

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Upon filing, by the
Oregon Health Authority, Division of Medical Assistance Programs

Agency and Division 410
Administrative Rules Chapter Number
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To become effective January 1, 2014 Rulemaking Notice was published in the October 2013 Oregon Bulletin. *SC 11/15/13*

RULE CAPTION

Describe program requirements for Behavior Rehabilitation Services Program

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

RULEMAKING ACTION

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

ADOPT:

410-170-0000, 410-170-0010, 410-170-0020, 410-170-0030, 410-170-0040, 410-170-0050, 410-170-0060, 410-170-0070, 410-170-0080, 410-170-0090, 410-170-0100, 410-170-0110, 410-170-0120

AMEND:

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 183.355, 413.042, 414.065

Other Authority:

45 CFR 160 & 164 et.seq; 42 CFR 435.1010; 42 CFR 433 Subpart B

Statutes Implemented:

ORS 414.065

RULE SUMMARY

Administrative rules need to be put in place for the Behavior Rehabilitation Services (BRS) Program, as no rules currently exist. These rules describe the general program requirements for the BRS Program, prior authorization process, Services and Placement Related Activities, BRS Contractor and BRS Provider requirements, reimbursement rates, and compliance and oversight activities.

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ARCHIVES DIVISION
SECRETARY OF STATE

OREGON HEALTH AUTHORITY
DIVISION OF MEDICAL ASSISTANCE PROGRAMS

DIVISION 170

Behavior Rehabilitation Services Program

General Rules

410-170-0000

Effective Date and Administration of the BRS Program

(1) OAR 410-170-0000 through 410-170-0120 are effective on January 1, 2014.

(2) All *BRS contractor's* and *BRS provider's* programs must meet the requirements in the *BRS program* general rules (OAR 410-170-0000 through 410-170-0120). Additional *agency-specific BRS program* rules for the Department of Human Services are contained in OAR 413-090-0055 through 413-090-0090, and for the Oregon Youth Authority are contained in OAR 416-335-0000 through 416-335-0100.

(3) All references to federal and state laws and regulations referenced in these rules are those in place on November 13, 2013, and the *agency-specific BRS program* rules that are effective on January 1, 2014.

(4) Delegation of Authority: The Oregon Health Authority may delegate authority to another *agency* or a unit of government to carry out some of its obligations under these rules.

Stat. Auth.: ORS 183.355, 413.042, 414.065

Stats. Implemented: ORS 414.065

410-170-0010

Purpose

The purpose of the *Behavior Rehabilitation Services (BRS) Program* is to remediate the *BRS client's* debilitating psychosocial, emotional and behavioral disorders by providing such *services* as behavioral intervention, counseling, and skills-training. These rules describe the general program requirements for the *BRS program*, prior authorization process, *services and placement related activities*, *BRS contractor* and *BRS provider* requirements, reimbursement rates, and compliance and oversight activities.

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065

410-170-0020

Definitions

The following definitions apply to terms used in OAR 410-170-0000 through 410-170-0120.

(1) *Agency* means the state agency that has a contract with the *BRS contractor* to provide *services* and *placement related activities* to the *BRS client*, and provides prior authorization for the *BRS client* to receive *services* and *placement related activities* pursuant to the *BRS program* general rules and, as applicable, *agency-specific BRS program* rules. The *agency* will be one of the following state agencies: the Department of Human Services, the Oregon Health Authority, or the Oregon Youth Authority.

(2) *Approved provider parent* means an individual who a *BRS contractor*, a *BRS provider*, or *OYA* has approved to provide *services* or *placement related activities* to the *BRS client* in the home of that individual. *Approved provider parents* who provide *services* are considered *direct care staff*, and must meet those qualifications in OAR 410-170-0030(4).

(3) *Behavior Rehabilitation Services (BRS) program* is a program that provides *services* and *placement related activities* to the *BRS client* to address their debilitating psychosocial, emotional and behavioral disorders in a community placement utilizing either a *residential care model* or *therapeutic foster care model*.

(4) *Billable care day* means each calendar day the *BRS client* is in the direct care of the *BRS provider* at 11:59 p.m. or meets the requirements in OAR 410-170-0110.

(5) *BRS client* means the person who has prior authorization from an *agency* to receive *services* or *placement related activities* through the *BRS program* in accordance with the *BRS program* general rules, and as applicable *agency-specific BRS program* rules.

(6) *BRS contractor* means the entity contracted with an *agency* to be responsible for providing *services* and *placement related activities* to the *BRS client*. The *BRS contractor* may also be the *BRS provider* if it provides *direct services* and *placement related activities* to the *BRS client*.

(7) *BRS provider* means a facility, institution, corporate entity, or other organization that provides *direct services* and *placement related activities* to the *BRS client*.

(8) *BRS type of care* means the type of program model, *services*, *placement related activities*, staffing requirements and qualifications which are necessary to meet the medical and other needs of the *BRS client*.

(9) *Caseworker* means the individual who coordinates the *services* and *placement related activities* for the *BRS client* with the *BRS contractor* and *BRS provider*.

(10) *Child* or *children* means a person or persons under 18 years of age.

(11) *Children's health insurance program (CHIP)* means the federal and state funded portion of the Oregon Health Plan (OHP) established by Title XXI of the Social Security Act and administered by the *Authority*.

(12) *Designated LPHA* means a *licensed practitioner of the healing arts*, who has a contract with, is approved by, or is employed by the *agency* to make a determination on the medical appropriateness of the *BRS program* for the *BRS client*.

(13) *DHS* or *Department* means the Department of Human Services, Child Welfare.

(14) *Direct care staff* means an individual who is employed by or who has a contract or an agreement with the *BRS provider*, and is responsible for assisting *social service staff* in providing individual and group counseling, skills-training and therapeutic interventions, and monitoring and managing the *BRS client's* behavior to provide a safe, structured living environment that is conducive to treatment.

(15) *Initial service plan (ISP)* means the initial written individualized *services* plan, developed by the *BRS contractor* or *BRS provider*, identifying the *services* that must be provided to the *BRS client* during the first 45 days in its *BRS program* or until the *master service plan* is written. Additional requirements are described in OAR 410-170-0070.

(16) *Licensed practitioner of the healing arts (LPHA)* means a physician or other practitioner licensed in the State of Oregon who is authorized within the scope of his or her practice, as defined under state law, to diagnose and treat individuals with physical or mental disabilities, or psychosocial, emotional and behavioral disorders.

(17) *Master service plan (MSP)* means the written individualized *services* plan, developed by the *BRS contractor* or *BRS provider*, identifying the *services* that must be provided to the *BRS client* in its *BRS program*. Additional requirements are described in OAR 410-170-0070.

(18) *Medicaid* means the federal and state funded portion of the medical assistance programs established by Title XIX of the Social Security Act, as amended, administered in Oregon by the *Authority*.

(19) *OHA* or *Authority* means the Oregon Health Authority. The Authority is the agency established in ORS Chapter 413 that administers the funds for Titles XIX and XXI of the Social Security Act. It is the single state agency for the administration of the medical assistance program under ORS chapter 414. For purposes of these rules, the agencies under the authority of the *Authority* are the Public Health Division, the Addictions and Mental Health Division, and the Division of Medical Assistance Programs.

(20) *OYA* means the Oregon Youth Authority.

(21) *Physical restraint* means the act of restricting the *BRS client's* voluntary movement as an emergency measure to manage and protect the *BRS client* or others from injury when no alternate actions are sufficient to manage the *BRS client's* behavior. Physical restraint does not include

temporarily holding a *BRS client* to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.

