NOTICE OF PROPOSED RULEMAKING FILING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT
For internal agency use only.

Department of Human Services, Developmental Disabilities	411
Agency and Division Name	Administrative Rules Chapter Number

Christina Hartman	500 Summer Street NE, E-09 Salem, OR 97301-1073 christina.hartman@state.or.us	(971) 413-4225
Rules Coordinator/Filing Contact	Address/Email	Telephone

FILING CAPTION

ODDS: Developmental Disabilities Ancillary Services

Last Date and Time for Public Comment: [May 29, 2019 at 5:00 p.m.]

May 21, 2019	3:00 p.m.	500 Summer Street NE, Rm. 160 Salem, OR 97301	Staff
Hearing Date	Time	Address	Hearings Officer

RULEMAKING ACTION

List each rule number separately (000-000-0000) below. Attach proposed, tracked changed text for each rule at the end of the filing.

AMEND:

411-435-0020, 411-435-0050, 411-435-0070, 411-435-0080

RULE SUMMARY

Include a summary for each rule included in this filing.

The Department of Human Services, Office of Developmental Disabilities Services (ODDS) is proposing to amend various rules in OAR chapter 411, division 435 about developmental disabilities ancillary services to align the rules with the waiver and plan renewals and amendments which were posted for public comment on January 25, 2019. ODDS will not be filing permanent rule language until the renewals and amendments have been approved by the Centers for Medicare and Medicaid Services.

OAR 411-435-0020 about Definitions and Acronyms for ancillary services is being amended to remove the definition for special diets because special diets is being removed due to lack of use.

OAR 411-435-0050 about Community First Choice Ancillary Services is being amended to increase the local case management entity benefit approval limit on assistive devices and assistive technology from $500 to $1200.

OAR 411-435-0070 about Other Waiver Ancillary Services for Children's Intensive In-Home Services is being amended to remove special diets due to lack of use.

OAR 411-435-0080 about Ancillary Service Provider Requirements is being amended to remove the requirements for vendors and supply companies providing special diets because special diets is being removed due to lack of use.

Other changes may be made to these rules to correct grammatical errors, ensure consistent terminology, address issues identified during the public comment period, and improve the accuracy, structure, and clarity of the rules.

STATEMENT OF NEED

Need for Rule(s):

ODDS needs to amend various rules in OAR chapter 411, division 435 about developmental disabilities ancillary services to align the rules with the waiver and plan renewals and amendments which were posted for public comment on January 25, 2019. ODDS will not be filing permanent rule language until the renewals and amendments have been approved by the Centers for Medicare and Medicaid Services.

OAR 411-435-0020 about Definitions and Acronyms for ancillary services is being amended to remove the definition for special diets because special diets is being removed due to lack of use.

OAR 411-435-0050 about Community First Choice Ancillary Services is being amended to increase the local case management entity benefit approval limit on assistive devices and assistive technology from $500 to $1200.

OAR 411-435-0070 about Other Waiver Ancillary Services for Children's Intensive In-Home Services is being amended to remove special diets due to lack of use.

OAR 411-435-0080 about Ancillary Service Provider Requirements is being amended to remove the requirements for vendors and supply companies providing special diets because special diets is being removed due to lack of use.

Other changes may be made to these rules to correct grammatical errors, ensure consistent terminology, address issues identified during the public comment period, and improve the accuracy, structure, and clarity of the rules.

FISCAL IMPACT

Fiscal and Economic Impact:

The fiscal and economic impact is stated below in the statement of cost of compliance.

Statement of 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).

ODDS

- There is no negative anticipated fiscal impact to ODDS by changing the amount allowable for case management entities to approve from $500 to $1200. The change may result in decreased workload.
- There is no anticipated fiscal impact to ODDS by removing special diets from the allowable services as this was not a service being used.

Case Management Entities (units of local government)

- There is no negative anticipated fiscal impact to case management entities by changing the amount allowable for case management entities to approve from $500 to $1200. The change may result in a decreased workload as the case management entity will no longer need to request an exception for ancillary services between $500 and $1200.
- There is no anticipated fiscal impact to case management entities by removing special diets from the allowable services.

