

METRO AREA BROKERAGES

Independent Contractors Guidelines



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Note: Throughout these guidelines, there are *italicized* terms. These terms can be found with definitions in the Glossary at the end.



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If you need these Guidelines in a larger font or otherwise adapted, contact one of the Metro Area Brokerages.

What is an Independent Contractor?

Independent Contractors (ICs) are self-employed individuals according to Oregon Revised Statute 670.600.

Independent Contractors who are interested in making their services available to *Brokerage customers* must:

1. Meet the individual Brokerages' minimum qualifications for Independent Contractors. (Providers should contact each Brokerage for their specific qualification requirements.)
2. Meet the State and Federal requirements that identify him or her as a self-employed person and Independent Contractor.
3. Complete a vendor qualification process with the Brokerage to be included in the pool of Independent Contractors that are referred to customers.

Independent Contractor Weigh Test

The following criteria are used to determine whether or not an individual is working as an Independent Contractor.

- The provider is free from direction and control.
- The provider is responsible for obtaining necessary licenses or certificates.
- The provider is customarily engaged in an independently established business by meeting **three** of the following five criteria:
 1. Maintains a separate business location
 2. Bears the risk of loss
 3. Provides services to two or more "customers"/Brokerages
 4. Makes a significant investment in the business
 5. Has the authority to hire other people

Independent Contractors can research applicable laws online using the following websites:

DHS Website:

www.oregon.gov/DHS/dd/adults

Oregon Independent Contractors Website:

www.oregonindependentcontractors.com

State of Oregon website:

www.oregon.gov

State of Oregon Employment website:

www.employment.oregon.gov

IRS website: www.irs.gov



The Brokerage System

History

In January of 2000, a class action lawsuit (*The Staley Lawsuit*) was filed against the State of Oregon. The lawsuit alleged that adults with developmental disabilities living in the community have a right to services and supports. The lawsuit was settled in September of 2000.

The State agreed to provide services to every eligible adult who was on the waitlist by July of 2009. Since July of 2009, services for eligible adults have been an entitlement and these individuals have access to services within 90 days of eligibility.

The first *Brokerages* opened in January of 2001. The *Staley Agreement* also designated funds to serve 300 individuals who required comprehensive (24-hour) care.

Brokerage Philosophy

Self-determination is the central philosophy of the Brokerage system. The Staley Agreement asserted that Brokerage customers would direct their own services. Brokerage customers choose the services they want to receive and the providers they want to deliver their services.

The principles of self-determination as defined in Oregon Administrative Rule are:

FREEDOM: The ability for an individual with a developmental disability, together with freely-chosen family and friends, to plan a life with necessary support services rather than purchasing a predefined program;

AUTHORITY: The ability for an individual with a developmental disability (with the help of a social support network, if needed) to control a certain sum of resources in order to purchase support services;

AUTONOMY: The arranging of resources and personnel, both formal and informal, that will assist an individual with a developmental disability to live a life in the community rich in community affiliations; and

RESPONSIBILITY: The acceptance of a valued role in an individual's community through competitive employment, organizational affiliations, personal development, and general caring for others in the community, as well as accountability for spending public dollars in ways that are life-enhancing for individuals with developmental disabilities.

Brokerages' primary responsibility is to ensure that the customer directs his or her plan, funding, and supports.

For more information about the Staley Lawsuit, visit:
www.arcoregon.org/staley

Oregon Developmental Disability Support Services Brokerages

- *The ARC Brokerage Services Creative Supports, Inc.
- Eastern Oregon Support Brokerage
- Full Access Brokerage
- *Inclusion, Inc.
- *Independence Northwest
- Integrated Services Network
- *Mentor Oregon Brokerage: Metro
- Mentor Oregon Brokerage: Mid-Valley
- Resource Connections of Oregon
- *Self-Determination Resources, Inc.
- Southern Oregon Regional Brokerage
- *Metro area Brokerages

Functions of a Brokerage

All Brokerages in the State operate under Oregon Administrative Rule 411-340. However, each Brokerage has its own unique culture and quality standards. Providers and customers may find some variation in operational functions from Brokerage to Brokerage. In addition to how a Brokerage operates, services are based upon individual customer needs so providers find that the goals and support requirements of each Service Agreement are very different.

There are a few key functions that a Brokerage will always perform. A Brokerage will:

- a. Assist individuals with developmental disabilities to determine their needs, plan Support Services in response to these needs, and develop individualized budgets based on available resources;
- b. Assist individuals with developmental disabilities to find and arrange the resources necessary to implement planned Support Services;
- c. Assist individuals with developmental disabilities in assuring the effective implementation of their plans over time, and help make adjustments to the plan or plan goals as necessary.
- d. Provide information, education and technical assistance for individuals with developmental disabilities in order to help facilitate effective plan implementation;
- e. Act as a general *fiscal intermediary* in the receipt and accounting of certain funds on behalf of an individual in addition to making payment with the authorization of the individual, and accounting for certain support plan costs;
- f. Act as an employer agent in assisting individuals with developmental disabilities in fulfilling their roles and obligations as employers of support staff when plans call for such arrangements;
- g. Facilitate development and expansion of community resources; and
- h. Assure and assist individuals with developmental disabilities in monitoring the quality of their supports.

Some customers have *legal guardians* who are legally obligated to promote and protect the well-being of the individual in their care. When a customer has a legal guardian, the guardian will encourage and the Brokerage will ensure that the customer maintains decision-making authority over those things that they are able to.



How many customers does each Brokerage serve?

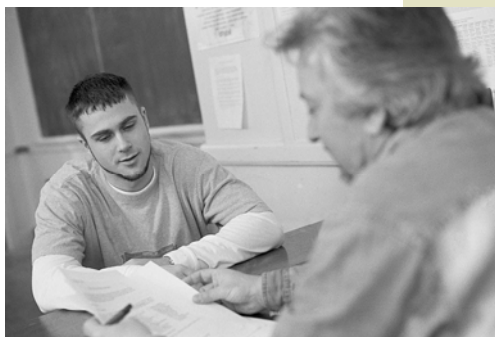
A Brokerage's capacity is established during each company's contracting process with the State of Oregon to provide services. Currently, Brokerages serve up to 750 customers. Each Personal Agent has a case load of up to 45 customers.