(22) *Placement related activities* means the *BRS contractor's* or *BRS provider's* activities related to the operation of the program and the care of the *BRS client* as set forth in the *BRS program* general rules, applicable *agency-specific BRS program* rules, the contract or agreement with the *agency* or the *BRS contractor*, and applicable federal and state licensing and regulatory requirements. *Placement related activities* may include but are not limited to providing the *BRS client* with: food, clothing, shelter, daily supervision, access to educational, cultural and recreational activities; and case management. Room and board is not funded by *Medicaid* or *CHIP*.

(23) *Private child-caring agency* is defined by the definitions in ORS 418.205, and means a "child-caring agency" that is not owned, operated, or administered by any governmental agency or unit:

(a) A child-caring agency means an agency or organization providing:

(A) Day treatment for disturbed *children*;

(B) Adoption placement services;

(C) Residential care, including but not limited to foster care or residential treatment for *children*;

(D) Outdoor youth programs (defined at OAR 413-215-0911); or

(E) Other similar services for *children*;

(b) A child-caring agency does not include residential facilities or foster care homes certified or licensed by the *Department* under ORS 443.400 to 443.455, 443.830 and 443.835 for *children* receiving developmental disability services.

(24) *Proctor parent* means an *approved provider parent* who is certified by *OYA* and a *private child-caring agency* in accordance with the applicable provisions in OAR 416-530-0000 through 416-530-0200 and OAR 416-550-0000 through 416-550-0080, and who is employed by or who has a contract or agreement with the *private child-caring agency* to provide some *services* and *placement related activities* to the *BRS client* in the individual's home.

(25) *Program coordinator* or *program director* means an individual employed by or contracted with the *BRS provider*, and is responsible for supervising staff, providing overall direction to the *BRS provider*, planning and coordinating program activities and delivery of *services* and *placement related activities*, and ensuring the safety and protection of the *BRS client* and the *BRS provider's* staff.

(26) *Public child-caring agency* means, for purposes of this rule, an agency or institution operated by a governmental agency or unit other than *DHS*, *OYA*, or *OHA*, which provides care to the *BRS client* in a residential community setting.

(27) *Residential care model* means that *services* and *placement related activities* are provided to the *BRS client* in a residential community setting and not in the home of an *approved provider parent*.

(28) *Respite care* means a formal planned arrangement to relieve an *approved provider parent's* responsibilities by an individual temporarily assuming responsibility for the care and supervision of the *BRS client* in the home of the respite provider or *approved provider parent*. *Respite care* must be less than 14 consecutive days.

(29) *Seclusion* means the involuntary confinement of a *BRS client* to an area or room from which the *BRS client* is physically prevented from leaving.

(30) *Services* means the treatment provided to the *BRS client* in a *BRS provider's* program, including but not limited to treatment planning, individual and group counseling, skills-training, and parent training.

(31) *Social service staff* means an individual employed by or contracted with the *BRS provider*, and is responsible for case management and the development of the *ISP* or *MSP* for the *BRS client*; individual, group and family counseling; individual and group skills-training; assisting the *direct care staff* in providing appropriate treatment to the *BRS client*; coordinating services with other agencies; and documenting the *BRS client's* treatment progress.

(32) *Therapeutic foster care model* means *services* and *placement related activities* are provided to the *BRS client* who resides in the home of an *approved provider parent*.

(33) *Total daily rate* means the total amount of the *service* payment and *placement related activities* payment for a *billable care day*.

(34) *Young adult* means a person aged 18 through 20 years.

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065

410-170-0030

BRS Contractor and BRS Provider Requirements

(1) Conditions of *BRS contractor* and *BRS provider* participation. The *BRS contractor* must ensure that itself and its *BRS providers* meet the following minimum requirements:

(a) Have the necessary current and valid licenses, approvals or certifications required by federal or state law or regulations for the entity and its staff to operate a *BRS program*;

(b) Have a license to operate a *private child-caring agency* or be approved by the Department of Human Services' Office of Licensing and Regulatory Oversight to operate a *public child-caring agency*;

(c) Comply with all federal and state laws and regulations required to be a licensed or an approved foster care agency under OAR 413-215-0301 to 413-215-0396 or residential care agency under OAR 413-215-0501 to 413-215-0586 and, if the *BRS client* is a person age 18 or older, comply with the licensing or approval requirements that would apply if the *BRS client* was a *child*;

(d) Comply with the provider enrollment requirements in OAR 410-120-1260;

(e) Comply with the requirements in OAR 410-120-1380(1)(c)(J) for excluding individuals and entities from being subcontractors if they are found on the listed exclusion list(s); and

(f) Have a contract or agreement with an *agency*, or as applicable a *BRS contractor*, to provide *services and placement related activities* to the *BRS client*.

(2) Compliance with Federal and State Law. The *BRS contractor* must, and must ensure its *BRS providers*, comply with all applicable federal and state laws and regulations pertaining to the provision of *Medicaid services* under the Medicaid Act, Title XIX, 42 USC 1396 *et seq.* and the *BRS program*, including but not limited to all applicable provisions in OAR 410-120-0000 through 410-120-1980.

(3) Confidentiality of *BRS client* information:

(a) Confidentiality Generally: The *BRS contractor* must not, and ensure its *BRS providers* do not, use or disclose any information concerning a *BRS client* for any purpose not directly connected with the administration of the *BRS contractor's* or *BRS provider's* program or as otherwise permitted by law, except with the written consent of the *agency*, or if the *agency* is not the *BRS client's* guardian, on the written consent of the person or persons authorized by law to consent to such use or disclosure. The *BRS contractor* must, and must require its employees and *BRS providers* to, comply with all appropriate federal and state laws, rules and regulations regarding the confidentiality of records related to the *BRS client*;

(b) HIPAA Compliance and Medical Privacy. The *BRS contractor* must, and ensure its *BRS providers*, comply with all applicable confidentiality requirements in the Health Insurance Portability and Accountability Act (HIPAA) of 1996 (Public Law 104-191, August 21, 1996) and its implementing regulations in 45 CFR 160 and 164 *et seq.*, and all applicable confidentiality requirements in state statutes and administrative rules, including but not limited to ORS 179.505 and OAR chapter 410, division 120;

(c) Maintenance of Written Records: The *BRS contractor* must, and ensure its *BRS providers*, appropriately secure all records and files related to *BRS clients* to prevent access by unauthorized persons or entities;

(d) Disclosure to the *agency*, *Authority* or other governmental oversight or licensing entities:

(A) The *BRS contractor* must, and ensure its *BRS providers*, promptly provide access to any information or written documentation in its possession related to the *BRS client* or its *BRS program* upon the request of the *agency* for any reason; and

(B) The *BRS contractor* must, and ensure its *BRS providers*, promptly provide access to any information or written documentation in its possession related to the *BRS client* or its *BRS program* that is necessary for the purpose of evaluating, overseeing or auditing the *BRS contractor's* program upon the request of the *Authority* or other governmental oversight or licensing entities.