Individuals Receiving Services

- There is no anticipated fiscal impact to individuals receiving services by changing the amount allowable for case management entities to approve from $500 to $1200.
- There is no anticipated fiscal impact to individuals receiving services by removing special diets from the allowable services as special diets are a service that is not being used.

Providers

- There is no anticipated fiscal impact to providers by changing the amount allowable for case management entities to approve from $500 to $1200.
- There is no anticipated fiscal impact to providers by removing special diets from the allowable services.

Members of the Public

- There is no anticipated fiscal impact to members of the public by changing the amount allowable for case management entities to approve from $500 to $1200.
- There is no anticipated fiscal impact to members of the public by removing special diets from the allowable services.

(2) Effect on Small Businesses:
(a) Estimate the number and type of small businesses subject to the rule(s);
The proposed rule changes for special diets apply to vendors and supply companies providing special diets, some of which may be considered small businesses as defined in ORS 183.310. The Department is unable to estimate the number of vendors and supply companies that provided special diets because the service is being removed due to a lack of use.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);
The proposed rule changes impact providers as described in the statement of cost of compliance.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).
The proposed rule changes impact providers as described in the statement of cost of compliance.

Describe how small businesses were involved in the development of these rule(s)?
Small businesses as defined in ORS 183.310 are included in the public review and comment period.

Documents Relied Upon, and where they are available:
Waiver and Plan renewals and amendments open for comment available at: https://www.oregon.gov/DHS/SENIORS-DISABILITIES/DD/Pages/Compass-Project-Waivers-Rules-Policy.aspx

Was an Administrative Rule Advisory Committee consulted? Yes or No?
If not, why not?
No. ODDS received an exception on the use of a Rules Advisory Committee because the proposed rule changes will be made to coincide with the approval of the Centers for Medicare and Medicaid Services of the waiver and plan renewals and amendments which were posted for public comment on January 25, 2019.

DEPARTMENT OF HUMAN SERVICES
DEVELOPMENTAL DISABILITIES
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 435

DEVELOPMENTAL DISABILITIES ANCILLARY SERVICES

411-435-0020 Definitions and Acronyms

In addition to the following definitions, OAR 411-317-0000 includes general definitions for words and terms frequently used in OAR chapter 411, division 435. ~~In addition to the definitions in OAR 411-317-0000, the following definitions apply specifically to the rules in OAR chapter 411, division 435.~~ If ~~the same~~ 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".

(2) "Ancillary Services" means the array of services described in these rules that may be authorized as stand-alone services, separate from attendant care, relief care, and skills training, and an all-inclusive rate paid to a residential program or a foster care provider.

(3) "Assistive Devices" means the ancillary service that makes available devices, aids, controls, supplies, or appliances necessary to enable an individual to increase the ability of the individual to perform ADLs and IADLs or to communicate in the home and community. Assistive devices are available through the Community First Choice state plan.

(4) "Assistive Technology" means the ancillary service that makes available devices, aids, controls, supplies, or appliances purchased to provide support for an individual and replace the need for direct interventions or to increase independence. Assistive technology is available through the Community First Choice state plan.

(5) "CDDP" means "Community Developmental Disabilities Program".

(6) "Chore Services" means the ancillary service that is needed to restore a hazardous or unsanitary situation in the home of an individual to a sanitary, safe environment. Chore services are available through the Community First Choice state plan.

(7) "CIIS" means "Children's Intensive In-home Services".

(8) "Community Nursing Services" means the ancillary service that provides for the nursing services that focus on the chronic and ongoing health and safety needs of an individual. Community nursing services are provided according to the rules in OAR chapter 411, division 048 and the Oregon State Board of Nursing rules in OAR chapter 851. Community nursing services are available through the Community First Choice state plan.