Customer Process

Referral and Eligibility

Each customer receiving supports through a Brokerage meets each of the following criteria:

- Eligible for services through *Community Developmental Disability Program (CDDP)*
- Age 18 or older (adult)
- Lives in a community setting (either in their own home or with family or friends)
- Requires less than about \$20,000 in support services per year



All Brokerage customers are referred by the *Community Developmental Disability Program (CDDP)*. In most cases, the CDDPs are the counties in which the customers live. CDDPs establish eligibility for people who apply for adult Developmental Disability Services. Enrollments are expected to occur as soon as practical but no later than 90 days after one of these events:

- A determination of DD eligibility (for an adult new to the Oregon DD system)
- A request for Brokerage supports (for an eligible adult who had previously declined them)
- The 18th birthday (for an individual eligible for DD services at 18 years old)

Brokerage Services are available to all eligible individuals if they choose to be enrolled in a Brokerage. CDDPs may request input from school records, additional testing, diagnostic consultation or additional sources to determine eligibility.

The CDDP should assist the individual to access available benefits through referral to *Medicaid* and *Social Security*, as soon as possible after DD eligibility is determined (and/or after the 18th birthday). The effective enrollment date for an individual is negotiated by the CDDP and the selected, available Brokerage, considering certain factors:

- Overall Brokerage capacity
- County-wide enrollment needs
- An individual's circumstance (e.g. need for continuity of care, crisis prevention, etc.)

Transfers from outside the geographic area of the sending Brokerage are prioritized for referral in order to maintain uninterrupted services.

Real Life Examples

Charlie has been on an Individualized Education Plan (IEP) while in school and has participated in some Special Education programs. He will soon be 18 and wants to know what supports are available to him once he is an adult.

Charlie contacted his County Developmental Disability Program. He met with an eligibility worker and a psychiatrist.

The eligibility worker determined that he is eligible for services and referred him to a caseworker. His caseworker assisted him by referring him to a Brokerage and helping him access Social Security and Medicaid benefits in preparation for his 18th birthday. The month after Charlie turns 18 he will be enrolled in the available Brokerage of his choice.

Shirley is 54 years old and has always lived with her mother. She has never received services from any developmental disability program. Her mother passed away recently and her family has realized that she relied heavily on her mother to manage her daily care and household.

With her family's assistance, Shirley contacted her County Developmental Disability Program who arranged for an assessment and obtained her high school records. Once the county workers were able to determine that Shirley met the criteria for eligibility, they referred Shirley to a Brokerage for services.

Funding Levels

Each Brokerage customer has an individual budget that he or she can use to purchase services and supports. The customer's budget is based on Medicaid status and level of support need. If a customer is eligible for Medicaid and meets other criteria on the Title XIX waiver form, he or she is considered *waivered* and can receive Medicaid match for services.

The funding levels change with *cost of living adjustments* (COLAs) or other increases. The funding categories are:

Non-Waivered

- Base: customers receive only the base level funding available to all Brokerage customers, funded by Oregon tax dollars
- Mid-level Base Plus, Non-Waivered: customers receive a higher level of funding based on a mid-range *Base Plus Assessment* score, indicating higher support needs and/or diminished caregiver capacity
- Full Base Plus, Non-Waivered: customers receive a higher level of funding based on a high *Base Plus Assessment* score, indicating higher support needs and/or diminished caregiver capacity

Waivered

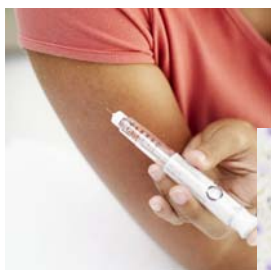
- Base Waivered: customers receive only the base level funding available to all Brokerage customers as well as the Medicaid supplement
- Mid-level Base Plus Waivered: customers receive waived funding plus a higher level of funding based on a mid-range *Base Plus Assessment* score, indicating higher support needs and/or diminished caregiver capacity
- Full Base Plus Waivered: customers receive waived funding plus a higher level of funding based on a high *Base Plus Assessment* score, indicating higher support needs and/or diminished caregiver capacity
- ADL Supplement: waived customers who have certain *Activity of Daily Living* (ADL) support needs receive an ADL supplement

For 2009, Funding Levels are:

Base: \$4,554
 Mid-level Base Plus: \$6,831
 Full Base Plus: \$9,488

Base Waivered: \$11,386
 Base Waivered with ADL: \$14,311
 Mid-level Base Plus Waivered: \$17,078
 Full Base Plus Waivered: \$21,562

ADL Benefit: \$2,926 additional



Life of a Plan

Once a customer is enrolled in a Brokerage, he or she begins the process of developing a formal *Individualized Support Plan (ISP)*. The Personal Agent assists the customer to develop the plan based on identified goals and needs. The Personal Agent is responsible for making sure that the goals and expenditures outlined in the ISP are allowable under Medicaid Rules, and State Rules and Laws. The Personal Agent submits the plan for Brokerage approval. Then the plan is authorized to begin on a specified date. Plans are authorized for no more than 12 months of services.

Natural and Paid Supports

The customer and the Personal Agent, along with members of the customer's support team collaborate to identify resources, providers, and opportunities to meet the goals established in the plan. Supports and resources are described as either *natural supports* or *paid supports*. All identified supports are listed in the customer's ISP.

When accessing a service or support that is paid through plan dollars, a *Service Agreement* is established that outlines expectations for all paid supports.

