (c) Maintain insurance coverage on the vehicles and all authorized drivers.¶
- (d) Carry a first aid kit in each vehicle.¶
- (e) Assign drivers who meet the applicable DMV requirements to operate vehicles that transport individuals.¶
- (21) MANAGEMENT OF FUNDS. If assisting with management of funds, a provider agency must have and implement written policies and procedures related to the oversight of an individual's financial resources that includes the following:¶
 - (a) Procedures that prohibit inappropriately expending an individual's personal funds, theft of an individual's personal funds, using an individual's funds for the benefit of staff, commingling an individual's personal funds with the provider agency's or another individual's funds, or the provider agency becoming an individual's legal or designated representative.¶
 - (b) The provider agency's reimbursement to an individual of any funds that are missing due to theft or mismanagement on the part of any staff of the provider agency, or of any funds within the custody of the provider agency that are missing. Such reimbursement must be made within 10 business days of the verification that funds are missing.¶
- (22) PROFESSIONAL BEHAVIOR SERVICES. A provider agency must have and implement written policies and procedures to assure professional behavior services are delivered by a qualified behavior professional in accordance with OAR chapter 411, division 304. ¶
- (23) BEHAVIOR SUPPORTS. A provider agency must have and implement written policies and procedures for the delivery of behavior supports that prohibits abusive practices and assures behavior supports are included in a Positive Behavior Support Plan.¶
 - (a) A provider agency must inform each individual, and as applicable their legal or designated representative, of the behavior support policies and procedures at the time of entry and as changes occur.¶
 - (b) A decision to alter an individual's behavior must be made by the individual or their legal or designated representative.¶
 - (c) Psychotropic medications and medications for behavior must be:¶
 - (A) Prescribed by a physician through a written order; and¶
 - (B) Monitored by the prescribing physician for desired responses and adverse consequences.¶
- (24) ADDITIONAL STANDARDS FOR BEHAVIOR SUPPORTS. For the purpose of this section, a designated person is the person implementing the behavior supports identified in an individual's Positive Behavior Support Plan.¶
 - (a) SAFEGUARDING INTERVENTIONS AND SAFEGUARDING EQUIPMENT.¶
 - (A) A designated person must only utilize a safeguarding intervention or safeguarding equipment when:¶
 - (i) BEHAVIOR. Used to address an individual's challenging behavior, the safeguarding intervention or safeguarding equipment is included in the individual's Positive Behavior Support Plan written by a qualified behavior professional as described in OAR 411-304-0150 and implemented consistent with the individual's Positive Behavior Support Plan. ¶
 - (ii) MEDICAL. Used to address an individual's medical condition or medical support need, the safeguarding intervention or safeguarding equipment is included in a medical order written by the individual's licensed health care provider and implemented consistent with the medical order.¶
 - (B) An individual, or as applicable their legal representative, must provide consent for a safeguarding intervention or safeguarding equipment through an individually-based limitation in accordance with OAR 411-004-0040.¶
 - (C) Prior to utilizing a safeguarding intervention or safeguarding equipment, a designated person must be trained.¶
 - (i) For a safeguarding intervention, the designated person must be trained in intervention techniques using an ODDS-approved behavior intervention curriculum and trained to an individual's specific needs. Training must be conducted by a person who is appropriately certified in an ODDS-approved behavior intervention curriculum.¶
 - (ii) For safeguarding equipment, the designated person must be trained on the use of the identified safeguarding equipment.¶
 - (D) A designated person must not utilize any safeguarding intervention or safeguarding equipment not meeting the standards set forth in this rule even when the use is directed by an individual or their legal or designated representative, regardless of the individual's age.¶
 - (b) EMERGENCY PHYSICAL RESTRAINTS. ¶
 - (A) The use of an emergency physical restraint when not written into a Positive Behavior Support Plan, not authorized in an individual's ISP, and not consented to by the individual in an individually-based limitation, must only be used when all of the following conditions are met:¶
 - (i) In situations when there is imminent risk of harm to the individual or others or when the individual's behavior has a probability of leading to engagement with the legal or justice system.¶
 - (ii) Only as a measure of last resort.¶

(iii) Only for as long as the situation presents imminent danger to the health or safety of the individual or others.¶¶

(B) The use of an emergency physical restraint must not include any of the following characteristics:¶¶

(i) Abusive.¶¶

(ii) Aversive.¶¶

(iii) Coercive.¶¶

(iv) For convenience.¶¶

(v) Disciplinary.¶¶

(vi) Demeaning.¶¶

(vii) Mechanical.¶¶

(viii) Prone or supine restraint.¶¶

(ix) Pain compliance.¶¶

(x) Punishment.¶¶

(xi) Retaliatory.¶¶

(25) AGENCY EMPLOYEES.¶¶

(a) A provider agency may not knowingly allow an agency employee to provide community living supports skills training or attendant care services, other than DSA or employment services, to an individual that also engages the agency employee's services as a personal support worker.¶¶