(9) "Community Transportation" means the ancillary service that enables an individual to gain access to community-based state plan and waiver services, activities, and resources, not medical in nature. Community transportation is provided in the area surrounding the home of the individual commonly used by people in the same area to obtain ordinary goods and services. Community transportation is available through the Community First Choice state plan.

(10) "Environmental Modifications" means the ancillary service that provides for physical adaptations necessary to ensure the health, welfare, and safety of an individual in his or her own home, or necessary to enable an individual to function with greater independence around the home or lead to a substitution for, or decrease in, direct human assistance to the extent expenditures may otherwise be made for human assistance. Environmental modifications are available through the Community First Choice state plan.

(11) "Environmental Safety Modifications" means the ancillary service that provides for physical adaptations to the exterior of the home of an individual or the home of the family of an individual, as identified in the ISP for the individual, to ensure the health, welfare, and safety of the individual, or necessary to enable the individual to function with greater independence around the home or lead to a substitution for, or decrease in, direct human assistance to the extent expenditures may otherwise be made for human

assistance. Environmental safety modifications are available through a 1915(c) waiver.

(12) "Family Training" means the ancillary service that provides for the training services available to the family of an individual to increase the capacity of the family to care for, support, and maintain the individual in the home of the individual. Family training is available through a 1915(c) waiver.

(13) "IADL" means "instrumental activities of daily living".

(14) "Individual-Directed Goods and Services" means the ancillary service that provides for services, equipment, or supplies, not otherwise provided through other waiver or state plan services, that address an identified need in an ISP. Individual-directed goods and services may include services, equipment, or supplies that maintain a child in the community. Individual-directed goods and services are available through a 1915(c) waiver.

(15) "ISP" means "Individual Support Plan".

(16) "OCCS" means the "Office of Client and Community Services".

(17) "OHP" means "Oregon Health Plan".

(18) "OIS" means "Oregon Intervention System".

(19) "OSIPM" means "Oregon Supplemental Income Program-Medical".

(20) "Scope of Work" means the written statement of all proposed work requirements for an environmental modification including, but not limited to, dimensions, measurements, materials, labor, any pertinent building permits, and outcomes necessary for a contractor to submit a proposal to complete such work. The scope of work is specific to the identified tasks and requirements necessary to address the needs outlined in the supplemental assessment referenced in the ISP and relating to the ADL, IADL, and health-related tasks of the individual as discussed by the individual, designated representative, legal representative, homeowner, case manager, and ISP team.

~~(21) "Special Diets" means the ancillary service that provides for the specially prepared food or particular types of food specific to the medical condition or diagnosis of an individual and in support of an evidence-based treatment regimen. Special diets are available through a 1915(c) waiver.~~

(~~22~~21) "Specialized Medical Supplies" means the ancillary service, available through a 1915(c) waiver, that provides for medical and ancillary supplies such as~~ --~~:

(a) Necessary medical supplies specified in an ISP that are not available through state plan or alternative resources.

(b) Ancillary supplies necessary to the proper functioning of items necessary for life support or to address physical conditions.

(c) Supplies necessary for the continued operation of augmentative communication devices or systems.

(~~23~~22) "These Rules" mean the rules in OAR chapter 411, division 435.

(~~24~~23) "Transition Costs" means the ancillary service that provides for expenses such as rent and utility deposits, first month's rent and utilities, bedding, basic kitchen supplies, and other necessities required for an individual to make the transition from residing in a nursing facility or intermediate care facility for individuals with intellectual disabilities to residing in a community-based home. Transition costs are available through the Community First Choice state plan.

(~~25~~24) "Vehicle Modifications" means the ancillary service that provides for the adaptations or alterations made to a vehicle that is the primary means of transportation for an individual in order to accommodate the service needs of the individual. Vehicle modifications are available through a 1915(c) waiver.

Stat. Auth.: ORS 409.050, 427.104, 430.662
Stats. Implemented: ORS ~~427.005, ~~427.007, 427.104, 430.610, 430.620, 430.662-430.670

411-435-0050 Developmental Disabilities - Community First Choice

Ancillary Services

(1) The following ancillary services are available through the Community First Choice state plan:

(a) Assistive devices as described in section (2) of this rule.