Real Life Examples

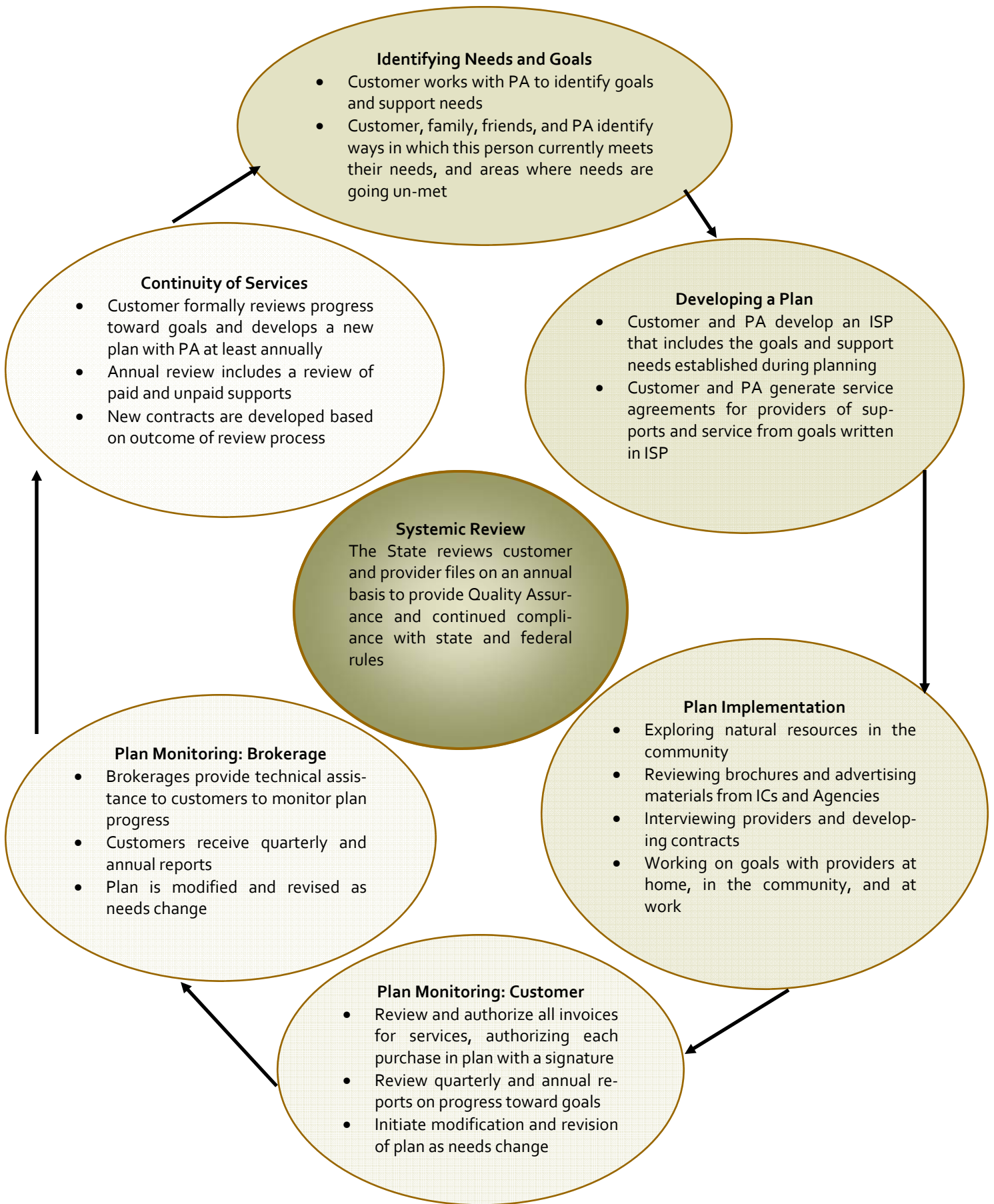
Examples of Natural Supports

Vocational Rehabilitation
A neighbor who drives the customer to and from church
A parent who schedules medical appointments

Examples of Paid Supports

Tri-Met LIFT
A Domestic Employee who provides medication management
An Independent Contractor who provides community inclusion

Provider Type	Service Agreement Type	Service Agreement Components
Domestic Employee	Job Description	Description of the necessary household tasks and duties of the employee, hours and wage
Certified Provider Organizations	Contract	Description of the goals and needs identified by the customer; Solidifies the terms of the mutual agreement between the customer and the Provider Organization, including the number of hours in which the goal is expected to be achieved, and the negotiated rate for the service;
General Businesses	There is no requirement to establish a Service Agreement for General Businesses	N/A
Independent Contractor	Contract	Description of the goals and needs identified by the customer; Solidifies the terms of the mutual agreement between the customer and the Independent Contractor, including the number of hours in which the goal is expected to be achieved, and the negotiated rate for the service;



Types of Providers

For most types of support, customer can choose to work with several different types of providers:

General Businesses provide services or goods to the general public. Services are not geared specifically toward people with disabilities, and they are not licensed by the Department of Human Service's (DHS) Seniors and People with Disabilities (SPD). General Businesses may provide the same supports, goods, or services to people with and without disabilities for different reasons.

Certified Provider Organizations are primarily in business to support people with disabilities. These entities are certified by SPD to provide services and must meet criteria outlined in the OARs for certification.

Domestic Employees (DEs) provide services and supports that are "of a household nature." Domestic Employees are often family members or friends. Domestic Employees are employed by the customer or his or her guardian. Customers who are employers can choose to have Brokerages provide Fiscal Intermediary services to assist with meeting the payroll and tax obligations of being an employer.

Independent Contractors (ICs) are self-employed. ICs contract with individual customers in order to provide a professional service as determined by their skills, experience, and professional mission. ICs are responsible to pay their own taxes, market their services, and must be qualified through each Brokerage individually to contract with customers of that Brokerage.

Oregon Administrative Rules and Expenditure Requirements

The *Oregon Administrative Rules* (OARs) establish rules about how the Brokerages operate, how services are provided and which supports are allowable, and how providers are qualified. Supports requiring payment through a support plan must meet criteria established to ensure compliance with Medicaid rules. Each purchased support:

- Directly relates to a specific goal on an individual's ISP
- Is required to maintain or increase independence, community participation, and/or productivity
- Is required solely because of the direct impact of a developmental disability on a customer's life
- Does not replace existing support systems or resources
- Does not replace other governmental benefits (OVRs, SSI, OHP, schools, etc.)
- Does not provide for basic needs of food, clothing, and shelter
- Is a cost-effective use of public funds
- Is never a direct payment to a beneficiary
- Is never for purely diversional activities

Real Life Examples

Charlie has chosen to hire his cousin as a Domestic Employee, to assist him with personal hygiene, toileting, transfers, meal preparation and communication while his parents are at work.

Charlie has chosen to utilize TriMet LIFT, a General Business, for transportation.

Now that Shirley is living on her own, she requires regular assistance and training for housekeeping, meal planning and preparation, organizing her home and getting to know her neighbors. Shirley has contracted with Oregon Integration, Inc., a Provider Organization, to meet her at her home every week and assist her with these things.

Shirley would like to meet people and make friends that are interested in the same things she is. She has contracted with Kristina Shetky, an Independent Contractor, to increase her social skills, explore the community and develop her social network.

