



PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 411

DEPARTMENT OF HUMAN SERVICES

AGING AND PEOPLE WITH DISABILITIES AND DEVELOPMENTAL DISABILITIES

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RULES:

411-320-0020, 411-320-0080

AMEND: 411-320-0020

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RULE SUMMARY: OAR 411-320-0020, about definitions and acronyms for Community Developmental Disabilities Programs, is being amended to:

- Update the definitions for “Adaptive Behavior”, “Completed Application”, “Current Documentation”, “History”, “Indefinitely”, “Informal Adaptive Behavior Assessment”, “Intake”, “Intellectual Disability”, “Intellectual Functioning”, “Intelligence Tests”, “Learning Disability”, and “Motor Impairment”.
- Add new definitions for “Application”, “School-Aged”, and “School-Age Testing”.
- Ensure that terms used in the rules are linked to their definitions, even when those definitions are in other rule divisions.
- Remove definitions that are no longer needed.
- Make minor edits to improve readability, accuracy, and clarity and address issues raised during the public comment period.

CHANGES TO RULE:

411-320-0020

Definitions and Acronyms for Community Developmental Disabilities Programs (CDDPs)

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 320. If a word or term is defined differently in OAR 411-317-0000, the definition in this rule applies.

(1) "ABAS" means Adaptive Behavior Assessment System.

(2) "ABES" means Adaptive Behavior Evaluation Scale.

(3) "Adaptive Behavior" means the degree to which an individual meets the standards of personal independence and social responsibility expected for age and culture group. Other terms used to describe adaptive behavior include, but are not limited to, adaptive impairment, ability to function, daily living skills, and adaptive functioning. Adaptive behaviors are everyday living skills including, but not limited to, walking (mobility), talking (communication), getting dressed or toileting (self-care), going to school or work (community use), and making choices (self-direction).

(a) Adaptive behavior is measured by normed, standardized tests administered by a licensed clinical psychologist, school psychologist, doctor of medicine, or doctor of osteopathic medicine, with specific training and experience in test interpretation of adaptive behavior scales for individuals with intellectual or developmental disabilities. An assessment of adaptive behavior is used to determine if a person has significant impairment in adaptive behavior as required in eligibility criteria OAR 411-320-0080(3) and (4). ~~Additionally, an assessment of adaptive behavior is used to determine if a person is eligible as a person with an other developmental disability by demonstrating the person requires supports similar to a person with an,~~ and support similar to intellectual disability as ~~described~~ required in OAR 411-320-0080(4). Assessments of adaptive behavior include the following:

(A) Adaptive Behavior Assessment System (ABAS);

(B) Adaptive Behavior Evaluation Scale (ABES);

(C) Vineland Adaptive Behavior Scale (VABS); or

(D) Other assessments approved by the Department that are designed to measure adaptive behavior, standardized and normed to a population consistent with people who experience an intellectual or developmental disability.

(b) DOMAIN SCORES. Adaptive behavior domain scores are identified on the following assessments of adaptive behavior:

(A) The ABAS and ABES are:

(i) Conceptual;

(ii) Practical; and

(iii) Social.

(B) The VABS are:

(i) Socialization;

(ii) Daily living skills;

(iii) Communication; and

(iv) Motor.

(c) COMPOSITE SCORE. The adaptive behavior composite score is the overall score which results from summing two or more domain scores on a given assessment of adaptive behavior.

(d) SKILLED AREAS. Skilled areas are a particular assessed score. The skilled areas on the ABAS or ABES are the only skilled areas used for the purposes of OAR 411-320-0080 and include scaled scores in:

(A) Communication;

(B) Functional academics;

(C) Self-direction;

(D) Leisure;

(E) Social;

(F) Community use;

(G) Home and school living;

(H) Self-care;

(I) Health and safety; and

(J) Work.

(e) "Significant impairment" in adaptive behavior means:

(A) A composite score of at least two standard deviations below the norm; or

(B) Two or more domain scores, as identified in subsection (b) of this section, are at least two standard deviations below the norm; or

(C) Two or more skilled areas, as identified in subsection (d) of this section, are at least two standard deviations

below the norm.¶

~~(4f) "Support similar" means a person with a developmental disability has an adaptive behavior assessment score that is either:¶~~

~~(A) A composite score of at least two standard deviations below the norm; or¶~~

~~(B) One domain score, as identified in subsection (b) of this section, at least two standard deviations below the norm.¶~~

~~(4) "Application" means, for the purposes of an eligibility determination, the intake application for developmental disabilities services (form 0552).¶~~

~~(5) "Assessor" as defined in OAR 411-317-0000.¶~~

~~(6) "CAM" means "Centralized Abuse Management" as defined in OAR 411-317-0000.¶~~

~~(57) "CDDP" means "Community Developmental Disabilities Program" as defined in OAR 411-317-0000.¶~~

~~(68) "CIIS" means "Children's Intensive In-Home Services" as defined in OAR 411-317-0000 and described in OAR chapter 411, division 300.¶~~

~~(72) "CMS" means "Centers for Medicare and Medicaid Services" as defined in OAR 411-317-0000.¶~~

~~(810) "Completed Application" means, for the purposes of an eligibility determination, an application required by the Department that:¶~~

~~(a) Is filled out accurately based on individual information, and is signed, and dated by the applicant or their legal representative. An applicant who is unable to sign may sign with a mark, witnessed by another person; and¶~~

~~(b) Contains all documentation required to make an eligibility determination as outlined in OAR 411-320-0080.¶~~

~~(911) "Composite Score" means the score identified by an assessment of adaptive behavior as described in the definition for "adaptive behavior".¶~~

~~(102) "County of Origin" means:¶~~

~~(a) For an adult, the adult's county of residence for the adult; and¶~~

~~(b) For a child, the county where the jurisdiction of legal guardianship exists.¶~~

~~(143) "Current Documentation" means documentation related to the intellectual or developmental disabilities of an individual in regards to the functioning of the individual wi, for the purposes of an eligibility determination, documentation that is less than three years old from the date of the application (form 0552) or Notice of Redetermination (form 5101), that relates to a person's intellectual or developmental disabilities. Current documentation may include, but is not limited to, an ISP, records such as:¶~~