(b) Assistive technology as described in section (3) of this rule.

(c) Chore services as described in section (4) of this rule.

(d) Community nursing services as described in section (5) of this rule.

(e) Community transportation as described in section (6) of this rule.

(f) Environmental modifications as described in section (7) of this rule.

(g) Professional behavior services as described in OAR chapter 411, division 304.

(h) Transition costs as described in section (8) of this rule.

(2) ASSISTIVE DEVICES. Assistive devices are primarily and customarily used to meet an ADL, IADL, or health-related support need. The purchase, rental, or repair of an assistive device with Department funds must be limited to the types of equipment and accessories not excluded under OAR 410-122-0080. An individual who meets the general eligibility criteria in OAR 411-435-0030 may access this service when assistive devices may be reasonably expected to reduce the need for human assistance, or increase the independence of an individual with meeting an identified support need related to the completion of an ADL, IADL, or health-related task.

(a) Assistive devices may include the purchase of devices, aids, controls, supplies, or appliances primarily and customarily used to enable an individual to increase the ability of the individual to perform and support ADLs and IADLs or to communicate in the home and community.

(b) Assistive devices may be purchased with Department funds when the intellectual or developmental disability of an individual otherwise prevents or limits the independence of the individual in areas identified in a functional needs assessment.

(c) Assistive devices that may be purchased for the purpose described in subsection (b) of this section must be of direct benefit to the individual.

(d) Expenditures for assistive devices are limited to $5,000 per plan year without Department approval. Any single purchase costing more than $~~500~~ 1,200 or any combination of items that meet a single assessed need totaling more than $~~500~~1,200, must be approved by the Department prior to expenditure. A case manager must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the individual and a determination by the Department of appropriateness and cost-effectiveness.

(e) Devices must be limited to the least costly option necessary to meet the assessed need of an individual.

(f) Assistive devices must meet applicable standards of manufacture, design, and installation.

(g) Assistive devices exclude the following:

> (A) Items that do not address the underlying current need for the device.
>
> (B) Items intended to supplant similar items furnished under Medicaid Title XIX, private insurance, or alternative resources.
>
> (C) Items that are unsafe for an individual.
>
> (D) Toys or outdoor play equipment.
>
> (E) Equipment and furnishings of general household use.

(3) ASSISTIVE TECHNOLOGY Assistive technology is primarily and customarily used to provide additional safety and support and replace the need for direct interventions, to enable self-direction of care, or increase independence. An individual who meets the general eligibility criteria in OAR 411-435-0030 may access this service when assistive technology may be reasonably expected to reduce the need for human assistance, or increase the independence of an individual with meeting an identified support need related to the completion of an ADL, IADL, or health-related task.

(a) Expenditures for assistive technology are limited to $5,000 per plan year without Department approval. Any single purchase costing more than $~~500~~1,200, or any combination of items that meet a single assessed need totaling more than $~~500~~1,200, must be approved by the Department prior to expenditure. A case manager must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the individual and a determination by the Department of appropriateness and cost-effectiveness.

(b) Payment for ongoing electronic back-up systems or assistive technology costs must be paid to providers each month after services are received.

(A) Ongoing costs do not include electricity or batteries.

(B) Ongoing costs may include minimally necessary data plans and the services of a company to monitor emergency response systems.

(c) Assistive technology includes, but is not limited to the following:

(A) Motion or sound sensors.

(B) Two-way communication systems.

(C) Automatic faucets and soap dispensers.

(D) Incontinence and fall sensors.

(E) Devices to secure assistance in an emergency in the community.

(F) Medication minders.

(G) Alert systems for ADL or IADL supports.

(H) Mobile electronic devices or other electronic backup systems, including the expense necessary for the continued operation of the assistive technology.

(4) CHORE SERVICES.