The Oregon Administrative Rules (OARs) can be found at:

www.dhs.state.or.us/policy/spd/rules/411_320.pdf

Information regarding services, rates and allowable expenditures can be found at:

www.oregon.gov/DHS/dd/adults

How Customers Connect with Providers

Customers can access information about potential providers in a variety of ways, with or without support from their Personal Agent. Customers can search for the best fit in a provider online, by looking through advertising materials, and by soliciting feedback from people who have worked with the provider in the past. Specifically, customers may find providers through:

- Brochures
- Provider Meet and Greets
- Disability Compass (www.disabilitycompass.org)
- Resource Fairs
- Emails to the provider community advertising the customer's specific needs
- Referrals from the Personal Agent, other customers, or support professionals

Provider Meet and Greets

Provider Meet and Greets are held the third Wednesday of each month at Mentor Oregon Brokerage from 4-6pm. Independent Contractors can advertise their services to metro area Brokerage customers, family members, and Personal Agents. Each provider briefly discusses his or her skills and experience and may be approached afterward for more information or to schedule an interview. Providers often bring brochures and advertising materials to hand out.

list their special skills in advertising materials.

Typically, a Personal Agent gathers several providers' resumes, references, and advertising materials for the customer to review. The customer then decides who he or she would like to interview. The customer may ask his or her Personal Agent to help coordinate interviews.

Advertising materials should reflect rates (or rate ranges) for each service that the provider offers. Brokerage customers are able to contract for services at rates within the ranges allowable in the *Rate Guidelines* set forth by the State for these services. When establishing rates, providers consider experience, applicable skills, and difficulty of services provided. Some providers set rates within a range, and negotiate specific rates for each contract based on the provider's relevant skills and experience as well as the needs of the customers and any associated overhead costs for providing service.



Helpful Information

Providers may consider including the following information in their advertising materials:

- Name and contact information
- Services available
- Rates
- Area of service
- Mission statement
- Philosophy of approach
- Interests (particularly if providing community inclusion supports)
- Synopsis of experience
- Areas of expertise
- Certifications and trainings

Interviewing

After deciding which providers he or she would like to interview, the customer schedules interviews, often with the help of the Personal Agent. The interview may be conducted by the customer, his or her family or friends, the Personal Agent, or anyone that the customer wants to assist with the interview. Because of the personal nature of some of the work being performed, customers and their families sometimes have a very specific idea of what personal qualities and experience the provider should have. Customers are encouraged to interview multiple providers to find the right person. Personal Agents or family members may be assisting the customer with interview questions, or may have questions of their own about the provider's skills or support approaches.

The interview is also a chance for the provider to determine if he or she is interested in the contract. The provider is a negotiating party to the contract, and may have specific questions that will help determine whether or not the terms of the contract are acceptable. During the interview, providers often choose to discuss:

- Scheduling
- Rates
- Who will pay for entrance fees for community activities
- Whether or not there will be mileage reimbursement for transportation
- Whether supports will be strictly 1:1 or if the customer may want to work in a group
- Any restrictions the provider may have (e.g. cannot lift more than 20 pounds, will not work around smokers, etc.)

The customer makes the final decision about who can best assist them in achieving the goals and objectives outlined in the contract. The customer will notify the Personal Agent of their decision, and begin developing the terms of the contract based on the goals in their ISP. The customer and Personal Agent notify the interviewees of the final decision. Then the Personal Agent will facilitate contract negotiation between the customer and provider.



Real Life Examples

Emmanuel would like to try new activities, but he's not sure what. He would like to hire a community inclusion provider. Emmanuel's Personal Agent schedules interviews with four Independent Contractors. Emmanuel asks them all the following questions:

1. What experience do you have working with people with Cerebral Palsy?
2. Do you have any experience with the Haitian community?
3. Do you speak any languages other than English?
4. Are you willing to use your car to drive me to activities?
5. I weigh 150 pounds. Would you be physically able to help me up if I fell?
6. What do you like to do for fun?
7. Are there any activities or groups that you think I might enjoy?

After Emmanuel interviews the four providers, he decides that he would like to contract with Pam who enjoys hiking and fishing. These activities sound interesting to Emmanuel. Pam also took a beginner level course in French. Emmanuel likes that Pam would be able to greet his parents in French. He thinks that this will help them feel more comfortable with him spending more time in the community.

Contracting

The Contract Development Process

Once a customer and provider have decided that they would like to work together, the Personal Agent gathers some information from each party. In general, the customer will have already identified the goal. However, the Personal Agent will discuss the details of the goal, supports, and working arrangements with the customer and provider until they come to an agreement on the terms of the *contract*.

Each contract will have some standard language. In addition to this it will include a few essential elements that include but is not limited to:

- The customer's name and contact information
- Provider's name contact information
- The goal identified by the customer
- The *service category and code*
- A description of the support and/or training to be provided
- The date that the contract begins and ends
- The days and times the provider is scheduled to work with the customer, if identified
- The hourly rate the provider will be paid
- A total number of hours and in most cases an average number of hours that provider is expected to work each week or month
- A list of any health and safety *protocols* for the customer
- How the provider will report progress and the services provided, typically in the form of progress notes

Providers must not sign a contract if unable or unwilling to meet the obligations. The contract obligates the provider to perform only the services that the provider and the customer have agreed upon. Working outside the contract's specifications may result in time not paid.

The provider's contract also serves as a job description. If the contract is not written clearly or the provider requires additional information, the provider should contact the Personal Agent.

Using Funds Responsibly

If providers work beyond the contracted number of hours with a customer, neither the Brokerage nor the customer is liable for payment of those hours. Using all available funds before the end of the contract may result in a detrimental lapse of service for the customer. Providers should track hours to avoid depleting the plan.

Real Life Examples

Pam, Emmanuel, and Emmanuel's Personal Agent meet to discuss the contract. Emmanuel says that his goal is, "To learn to fish". Emmanuel's Personal Agents asks some follow up questions:

Are there other things you would like to learn to do in the community?

Are you interested in meeting new people and making friends?

After some discussion, Emmanuel broadens his goal. The goals in the contract will be, "To access outdoor activities; To broaden my social circle". Emmanuel tells Pam that he will need help finding new activities, transportation to and from activities, help to maintain balance on uneven ground, and help communicating, especially when others do not understand his speech. Pam agrees to do these supports, but tells Emmanuel that she would prefer to only use her car to go places not accessible by bus. Emmanuel agrees to this. The Personal Agent enters the agreements into the contract which Emmanuel and Pam sign.