~~(a) Individual Support Plans or Annual Plans;¶~~

~~(b) Positive Behavior Support Plan;s;¶~~

~~(c) Required assessments;e;¶~~

~~(d) Educational records;m;¶~~

~~(e) Medical assessments related to thea person's intellectual or developmental disabilities of an individual;p;¶~~

~~(f) Psychological evaluations;and a;¶~~

~~(g) Assessments of adaptive behavior.¶~~

~~(124) "Developmental Disability" means a neurological condition that:¶~~

~~(a) Originates before an individual is 22 years of age;¶~~

~~(b) Originates in and directly affects the brain and has continued, or is expected to continue, indefinitely;¶~~

~~(c) Constitutes significant impairment in adaptive behavior as diagnosed and measured by a qualified professional as described in OAR 411-320-0080;¶~~

~~(d) Is not primarily attributed to other conditions including, but not limited to, a mental or emotional disorder, sensory impairment, motor impairment, substance abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder (ADHD); and¶~~

~~(e) Requires training and support similar to an individual with an intellectual disability as described in OAR 411-320-0080.¶~~

~~(135) "Domain Score" means the score identified by an assessment of adaptive behavior as described in the definition for "adaptive behavior".¶~~

~~(146) "Eligibility Determination" means the decision by a CDDP or by the Department regarding the eligibility of a person for developmental disabilities services according to OAR 411-320-0080, and is either a decision that a person is eligible, presumptively eligible, or ineligible for developmental disabilities services.¶~~

~~(157) "Eligibility Specialist" means an employee of the CDDP, or other agency that contracts with the county or Department, that determines eligibility for developmental disabilities services.¶~~

~~(168) "FSIQ" means the full-scale intelligence quotient. FSIQ is a broad measure of intelligence achieved through administration of a standardized intelligence test that is accepted by the Department for an eligibility determination. Any standard error of measurement value is not taken into consideration when making an eligibility determination. FSIQs obtained from administration of brief intelligence tests are not considered valid FSIQ scores when making an eligibility determination.¶~~

~~(17) "History" means, for the purposes of an eligibility determination as defined in this rule, necessary evidence of~~

~~an intellectual disability prior to 18 years of age or an e9) "Health Systems Division (HSD) Medical Programs" as defined in OAR 410-200-0015.~~

~~(20) "History" means, for the purposes of an eligibility determination, records from the developmental disability prior to 22 years of age, including previous assessments and medical evaluations prior to the date of eligibility determination for developmental disabilities services.~~

~~(18) "HSD" means the Health Systems Division, Medical Assistance Programs under the Oregon Health Authority.~~

~~(19) years, as described in OAR 411-320-0080, that include necessary and consistent evidence confirming intellectual disability before age 18 or developmental disability before age 22.~~

~~(21) "IEP" means "Individualized Education Program" as defined in OAR 411-317-0000.~~

~~(202) "Indefinitely" means, for the purposes of an eligibility determination, a condition or impairment that is likely to be permanent, as determined by a qualified professional, the Department. For intellectual and developmental disabilities, this means the condition and impairment begins in childhood and is lifelong.~~

~~(243) "Informal Adaptive Behavior Assessment" means:~~

~~(a) Observations of impairment in adaptive behavior recorded in the progress notes for an individual by a services coordinator, personal agent on a form identified by the Department and in an individual's progress notes, completed by a services coordinator, personal agent, Oregon Needs Assessment certified assessor, or a trained eligibility specialist, with at least two years of experience working with individuals with intellectual or developmental disabilities; or~~

~~(b) A standardized measurement of adaptive behavior, such as a Vineland Adaptive Behavior Scale (VABS) or Adaptive Behavior Assessment System (ABAS), that is administered and scored by a social worker or other professional with a graduate degree and specific training and experience in individual assessment, administration, and test interpretation of adaptive behavior scales for individuals with intellectual or developmental disabilities.~~

~~(224) "Intake" means the activity of completing the Request for an eligibility interview, either in-person, virtually, or by phone, with the CDDP and the applicant for Eligibility Determination (form 0552) and necessary releases of information prior to the submission of a completed application to the CDDP, their legal representative, based on applicant's preference, to complete or review the application (form 0552) and necessary releases of information.~~

~~(235) "Intellectual Disability (ID)" means significantly sub average general intellectual functioning defined as full full-scale intelligence quotients (FSIQs) 70 and under, as measured by a qualified professional, and existing concurrently with significant impairment in adaptive behavior directly related to an intellectual disability as described in OAR 411-320-0080 that manifested prior to an individual's 18th birthday. An individual with a diagnosis of intellectual disability that manifested prior to the individual's 18th birthday and who has a valid FSIQ of 71-75, may be considered to have an intellectual disability if the individual also has significant impairment in adaptive behavior directly related to the intellectual disability as diagnosed and measured by a licensed clinical or school psychologist and diagnosed by a qualified professional, as described in OAR 411-320-0080.~~

~~(246) "Intellectual Functioning" means functioning as assessed by one or more of the individually administered general intelligence tests developed for the purpose of measuring intelligence. For purposes of making eligibility determinations, intelligence tests do not include brief intelligence measurements.~~

~~(257) "Intelligence Tests" are:~~

~~(a) Approved by the Department include:~~

~~(aA) Wechsler Intelligence Scales;~~

~~(bB) Stanford-Binet Intelligence Scale;~~

~~(cC) Woodcock-Johnson Test of Cognitive Abilities; or,~~

~~(dD) Any other intelligence assessment approved by the Department that are designed to measure intelligence quotients, standardized and normed to a population consistent with people who experience an intellectual or developmental disability.~~

~~(b) Brief measures of intelligence quotients are not accepted, including brief tests such as or tests that only administer part of a full assessment when all parts are required for validity. Examples of brief tests include, but are not limited to, the Kaufman Brief Intelligence Test (K-BIT); or Weschler Abbreviated Scale of Intelligence (WASI); or tests that only administer part of a full assessment.~~