(a) To be eligible to access chore services an individual must:

(A) Meet the general eligibility criteria in OAR 411-435-0030; and

(B) Not be enrolled in a residential program, unless the enrollment is in a supported living program described in OAR chapter 411, division 328 and the dwelling is not a provider owned, controlled, or operated setting.

(b) Chore services include heavy household chores, such as the following:

(A) Washing floors, windows, and walls.

(B) Tacking down loose rugs and tiles.

(C) Moving heavy items of furniture for safe access and egress.

(c) Chore services may include yard hazard abatement to ensure the outside of a home is safe for an individual to traverse and enter and exit the home.

(d) Chore services may be provided only in situations where no one

else is responsible to perform or pay for the services.

(5) COMMUNITY NURSING SERVICES.

(a) In addition to the general eligibility criteria listed in OAR 411-435-0030, to access community nursing services, an individual may not be enrolled in a 24-hour residential program under OAR chapter 411, division 325. An individual enrolled in a supported living program under OAR chapter 411, division 328 is eligible to access community nursing services when the cost of the service is not included in the rate paid to the provider.

(b) Community nursing services include the following:

(A) Nursing assessments, including medication reviews.

(B) Care coordination.

(C) Monitoring.

(D) Development of a Nursing Service Plan.

(E) Delegation and training of nursing tasks to a provider and primary caregiver.

(F) Teaching and education of the provider and primary caregiver and identifying supports that minimize health risks while promoting the autonomy of an individual and self-management of healthcare.

(G) Collateral contact with a case manager regarding the community health status of an individual to assist in monitoring safety and well-being and to address needed changes to the ISP for the individual.

(c) Community nursing services exclude the direct nursing services described in OAR chapter 411, division 380 and the private duty nursing services described in OAR chapter 411, division 300.

(d) A Nursing Service Plan must exist if Department funds are used for community nursing services. A case manager must authorize the provision of community nursing services as identified in an ISP.

(e) After an initial nursing assessment, a nursing reassessment must be completed every six months or sooner if a change in a medical condition requires an update to the Nursing Service Plan.

(6) COMMUNITY TRANSPORTATION.

(a) Community transportation may only be authorized on an ISP when:

(A) An individual meets the general eligibility criteria in OAR 411-435-0030.

(B) Voluntary natural supports or volunteer services are not available.

(C) The individual is not enrolled in a residential program.

(D) It is not the responsibility of the parent of a child.

(E) The individual has one of the following identified in their ISP:

(i) An assessed support need for an ADL, IADL, or health-related task during transportation.

(ii) An assessed support need for an ADL, IADL, or health-related task at the destination or a need for waiver-funded services at the destination.

(b) Community transportation includes, but is not limited to the following:

(A) Community transportation provided by a common carrier, taxicab, or bus in accordance with standards established for these entities.

(B) Reimbursement on a per-mile basis for transporting an individual to accomplish an ADL, IADL, health-related task, or employment goal identified in an ISP.

(C) The purchase of a bus pass.

(c) Community transportation must be provided in the most cost-effective manner to meet the needs identified in the ISP for an individual.

(d) Community transportation expenses exceeding $500 per month must be approved by the Department.

(e) Community transportation must be prior authorized by a case manager and documented in an ISP. The Department does not pay any provider under any circumstances for more than the total number of hours, miles, or rides prior authorized by the case manager and documented in the ISP. Personal support workers who use their own personal vehicle for community transportation are reimbursed as described in OAR chapter 411, division 375.

(f) Mileage reimbursement for community transportation is only authorized when a provider is also being paid for delivering community living supports or job coaching. Mileage may not be authorized as a stand-alone payment.

(g) Community transportation services exclude the following:

(A) Medical transportation.

(B) Purchase or lease of a vehicle.

(C) Routine vehicle maintenance and repair, insurance, and fuel.

(D) Ambulance services.

(E) Costs for transporting a person other than the individual.

(F) Transportation for a provider to travel to and from the workplace of the provider.