Maintaining Records

One of the core provider responsibilities is maintaining records and tracking information. This includes:

- Keeping a copy of the contract for reference
- Keeping copies of invoices and progress notes
- Keeping *Releases of Information*
- Tracking the number of hours and amount of funds used

Providing Services

Determining Appropriateness of Supports

Once a contract is established and effective, the provider begins providing services to help the customer work towards the *goal*. A provider may use a number of techniques to provide support. When considering whether or not a support is appropriate and allowable, a provider should consider the following questions/criteria:

1. Is this legal?
2. Is this support necessary?
3. Is there a *natural support* available to provide this service or support?
4. Does this support help the customer work towards the goal?
5. Is this support allowable in the terms of the contract?
6. Is this support necessitated by the customer's disability?
7. Am I qualified to provide this support?

If the answer to *any* of these questions is, "no", then the provider should discuss the matter with the customer's Personal Agent.

Indirect Supports

With very few exceptions, providers are paid only for work done face to face with the customer. Often, supporting a customer towards their goal requires some preparatory work or indirect supports. In general, any supports that take place without the customer present are considered indirect supports. This may include:

- Phone calls to other professionals for consultation or networking
- Preparing visual materials and schedules
- Writing progress notes and preparing invoices

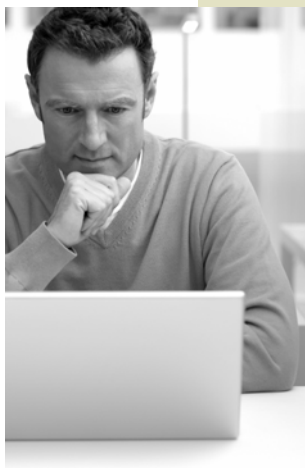
In most cases, indirect supports are considered non-billable time and are considered to be part of the overhead cost of providing support.

Real Life Examples

Stella has contracted with Lois to help her work towards her goal of moving out of her parents' home and into her own apartment. The contract states that Lois and Stella will work together on applying for housing assistance, identifying an apartment, and developing a schedule so that Stella can maintain a routine in her new home. Stella already knows how to cook and clean independently. She can grocery shop independently, but her mother prepares her list for her ahead of time.

In the following scenarios, can you identify which criteria Lois is violating?

1. Lois encourages Stella to hide her income so that she can qualify for Section 8.
2. Lois cooks as Stella watches her favorite show.
3. Lois writes Stella's grocery list.
4. Lois takes Stella hiking.
5. Lois does Stella's grocery shopping for her while she waits at home.
6. Lois tells Stella that she should increase her Ritalin dosage.



Meetings

It is often important for providers to attend meetings with their customers, such as ISPs, *Person-Centered Planning* meetings, etc. In most cases, this is considered non-billable time as no direct support is being provided.

Duplicating Supports

Providers may not be paid for supports provided while a customer is receiving other Medicaid-funded supports. This includes during time that he or she is at a day program, hospitalized, or incarcerated.

Group Support

Providing services to a group of customers is a great way to facilitate networking and friendship. Because of pro-rated rates, it also allows the customer more buying power for services. Before working with customers in a group setting, providers must ensure that it is allowable according to the terms of the contract and approved by the customer. Providers must also pro-rate the rate for support provided in a group setting. (See the *Billing* section for a detailed description of pro-rating.)



Sometimes, providers help customers reach community inclusion goals by introducing the customer to their social network. This can be an effective way for the customer to increase his or her own social network, as long as that the provider is not distracted from providing 1:1 support and as long as doing so does not blur established professional boundaries. Providers must never work with customers while also supervising minor children. They must not work with customers while also providing supervision or support to other adults in their care (whether paid or unpaid), unless specifically outlined in the contract.

Assessments

Assessments can help customers identify their abilities and training needs in a particular area and map out specifically how he or she will reach the goal. Providers must be qualified to provide assessments before contracting to do so. They must meet the obligations of the contract as well as the individual policies of the Brokerage that is facilitating each contract. (See each Brokerage's Assessment policy.)

Real Life Examples

Example

Independent Contractor, Pam drove her customer, Emmanuel to the emergency room after he sprained his ankle on a hike. Pam cannot bill for the time she spent in the ER after Emmanuel was admitted.

Examples:

Pam takes Emmanuel hiking with her hiking club. She helps him navigate the trails and provides physical assistance when necessary. Pam introduces Emmanuel to her friends, and facilitates communication.

Gerald is taking his customer, Trey to an art class. Gerald's father, who requires assistance because of his dementia, would like to go, too. Gerald cannot take his father along, because his father requires care that would distract from Trey's supports.

Example

Chelsea would like to move out of her parents home into her own apartment. Neither she nor her parents are clear about what skills Chelsea needs to acquire to be successful. Chelsea contracts with an Independent Contractor to assess her current skills and determine the amount and type of skills training she will need to successfully reach her goal.

Confidentiality

Brokerage customers are protected by HIPAA and Support Service privacy policies. Providers are required to obtain permission from the person with whom they are contracting prior to disclosing certain types of protected information. Often, providers use *Releases of Information* to serve as a written record of permission from the customer. Confidentiality extends to all persons, including non-guardian family members, doctors, other providers, etc. Confidentiality also extends to documentation provided to Brokerages. For example, providers working with customers in groups, must only use the full name of the customer for whom he or she is writing progress notes. All other names must be redacted.

Person-First Language and Respectful Language

Person-First Language is the State of Oregon’s preferred nomenclature aiming to avoid perceived and subconscious dehumanization when discussing people with disabilities. (Adapted from Wikipedia, viewed 8/19/09).

Instead of:	Use:
•Stella is mentally retarded.	•Stella has a cognitive disability.
•Ed is downs.	•Ed has downs syndrome.
•Erin is handicapped/crippled.	•Erin has a physical disability.
•Michael is autistic.	•Michael is diagnosed with autism.
•Norm is wheelchair bound.	•Norm uses a wheelchair.

It is also important to use respectful language. Historically, people with disabilities have been ignored in conversation, referred to as children or by their mental age, etc. Brokerage customers’ providers must successfully demonstrate the ability to use Person-First and respectful language in their interactions and documentation.