(4) Staff Qualifications. The *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, has a *program coordinator*, *social service staff*, and *direct care staff* who meet and maintain the following minimum qualifications:

(a) No less than 50% of the *direct care staff* for a *BRS provider* must have a Bachelor's degree from an accredited college or university. A combination of formal education and experience with *children* or *young adults* may be substituted for a Bachelor's degree. *Direct care staff* must be under the direction of a qualified *social service staff* member or a *program coordinator*;

(b) *Direct care staff*, *social service staff*, and the *program coordinator*, who directly work with *BRS clients*, must:

(A) Receive a minimum of 28 hours of initial training prior to or within 30 days of employment or certification on the following topics: *BRS services* documentation, mandatory reporting of child abuse, program policies and expectations, gender- and cultural-specific services, behavior and crisis management, medication administration, discipline and restraint policies, and suicide prevention. Any *direct care staff*, *social service staff*, or *program coordinator* who has not yet completed this initial training prior to employment or certification, must be supervised by a person who has completed this training when having direct contact with *BRS clients*; and

(B) Receive a minimum of 16 hours of training annually on the following topics: skills-training that supports evidence-based or promising practices, and other subjects relevant to the responsibilities of providing *services* and *placement related activities* to the *BRS client*; and

(C) Have and maintain cardiopulmonary resuscitation (CPR) and first aid certification;

(c) The *program coordinator* or *program director* must have a Bachelor's degree from an accredited college or university, preferably with major study in psychology, sociology, social work, social sciences, or a closely allied field, and two years of experience in the supervision and management of a residential facility for the care and treatment of *children* or *young adults*;

(d) *Social service staff* must have a Master's degree from an accredited college or university with major study in social work or a closely allied field and one year of experience in the care and treatment of *children* or *young adults*; or have a Bachelor's degree with major study in social work, psychology, sociology or a closely allied field and two years of experience in the care and rehabilitation of *children* or *young adults*.

(5) Fitness Determination:

(a) The *BRS contractor* and *BRS provider* must ensure that its employees, volunteers, contractors, vendors, *approved provider parents*, or other persons providing *services* or

placement related activities to *BRS clients*, comply with all applicable criminal record and child abuse background checks and any fitness determination process required by federal or state law or regulation;

(b) The *BRS contractor* and the *BRS provider* must ensure that its employees, volunteers, contractors, vendors, *approved provider parents*, or other persons providing *services* or *placement related activities* to *BRS clients*, who have not yet successfully completed the requirements in section (5)(a) of this rule, are supervised by a person who has successfully met these requirements when having direct contact with *BRS clients*;

(c) Except in cases where more stringent legal requirements apply, the *BRS contractor* and *BRS provider* must ensure that its employees, volunteers, contractors, vendors, *approved provider parents*, or other persons providing *services* or *placement related activities* to *BRS clients*, report to it any arrests or court convictions, any known allegation of child abuse or neglect, and any other circumstance that could reasonably affect a fitness determination within one business day. The *BRS contractor* and *BRS provider* must report this information to the *agency* on the same day it receives the information.

(6) Mandatory Reporting:

(a) The *BRS contractor* and *BRS provider* must comply with the child abuse reporting laws in ORS 419B.010 through ORS 419B.050;

(b) The *BRS contractor* and *BRS provider* must require any staff member, including employees, volunteers, subcontractors, *approved provider parents*, or other persons providing *services* or *placement related activities* to *BRS clients*, to immediately make a report or cause a report to be made under ORS 419B.015 anytime the staff member has reasonable cause to believe that any *child* with whom the staff member comes in contact has suffered abuse, as defined by ORS 419B.005(1), or that any person with whom the staff member comes in contact has abused a *child*;

(c) The *BRS contractor* and *BRS provider* must train their staff regarding child abuse reporting requirements;

(d) The *BRS contractor* must ensure that its *BRS provider* complies with the requirements of this section.

(7) Communication:

(a) The *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, maintains a system for immediate and on-going communication amongst program staff regarding the whereabouts, status and condition of the *BRS clients* in its program;

(b) The *BRS contractor* must ensure that *direct care staff* and *social service staff* have access to a *BRS client's* information to the extent it is relevant to providing the *BRS client* with *services* and *placement related activities*;

(c) The *BRS contractor* must provide, or ensure that its *BRS provider* provides, immediate verbal notification to the *caseworker* and the *agency* (if an additional contact person is designated) when there is a communication outage at the program, and must provide an alternative means by which the program may be contacted, if possible.

(8) Staffing Requirements:

(a) Supervision of *BRS clients*: The *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, meets and maintains appropriate staffing levels to ensure supervision of the *BRS clients* in its program at all times (24 hours a day, 7 days a week), including taking steps to ensure that a *BRS client* is supervised while temporarily outside of the program. The *BRS provider* must not leave a *BRS client* unsupervised, except in cases where there is a *service plan* for the *BRS client* to be out of the *BRS provider's* direct supervision;

(b) *Therapeutic Foster Care Model*:

(A) The *Authority's* or the *Department's BRS contractors*. The *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, meets and maintains the following adult to *child* ratios in its therapeutic foster care homes:

(i) Shelter Evaluation and Assessment and Independent Living Services:

(I) A maximum of 3 *BRS clients* shall be placed in the home of an *approved provider parent*;

(II) A maximum of 5 *children* (including both *BRS clients* and non-*BRS clients*) and *young adults* (*BRS clients* only) shall live in an *approved provider parent* home with two parents;

(III) A maximum of 4 *children* (including both *BRS clients* and non-*BRS clients*) and *young adults* (*BRS clients* only) shall live in an *approved provider parent* home with one parent; and

(IV) No more than two *children* (including both *BRS clients* and non-*BRS clients*) under the age of three shall live in an *approved provider parent* home;

(ii) Intensive Community Care, Therapeutic Foster Care, and Enhanced Therapeutic Foster Care:

(I) A maximum of 2 *BRS clients* shall be placed in the home of an *approved provider parent*;

(II) A maximum of 5 *children* (including both *BRS clients* and non-*BRS clients*) and *young adults* (*BRS clients* only) shall live in an *approved provider parent* home with two parents;

(III) A maximum of 4 *children* (including both *BRS clients* and non-*BRS clients*) and *young adults* (*BRS clients* only) shall live in an *approved provider parent* home with one parent; and

(IV) No more than two *children* (including both *BRS clients* and non-*BRS clients*) under the age of three shall live in an *approved provider parent* home;

(iii) Notwithstanding section (8)(b)(A)(i) and (ii) of this rule, the *BRS contractor* or *BRS provider* may exceed these limits on the maximum number of *children* and *young adults* who shall live in a home when the *approved provider parent* is providing *respite care*;

(B) *OYA's BRS contractors*. The *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, meets and maintains the adult to *child* or *young adult* ratios described in *OYA-specific BRS program* rules for therapeutic foster care homes;

(c) *Residential Care Model*:

The *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, meets and maintains the following *direct care staff* to *BRS client* ratios for the *BRS type of care* it provides in its residential care *BRS program*:

(A) Shelter Assessment and Evaluation, Intensive Community Care, and Independent Living Service:

During scheduled school days, weekends and non-scheduled school days, the program must:

(i) Have 1 *direct care staff* member for every 7 *BRS clients* onsite between 7 a.m. and 3 p.m.;

(ii) Have 1 *direct care staff* member for every 4.7 *BRS clients* onsite between 3 p.m. and 11 p.m.;
and

(iii) Have 1 *direct care staff* member for every 9.3 *BRS clients* onsite between 11 p.m. and 7 a.m.;

(B) Community Step-Down, Independent Living Program, and BRS Basic Residential and Rehabilitation Services:

(i) During scheduled school days, the program must:

(I) Have 1 *direct care staff* member for every 7 *BRS clients* onsite between 7 a.m. and 3 p.m.;

(II) Have 1 *direct care staff* member for every 4.7 *BRS clients* onsite between 3 p.m. and 11 p.m.;

(III) Have 1 *direct care staff* member for every 9.3 *BRS clients* onsite between 11 p.m. and 7 a.m.; and

(ii) During weekends and non-scheduled school days, the program must:

(I) Have 1 *direct care staff* member for every 4.7 *BRS clients* onsite between 7 a.m. and 3 p.m.;

(II) Have 1 *direct care staff* member for every 4.7 *BRS clients* onsite between 3p.m. and 11 p.m.;

(III) Have 1 *direct care staff* member for every 9.3 *BRS clients* onsite between 11 p.m. and 7 a.m.;