~~(268) "IQ" means intelligence quotient.~~

~~(279) "ISP" means "Individual Support Plan" as defined in OAR 411-317-0000.~~

~~(2830) "Learning Disability" means a condition that interferes with development of academic skills. Learning disability includes, but is not limited to, ataxia, c;~~

~~(a) Communication disorder, dyslexia, d;~~

~~(b) Dyslexia;~~

~~(c) Dysgraphia, d;~~

~~(d) Dyscalculia, l;~~

~~(e) Language disorder, f.~~ ¶

~~(f) Fluency disorder, n.~~ ¶

~~(g) Non-verbal learning disorder, s.~~ ¶

~~(h) Specific auditory or processing disorder, s.~~ ¶

~~(i) Social pragmatic communication disorder, s.~~ ¶

~~(j) Specific learning disorder, and s.~~ ¶

~~(k) Speech sound disorder.~~ ¶

~~(31) "Legal Representative" as defined in OAR 411-317-0000.~~ ¶

~~(329) "Licensed Medical Practitioner" means any of the following licensed professionals.~~ ¶

~~(a) Medical Doctor (MD);~~ ¶

~~(b) Doctor of Osteopathic Medicine (DO);~~ ¶

~~(c) Licensed Clinical Psychologist (Ph.D. or Psy.D.);~~ ¶

~~(d) Nurse Practitioner (NP);~~ ¶

~~(e) Physician Associate (PA); or,~~ ¶

~~(f) Naturopathic Doctor (ND).~~ ¶

~~(30) "LMHA" means Local Mental Health Authority.~~ ¶

~~(31) "Management Entity" means the CDDP or private corporation that operates the Regional Program, including acting as the fiscal agent for regional funds and resources.~~ ¶

~~(323) "Military Service" means service in the Armed Forces of the United States, as defined in ORS 341.496.~~ ¶

~~(334) "Motor Impairment" means impairment in the ability to move all or parts of an individual's body caused by trauma, disease, or any condition affecting the muscular-skeletal system, spinal cord, or sensory or motor nerves. The disability may interfere with the development or function of the bones, muscles, joints, and central nervous system.~~ ¶

~~(a) Physical characteristics may include paralysis, a;~~ ¶

~~(A) Paralysis;~~ ¶

~~(B) Altered muscle tone, an u;~~ ¶

~~(C) Unsteady gait, i;~~ ¶

~~(D) Loss of, or inability to use, one or more limbs, d;~~ ¶

~~(E) Difficulty with gross-motor skills such as walking or running; or d~~ ¶

~~(F) Difficulty with fine-motor skills such as buttoning clothing, printing, or writing.~~ ¶

~~(b) Motor impairment includes, but is not limited to, apraxia, d;~~ ¶

~~(A) Ataxia.~~ ¶

~~(B) Developmental coordination disorder, dyspraxia, m.~~ ¶

~~(C) Dyspraxia.~~ ¶

~~(D) Motor learning difficulty, m.~~ ¶

~~(E) Muscular dystrophy, and.~~ ¶

~~(F) Involuntary or stereotypic movement disorders.~~ ¶

~~(345) "Neurological Condition" means a condition that originates in and directly affects the brain, leads to delays in achieving expected milestones, and is likely to cause lifelong impairments of personal, social, academic, or and occupational functioning.~~ ¶

~~(a) A condition does not originate in and directly affect the brain if the condition only causes abnormalities or changes of the spinal cord, peripheral nerves, autonomic nervous system, neuromuscular junction, cardiovascular system, or musculoskeletal system.~~ ¶

~~(b) Conditions that do not originate in and directly affect the brain include, but are not limited to, m;~~ ¶

~~(A) Muscular dystrophy, s.~~ ¶

~~(B) Spinal muscular atrophy, and n.~~ ¶

~~(C) Non-shunted spina bifida.~~ ¶

~~(356) "Notice of Redetermination" means the Redetermination of Eligibility for Developmental Disabilities Services (form 5101).~~ ¶

~~(367) "OSIPM" means "Oregon Supplemental Income Program-Medical" as defined in OAR 411-317-0000.~~ ¶

~~(378) "OTIS" means the Oregon Department of Human Services, Office of Training, Investigations, and Safety.~~ ¶

~~(389) "Qualified Professional" means, for the purposes of OAR 411-320-0080, any of the following licensed professionals trained to make a diagnosis of a specific intellectual or developmental disability:~~ ¶

~~(a) Licensed clinical psychologist (Ph.D., Psy.D.);~~ ¶

~~(b) Medical doctor (MD);~~ ¶

~~(c) Doctor of Osteopathic Medicine (DO); or,~~ ¶

~~(d) Nurse Practitioner (NP).~~ ¶

~~(3940) "Quality Management Strategy" means the Department's Quality Assurance Plan for meeting the CMS wenters for Medicare and Medicaid Services:~~ ¶

(a) Waiver quality assurances as required and defined by 42 CFR 441.301 and 42 CFR 441.302; and ¶

(b) State Plan K option quality assurances as required and defined by 42 CFR 441.58570.¶

~~(40) "Region" means a group of Oregon counties defined by the Department that have a designated management entity to coordinate regional backup services and be the recipient and administration of funds for those services.¶~~

~~(41) "Regional Program" means the regional coordination that the counties comprising the region agree are delivered more effectively or automatically on a regional basis.¶~~

~~(42) "Request for Eligibility Determination" means the Office of Developmental Disabilities Services Request for Eligibility Determination (form 0552)quest for Service" as defined in OAR 411-317-0000.¶~~

~~(43) "Resident" means a person that meets the Oregon residency requirements in OAR 461-120-0010.~~

~~"Resident" includes a person that is absent due to military obligation, if the person intends to return to Oregon, and Oregon remains their principal establishment, home of record, or permanent home during the absence.¶~~

~~(43) "School-Aged" means the age at which an individual is old enough to attend Kindergarten through high school.¶~~

~~(44) "School-Age Testing" means any type of standardized test that may be administered for use in school supports or services used for school services or supports that is administered to a child when the child is at least 5 years old. Schooling beginnings in Kindergarten.¶~~