Learn more about person-first language at:
www.disabilityisnatural.com



Example
 (Progress Notes for Stan)
 USE: “Stan independently refused another customer’s request to borrow money.”
 INSTEAD OF: “Stan independently refused Chelsea Porter’s request to borrow money.”

Tips for Using Respectful Language

1. Do not refer to adults with disabilities as kids.
2. Speak directly **to** the person whenever possible. This includes people who do not communicate verbally.
3. Simplify speech when necessary, without infantilizing your speech.
4. Do not use sarcastic humor or name calling.

Responding to Difficult Situations

Boundaries and Ethical Decision Making

Working in a role supporting people with disabilities requires the ability to use sound judgment and make difficult decisions. It is important that providers evaluate each situation when determining how best to support someone in a crisis or difficult situation. Here are some questions providers may consider:

1. What factors are in conflict in this situation? Or, what makes this decision challenging?
2. How do the following values apply?
 - Freedom
 - Authority
 - Autonomy
 - Responsible use of public funds
 - Health and safety
3. What is my role in this situation?
4. How can I help the customer progress towards their goal(s) in this situation?
5. How are my values and experiences affecting the way I view this situation?

In an emergency situations, providers should do whatever possible to ensure the safety of the customer with whom they are working.

Whatever decision is made, it is important for providers to document how they arrived at that decision or course of action. In some situations, it is a good idea to consult others, including the customer and their support team, other professionals, or the Personal Agent.

Incident Reporting



Supports provided should always be documented in progress notes. Situations that require more immediate response from the Personal Agent or the customer's support team are documented in Incident Reports. Providers keep Incident Reports for their records. They also send a copy to the Personal Agent. In

some cases, the providers may send a copy to other members of the customer's support team, such as his or her doctor, *representative payee*, or parent. This is only done with the customer's permission.

Real Life Examples

* Maria has had trouble paying her rent in the past and has narrowly avoided eviction. She contracted with Aaron to help her with budgeting. One day, Aaron meets with Maria to work on budgeting. While reviewing her bank statement with her, Aaron notices that Maria has spent \$200 on online gambling over the course of the past month. He figures out that she will still be able to pay her rent and buy food, but will be unable to purchase the new shoes that she needs for work. Aaron is concerned.

In this situation, which values appear to be in conflict?

What do you think Aaron should do?

How do you think that your values affect your response?

* Jeff and his mother/guardian, Sharon have contracted with Susan to provide community inclusion. Jeff does not communicate verbally, but Sharon has informed Susan that Jeff loves the outdoors. Sharon suggests that Susan take him to the beach next week. She suggests an overnight camping trip in Bandon, an eight hour drive.

In this situation, which values appear to be in conflict?

What do you think Susan should do?

* Tony contracted with Carlos to provide community inclusion supports. Carlos arrives at Tony's home one day and finds that Tony is almost completely out of food. Tony reports to Carlos that he has been sustaining himself on soda and crackers for the past two days.

In this situation, which issues appear to be in conflict?

What do you think Carlos should do?

Mandatory Abuse Reporting

All providers who qualify to provide support to Brokerage customers are Mandatory Abuse Reporters. When in doubt about possible neglect, abuse or unusual circumstance, providers must contact the customer's CDDP, Protective Service worker, and Personal Agent immediately and take immediate steps to protect the victim of abuse. If providers suspect the Personal Agent of abuse, they must contact the Executive Director of that Brokerage immediately.

According to Oregon Regulatory Statute (ORS 430.765), if Mandatory Abuse Reporters have reasonable cause to believe that an adult who has a developmental disability has suffered abuse, or that any person with whom the reporter has come in contact with has abused a protected person, he or she must immediately report the abuse to the Brokerage and to Protective Services. When there is reason to believe a crime has been committed as part of that abuse, providers must report to the local law enforcement agency.

The legal definition of abuse of adults who have a mental illness or a developmental disability is as follows:

1. Any death caused by other than accidental or natural means, or occurring in unusual circumstance
2. Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury
3. Willful infliction of physical pain or injury
4. Sexual harassment or exploitation, including but not limited to any sexual contact between an employee of a facility or community program and an adult
5. Neglect that leads to physical harm through withholding of services necessary to maintain health and well being

All Mandatory Abuse Reporters have the same duties as DHS employees. For more information, visit: www.oregon.gov/DHS/abuse/mr_employees.



Important

Mandatory Abuse Reporters are required to report on behalf of any protected person, not just the clients with whom they are working.

Mandatory Abuse Reporters should not rely on others to make a report to Protective Services and law enforcement, when appropriate. They must also make the report themselves.

When a report is warranted, Releases of Information are not required to report to Protective Services or law enforcement.

Broader definitions of abuse set forth in the Oregon Administrative Rules apply specifically to adults with a developmental disability receiving services through a licensed or certified facility. These rules require that Mandatory Abuse Reporters immediately notify the Community Developmental Disability Program and follow the Brokerage's policies and procedures to ensure the health and safety of the victim when there is reason to believe any of the following have occurred:

1. Abuse in the form of neglect of care that results in the imminent danger of physical injury or harm through negligent omission, treatment or maltreatment
2. Unauthorized or inappropriate restraint resulting in injury
3. Financial exploitation (including theft, inappropriate loans, commingling of funds)
4. Verbal mistreatment (including subjecting the individual to ridicule, harassment, profanity or intimidation and threatening injury or withholding or termination of services)

Mandatory Abuse reporters must participate in Protective Service investigations, when necessary. They may be interviewed by Protective Service workers. Occasionally, reporters are asked to testify in court.

Rights of Mandatory Abuse Reporters

The law protects Mandatory Abuse Reporters from retaliation when making a report in good faith. The identity of the person making the report can be confidential. Providers must request that their names be kept confidential when making the report.

Mandatory Abuse Reporters may not be discharged or transferred from one worksite location to another (except for clinical reasons), terminated from their jobs, demoted or have their compensation lowered, or denied contact with the facility or its residents because they made a good faith report of suspected abuse.

Independent Contractors must understand and accept the obligations of a Mandatory Abuse Reporter to become qualified to work with Brokerage customers. Brokerage staff can offer further explanations of requirements upon request.

