

Secretary of State
Certificate and Order for Filing

TEMPORARY ADMINISTRATIVE RULES

A Statement of Need and Justification accompanies this form.

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on Upon filing, by the

Department of Human Services, Aging and People with Disabilities and Developmental Disabilities

411

Agency and Division

Administrative Rules Chapter Number

Christina Hartman

(503) 945-6398

Rules Coordinator

Telephone

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Address

To become effective 07/01/2013 through 12/28/2013.

RULE CAPTION

Aging and People with Disabilities - Case Management Services

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

411-028-0000, 411-028-0010, 411-028-0020, 411-028-0030, 411-028-0040, 411-028-0050

AMEND:

SUSPEND:

Statutory Authority:

ORS 410.070

Other Authority:

Statutes Implemented:

ORS 410.070

RULE SUMMARY

The Department of Human Services (Department) is immediately adopting rules in OAR chapter 411, division 028 to ensure case management services support the independence, empowerment, dignity, and human potential of a Medicaid service recipient with the purpose of helping the service recipient reside in his or her own home or in a community-based setting.

FILED

7-1-13 7:40 PM

ARCHIVES DIVISION
SECRETARY OF STATE

Christina Hartman

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Rules Coordinator Name

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Secretary of State
STATEMENT OF NEED AND JUSTIFICATION
A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Human Services, Aging and People with Disabilities and Developmental Disabilities

411

Agency and Division

Administrative Rules Chapter Number

Aging and People with Disabilities - Case Management Services

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

The temporary adoption of OAR 411-028-0000, 411-028-0010, 411-028-0020, 411-028-0030, 411-028-0040, and 411-028-0050 relating to case management services for older adults and adults with physical disabilities.

Statutory Authority:

ORS 410.070

Other Authority:

Statutes Implemented:

ORS 410.070

Need for the Temporary Rule(s):

The rules in OAR chapter 411, division 028 need to be immediately adopted to ensure case management services support the independence, empowerment, dignity, and human potential of a Medicaid service recipient with the purpose of helping the service recipient reside in his or her own home or in a community-based setting. The temporary rules articulate who may provide case management services, to whom the services will be provided, and how often case management services are to be provided.

Documents Relied Upon, and where they are available:

Aging and People with Disabilities 1915(c) Waiver 0185, 1915(b) Freedom of Choice Waiver, and 1915(k) State Plan.
Available upon request by emailing the Administrative Rule Coordinator (christina.hartman@state.or.us) or calling 503-945-6398

Justification of Temporary Rule(s):

Failure to act promptly and immediately adopt rules in OAR chapter 411, division 028 will result in serious prejudice to Medicaid service recipients and the Department.

Failure to immediately adopt the rules in OAR chapter 411, division 028 will prevent the Department from implementing rules the Centers for Medicare and Medicaid Services (CMS) has required be put in place before the effective date of a new waiver. The Department will also be subject to disallowance on all expenses related to case management.

A disallowance would limit the Department's budget, Medicaid service recipients will have less access to services, and a majority of Medicaid service recipients will lose eligibility for Title XIX state plan and waived services.

OAR 411-030-0020 needs to be adopted promptly to be in compliance with CMS requirements and ensure Medicaid service recipients maintain eligibility.

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SECRETARY OF STATE

Authorization Page
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TEMPORARY ADMINISTRATIVE RULES

Department of Human Services, Aging and People with
Disabilities and Developmental Disabilities

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Agency and Division

Administrative Rules Chapter Number

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Telephone

Upon filing.

Adopted on

07/01/2013 thru 12/28/2013

Effective dates

RULE CAPTION

Aging and People with Disabilities - Case Management Services

Not more than 15 words

RULEMAKING ACTION

ADOPT: 411-028-0000, 411-028-0010, 411-028-0020, 411-028-0030, 411-028-0040, 411-028-0050

AMEND:

SUSPEND:

Stat. Auth.: ORS 410.070

Other Auth.:

Stats. Implemented: ORS 410.070

RULE SUMMARY

The Department of Human Services (Department) is immediately adopting rules in OAR chapter 411, division 028 to ensure case management services support the independence, empowerment, dignity, and human potential of a Medicaid service recipient with the purpose of helping the service recipient reside in his or her own home or in a community-based setting.