~~(45) "Service Member" means a person who is in the military service or who has separated from military service in the previous 18 months through retirement, discharge, or other separation.¶~~

~~(46) "Services Coordinator" as defined in OAR 411-317-0000.¶~~

~~(47) "Significantly Subaverage" means a score on an intelligence test that is two or more standard deviations below the mean for the test.¶~~

~~(478) "Skilled Areas" means a particular assessed score as described in the definition for "adaptive behavior".¶~~

~~(482) "SSI" means Supplemental Security Income. SSI is administered by the Social Security Administration.¶~~

~~(4950) "These Rules" mean the rules in OAR chapter 411, division 320.¶~~

~~(501) "VABS" means Vineland Adaptive Behavior Scale.~~

Statutory/Other Authority: ORS 409.050, 427.104, 427.105, ~~427.115~~, 427.154, 430.662, 430.731

Statutes/Other Implemented: ORS 409.010, 427.005-, ~~427.101-427.105~~, 427.154, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

NOTICE FILED DATE: 05/08/2026

RULE SUMMARY: OAR 411-320-0080, about application and eligibility determination for developmental disabilities services, is being amended to:

- Align with the requirements of Senate Bill 19 (2019), which were paused during the COVID-19 pandemic and American Rescue Plan Act Maintenance of Effort requirements.
- Clarify existing expectations and current practices to improve the application and eligibility determination process.
- Add an interview to the intake process.
- Make minor edits to improve readability, accuracy, and clarity and address issues raised during the public comment period.

CHANGES TO RULE:

411-320-0080

Application and Eligibility Determination for Developmental Disabilities Services

(1) APPLICATION (form 0552).¶

(a) To apply for developmental disabilities services:¶

(A) An applicant, or their legal representative ~~of the applicant~~, must submit a ~~completed~~ application to the ~~CDDP~~ Community Developmental Disabilities Program (CDDP) in the county of origin.¶

(B) The CDDP must receive all documentation required to make an eligibility determination. Documentation includes, but is not limited to:¶

(i) School psychological or comprehensive evaluations since entry into school;¶

(ii) Medical assessments related to a disability, mental health condition, or physical impairment;¶

(iii) Psychological evaluations or comprehensive evaluations through private health insurance or other programs;¶

(iv) Neurological evaluations completed through any entity;¶

(v) Records from all residential or psychiatric facilities;¶

(vi) Records relating to substance use;¶

(vii) Records completed through the application process for other governmental benefits; and¶

(viii) Administrative medical examinations and reports, as defined in OAR 410-120-0000, determined necessary and authorized by an eligibility specialist.¶

(C) The applicant must meet the Oregon residency requirements in OAR 461-120-0010 ~~or~~. If the applicant is less than 18 years of age, the applicant and their legal representative ~~of the applicant~~ must meet the Oregon residency requirements in OAR 461-120-0010.¶

(b) The CDDP may stop the ~~intake process if a Request for Eligibility Determination (form 0552)~~ eligibility process if: ¶

(A) An application is voluntarily withdrawn; or ¶

(B) The documents listed in subsection (a)(B) of this section are not submitted within 90 calendar days from the date of the intake. ¶

(c) ~~When the CDDP received the signed and dated request, it stops the eligibility determination process, the CDDP stops the intake process, and must send the applicant or their legal representative either:~~ ¶

(A) Written notice, on a Department-approved form, identifying the information needed to determine eligibility; or a ¶

(B) A letter confirming voluntary withdrawal must be sent to the person identified on the request form as the person seeking services and the legal representative of the person seeking services. ¶

(~~e~~) The CDDP must consider an application complete if the criteria in subsection (a) of this section is met. ¶

(~~e~~) Within 10 business days from the receipt of a completed application, the CDDP must provide an applicant, or the applicant's legal representative, all of the following: ¶

(A) The Department required Notification of Rights (form 0948). ¶

(B) The Department's "Choosing Developmental Disabilities Services for Children and Adults" (form 0338). ¶

(C) For an adult applicant, the identities and contact information for each case management entity operating in the county of origin using materials provided by each case management entity when the materials are made available to the CDDP. ¶

(~~e~~) A new application may not be required if the following criteria are met: ¶

(A) The file for an individual has been closed for less than 12 months following a closure, denial (from the date the ~~Request for Eligibility Determination (form 0552)~~ application was signed), or termination; and ¶

(B) The individual meets all of the criteria in subsection (a) of this section, and a redetermination according to this rule was not required before the date of the new request.¶

~~(fg)~~ The CDDP must identify whether an applicant receives any income.¶

(A) The CDDP must refer all applicants not currently receiving one of the following to the local Medicaid office for application and benefit determination:¶

(i) A Medicaid Title XIX benefit package through ~~OSIPM or HSD~~ Oregon Supplemental Income Program-Medical (OSIPM) or Health Systems Division medical programs; ~~or.~~¶

(ii) A benefit package through ~~the Healthier Oregon medical program.~~¶

(B) The CDDP must refer an applicant less than 18 years of age to Social Security if the CDDP identifies the applicant may qualify for Social Security benefits.¶

~~(gh)~~ REINSTATEMENT OF ELIGIBILITY FOR CHILDREN OF SERVICE MEMBERS.¶

(A) WAIVER OF APPLICATION. A previously eligible child of a service member, who temporarily left Oregon due to a parent's or guardian's military service obligation outside of Oregon, does not need to submit a new application for developmental disabilities services upon return. Upon return to Oregon and a request to the CDDP in the county of origin, the CDDP in the county of origin shall assign a services coordinator to the child within 10 business days from the request for services.¶

(B) COORDINATION OF SERVICES. The services coordinator must assist the child in establishing eligibility for ~~OSIPM or HSD~~ the medical programs in subsection (g)(A) of this section and meet face-to-face with the child and their parent or guardian, within 45 calendar days from the request for services, to provide choice advising and to review the child's rights to a fair hearing and the service planning steps in OAR 411-415-0070.¶