Important Phone Numbers

CDDPs:

Clackamas County

503-655-8558

Multnomah County

503-988-3658

Washington County

503-846-4737

Police:

Emergency 911

Non Emergency:

Portland Police Bureau

503-823-3333

(Other areas listed by region)

Billing

Some Brokerages have additional invoice requirements. This information is provided during the qualification process, and can be noted here for quick reference:

Requirements of an Invoice

Invoices must be legibly written or typed and include the following information:

- Customer's name and contact information
- Provider's name and contract information
- Personal Agent's name
- Name of Brokerage
- Service code and category
- Rate for service
- Itemized dates and hours of service
- Total per service category
- Goal as stated in the contract
- Customer's signature

Invoice Example

Carlos Arroyo, Independent Contractor 123 Paved St. Portland, OR 97000 503-555-1000						
Customer:						
Chelsea Anderson						
123 Cobblestone Ave.						
Gresham, OR 97000						
503-555-2000						
To: Inclusion, Inc.						
Attention: Tom Cohen, Personal Agent						
Service: 726 Community Inclusion						
Rate: \$22/hour						
Goals: To be physically fit; To explore the outdoors; To meet new people						
Date	Code	Description	Ratio	Rate	Hours	Subtotal
8/2/2010	726	Hiking at Mt. Hood	1:1	\$22	4	\$88
8/16/2010	726	Bike ride around Blue Lake	1:1	\$22	3.5	\$77
8/29/2010	726	Group trip to Portland Billiards	1:3	\$7.33	2	\$14.66
					Total	\$179.66
<i>Chelsea Anderson 9/1/2010</i> Customer Signature			<i>Carlos Arroyo 9/1/2010</i> Provider Signature			

Note: In this example, the description refers to the activity, but does not serve as progress notes.

Pro-rating for Groups

Whenever providers work with more than one customer at a time, they must meet these requirements:

- Group supports must be listed as allowable in the terms of the contract
- They must be able to adequately support all group members for the duration of the activity
- Providers must pro-rate the hourly rate

Example A: Standard Pro-rating

Carlos Arroyo, IC is taking three customers to play pool. He charges \$22 per hour. The support will last two hours. Carlos will calculate the bills like this:

Customer A: $\$22 \div 3 \text{ customers} = \$7.33 \times 2 \text{ hours} = \14.66

Customer B: $\$22 \div 3 \text{ customers} = \$7.33 \times 2 \text{ hours} = \14.66

Customer C: $\$22 \div 3 \text{ customers} = \$7.33 \times 2 \text{ hours} = \14.66



Each customer's bill will list \$14.66 as the expense for that period of support.

Example B: Prorating with Mixed Rates

Pam Cote is taking two customers fishing at Blue Lake. She charges \$18 per hour for Sam and \$22 per hour for Emmanuel, who requires more support. The activity will last three hours. Pam will calculate her bills like this:

Sam: $\$18 \div 2 \text{ customers} = \$9 \times 3 \text{ hours} = \27

Emmanuel: $\$22 \div 2 \text{ customers} = \$11 \times 3 \text{ hours} = \33

Example C: Pro-rating with a Blended Schedule

Lois is taking Stella and Raymond to a one hour class, *Cooking on a Budget*. She charges both customers \$20 per hour. She and Raymond will buy required ingredients to bring to the class. This will take one hour. They will then meet Stella there. Stella will come with her ingredients. Lois will calculate her bills like this:

Stella: $\$20 \div 2 \text{ customers} = \$10 \times 1 \text{ hour} = \10

Raymond: Shopping 1:1 = $\$20 \times 1 \text{ hour} = \20

Class = $\$20 \div 2 \text{ customers} = \$10 \times 1 \text{ hour} = \10

Lois will list Raymond's supports separately on her invoice:

Date	Code	Description	Ratio	Rate	Hours	Subtotal
8/2/2010	726	Shopping for ingredients	1:1	\$20	1	\$20
8/2/2010	726	Cooking on a Budget class	1:2	\$10	1	\$10

Progress Notes

Overview

All bills submitted by Independent Contractors must include a written narrative that describes both the supports provided and progress toward the goal of the contract. Providers billing for multiple services or goals must address each in the *progress notes*. Progress notes are the primary way that Personal Agents monitor paid professional supports. Progress notes should:

- Relate to the goal as stated in the contract
- Describe supports provided
- Relate to how the customer's disability affects them
- Be written for someone who does not know the customer
- Be objective
- Vary from month to month



Progress Towards Goals

Progress notes must relate to the goal identified by the customer and stated in the contract. This is one of the main ways that Personal Agents are able to monitor supports. Occasionally, providers and/or customers find that a goal needs to be modified. In this case, they should contact the Personal Agent to modify the goal in the contract.

- What is the customer able to do independently and what are their strengths? With what does he or she need assistance? On-going assessment of a person's skill is a crucial piece to the service provided.
- How have things changed? Has there been progress? If so, what are some examples? If not, what are the barriers?
- What methods and strategies are used to facilitate the customer's involvement, independence and progress?

Supports Provided

The provider's supports should be clearly stated in the progress notes. More than a description of the customer's activities, the progress notes describe what the **provider** has done. The provider should be the subject in at least part of the progress notes. They should clearly demonstrate the provider's skill and technique and justify payment.

Real Life Examples

For the following progress note examples, Raymond's goal is "to learn to cook using the stovetop and basic kitchen appliances". He has contracted with Lois to work with him 2 hours twice per week on this goal. Lois is reporting his progress.

How do the following statements demonstrate the concepts described in this section?

"This month, Raymond learned to use the food processor independently."

"I demonstrated for Raymond how to put tomatoes in the food processor and press 'liquefy'. I colored the 'liquefy' button yellow since that is the button that he will use the most. After I demonstrated, Raymond was able to use the food processor independently to make the salsa."

"Since Raymond has limited use of his left hand, I held the bowl while he stirred with his right hand."

Descriptions of Disability-Related Supports

Progress notes should relate to the customer's disability. It should be clear to the reader why the customer needs the supports provided. A customer's disability may affect them physically, cognitively, emotionally, or socially. When describing supports, a provider may consider these questions:

- What behavioral, cognitive, or physical limitations inhibit the customer's independent participation in the chosen activity? *Trouble remembering things, lack of self-awareness, lack of self-control, anger management problems, etc.*
- What are the indicators that this person requires support? *He or she does not have any friends, is not able to create a grocery list, allows unwanted strangers into the home, etc.*
- How is this person's ability to engage in the chosen activity independently affected by his or her disability?
- What specifically is the provider doing to facilitate the customer's participation in the chosen activity?
- Why does the customer need the provider? What would happen if the provider wasn't there?
- What works for the customer? What doesn't work? *Demonstration, discussion, verbal cueing, etc.*

Other Types of Documentation

Some contracts will require other forms of documentation as part of the service. These may include assessments, support plans, Behavioral Support Plans, etc. These must be submitted by the date specified in the contract.