STATEMENT OF NEED AND JUSTIFICATION

The temporary adoption of OAR 411-028-0000, 411-028-0010, 411-028-0020, 411-028-0030, 411-028-0040, and 411-028-0050 relating to case management services for older adults and adults with physical disabilities.

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Documents Relied Upon, and where they are available

The rules in OAR chapter 411, division 028 need to be immediately adopted to ensure case management services support the independence, empowerment, dignity, and human potential of a Medicaid service recipient with the purpose of helping the service recipient reside in his or her own home or in a community-based setting. The temporary rules articulate who may provide case management services, to whom the services will be provided, and how often case management services are to be provided.

Need for the Temporary Rule(s)

Failure to act promptly and immediately adopt rules in OAR chapter 411, division 028 will result in serious prejudice to Medicaid service recipients and the Department.

Failure to immediately adopt the rules in OAR chapter 411, division 028 will prevent the Department from implementing rules the Centers for Medicare and Medicaid Services (CMS) has required be put in place before the effective date of a new waiver. The Department will also be subject to disallowance on all expenses related to case management.

A disallowance would limit the Department's budget, Medicaid service recipients will have less access to services, and a majority of Medicaid service recipients will lose eligibility for Title XIX state plan and waived services.

OAR 411-030-0020 needs to be adopted promptly to be in compliance with CMS requirements and ensure Medicaid service recipients maintain eligibility.

Justification of Temporary Rules



Authorized Signer

Michael McLermick

Printed Name

6/30/13

Date

Authorization Page replaces the ink signature on paper filings. Have your authorized signer sign and date, then scan and attach it to your

DIVISION 28
CASE MANAGEMENT SERVICES

411-028-0000

Purpose

(1) The rules in OAR chapter 411, division 028 ensure Title XIX waived case management services support the independence, empowerment, dignity, and human potential of a Medicaid service recipient with the purpose of helping the Medicaid service recipient reside in his or her own home or in a community-based setting.

(2) Title XIX waived case management services are a component of a Medicaid service recipient's comprehensive, person-centered plan for services.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-028-0010

Definitions

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 028:

(1) "Case Management" means the functions described in OAR 411-028-0020 performed by a case manager, services coordinator, or manager. Case management includes determining service eligibility, developing a plan of authorized services, and monitoring the effectiveness of services and supports.

(2) "Case Manager" means a Department employee or an employee of the Department's designee that meets the minimum qualifications in OAR 411-028-0040 who is responsible for service eligibility, assessment of need, offering service choices to eligible individuals, service planning, service authorization and implementation, and evaluation of the effectiveness of home and community-based waived or state plan services.

(3) "Collateral Contact" means contact by a case manager with others who may provide information regarding an individual's health, safety, functional needs, social needs, or effectiveness of the individual's plan for services. Collateral contact may include family members, service providers, medical providers, neighbors, pharmacy staff, friends, or other professionals involved in the service coordination of an individual receiving home and community-based waived or state plan services.

(4) "Department" means the Department of Human Services.

(5) "Designee" means an organization that the Department contracts with or has an interagency agreement with for the purposes of providing case management services to individuals eligible for home and community-based waived or state plan services.

(6) "Home and Community-Based Services" mean services approved for Oregon by the Centers for Medicare and Medicaid Services for older adults and individuals with physical disabilities in accordance with Sections 1915 (k), 1915 (j) and 1115 of Title XIX of the Social Security Act.

(7) "Individual" means a person applying or determined eligible for home and community-based waived or state plan services.