(C) REDETERMINATION. The CDDP must follow sections (6) and (7) of this rule regarding a redetermination of eligibility. ~~As with all redeterminations, p~~ Prior to a termination of developmental disabilities services, the CDDP must send a Notice of Redetermination (form 5101), afford provide the child's parent or guardian the opportunity to provide documentation that supports eligibility, and schedule a diagnostic evaluation for the child, if appropriate. Upon the child's reentry to services, the CDDP in the county of origin shall initiate a redetermination if:¶

(i) The criteria used to determine eligibility for developmental disabilities services changed during the child's absence;¶

(ii) There are new records related to the eligibility criteria for developmental disabilities services, including medical, psychological, or school records related to an intellectual or developmental disability; or¶

(iii) The documents used to establish the child's original eligibility are more than three years old and medical, educational, or psychological records created during the child's absence do not support the child's eligibility for developmental disabilities services.¶

(2) ELIGIBILITY SPECIALIST. Each CDDP must identify at least one qualified eligibility specialist to act as a designee of the Department for purposes of making an eligibility determination. The eligibility specialist must meet the performance qualifications and training expectations for determining eligibility for developmental disabilities services as described in OAR 411-320-0030.¶

(3) INTELLECTUAL DISABILITY. A history of an intellectual disability and significant impairment in adaptive behavior must be evident prior to ~~the 18th birthday of an individual~~ an individual's 18th birthday for the individual to be eligible for developmental disabilities services.¶

(a) Diagnosing an intellectual disability is done by measuring intellectual functioning and adaptive behavior as assessed by standardized tests administered by a licensed clinical or school psychologist with specific training and experience in test interpretation of intellectual functioning and adaptive behavior scales for individuals with intellectual disabilities. FSIQ requirements are as follows. A Specific Index IQ result must be used in place of an FSIQ score to determine eligibility if a licensed clinical psychologist determines the Specific Index IQ is a more valid measure of overall intelligence when compared to the FSIQ.¶

(A) For an individual who has ~~consistent and~~ a valid FSIQ results of 65 or less, significant impairment in adaptive behavior is implied and no assessment of adaptive behavior may be needed if current documentation of impairment and developmental history supports eligibility. If an individual has ~~an~~ a valid assessment of adaptive behavior and results do not support eligibility, then the assessment of adaptive behavior must be considered.¶

(B) For an individual who has a valid FSIQ or equivalent composite score results of 66-70, verification of an intellectual disability requires an assessment of adaptive behavior. The individual must have significant impairment in adaptive behavior.¶

(C) For an individual who has a valid FSIQ or equivalent composite score results of 71-75, verification of an intellectual disability requires ~~an assessment of adaptive behavior and diagnosis of intellectual disability from a licensed clinical psychologist.~~¶

~~(i) The individual must have significant impairment in adaptive behavior|| of the following: ¶~~

(i) The individual must have significant impairment in adaptive behavior as measured by an assessment of adaptive behavior, completed by a licensed clinical or school psychologist.¶

- (ii) The individual must have a diagnosis of intellectual disability from a qualified professional.¶
- (iii) The individual must meet the full criteria for the diagnosis of the intellectual disability. Individuals with a "borderline", "provisional", "partial", "rule-out", or "un-specified" diagnosis do not meet the full criteria.¶
- (D) If an individual is not able to participate in an intelligence test due to intellectual disability, a statement of intellectual disability must be documented by a qualified professional and an assessment of adaptive behavior must be completed and demonstrate a composite score of at least two standard deviations below the mean.¶
- (b) Significant impairment in adaptive behavior must be directly related to an intellectual disability and cannot be primarily attributed to other conditions including, but not limited to, a mental ~~or emotional~~ disorder, sensory impairment, motor impairment, substance abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder (ADHD).¶
- (c) The condition and significant impairment must continue, or be expected to continue, indefinitely.¶
- (4) OTHER DEVELOPMENTAL DISABILITY. A history of an other developmental disability and significant impairment in adaptive behavior must be evident prior to ~~the 22nd birthday of an individual~~ an individual's 22nd birthday for the individual to be eligible for developmental disabilities services.¶
- (a) Diagnosing an other developmental disability requires a medical or clinical diagnosis of a developmental disability by a qualified professional and significant impairment in adaptive behavior as assessed by standardized tests administered by a licensed clinical psychologist, school psychologist, doctor of medicine, or doctor of osteopathic medicine, with specific training and experience in test interpretation of adaptive behavior scales for individuals with intellectual or developmental disabilities. Evidence of an other developmental disability must include commonly accepted tests or medical evidence of the condition, and clinical rationale or impression. The individual must meet the full criteria for the diagnosis of the developmental disability. Individuals with a "provisional", "partial", "rule-out", or "un-specified" diagnosis do not meet the full criteria.¶
- (A) Other developmental disabilities include, but are not limited to, autism, cerebral palsy, epilepsy, or other neurological disabling conditions that originate in and directly affect the brain.¶
- (B) The individual must have significant impairment in adaptive behavior on an adaptive assessment, which requires that the individual have one composite score two standard deviations below the mean, two domain scores two standard deviations below the mean, or two skilled areas on the ~~ABAS or ABES~~ Adaptive Behavior Assessment System (ABAS) or Adaptive Behavior Evaluation Scale (ABES) two standard deviations below the mean ~~on an approved adaptive assessment.~~¶
- (C) The individual must require training and support similar to that required by an individual with an intellectual disability, which means the individual has a composite or domain score that is at least two standard deviations below the mean, as measured on a standardized assessment of adaptive behavior administered by a licensed clinical psychologist, school psychologist, doctor of medicine, or doctor of osteopathic medicine, with specific training and experience in test interpretation of adaptive behavior scales for individuals with intellectual or developmental disabilities.¶
- (b) To meet the requirements of significant impairment in adaptive behavior and qualify as a person who requires training and support similar to that required by an individual with an intellectual disability, an individual who has two skilled areas on the ABAS or ABES two standard deviations below the mean must also have at least one standard composite or standard domain score two standard deviations below the mean.¶
- (c) Significant impairment in adaptive behavior must be directly related to the diagnosed developmental disability and cannot be primarily attributed to other conditions including, but not limited to, a mental ~~or emotional~~ disorder, sensory impairment, motor impairment, substance abuse, personality disorder, learning disability, or ADHD.¶
- (d) The condition and significant impairment must continue, or be expected to continue, indefinitely.¶
- (5) PRESUMPTIVE ELIGIBILITY.¶
- (a) An individual who meets all eligibility criteria in this section must be found presumptively eligible for up to 12 months or until eligibility is determined under section (3) or (4) of this rule.¶
- (b) Presumptive eligibility is met when:¶
 - (A) An individual has:¶
 - (i) An FSIQ of 65 or less; or¶
 - (ii) Documentation of inability to complete intelligence tests due to cognitive limitations; ~~or~~¶
 - (B) An individual has a qualifying developmental disability and has specific and significant limitations in mobility, communication, or personal care, as noted in medical records implying significant impairment in adaptive behavior; ~~and~~¶
- ~~(c)~~ Co-occurring conditions ~~may~~ do not primarily contribute to significant impairment of adaptive behavior as described in sections (3) and (4) of this rule.¶
- ~~(d)~~ If documentation of significant impairment in adaptive behavior by a qualified professional is required by rule and cannot be obtained timely due to circumstances outside of an individual's or CDDP's control:¶
 - (A) An eligibility specialist must obtain a current physician's statement by a qualified professional identifying areas of adaptive behavior that are most likely significantly impaired by a qualifying condition; or¶