(C) Intensive Rehabilitation Residential Services, BRS Residential, BRS Enhanced, and Short-Term Stabilization Program:

(i) During scheduled school days, the program must:

(I) Have 1 *direct care staff* member for every 7 *BRS clients* onsite between 7 a.m. and 3 p.m.;

(II) Have 1 *direct care staff* member for every 2.8 *BRS clients* onsite between 3 p.m. and 11 p.m.;

(III) Have 1 *direct care staff* member for every 9.3 *BRS clients* onsite between 11 p.m. and 7 a.m.; and

(ii) During weekends and non-scheduled school days, the program must:

(I) Have 1 *direct care staff* member for every 4.7 *BRS clients* onsite between 7 a.m. and 3 p.m.;

(II) Have 1 *direct care staff* member for every 2.8 *BRS clients* onsite between 3 p.m. and 11 p.m.;

(III) Have 1 *direct care staff* member for every 9.3 *BRS clients* onsite between 11 p.m. and 7 a.m.;

(d) For purposes of calculating the number of *direct care staff* under section (8)(c) of this rule only, a *social service staff* member or *program coordinator* may be included if that staff member is specifically scheduled to and actually provides direct supervision to *BRS clients* onsite during the relevant time period;

(e) Under section (8)(c) of this rule only, in the event that no *BRS clients* are onsite at the program due to home visits or other planned absences, the *BRS contractor* and *BRS provider* must ensure that its program has the resources and procedures in place to serve the *BRS client* who may need to return to the program prior to the scheduled return date;

(f) In the event a *BRS client* is temporarily admitted to a hospital (other than to a psychiatric hospital) but is still enrolled in the *BRS provider's* program, the *BRS contractor* and *BRS provider* must ensure that its program works with the *caseworker*, and the family when appropriate, to develop a plan approved by the *agency* for supervision during the *BRS client's* hospitalization;

(g) The *BRS contractor* may, or allow its *BRS provider* to, request prior written *agency* approval for its *BRS program* to deviate from the ratios described in section (8)(b) and (c) of this rule or *agency-specific BRS program* rules. If the *agency* grants a waiver, this shall only apply to *BRS program* ratio requirements specified in these rules and *agency-specific BRS program* rules. The *BRS contractor* and *BRS provider* must comply with any ratio requirements applicable under federal or state licensing requirements or approvals;

(9) Physical Facility. The *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, do the following:

(a) Provide an environment suitable for the treatment of a *BRS client*, which meets all applicable safety, health and general environment standards required for a residential community setting, if *services* are provided to the *BRS client* in a *residential care model*, or in the home of an *approved provider parent* certified by the *BRS provider*, if *services* are provided to the *BRS client* in a *therapeutic foster care model*;

(b) Provide separate bedrooms for *children* and persons 18 years or older, except in cases where the *child* shares a bedroom with a *young adult* who is the *child's* parent and caregiver or where there is written approval from the Department of Human Services' Office of Licensing and Regulatory Oversight Coordinator and the *agency*;

(c) Provide separate bedrooms for *BRS clients* who have inappropriate sexual behaviors identified in their *service* plan and *BRS clients* who do not have those behaviors identified in their *service* plan, unless there is written approval from the *agency*;

(d) Provide that *BRS clients*, who have inappropriate sexual behaviors identified in their *service* plan, occupy a bedroom either individually or in a group of three or more *BRS clients* who have inappropriate sexual behaviors identified in their *service* plan, unless there is written approval from the *agency*;

(e) Provide separate bedrooms for *BRS clients* and other members of the household unless there is written approval from the *agency*;

(f) Provide separate bedrooms or dormitories for females and males;

(g) Provide physical separation of *BRS clients* served in its *BRS program* from persons housed in a detention facility or youth correction facility;

(h) Provide that at least one door in each bedroom is unlocked at all times;

(i) Provide that at least one door in each dormitory is unlocked at all times, unless the *BRS contractor* or *BRS provider* receives prior written *agency* approval to lock all dormitory doors for eight hours at night; and

(j) Provide a means of egress for *BRS clients* to leave the facility.

(10) *BRS providers* and *BRS contractors* are not required to comply with (9)(b) and (c) of this rule if they provide *services* or *placement related activities* in a dormitory setting.

(11) *BRS Program* Policies and Procedures:

(a) The *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, has the following written policies and procedures, which have been reviewed and approved by the *agency*:

- (A) Admission criteria and standards to accept a *BRS client* into its program;
- (B) Staff training policies and procedures, including child abuse reporting expectations under ORS 419B.005, 419B.010 and 419B.015;
- (C) Policies and procedures related to reviewing referrals to its program and notification of admission decisions;
- (D) A behavior management system policy designed to consistently encourage appropriate behaviors by the *BRS client* in a non-punitive manner;
- (E) A behavioral rehabilitation program model that uses evidence-based or promising practices whenever possible and the curriculum, policies, and procedures which implement that model;
- (F) Policies regarding the *BRS client's* and family's rights, including but not limited to the search and seizure of the *BRS client's* person, property, and mail; visitation and communication; and discharges initiated by the *BRS client*;
- (G) A grievance policy describing the process through which the *BRS client*, and, if applicable, the *BRS client's* parent, guardian or legal custodian may present grievances to the *BRS provider* about its operation and a process to resolve issues;
- (H) A suicide prevention policy and procedure that describes how the *BRS provider* must respond in the event a *BRS client* exhibits self-injurious, self-harm or suicidal behavior. This policy must describe warning signs of suicide; emergency protocol and contacts; training requirements for staff, including suicide prevention training and suicide risk assessment tool training; procedures for determining implementation of additional supervision precautions and for determining removal of additional supervision precautions; suicide risk assessment procedures on the day of intake; documentation requirements for suicide ideation, self-harm, and special observation precautions to ensure immediate communication to all staff; a process for tracking suicide behavioral patterns; and a "post-intervention" plan with identified resources;
- (I) A *seclusion* and *physical restraint* policy that describes when such interventions may be used in compliance with applicable federal and state laws and regulations, including but not limited to requirements for licensed or approved *public* or *private child-caring agencies* and *agency-specific BRS program* rules. Physical restraint or seclusion shall only be used as a last resort, and shall not be used for discipline, punishment, convenience of personnel, or as a substitute for activities, treatment or training. The policy must describe how staff are trained and monitored and who may perform such interventions;
- (J) A medication management policy which complies with applicable licensing requirements and *agency-specific BRS program* rules. At minimum, the policy must describe:
- (i) How and where medications are stored and dispensed; and

(ii) How the *BRS provider* must notify the *caseworker* if the *BRS client* refuses prescribed medications for more than 7 days or refuses a medication that has been identified by any *LPHA* as requiring an immediate report for health care reasons;

(K) A quality improvement policy and procedures that monitor the operation of the *BRS program* to ensure compliance with all applicable laws and regulations, including but not limited to tracking *service* hours, monitoring the timeliness of reporting requirements, and monitoring the quality of *service* delivery;

(b) The *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, reviews and updates its policies and procedures as listed in section (11)(a) of this rule biannually, and has any updated policies and procedures reviewed and approved by the *agency*;

(c) The *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, complies with, and maintains documentation of its compliance, with all policies and procedures described in section (11)(a) of this rule, and with any modifications to their policies and procedures that are required by the *agency*.