(G) Transportation not for the sole benefit of the individual.

(H) Transportation as part of a vacation or trips for relaxation purposes.

(I) Transportation provided by family members who are not personal support workers.

(J) Reimbursement for out-of-state travel expenses.

(K) Mileage reimbursement to the individual or a personal support worker when the individual owns the vehicle doing the transportation.

(L) Transportation normally provided by schools.

(M) Transportation normally provided by a primary caregiver for a child of similar age without disabilities.

(N) Transportation for a child typically the responsibility of a parent. Transportation for a child not typically a parental responsibility is limited to transportation:

(i) Concurrent with the delivery of relief care as described in OAR 411-450-0060; or

(ii) When included within the emergency crisis section of a Positive Behavior Support Plan as an isolated intervention strategy when a child is behaving in an unsafe manner that presents imminent danger of injury to self or others.

(7) ENVIRONMENTAL MODIFICATIONS.

(a) In addition to the general eligibility criteria stated in OAR 411-435-0030, an individual may access this service if:

(A) Environmental modification may be reasonably expected to reduce the need for human assistance or increase the independence of the individual with meeting an identified support need related to the completion of an ADL, IADL, or health-related task.

(B) The individual is not enrolled in a residential program, unless the enrollment is in a supported living program described in OAR chapter 411, division 328 and the dwelling is not a provider owned, controlled, or operated setting.

(b) Environmental modifications include, but are not limited to, the following:

(A) Installation of shatter-proof windows.

(B) Hardening of walls or doors.

(C) Specialized, hardened, waterproof, or padded flooring.

(D) An alarm system for doors or windows.

(E) Protective covering for smoke alarms, light fixtures, and appliances.

(F) Installation of ramps, grab-bars, and electric door openers.

(G) Adaptation of kitchen cabinets and sinks.

(H) Widening of doorways.

(I) Handrails.

(J) Modification of bathroom facilities.

(K) Individual room air conditioners for an individual whose temperature sensitivity issues create behaviors or medical conditions that put the individual or others at risk.

(L) Installation of non-skid surfaces.

(M) Overhead track systems to assist with lifting or transferring.

(N) Specialized electric and plumbing systems necessary to accommodate the medical equipment and supplies necessary for the welfare of the individual.

(O) Adaptations to control the home environment, including lights and heat.

(c) Environmental modifications exclude the following:

(A) Adaptations or improvements to the home that are of general utility, such as carpeting, roof repair, and central air conditioning, unless directly related to the assessed health and safety needs of the individual and identified in the ISP for the individual as the most cost-effective solution.

(B) Adaptations that add to the total square footage of the home, except for ramps that attach to the home for the purpose of entry or exit.

(C) Adaptations outside of the home, except for ramps that attach to the home for the purpose of entry or exit.

(D) General repair or maintenance and upkeep required for the home.

(d) Environmental modifications are limited to $5,000 per modification. A case manager must request approval for additional expenditures through the Department prior to authorization of the service in an ISP. Approval is based on the service and support needs and goals of the individual and the determination by the Department of appropriateness and cost-effectiveness. Separate environmental modification projects that cumulatively total up to over $5,000 in a plan year must be submitted to the Department for review.

(e) Any modification requiring a permit must be inspected by a local inspector, and certified as in compliance with local codes. Certification of compliance must be filed in the file for the contractor prior to payment.

(f) Payment to the contractor is to be withheld until the work meets specifications.

(g) A scope of work must be completed for each identified environmental modification project. All contractors submitting bids must be given the same scope of work.

(h) For all environmental modifications, a case management entity must assure the acquisition of at least three written bids from providers meeting the qualifications in OAR 411-435-0080. When it is not possible to reasonably obtain three written bids, exceptions to this requirement may be granted by the Department.

(i) A case manager must assure the processes outlined in the Expenditure Guidelines are followed for contractor bids and the awarding of work.

(j) All dwellings must be in good repair and have the appearance of sound structure.

(k) The identified home may not be in foreclosure or be the subject of legal proceedings regarding ownership.