(B) The CDDP must complete an informal adaptive behavior assessment implying significant impairment in adaptive behavior as defined in OAR 411-320-0020.

~~(ed)~~ An individual presumed eligible during the federal public health emergency for COVID-19 must be redetermined eligible and meet section (3) or (4) of this rule no later than 12 months from the end of the federal public health emergency.

~~(fe)~~ An individual determined presumptively eligible must continue to work with the CDDP during the eligibility determination process described in section (11) of this rule. If an individual is not working with the CDDP to complete the determination process, the CDDP must issue a Notification of Planned Action (form 0947).

(6) ELIGIBILITY FOR EARLY CHILDHOOD.

(a) Eligibility determinations for early childhood (children less than 7 years of age) are provisional and must be based on documentation that is no more than one year from the date of the Request for Eligibility Determination (form 0552) application.

(A) The documentation must include:

(i) A valid standardized and normed early childhood assessment, completed by a professional with at least a master's degree and training to administer early childhood assessments, which demonstrates the functioning of the child is at least two standard deviations below the mean in two or more areas of the adaptive behavior described in paragraph (B) of this subsection; or

(ii) When a standardized and normed early childhood assessment is not available, or not completed within one year from the date of the Request for Eligibility Determination (form 0552) application, a medical statement by a licensed medical practitioner ~~that confirms~~ confirming the presence of an other developmental disability that is a neurological condition or syndrome that originates in and directly affects the brain and causes, or is likely to cause, impairment in at least two or more areas of the adaptive behavior described in paragraph (B) of this subsection ~~is required~~.

(B) Areas of adaptive behavior include:

(i) Adaptive, self-care, or self-direction;

(ii) Receptive and expressive language or communication;

(iii) Learning or cognition;

(iv) Gross and fine motor; or

(v) Social.

(C) The impairment, condition, or syndrome cannot be primarily attributed to other conditions including, but not limited to, a mental ~~or emotional~~ disorder, sensory impairment, motor impairment, substance abuse, personality disorder, learning disability, or ADHD.

(D) The condition and impairment must continue, or be expected to continue, indefinitely.

(b) REDETERMINATION OF ELIGIBILITY FOR EARLY CHILDHOOD.

(A) Eligibility for early childhood is always provisional.

(i) Redetermination for school-aged eligibility for a child who was originally determined using a standardized and normed early childhood assessment, as described in subsection ~~(ba)~~ (A)(i) of this section, must be completed no later than the child's 9th ~~year-birthdate~~ year.

(ii) Redetermination for school-aged eligibility for a child who was originally determined using a medical statement by a licensed medical practitioner, as described in subsection ~~(ba)~~ (A)(ii) of this section, must be completed no later than the child's 7th ~~year-birthdate~~ year.

(B) Any time there is evidence that contradicts an eligibility determination, the Department or the ~~designee of the Department~~ Department's designee may redetermine eligibility or obtain additional information, including securing an additional evaluation for clarification purposes.

(C) The CDDP must notify a child and their legal representative ~~of the child~~ any time that a redetermination of eligibility is needed. The Notice of Redetermination (form 5101), including the reason for the review of eligibility, must be sent prior to the eligibility redetermination date.

(7) ELIGIBILITY FOR SCHOOL-AGED CHILDREN. Eligibility for school-aged children is always provisional.

(a) Eligibility determinations for school-aged children must be completed on children who are at least 5 years of age and who have had school-aged testing completed.

(b) Eligibility determinations for school-aged children may be completed:

(A) Up to age 18 for school-aged children who are provisionally eligible based on a condition of an intellectual disability; and

(B) Up to age 22 for school-aged children who are provisionally eligible based on a diagnosed condition of an other developmental disability.

(c) Eligibility determinations for school-aged children must include:

(A) Documentation of an intellectual disability and significant impairment in adaptive behavior as described in section (3) of this rule; or

(B) A diagnosis and documentation of an other developmental disability and significant impairment in adaptive

behavior as described in section (4) of this rule.¶

(d) Eligibility determinations for school-aged children must be based on documentation that is no more than three years old from the date of the ~~Request for Eligibility Determination (form 0552)~~ application.¶

(e) ~~REDETERMINATION OF ELIGIBILITY FOR SCHOOL-AGED CHILDREN.~~¶

(A) Any time there is evidence that contradicts an eligibility determination, the Department or the ~~designee of the Department~~ Department's designee may redetermine eligibility or obtain additional information, including securing an additional evaluation for clarification purposes.¶

(B) The CDDP must notify a school-aged child and their legal representative ~~of the child~~ any time that a redetermination of eligibility is needed. The Notice of Redetermination (form 5101), including the reason for the review of eligibility, must be sent prior to the eligibility redetermination date.¶