(12) Documentation Requirements:

(a) The *BRS contractor* and *BRS provider* must:

(A) Comply with all documentation requirements in OAR 410-120-1360, *BRS program* general rules and *agency*-specific *BRS program* rules;

(B) Use forms reviewed and approved by the *agency* to document the following if required: the *ISP*, the assessment and evaluation report, the *MSP*, the *MSP* 90 day updates, the daily and weekly log for *service* hours, and the invoice form;

(C) Maintain current documentation of its staff's compliance with applicable training, qualifications, and licensing requirements, which must be readily available for on-site review by the *caseworker*, *agency*, and other appropriate licensing or oversight entity;

(D) Create, maintain and update an individualized case file for each *BRS client* either in hard copy or electronically, including but not limited to *service* documentation (*service* plans, weekly *service* type and hour records, and discreet *service* notes), which must be readily available for on-site review by the *BRS provider's direct care staff* and *social service staff*, the *caseworker*, the *agency*, and the appropriate licensing or oversight entity;

(E) Ensure that all documentation about the *BRS client* is written in terms that are easily understood by all persons involved in *service* planning and delivery, including but not limited to the *service* plans, progress notes and reports, assessments, and incident reports; and

(F) Ensure that all documentation (paper or electronic) identifies any corrections made, including the original information, what was corrected or changed, the date of the correction, and who made the correction. White out, eraser tape, electronic deletions or other means of eradicating information to make corrections on documentation may not be used;

(b) Incident Reports: The *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, creates and maintains a record of all incidents and crisis interventions on a form approved by the *agency*, including but not limited to use of *seclusion* and *physical restraint*, a risk to the status or custody of the *BRS client*, or other incidents likely to cause complaints, generate safety, programmatic or other serious concerns, or come to the attention of the media or law enforcement.

(A) Incident reports must contain the following information:

(i) Name of the *BRS client*;

(ii) The date, location, and type of incident or crisis intervention;

(iii) The duration of any *seclusions* or *physical restraints* employed in the context of the incident;

(iv) Name of staff involved in the incident or crisis intervention, including the names of any witnesses;

(v) Description of the incident or crisis intervention, including precipitating factors, preventative efforts employed, and description of circumstances during the incident;

(vi) Physical injuries to the *BRS client* or others resulting from the incident or crisis intervention, including information regarding any follow-up medical care or treatment;

(vii) Documentation showing that any necessary reports were made to the appropriate *agency*, any other entity required by law to be notified, and, as applicable the *BRS client's* parent, guardian or legal custodian;

(viii) Documentation indicating the date that a copy of the incident report was sent to the *caseworker*;

(ix) Actions or interventions taken by program staff;

(x) Any follow-up recommendations for the *BRS client* or staff;

(xi) Any follow-up or investigation conducted by the *BRS contractor* or *BRS provider's* supervisory staff and administrative personnel, *DHS*, *OHA*, *OYA* or other entities; and

(xii) The *BRS contractors* or *BRS provider's* review of the incident or crisis intervention.

(B) The *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, provides immediate verbal notification to the *caseworker*, the *agency's* designated contact, and as applicable the appropriate licensing entity of the following types of incidents: incidents posing a risk to the status or custody of the *BRS client*, and any other incidents that are of a nature serious enough to raise safety, programmatic, or other serious concerns. Verbal notification must be followed up by the submission of a written incident report to the individuals or entities described in this section within 1 business day. Compliance with this notification

requirement does not satisfy child abuse reporting requirements under ORS 419B.005 to 419B.045;

(C) The *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, provides a written incident report within 5 business days to the *caseworker* regarding any use of *seclusion* or *physical restraint* on a *BRS client*;

(D) At the end of each month, the *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, sends copies of all incident reports for that month, not previously submitted under section (12)(b)(B) of this rule, to the designated *agency contact*;

(c) The *BRS contractor* and *BRS provider* must promptly provide documentation to the *agency* upon request or by the deadline specified in a written request, whichever is sooner. The *BRS contractor's* or *BRS provider's* failure to provide the *agency* with the requested documentation by the *agency's* deadline may result in the *agency* pursuing any one or a combination of the sanctions or remedies against the *BRS contractor* described in OAR 410-170-0120 or *agency-specific BRS rules*.

(13) Overnight Absences: The *BRS contractor* must ensure that its program, either operated by itself or by its *BRS provider*, receives prior written approval from the *caseworker* whenever the *BRS client* will be sleeping outside of its program for any reason (such as home visits, camping trips, court appearances, hospital admissions, or detention) excluding cases of emergency:

(a) Initial approval shall be completed at intake and will include information from the *caseworker* documenting any special instructions such as:

(A) Conditions under which an overnight absence from the program would be approved;

(B) Home visit resources that are acceptable;

(C) Any required notifications to the community: victim, court, special interest group, or law enforcement;

(D) Approved and non-approved contacts during absences, as applicable; and

(E) Approved and non-approved activities, as applicable;

(b) After initial approval by the *caseworker*, the *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, notifies the *caseworker* of each upcoming overnight visit at least 2 business days prior to the visit, and provides the following information:

(A) Dates of visit;

(B) Type of visit or activity;

(C) Location of visit or activity; and

(D) Explanation of how any special conditions or requirements will be addressed;

(c) The *BRS contractor* and *BRS provider* shall not permit the *BRS client* to leave the state or country without prior written approval by the *agency*.

(14) Publicly-Operated Community Residences. The *BRS contractor* must ensure that its *BRS program*, either operated by itself or by its *BRS provider*, that provides *services* and *placement related activities* in a publicly-operated community residence does not serve more than 16 residents, unless it receives prior written approval from the *Authority* with a determination that it is not an institution for mental diseases (see definitions in 42 CFR 435.1010).

(15) The *BRS contractor's* Supervision of the *BRS Provider*:

(a) The *BRS contractor* is responsible for monitoring and ensuring that its *BRS providers* comply with all applicable laws and regulations related to the *BRS program*. The *Authority* and *agency* may pursue any sanctions, remedies, or recovery of an overpayment as described in OAR 410-170-0120 or *agency-specific* BRS rules against the *BRS contractor* for failing to monitor and ensure its *BRS providers* are in compliance with all applicable laws and regulations related to the *BRS program*;

(b) The *BRS contractor* is solely responsible for any and all obligations owed to its *BRS provider* under its subcontract or agreement;

(16) The *BRS Contractor's* Supervision of the *Approved Provider Parent*:

(a) The *BRS contractor* must, or must ensure that its *BRS provider*, monitors and ensures that its *approved provider parents* comply with all applicable laws and regulations related to the *BRS program*. The *Authority* and *agency* may pursue any sanctions, remedies, or recovery of an overpayment described in OAR 410-170-0120 or *agency-specific* BRS rules against the *BRS contractor* for failing to monitor and ensure its *approved provider parents* are in compliance with all applicable laws and regulations related to the *BRS program*;

(b) The *BRS contractor* must, or ensure that its *BRS provider*:

(A) Recruits, trains, reimburses, and supports the *approved provider parent* in providing *services* or *placement related activities* to the *BRS client*;

(B) Visits the *approved provider parent's* home a minimum of one time each month for the purposes of supervision, monitoring, training and support;

(C) Provides at minimum the following support services to the *approved provider parent*:

(i) Twenty-four hour back-up services: The *BRS contractor* must, or ensure that its *BRS provider*, have staff available to provide the *approved provider parent* with back-up services at all times (24 hours per day, 7 days a week), which includes on-call services, consultation, and direct crisis counseling. *Approved provider parents* must be given the contact details (names and phone numbers) of the program staff that are available to provide these back-up services;

(ii) Forty eight hours of *respite care*: The *BRS contractor* must provide, or ensure that its *BRS provider* provides, the *approved provider parent* with the opportunity to receive 48 hours per month of time away from *approved provider parent* responsibilities. Daytime supervision and night-time monitoring equivalent to that provided by the *approved provider parent* must be arranged and provided to the *BRS client* during that time;

(c) The *BRS contractor*, or as applicable the *BRS provider*, is solely responsible for any and all obligations owed to the *approved provider parent* under its subcontract or agreement.