(l) Environmental modifications must only be completed to the primary residence of the individual.

(m) Upgrades in materials not directly related to the health and safety needs of the individual are not paid for or permitted.

(n) Environmental modifications are subject to Department requirements regarding material and construction practices based on industry standards for safety, liability, and durability, as referenced in building codes, materials, manuals, and industry and risk

management publications.

(o) RENTAL PROPERTY.

(A) Environmental modifications to rental property may not substitute or duplicate services otherwise the responsibility of the landlord under the landlord tenant laws, the Americans with Disabilities Act, or the Fair Housing Act.

(B) Environmental modifications made to a rental structure must have written authorization from the owner of the rental property prior to the start of the work.

(C) The Department does not fund work to restore the rental structure to the former condition of the rental structure.

(8) TRANSITION COSTS.

(a) To be eligible to access transition costs, an individual must meet the general eligibility criteria in OAR 411-435-0030 and not be enrolled in a residential program.

(b) Transition costs are limited to an individual transitioning from residing in a nursing facility or intermediate care facility for individuals with intellectual disabilities to residing in a community-based home when the cost for the transition is not included in the rate paid to the provider.

(c) Transition costs are based on the assessed need of an individual determined during the person-centered planning process and must support the desires and goals of the individual receiving services and supports.

(d) Final approval for transition costs must be through the Department prior to expenditure. The approval of the Department is based on the need of an individual and the determination by the Department of appropriateness and cost-effectiveness.

(e) Financial assistance for transition costs is limited to the following:

(A) Moving and move-in costs, including movers, cleaning and security deposits, payment for background or credit checks (related to housing), or initial deposits for heating, lighting, and phone.

(B) Payment of previous utility bills that may prevent the individual from receiving utility services.

(C) Basic household furnishings, such as a bed.

(D) Other items necessary to re-establish a home.

(f) Transition costs are provided no more than twice annually.

(g) Transitions costs for basic household furnishings and other items are limited to one time per year.

(h) Transition costs may not supplant the legal responsibility of the parent or guardian of a child. In this context, the term parent or guardian does not include a designated representative.

Stat. Auth.: ORS 409.050, 427.104, 430.662
Stats. Implemented: ORS ~~427.005,~~ 427.007, 427.104, 430.610, 430.620, 430.662-430.670

411-435-0070 Developmental Disabilities - Other Waiver Ancillary Services for Children in CIIS

~~(1) SPECIAL DIETS. Special diets are specially prepared food or particular types of food, ordered by a physician and periodically monitored by a dietician, specific to the medical condition or diagnosis of a child, and needed to sustain the child in their home. Special diets are an ancillary service available through the Medically Involved Children's Waiver, Medically Fragile (Hospital) Model Waiver, and Behavioral (ICF/IID) Model Waiver.~~

~~(a) Specials diets are available to children who meet the general eligibility criteria in OAR 411-435-0030 and are enrolled in CIIS.~~

~~(b) A special diet is a supplement and is not intended to meet complete, daily nutritional requirements.~~

~~(c) A special diet must be ordered at least annually by a physician licensed by the Oregon Board of Medical Examiners and periodically monitored by a dietician or physician.~~

~~(d) The maximum monthly purchase for special diet supplies for a child in a CIIS program may not exceed $100 per month.~~

~~(e) Special diet supplies must be in support of an evidence-based treatment regimen.~~

~~(f) A special diet excludes restaurant and prepared foods, vitamins, and supplements.~~

~~(2)~~ INDIVIDUAL-DIRECTED GOODS AND SERVICES. Individual-directed goods and services are available through the Medically Involved Children's Waiver, Medically Fragile (Hospital) Model Waiver, and Behavioral (ICF/IID) Model Waiver.

(~~a~~1) Only a child who meets the general eligibility criteria in OAR 411-435-0030 and enrolled in CIIS may access individual-directed goods and services.

(~~b~~2) Individual-directed goods and services provide equipment and supplies not otherwise available through another source, such as waiver services or state plan services.