(8) "OSIP-M" means Oregon Supplemental Income Program-Medical as defined in OAR 461-101-0010. OSIPM is Oregon Medicaid insurance coverage for individuals who meet eligibility criteria as described in OAR chapter 461.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-028-0020

Scope of Case Management Services

(1) **DIRECT CASE MANAGEMENT SERVICES.** Direct case management services are provided by a case manager, adult protective services investigator, or higher level staff who communicates directly with an individual or the individual's representative. Direct case management services may occur by phone call, face-to-face contact, or email. Direct case management services do not include contact with collateral contacts unless the collateral contact is the individual's authorized representative. Direct case management services include --

(a) Assessment as described in OAR 411-015-0008;

(b) Service Plan development and review as described in OAR 411-015-0008;

(c) Service options choice counseling as described in OAR 411-030-0050;

(d) Risk assessment and monitoring --

(A) Identifying and documenting risks;

(B) Working with an individual to eliminate or reduce risks;

(C) Developing and implementing a Risk Mitigation Plan;

(D) Monitoring risks over time; and

(E) Making adjustments to an individual's Service Plan as needed.

(e) Diversion activities. Assisting an individual with finding alternatives to a nursing facility admission;

(f) Adult protective services investigation including all protective service activity directly provided to an individual;

(g) Other program coordination. Helping an individual navigate or coordinate with other social, health, and assistance programs;

(h) Crisis response and intervention. Assisting an individual with problem resolution; and

- (i) Service provision issues. Assisting an individual with problem solving to resolve issues that occur with providers, services, or hours that don't meet the individual's needs.
- (2) **INDIRECT CASE MANAGEMENT SERVICES.** Indirect case management services are services provided by a case manager, adult protective services investigator, or higher level staff in which direct contact with an individual is not occurring. Indirect case management services include --
- (a) Monitoring Service Plan implementation. Reviewing implementation of an individual's Service Plan by reviewing and comparing authorized and billed services to ensure that adequate services are being provided;
- (b) Service options choice counseling. Assisting an individual's caregiver, family member, or other support person with understanding all available home and community-based waived or state plan service options;
- (c) Risk monitoring. Working with a collateral contact to review an individual's risks, eliminating or reducing risks, and developing and implementing a Risk Mitigation Plan. Adjustments to an individual's Service Plan based on risk monitoring activities are classified as direct case management;
- (d) Diversion activities. Finding alternatives to a nursing facility admission. Diversion activities do not include transition activities to help an individual move from a nursing facility.
- (e) Adult protective services referral including collateral contact and investigative work;
- (f) Other program coordination. Helping collateral contacts navigate or coordinate with other social, health, and assistance programs;
- (g) Service provision issues. Assisting with problem solving issues that occur with providers, services, or hours that do not meet an individual's needs; and
- (h) Other case management activities not included in any criteria in this section of the rule.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-028-0030

Eligibility for Case Management Services

To be eligible for waived case management services an individual must:

- (1) Be 18 years of age or older;
- (2) Be eligible for OSIP-M; and
- (3) Meet the functional impairment level within the service priority levels currently served by the Department as outlined in OAR 411-015-0010 and OAR 411-015-0015.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-028-0040

Qualified Case Manager

Staff working for the Department or the Department's designee must meet the following requirements to provide case management services:

- (1) A bachelor's degree in a behavioral science, social science, or a closely related field; or
- (2) A bachelor's degree in any field and one year of human services related experience that may include providing assistance to people and groups with issues such as economical disadvantages, employment barriers and shortages, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or inadequate housing; or
- (3) An associate's degree in a behavioral science, social science or a closely related field AND two years of human services related experience that may include providing assistance to people and groups with issues such as economical disadvantages, employment barriers and shortages, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or inadequate housing; or
- (4) Three years of human services related experience that may include providing assistance to people and groups with issues such as economical disadvantages, employment barriers and shortages, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or inadequate housing.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-028-0050

Frequency of Case Management Services

A case manager who meets the requirements in OAR 411-028-0040 must provide the following case management services to an eligible individual receiving home and community-based waived or state plan services no less than one time every calendar month:

- (1) A direct case management service as described in OAR 411-028-0020 must be provided to an eligible individual no less than once in each calendar quarter.
- (2) An indirect case management service must be provided in every calendar month a direct case management service was not provided.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070