(17) Conflict of Interest: The *BRS contractor* must, or ensure that its *BRS provider*, notifies the *agency* in writing when a current employee or newly hired employee is also an employee of the *agency*. The *BRS contractor* must, or ensure that its *BRS provider*, submits the notification to the contract administrator and the *agency's* contracts unit and shall include the name of the employee and their job description. The *agency* must review the employment situation for any actual or potential conflicts of interest as identified under ORS Chapter 244.

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065

410-170-0040

Prior Authorization for the BRS Program; Appeal Rights

(1) The *BRS program* requires prior authorization from the *agency* in accordance with the *Authority's* rules, the general *BRS program* rules and applicable *agency-specific BRS program* rules. A referral by a *LPHA* or *agency* to the *Authority* for prior authorization of the *BRS program* is not a prior authorization.

(2) Prior Authorization Criteria for the *BRS program*:

(a) The *Authority* shall provide prior authorization for the *BRS program* to a person who:

(A) Is enrolled in the Oregon Health Plan (OHP), is eligible for Oregon's *Medicaid* or *CHIP* program, and is eligible for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services, according to the procedures established by the *Authority*;

(B) Has a determination by a *designated LPHA* that the *BRS program* is medically appropriate to meet his or her medical needs;

(C) Is not receiving residential mental health or residential developmental disability services from another governmental unit or entity;

(D) Is a *child* or *young adult*; and

(E) Does not have a current prior authorization for the *BRS program* for the requested time period from *OYA* or the *Department*;

(b) *OYA* or the *Department* may provide prior authorization for the *BRS program* for a person that meets the requirements in its *agency-specific BRS program* rules.

(3) In order to meet the requirement in section (2)(a)(B) of this rule, the *designated LPHA* must determine that the *BRS program* is medically appropriate because the person:

(a) Has a primary mental, emotional or behavioral disorder, or developmental disability that prevents the person from functioning at a developmentally appropriate level in the person's home, school or community;

(b) Demonstrates severe emotional, social and behavioral problems, including but not limited to: drug and alcohol abuse; anti-social behaviors requiring close supervision, intervention and structure; sexual behavioral problems; or behavioral disturbances;

(c) Requires out-of-home behavioral rehabilitation treatment in order to restore or develop the person's appropriate functioning at a developmentally appropriate level in the person's home, school or community;

(d) Is able to benefit from the *BRS program* at a developmentally-appropriate level;

(e) Does not have active suicidal, homicidal, or serious aggressive behaviors; and

(f) Does not have active psychosis or psychiatric instability.

(4) The *Authority* may also request that the *designated LPHA* determine the *BRS type of care* that is medically appropriate for the person. The *designated LPHA* must make that determination based on the following factors, including but not limited to the:

(a) Severity of the person's psychosocial, emotional and behavior disorders;

(b) Intensity and type of *services* that would be appropriate to treat the person;

(c) Type of setting or treatment model that would be most beneficial to the person;

(d) Least restrictive and intensive setting based on the person's treatment history, degree of impairment, current symptoms and the extent of family and other supports; and

(e) Behavior management needs of the person.

(5) The *agency* is not required to provide prior authorization or to make payment for *services* or *placement related activities* under the following circumstances:

(a) The person was not eligible for the *BRS program* at the time *services* or *placement related activities* were provided;

(b) The documentation is not adequate to determine the type, medical appropriateness, or frequency and duration of *services*;

- (c) The *services* or *placement related activities* billed or provided are not consistent with the information submitted when the prior authorization was requested;
- (d) The *services* or *placement related activities* billed are not consistent with those provided;
- (e) The *services* or *placement related activities* were not provided within the timeframe specified on the notice of prior authorization;
- (f) The *BRS program* is not covered under the person's medical assistance package;
- (g) The *services* or *placement related activities* were not authorized or provided in compliance with the *BRS program* general rules, *agency-specific BRS program* rules, or applicable DMAP General Rules (OAR 410-120-0000 to 410-120-1920);
- (h) The person does not meet the prior authorization requirements as stated above;
- (i) The *BRS contractor* or *BRS provider* was not eligible to receive reimbursement through the *BRS program* at the time the *services* or *placement related activities* were provided; or
- (j) The person's needs could be better met through another system of care, the individual is eligible for services under that system of care; the individual has been given notice of that eligibility; and the services necessary to support a successful transition to the alternate system of care have been provided.

(6) Retroactive Eligibility and Authorization:

(a) In those instances when the *BRS client* is made retroactively eligible for the *BRS program*, the *agency* may grant prior authorization if:

(A) The *BRS contractor* or *BRS provider* received preliminary approval from the *agency* prior to admitting the *BRS client* into its program while the prior authorization process was pending;

(B) The *BRS client* met all prior authorization criteria and eligibility requirements on the date that the *services* and *placement related activities* were provided;

(C) The *BRS provider* delivered the *services* and *placement related activities* in accordance with all applicable *BRS program* general rules and *agency-specific BRS program* rules; and

(D) Prior authorization was retroactively approved by the *agency* within 5 business days from the date that the *BRS client* was admitted into the *BRS provider's* program;

(b) Prior authorization after 5 business days from the date the *BRS client* was admitted into the *BRS contractor's* or *BRS provider's* program requires documentation that prior authorization could not have been obtained within those 5 business days.

(7) Prior authorization is valid for the time period specified on the *agency's* prior authorization notice, but is not to exceed 12 months from the date on the notice, unless the *BRS client* is no

longer eligible for a medical assistance program that covers the *BRS program*, in which case the authorization shall terminate on the date coverage ends.

(8) The *BRS contractor* is responsible for ensuring that there is a prior authorization from the *agency* for the *BRS client* in advance of providing the *services* or *placement related activities* for the applicable time period unless section (6) of this rule applies.

(9) If a person is denied prior authorization for the *BRS program* under section (2)(a) of this rule, OAR 413-090-0075(1)(a), or OAR 416-335-0040(1)(a), the person is entitled to notice and contested hearing rights under OAR 410-120-1860 and 410-120-1865. The contested case hearing shall be held by the *Authority*.

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065

410-170-0050

Program Referrals and Admission to BRS Provider

(1) After the *BRS client* has received prior authorization for the *BRS program*, the *agency* shall refer the *BRS client* for admission to one or more *BRS contractors* or *BRS providers* that provide the appropriate *BRS type of care*.

(2) The *agency* shall provide the *BRS contractor*, or as applicable the *BRS provider*, with the following documents in the *BRS client's* referral packet:

(a) Information identifying the person or entity with legal authority over the *BRS client*, which may be the *BRS client's* parent, guardian or legal custodian;

(b) Any prior evaluations, assessments, or other documents that provide background information about the *BRS client* or that support the need for the *BRS client's* current level of services; and

(c) The *caseworker's* case plan describing necessary services or similar planning form for the *BRS client*.

(3) The *BRS contractor*, or as applicable the *BRS provider*, must make admission decisions for the *BRS client* based on its *agency*-approved written admission criteria unless provided with written authorization from the *agency* to accept a *BRS client* who does not meet its admission criteria.

(4) The *BRS contractor*, or as applicable the *BRS provider*, shall not deny an eligible *BRS client* admission to its program if a vacancy exists within the program at the time of referral and the *BRS client* meets its *agency*-approved admission criteria, unless it receives written approval from the referring *agency*.

(5) The *BRS contractor* must not, and ensure its *BRS providers* do not, deny an eligible *BRS client* admission to its program for any of the following reasons:

- (a) The presence or absence of family members to support the placement;
- (b) The race, religion, sexual orientation, color, or national origin of the *BRS client* involved;
- (c) The *BRS client's* place of residence; or
- (d) The absence of an identified after-care resource.