(~~c~~3) Authorization of individual directed goods and services must be based on an assessed need.

(~~d~~4) Individual-directed goods and services must directly address the disability related need of a child identified in their ISP.

(~~e~~5) Individual-directed goods and services must:

(~~A~~a) Decrease the need for other Medicaid services;

(~~B~~b) Promote inclusion of a child in the community; or

(~~C~~c) Increase the safety of a child in the family home.

(~~f~~6) Individual-directed goods and services may not be:

(~~A~~a) Otherwise available through another source, such as waiver services or state plan services;

(~~B~~b) Experimental or prohibited treatment; or

(~~C~~c) Goods or services that are normally purchased by a family for a typically developing child of the same age.

(~~g~~7) Individual-directed goods and services purchased must be the most cost-~~-~~effective option available to meet the needs of the child.

Stat. Auth.: ORS 409.050, 427.104, 430.662
Stats. Implemented: ORS ~~427.005,~~ 427.007, 427.104, 430.610, 430.620, 430.662-430.670

411-435-0080 Ancillary Service Provider Requirements

(1) Providers of community nursing services.

(a) Independent providers are not personal support workers and must meet the minimum qualifications of an independent provider described in OAR chapter 411 division 375 and:

(A) Have a current Oregon nursing license;

(B) Be enrolled in the Long Term Care Community Nursing Program as described in OAR chapter 411, division 048; and

(C) Submit a resume to the case management entity indicating the education, skills, and abilities necessary to provide nursing services in accordance with state law.

(b) Agency providers must be enrolled in the Long Term Care Community Nursing Program as described in OAR chapter 411, division 048.

(2) Providers delivering goods or services to individuals and paid with Department funds must hold any current license appropriate to function required by the state of Oregon or federal law or regulation including, but not limited to:

(a) For providers of environmental modifications or environmental safety modifications involving building modifications or new construction, a current license and bond as a building contractor as required by OAR chapter 812 (Construction Contractor's Board) or OAR chapter 808 (Landscape Contractors Board) with a minimum of $1,000,000 liability insurance.

(b) For environmental accessibility consultants, a current license as a general contractor as required by OAR chapter 812, including experience evaluating homes, assessing the needs of an individual, and developing cost-effective plans to make homes safe and accessible.

(c) For public transportation providers, the established standards.

(d) For private transportation providers other than personal support workers, a business license and a license to drive in Oregon.

(e) For vendors and medical supply companies providing assistive devices or specialized medical supplies, a current retail business license, including enrollment as Medicaid providers through the Oregon Health Authority if vending medical equipment.

~~(f) Retail business licenses for vendors and supply companies providing special diets.~~

(3) Services provided and paid for with Department funds must be limited to the services within the scope of the license of the general business provider.

(4) A provider who is a writer of a scope of work, a contractor who is chosen to complete environmental modifications or environmental safety modifications, a contractor completing a vehicle modification, or a provider of chore services cannot have a conflict of interest associated with the delivery of the service unless the conflict is waived by the Department prior to delivering the service. A conflict of interest exists when the provider is:

(a) Related by blood or marriage to the individual, or to any paid caregiver of the individual.

(b) Financially responsible for the individual.

(c) Empowered to make financial or health-related decisions on behalf of the individual.

(d) May benefit financially from the provision of the environmental or vehicle modification.

(5) Payment by the Department for ancillary services is considered full payment for the services rendered under Medicaid. A provider may not demand or receive additional payment for ancillary services from the individual, legal representative, or any other source, under any circumstances.

(6) Medicaid funds are the payer of last resort. A provider must bill all third party resources until all third party resources are exhausted.

(7) The Department reserves the right to make a claim against any third party payer before or after making payment to the provider.

Stat. Auth.: ORS 409.050, 427.104, 430.662
Stats. Implemented: ORS ~~427.005,~~ 427.007, <u>427.104,</u> 430.610, 430.620, 430.662-430.670