Other Considerations

Many people may read providers' progress notes, including the Personal Agent, auditors, future providers, and the customer. Providers should describe supports at the level of detail necessary for someone who does not know the customer.

It is important for providers to describe supports objectively. Emotions and mental states should not be inferred, but rather described through observable behaviors. Opinions should be stated as such.

Sometimes Independent Contractors provide similar services month to month. It can be challenging to identify progress or changes each month. Providers should pay close attention to any changes in the customer's behavior, improvements, or struggles. They should also document subtle changes in support techniques and how they are received by the customer. It is important that progress notes vary from month to month.

Real Life Examples

How do the following statements demonstrate the concepts described in this section?



"First, I told Raymond how to use the mixer, but he did not respond. Then I showed Raymond how to turn it on and mix the ingredients. After my demonstration, he was able to use the mixer independently."

"Raymond has limited use of his left hand. He also has trouble identifying the order of steps in a recipe."

"When Raymond dropped the bowl on the floor, he yelled and stomped his feet. In my opinion, he was frustrated because he could not stir independently."

"This month, Raymond used plastic mixing bowls instead of metal. He seemed to grip the plastic bowls better, resulting in fewer spills."

Glossary

Term	Acronym	Definition
Activities of Daily Living	ADL	Activities of daily independent living, including bathing, dressing, eating, medication management, etc.
Base Plus Assessment		An assessment used to determine whether or not a customer has extensive needs based on behavioral and medical needs and/or diminished caregiver capacity
Brokerage		A Support Service Brokerage is funded by State and Federal Medicaid funds to help customers identify goals and needs and coordinate supports
Community Developmental Disability Program	CDDP	The counties in which the customer lives, in most cases; establish eligibility for people who apply for adult Developmental Disability Services
Contract		An agreement between the customer and the provider which identifies the goal, supports provided, rate of pay, total budget, and other requirements of the agreement; May also be called a <i>Service Agreement</i>
Customer		A customer is a person with a developmental disability receiving Brokerage services who uses their individual budget to purchase supports
Developmental Disability	DD	A life-long disability with an onset before age 18 which affects an individual cognitively and/or physically
Domestic Employee	DE	A support provider employed by the customer or his or her guardian
Fiscal Intermediary	FI	Assist individuals employing home health workers with fulfilling the responsibilities of an employer
Goal		End results identified by a customer as important
Independent Contractor	IC	Self-employed individuals who enter into contracts to provide services
Individualized Support Plan	ISP	A plan which identifies the customer's goals and the supports that he/she will use to reach those goals; Also identifies costs associated with supports and serves as a budget
Job Description		A document developed between a customer (or his or her guardian) and the employee, listing the customer's goal, supports, provider, and payment terms
Legal Guardian		A person who has the legal authority and corresponding duty to care for the personal property and interests of another person
Medicaid		A health care program for people affected by poverty and other variables such as disability, pregnancy, etc.
Natural Resources		Any resource used to support a customer that is not paid for by the customer's individual Support Service budget; May include Vocational Rehabilitation services, unpaid support provided by a friend or relative, services the customer pays for independently, etc.
Oregon Administrative Rules	OARs	The OARs establish rules about how the Brokerages operate, how services are provided and which supports are allowable, and how providers are qualified

Glossary, continued

Term	Acronym	Definition
Paid Supports		Supports paid for by the customer's individual Support Service funding
Personal Agent	PA	A Brokerage staff person who works with the customer and their chosen support circle to identify natural and paid resources, establish goals and coordinate the supports needed to meet their goals.
Person-Centered Planning	PCP	A formal planning technique which focus on the goals, strengths, needs, and preferences of the customer and identifies ways of reaching those goals
Person-First Language		Person-First Language is a form of politically correct linguistic prescriptivism aiming to avoid perceived and subconscious dehumanization when discussing people suffering from disabilities. (Wikipedia, viewed 8/19/09).
Progress Notes		Notes written by Independent Contractors or agency staff and included with the invoice; Describe supports provided and progress towards the goal of the contract
Protocol		A document identifying a specific support need and describing the support technique prescribed; For example, <i>Seizure Protocol</i>
Rate Guidelines		The Support Service rate ranges established by the State of Oregon rate setting committee for services provided to Brokerage customers
Releases of Information	ROI	A written document, signed by the customer, permitting two or more parties to share protected information about the customer related to the supports provided
Representative Payee		The legal custodian of a person's finances, often including Social Security benefits; May be shortened to <i>Rep Payee</i>
Self-Determination		A central value in the Brokerage system, defined by the principles of freedom, authority, autonomy, and responsibility
Service Agreement		A document listing the customer's goal, supports, provider, and payment terms
Service Category		The category of supports provided; For example, <i>Job Development</i>
Service Code		The code designating the category of supports provided; For example, <i>738 (Specialized Supports)</i>
Social Security Benefit		A financial benefit for people with disabilities who are unable to attain gainful employment due to disability and do not have financial resources to meet their needs; Other qualifications apply; May be called <i>Social Security Insurance (SSI)</i>
Staley Agreement		The agreement reached between the State of Oregon and the plaintiffs filing the Staley Lawsuit. Agreement granted that services for eligible adults are considered an entitlement and that these individuals will have access to services within 90 days of eligibility
Staley Lawsuit		A lawsuit filed against the State of Oregon, alleging that adults with developmental disabilities have a right to services and supports when they live in the community
Support Circle		People whom the customer identifies as contributing to their support; May include providers, family, friends, a spouse or partner, the Personal Agent, etc.

The *Metro Area Brokerages Independent Contractor Guidelines* have been approved by ARC Brokerage, Independence Northwest, Inclusion, Inc., Mentor Oregon Brokerage, and Self Determination Resources, Inc. for informational and reference purposes only, and are not meant to be a complete representation of regulations applicable to those providing Support Services. Independent Contractors are responsible for knowing and adhering to Oregon Administrative Rules, pertinent Independent Contractor laws, and all other applicable regulations as established by their source of origin.



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independence
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