(6) The *BRS contractor* must, or must ensure its *BRS provider*, notifies the *caseworker* of its admission decision within 5 business days of receiving the *BRS client's* referral packet, unless an earlier timeframe is required in *agency-specific* BRS rules. If the *BRS provider* denies admission to the *BRS client*, then it must provide the *caseworker* with a written explanation.

(7) The *BRS contractor* must, or must ensure its *BRS provider*, maintains documentation (either electronically or in hard copy) of all its admission decisions for *BRS clients* referred by an *agency* or *BRS contractor*, which includes the following:

- (a) The name of the *BRS client* referred;
- (b) The date the referral was received;
- (c) The reason the referral was accepted or denied; and
- (d) The date the referral was responded to in writing.

(8) Intake Procedures:

(a) On the day that the *BRS client* is physically admitted to the *BRS contractor's* or *BRS provider's* program, its staff must provide the *BRS client* and, as applicable, the *BRS client's* parent, guardian or legal custodian, with copies of the following policies:

- (A) Behavior management system policy;
- (B) Grievance policy;
- (C) *BRS client's* and family's rights policies, including but not limited to visitation and communication policies and the policies regarding the search and seizure of the *BRS client's* person, property, and mail;
- (D) Discharge polices, including but not limited to a discharge initiated by the *BRS client*;
- (E) *Seclusion* and *physical restraint* policies;
- (F) Suicide prevention policy and procedures; and

(G) Medication management policy;

(b) The *BRS contractor* must ensure its program, either operated by itself or by its *BRS provider*, maintains signed documentation indicating that the *BRS client* and, as applicable, the *BRS client's* parent, guardian or legal custodian received and understood the information described in section (8)(a) of this rule;

(c) If any of the policies described in section (8)(a) of this rule are individualized for a particular *BRS client* and differ from the program's standard documented practices, these variations shall be explained and documented, and included in or attached to the *BRS client's* service plan;

(d) If the *BRS client's* parent, guardian or legal custodian is unavailable at the time of admission, the *BRS contractor* must ensure its program, either operated by itself or by its *BRS provider*, documents in the *BRS client's* case file that it has forwarded this information to the *BRS client's* parent, guardian or legal custodian by facsimile, mail or electronic mail within 48 hours of the *BRS client's* admission to the program;

(e) The *agency* is responsible for notifying the *BRS contractor* or *BRS provider* of any changes to the information described in section (2) of this rule. In addition, the *agency* must provide the *BRS contractor* or *BRS provider* with the following information;

(A) Applicable written authorizations by the *BRS client* or the *BRS client's* parent, guardian or legal custodian consenting to the *BRS client's* participation in the *BRS program*;

(B) If applicable, the prepaid health plan or coordinated care organization in which the *BRS client* is enrolled;

(C) The *BRS client's* current medical information, medication regime, and other medical needs; and

(D) If applicable, the *BRS client's* school information, parental contact information, or similar types of information.

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065

410-170-0060

Discharge from the BRS Contractor or BRS Provider

(1) Discharge initiated by the *BRS client*:

(a) The *BRS client's* participation in the *BRS program* is voluntary. The *BRS contractor* must, or ensure its *BRS provider*, develops and follows a process that allows the *BRS client* to provide no more than 3 business days advance notice of his or her decision to leave the *BRS contractor's* or *BRS provider's* program. If the *BRS client* wants to be discharged from the program, the *BRS*

client is only required to provide the *BRS contractor* or *BRS provider* with 3 business days advance notice;

(b) If the *BRS client* wants to be discharged from the program, the *BRS client* must give the *BRS contractor* or *BRS provider* notice that complies with the policy described above. After receiving that notice, the *BRS contractor* or *BRS provider* must provide immediate verbal notification within 1 business day to the *caseworker* and the *agency's* designated contact and, if applicable, the *BRS client's* parent, guardian or legal custodian to allow for alternate placement arrangements. The *BRS contractor* or *BRS provider* must provide written notification to the *caseworker* and the *agency's* designated contact within 1 business day of its verbal notification.

(2) Planned discharge initiated by the *BRS contractor*, *BRS provider*, or the *agency*:

(a) Initiated by the *BRS contractor* or *BRS provider*:

(A) The *BRS contractor* or *BRS provider* must notify the *caseworker* in writing as soon as reasonably practicable regarding its intent to initiate the planned discharge of the *BRS client* from its program;

(B) Following notification, the *BRS contractor* or *BRS provider* and *caseworker* shall meet to discuss the case. If a discharge date can be agreed upon, the *BRS client* shall be discharged on that date. If they cannot agree, the *caseworker* shall remove the *BRS client* from the program within 30 days from the original written notice to the *caseworker*, resulting in the *BRS client's* planned discharge;

(b) Initiated by the *agency*:

(A) The *BRS client's caseworker* must notify the *BRS contractor* or *BRS provider* in writing as soon as reasonably practicable regarding the *agency's* intent to initiate the planned discharge of the *BRS client* from its program;

(B) Following notification, the *caseworker* and the *BRS contractor* or *BRS provider* must meet to discuss the case. If a discharge date can be agreed upon, the *BRS client* must be discharged on that date. If they cannot agree, the *caseworker* may remove the *BRS client* from the program resulting in the *BRS client's* planned discharge.

(3) Emergency Discharge:

(a) Initiated by the *BRS contractor* or *BRS provider*:

(A) The *BRS contractor* or *BRS provider* may request the immediate discharge of a *BRS client* from its program if, after contact with the *agency* staff, there is mutual agreement that the *BRS client* is a clear and immediate danger to self or others. In such situations, the *caseworker* must consider the notification a priority and respond to the *BRS contractor* or *BRS provider* as soon as practicable but no later than one business day;

(B) The *BRS contractor* or *BRS provider* and *caseworker* must discuss the *BRS client's* continuation in, temporary removal or discharge from the program;

(b) Initiated by the *agency*: The *agency* may immediately remove the *BRS client* from the *BRS contractor's* or *BRS provider's* program for any reason, resulting in the *BRS client's* emergency discharge;

(c) Initiated by the parent or guardian: A parent or guardian with appropriate legal authority, as determined by the *agency*, may immediately remove the *BRS client* from the *BRS contractor's* or *BRS provider's* program, resulting in the *BRS client's* emergency discharge.

(4) Discharge from a particular program does not impact a *BRS client's* prior authorization for the *BRS program* generally. A *BRS client* may be referred to another *BRS contractor* or *BRS provider* or request re-referral to the same program, as long as the prior authorization remains valid and the *BRS client* remains eligible for the *BRS program*.

(5) Temporary Removal: The *agency* may temporarily remove the *BRS client* for any reason without resulting in a discharge from the *BRS contractor's* or *BRS provider's* program.

(6) Storage of the *BRS client's* personal property:

(a) The *BRS contractor* or *BRS provider* must store property belonging to the *BRS client* in its program for up to 30 days in a secure location following discharge, when the *BRS client* exits the program without his or her property;

(b) The *BRS contractor* or *BRS provider* must contact the *BRS client's caseworker* as soon as possible to make arrangements for the property to be retrieved. If the property has not been retrieved by the 15th day following discharge, the *BRS contractor* or *BRS provider* must contact the *caseworker* once more in order to remind them of the need to retrieve the property by the 30th day.