(f) ~~REDETERMINATION OF SCHOOL-AGED CHILDREN FOR ADULT ELIGIBILITY.~~¶

(A) Redetermination of school-aged children for adult eligibility must be completed:¶

(i) Between the ages of 16 and 18 if school-aged eligibility was determined based on an intellectual disability as described in section (3) of this rule; or¶

(ii) Between the ages of 17 and 22 if school-aged eligibility was determined based on an other developmental disability as described in section (4) of this rule.¶

(B) The documentation of an intellectual disability or an other developmental disability must include information no more than three years old from the date of the Notice of Redetermination (form 5101), for individuals less than 22 years of age.¶

(C) If school-aged eligibility was determined based on an intellectual disability as described in section (3) of this rule the following criteria may be applied:¶

(i) An adult intelligence test may be used to determine adult eligibility. An intelligence test completed within the last three years from the date of the Notice of Redetermination (form 5101) is not needed if the school-aged child has:¶

(I) More than one, and the most recent intelligence test FSIQ score is 65 or less as described in section (3)(a)(A) of this rule;¶

(II) Significant impairment in adaptive behavior as identified in section (3) of this rule; and¶

(III) Current documentation that supports eligibility.¶

(ii) An informal adaptive behavior assessment may be completed if all of the following apply:¶

(I) An assessment of adaptive behavior is required to redetermine eligibility;¶

(II) An assessment of adaptive behavior has already been completed by a licensed school or clinical psychologist; and¶

(III) The school-aged child has obvious significant impairment in adaptive behavior.¶

(D) If school-aged eligibility was determined based on an other developmental disability as described in section (4) of this rule, the following criteria must be met:¶

(i) A current medical or clinical diagnosis of an other developmental disability is required unless all of the following are met:¶

(I) Documentation of an other developmental disability by a qualified professional as described in section (4) of this rule;¶

(II) Significant impairment in adaptive behavior that continues to be directly related to the other developmental disability;¶

(III) Current documentation that continues to support eligibility; and¶

(IV) No other medical, mental, ~~emotional, motor, or, substance use~~ or learning disorders.¶

(ii) If an individual has additional medical, mental, or ~~emotional~~ substance use disorders, a new assessment may be required.¶

(iii) An informal adaptive behavior assessment may be completed if all of the following apply:¶

(I) An assessment of adaptive behavior is required to redetermine eligibility;¶

(II) An assessment of adaptive behavior has already been completed by a licensed school or clinical psychologist; and¶

(III) The school-aged child has obvious significant impairment in adaptive behavior.¶

(8) ~~ELIGIBILITY FOR ADULTS.~~¶

(a) Eligibility for adults must include:¶

(A) Documentation of an intellectual disability and significant impairment in adaptive behavior as described in section (3) of this rule; or¶

(B) Documentation of an other developmental disability and significant impairment in adaptive behavior as described in section (4) of this rule.¶

(b) Documentation for an adult eligibility determination must include:¶

(A) ~~Inform~~ For applicants less than 22 years of age, documentation no more than three years old from the date of the ~~Request for Eligibility Determination (form 0552)~~ application.¶

~~(B) For individuals less than 22 years of age; or~~

~~(B) Applicants age 22 and older, information obtained after the individual's 17th birthday of, and individual for individuals 22 years of age and of current documentation exists, it must be considered.~~

(c) INTELLIGENCE TEST.

(A) An adult intelligence test completed on or after the age of 16 may be used to determine adult eligibility.

(B) An adult intelligence test may not be needed if an individual has:

(i) More than one intelligence test verifying intellectual disability and the most recent FSIQ score is 65 or less as described in section (3)(a)(A) of this rule; and

(ii) Significant impairment in adaptive behavior as identified in section (3) of this rule.

(C) An intelligence test may not be needed if an individual has a diagnosis and documentation of an other developmental disability as described in section (4) of this rule.

(d) REDETERMINATION OF ELIGIBILITY FOR ADULTS.

(A) Any time there is evidence that contradicts an eligibility determination, the Department or the ~~designee of the Department~~ Department's designee may redetermine eligibility or obtain additional information, including securing an additional evaluation for clarification purposes.

(B) The CDDP must notify an individual, and if applicable their ~~legal representative of the individual~~, any time that a redetermination of eligibility is needed. The Notice of Redetermination (form 5101), including the reason for the review of eligibility, must be sent prior to the eligibility redetermination date.

(C) In the event the eligibility of an adult requires a redetermination, the redetermination must be completed as described in subsections (a), (b), and (c) of this section.

(9) ~~ABSENCE OF DATA IN DEVELOPMENTAL YEARS.~~

~~(a) In the absence of sufficient data during the developmental years, current data~~ HISTORY.

(a) Attempts must be made to collect all records required in section (1) of this rule, including information of developmental history as defined in OAR 411-320-0020. If records exist, they must be considered.

(A) When there is no developmental history on record, current documentation may be used if:

~~(A)i~~ There is no evidence of head trauma;

~~(B)ii~~ There is no evidence or history of significant mental ~~or emotional~~ disorder; or

~~(C)iii~~ There is no evidence or history of substance ~~abuse~~.

(B) If there is evidence that the individual was able to function independently, or at a higher level in the past, this information must be considered. Any loss of skills cannot be due to a:

(i) Head injury that happened after age 22; or

(ii) A mental or substance use disorder.

~~(b) If there is evidence or a history of head trauma, significant mental or emotional disorder, or substance abuse, disorder, then a clinical diagnostic impression by a qualified professional regarding how the fune must be obtained and include:~~

(A) A detailed description of the individual may be impacted by's functional experience across their lifespan, including the identified condition must be obtained in order to determine if the significant impairment in adaptive behavior is ~~developmental years; and~~

(B) Consistent evidence to support the decision; and

(C) Objective findings that reasonably demonstrate:

(i) The individual experienced the condition and significant impairment prior to:

(I) Age 18 for an intellectual disability; or

(II) Age 22 for a developmental disability.