(b) A provider agency may not allow:¶¶

(A) The spouse of an individual receiving services to provide services as an employee of the agency to the employee's spouse.¶¶

(B) The parent of a minor child to provide services as an employee of the agency to the employee's own child unless:¶¶

(i) The child is enrolled in the Children's Extraordinary Needs Program; and¶¶

(ii) The parent provider and no other family member of the parent provider has an administrative role, leadership role, or ownership interest, in the provider agency.¶¶

(c) No later than January 1, 2023, a provider agency must only deliver community living supports through employees of the agency. Contracted direct support professionals are prohibited. ¶¶

(26) PARENT PROVIDERS FOR THE CHILDRENS EXTRAORDINARY NEEDS PROGRAM.¶¶

(a) A provider agency must assure that a parent provider is in compliance with OAR chapter 411, division 440.¶¶

(b) A provider agency may not allow a child enrolled in the Children's Extraordinary Needs Program to receive more than a total of 20 hours of attendant care from one or more parent providers in a workweek, not to exceed the child's total monthly hour allocation as described in OAR 411-450-0060.¶¶

(c) A parent provider is not eligible to be paid using Department funds for attendant care delivered when any of the conditions in OAR 411-440-0050(2) are present.¶¶

(27) WAGES. A provider agency must maintain an average wage for direct support professionals who deliver hourly attendant care, not including DSA, that is equal to or greater than the hourly rate stated in the Department's approved published rate model. ¶¶

(28) ANNUAL REPORTING. A provider agency must submit annual data to the nationally standardized reporting survey organization specified by the Department using the instructions provided by the organization and the Department.

Statutory/Other Authority: ORS 409.050, 427.024, 427.104, 430.662, SB 1521 (2024 OR Law, Ch. 92)

Statutes/Other Implemented: ORS 409.010, 427.007, 427.024, 427.104, 427.181, 430.215, 430.610, 430.662, SB 1521 (2024 OR Law, Ch. 92)

ADOPT: 411-450-0095

RULE SUMMARY: OAR 411-450-0095 is being adopted to implement Senate Bill 1521 (2024) by adopting standards for Employer Model Agencies.

Other minor changes may be made to this rule to provide clarity or address issues raised during the public comment period. These changes will not affect services or introduce additional requirements.

CHANGES TO RULE:

411-450-0095

Employer Model Agency Standards

(1) For a provider agency to be endorsed to delivery community living supports as an employer model agency, the provider agency must meet the additional requirements in this rule. The requirements of this rule do not apply to a provider agency endorsed as a standard model agency.¶

(2) SELF-DIRECTED SUPPORTS. An employer model agency must provide culturally appropriate training, coaching, and other forms of supports on the following topics:¶

(a) Self-direction.¶

(b) Roles and responsibilities of the individual and the employer model agency regarding employee management activities including, but not limited to, all of the following:¶

(A) Recruitment or screening.¶

(B) Hiring or selection.¶

(C) Scheduling.¶

(D) Onboarding and training.¶

(E) Performance assessments.¶

(F) Termination or dismissal. ¶

(G) Any other required administrative or employment related responsibilities of the individual.¶

(3) An employer model agency must provide supports that enable the individual's active participation in service delivery.¶

(4) An employer model agency must ensure agency employees are providing services consistent with an individual's Individual Support Plan or Service Agreement and the individual's preferences. ¶

(5) An employer model agency must provide two hours of diversity, equity, and inclusion training for all employees upon hiring and annually thereafter. This training may be included in the job-related in-service training described in OAR 411-323-0050.¶

(6) In addition to the requirements described in OAR 411-323-0060(2), an employer model agency must make efforts to actively involve agency employees, individuals receiving services by the employer model agency, and other community members in decision-making about the needs of the workforce, the needs of individuals served, and quality improvement needs through regular surveys, an advisory board, or other method. Employer model agencies must share results of the involvement with employees and individuals served annually, along with information about how the involvement is used to improve their services. ¶

(7) An employer model agency must submit staffing data to a nationally standardized reporting survey organization annually as described in OAR 411-323-0055(6). An employer model agency's submission must include all of the following: ¶

(a) A list of employees for which the employer model agency billed the Department for services provided. ¶

(b) The zip codes where the employees provided services.¶

(c) Verification of the completion of training required for each employee.

Statutory/Other Authority: ORS 409.050, 427.024, 427.104, 430.662, SB 1521 (2024 OR Law, Ch. 92)

Statutes/Other Implemented: ORS 409.010, 427.007, 427.024, 427.104, 427.181, 430.215, 430.610, 430.662, SB 1521 (2024 OR Law, Ch. 92)