(ii) Lifelong impairments are directly related to an the intellectual or developmental disability and not primarily related to a head trauma, significant mental or emotional disorder, or substance abuse.

(10) SECURING EVALUATIONS. ~~In the event that~~ if an eligibility specialist has exhausted all local resources to secure the necessary evaluations for an eligibility determination, the Department or the ~~designee of the Department~~ Department's designee shall assist in obtaining additional testing if required to complete the eligibility determination.

(11) PROCESSING ELIGIBILITY DETERMINATIONS. The CDDP, in the county of origin, is responsible for making the eligibility determination.

~~(a) The CDDP must work in collaboration with~~ When a referral is received, the CDDP must complete an intake interview within 30 calendar days, unless more time is needed by the individual or their legal representative of the individual.

(b) The CDDP must collaborate with the individual or their legal representative to gather historical records related to the individual's intellectual or an other developmental disability of an individual during intake in order during the eligibility process to complete an application for services.

~~(c) The CDDP must review documents and complete necessary actions relating to timely decisions within 30 calendar days of from the receipt of the application and related documents. The CDDP must review the documents,~~

at a minimum, every 30 days thereafter to identify if a determination may be made under sections (3) through (8) of this rule.¶

~~(ed)~~ During ~~intake~~ the eligibility process, the CDDP must gather enough documentation in order to accept a completed application for developmental disabilities services within 90 calendar days ~~of from~~ the date of intake, except in the following circumstances:¶

(A) The CDDP is unable to obtain a complete application because the individual or their legal representative ~~of the individual~~ does not collaborate with the eligibility specialist or fails to execute an action necessary to obtain a completed application;¶

(B) There is an emergency beyond the control of the CDDP; or¶

(C) More time is needed to obtain additional records by the CDDP, the individual, or the individual's legal representative ~~of the individual~~.¶

~~(de)~~ Upon receipt of the completed application, the CDDP must make an eligibility determination unless the following applies and is documented in ~~the progress notes for an individual~~.¶

(A) The individual or their legal representative ~~of the individual~~ voluntarily withdraws the application ~~for the individual~~;¶

(B) The individual dies; or¶

(C) The individual cannot be located.¶

~~(ef)~~ The CDDP may not use the time frames established in subsection ~~(ed)~~ of this section as:¶

(A) A waiting period before determining eligibility; or¶

(B) A reason for denying eligibility.¶

(12) PROGRESS NOTES. An eligibility specialist must document progress notes of the intake process including, but not limited to, the following:¶

(a) Date of interaction.¶

(b) Referral source to the CDDP.¶

(c) Intake.¶

(d) Rationale for presumptive eligibility criteria or why presumptive eligibility is not met.¶

(e) Rationale for ordering administrative exams.¶

(f) Rationale for eligibility determination or redetermination, including specific age category and description criteria evidenced on record that meets sections (3) or (4) of this rule.¶

(g) Information on when and how the decision notice was sent to an individual and their legal representative and the effective date.¶

(h) Information regarding an administrative hearing including, but not limited to, the date a request for hearing was made and date the hearing request was submitted to the Department.¶

(i) Receipt of eligibility and related actions during a county ~~to county~~ transfer.¶

(13) NOTICE OF ELIGIBILITY DETERMINATION. Within 10 business days from the receipt of a completed application, the CDDP must send or hand deliver a written notification (notice) of the eligibility determination to the individual or their legal representative. The notice must be on the following forms prescribed by the Department:¶

(a) Notice of Eligibility Determination (form 5103) or Notice of Presumptive Eligibility.¶

(b) Notification of Planned Action (form 0947).¶

(14) REQUESTING A HEARING. An individual or their legal representative ~~of an individual~~ may request a hearing as described in OAR 411-318-0025 if the individual or their legal representative ~~of the individual~~ disagrees with the eligibility determination or redetermination made by the CDDP.¶

(15) TRANSFERABILITY OF ELIGIBILITY DETERMINATION. An eligibility determination made by one CDDP must be honored by another CDDP when an individual moves from one county to another within Oregon.¶

(a) The receiving CDDP must notify the individual, ~~and if applicable or~~ their legal representative ~~of the individual~~, on forms prescribed by the Department that a transfer of services to a new CDDP has taken place within 10 business days of the enrollment date identified on the Developmental Disabilities Eligibility and Enrollment Form (form 0337).¶

~~(b) The receiving CDDP must continue services for the individual as soon as it is determined that the individual is residing in the county of the receiving CDDP.¶~~

~~(c)~~ The receiving CDDP must obtain and retain copies of the following documents:¶

(A) Application.¶

~~(B)~~ Statement of ~~an~~ eligibility determination.¶

~~(BC)~~ Notification of eligibility determination.¶

~~(CD)~~ Evaluations and assessments supporting eligibility.¶

~~(dc)~~ In the event that the items in subsection ~~(ed)~~ of this section cannot be located, written documentation from the sending CDDP verifying eligibility and enrollment in developmental disabilities services may be used. Written verification may include documentation from the Department's electronic ~~payment and reporting~~ system.¶

(ed) If the receiving CDDP receives information that suggests the individual is not eligible for developmental disabilities services, the receiving CDDP may complete a redetermination. The CDDP that determined the individual was eligible for developmental disabilities services may be responsible for the services authorized on the basis of their eligibility determination.¶

(fe) If an individual submits an application for developmental disabilities services and ~~discloses that they previously received developmental disabilities services in another CDDP and the termination of case management services as described in OAR 411-415-0030 occurred within the past 12 months~~, another CDDP terminated services within the past 12 months, as described in OAR 411-415-0030, the eligibility determination from the other CDDP ~~shall~~ must transfer as outlined in this section. If a redetermination was missed, as described in section (1)(f)(B) of this rule, the redetermination must be completed by the receiving CDDP.

Statutory/Other Authority: ORS 409.050, 427.104, 427.105, ~~427.115~~, 427.154, 430.662

Statutes/Other Implemented: ORS 409.010, 427.005-, 427.101-427.105, 427.154, 430.215, 430.610, 430.620, 430.662, 430.664