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065

410-170-0070

BRS Service Planning

(1) *Initial Service Plan (ISP)*:

(a) The *BRS contractor* or *BRS provider* must:

(A) Ensure that a *social service staff* member completes a written *ISP* within two business days of the *BRS client's* admission to its program;

(B) Provide an opportunity for the following individuals to participate in developing the *BRS client's ISP*, including but not limited to: the *BRS client*, the *BRS client's family*, *social service staff*, the *BRS client's caseworker* and any other significant persons involved with the *BRS client*;

(C) Obtain and maintain the signatures of all participants or documentation that the individuals listed in section (1)(a)(B) of this rule were provided with the opportunity to participate in developing the *ISP*;

(D) Obtain written approval of the *ISP* prior to its implementation from the *caseworker* and, as applicable and appropriate, the *BRS client* and the *BRS client's parent*, guardian or legal custodian; and

(E) Provide the *services* identified in the *ISP* during the first 45 days in the *BRS provider's* program or until the *MSP* is written;

(b) The *BRS contractor* or *BRS provider* must ensure that the *ISP* is individualized, developmentally appropriate, and based on a thorough assessment of the *BRS client's* referral information, and include at minimum the following:

(A) A plan to address specific behaviors identified in the referral information including the intervention to be used;

(B) A plan for any overnight home visits;

(C) The anticipated discharge date;

(D) The anticipated type of placement at discharge;

(E) A plan to address any needs identified in the referral information;

(F) Existing orders for medication and any prescribed treatments for medical conditions, mental health conditions, or substance abuse;

(G) Any type of behavior management system that will be used as an intervention; and

(H) Specific behavior management needs.

(2) Assessment and Evaluation Report (AER):

(a) The *BRS contractor* or *BRS provider* must:

(A) Ensure that a *social service staff* member conducts a comprehensive assessment of the *BRS client* and completes a written AER; and

(B) Submit the written AER to the *caseworker* within 30 days of the *BRS client's* admission to its program;

(b) The *BRS contractor* or *BRS provider* must ensure that the AER includes information about the *BRS client* with regard to the following domains:

- (A) Legal custody and basis for custody;
- (B) Medical information including prescribed medications and dosages;
- (C) Family information including specific cultural factors;
- (D) Mental health information;
- (E) Alcohol and drug use both current and historical;
- (F) Educational needs;
- (G) Vocational needs;
- (H) Social living skills; and
- (I) Placement plans including home visits, anticipated discharge date, and placement resources;

(c) The *BRS contractor* or *BRS provider* must ensure that the AER describes the following:

- (A) Identified problems, reason for referral or placement, and pertinent historical information;
- (B) The *BRS client's* behaviors, response to current *services*, and strengths and assets;
- (C) Significant incidents or interventions or both;
- (D) The behavior management level needed for the *BRS client*, specifically any behavior management needs greater than usual for its program;
- (E) Identification of any *service* goals; and
- (F) Identified needs by assessment and history.

(d) Abbreviated AERs:

(A) Upon the request of the *caseworker*, the *BRS contractor* or *BRS provider* must submit an abbreviated AER regarding the *BRS client's* current status by the deadline stated in the written request;

(B) If a *BRS client* is transferred to the current *BRS program* from another *BRS program* and the *BRS client's* most recent AER is less than 90 days old, the current *BRS contractor* or *BRS provider* may submit an abbreviated AER to the *caseworker* within 30 days of the *BRS client's* transfer to its program;

(C) The *BRS contractor* or *BRS provider* must ensure an abbreviated AER includes at minimum the information in section (2)(b)(A) of this rule and any other specific information requested by the *caseworker*. If the information is available, the *BRS contractor* or *BRS provider* must also include the information in section (2)(b)(B) through (D) of this rule;

(3) *Master Service Plan (MSP)*:

(a) The *BRS contractor* or *BRS provider* must:

(A) Ensure that a *social service staff* member completes a written individualized *MSP* within 45 days of the *BRS client's* admission to its program;

(B) Provide the opportunity for the individuals listed in section (1)(a)(B) of this rule to participate in developing the *BRS client's MSP*;

(C) Obtain and maintain the signatures of all participants or documentation that the individuals listed in section (1)(a)(B) of this rule were provided with the opportunity to participate in developing the *MSP*;

(D) Obtain written approval of the *MSP* prior to its implementation from the *caseworker* and, as applicable and appropriate, the *BRS client* and the *BRS client's* parent, guardian or legal custodian; and

(E) Provide the *services* identified in the *MSP*;

(b) The *BRS contractor* or *BRS provider* must ensure that the *MSP* includes goals that are measurable and attainable within a specified time frame, and address at minimum the following domains where need is indicated by the *BRS client's* assessment and history:

(A) Legal custody and basis for custody;

(B) Medical information including medications and dosages;

(C) Family information including specific cultural factors;

(D) Mental health information;

(E) Alcohol and drug use both current and historical;

(F) Educational needs;

(G) Vocational needs;

(H) Social living skills;

(I) Placement plans including home visits, anticipated discharge date, and placement resources;

(J) Other needs identified in the *BRS client's* AER that do not fall in one of the other identified domains above; and

(K) Completion criteria individualized for each *BRS client*. Completion is defined by progress in acquiring pro-social behaviors, attitudes, and beliefs while in the program, and not engaging in behavior that seriously jeopardizes the safety of staff and other program participants;

(c) The *BRS contractor* or *BRS provider* must ensure that the *MSP* is individualized and developmentally appropriate, and includes:

(A) Specifically stated and prioritized *service* goals for the *BRS client* that include the *caseworker's* recommendations and goals that the *BRS client* wants to achieve;

(B) Specific interventions and *services* its program shall provide to address each goal, including the use of a behavior management system as an intervention and any behavior management needs that are greater than usual for the program;

(C) Staff responsible for providing the identified *services*;

(D) Specifically stated behavioral criteria for evaluating the achievement of goals;

(E) A timeframe for the completion of goals;

(F) The method used to monitor the *BRS client's* progress towards completing goals and the person responsible for monitoring progress; and

(G) Aftercare and transition goals and planning;

(d) The *BRS contractor* or *BRS provider* must identify in the *MSP* those needs identified in a *BRS client's* AER that will be addressed by an outside provider and identify that provider. The *BRS contractor* or *BRS provider* must also facilitate the *BRS client's* access to other providers whenever needs identified in the AER cannot be met within the scope of the *services* offered by its program;

(e) The *BRS contractor* or *BRS provider* must also describe in the *MSP* any plan for the *BRS client* to participate in overnight home visits, including but not limited to documenting when the home visits are to occur, identifying the frequency of the visits (up to a maximum of 8 days per month), and describing how the visits relate to the *BRS client's* goals identified in the *MSP*. The *BRS contractor* or *BRS provider* must make every attempt to schedule home visits so that they do not conflict with *services*. Any deviation from the approved home visit plan requires prior written approval from the *agency*.

(4) *Master Service Plan* 90 Day Updates:

(a) The *BRS contractor* or *BRS provider* must:

(A) Ensure that a *social service staff* member reviews and updates in writing the *BRS client's MSP* no later than 90 days from the date the *MSP* was first finalized or the last time it was updated, and every 90 days thereafter. *Social service staff* must review the *MSP*, and update it in writing if necessary, earlier whenever additional information becomes available that suggests that other *services* should be provided;

(B) Provide the opportunity for the individuals listed in section (1)(a)(B) of this rule to participate in developing the *BRS client's MSP* updates;

(C) Obtain and maintain the signatures of all participants or documentation that the individuals listed in section (1)(a)(B) of this rule were provided with the opportunity to participate in developing the *MSP* updates;

(D) Obtain written approval of an updated *MSP* prior to its implementation from the *caseworker* and, as applicable and appropriate, the *BRS client* and the *BRS client's* parent, guardian or legal custodian; and

(E) Provide the *services* identified in the most recent *MSP* update;

(b) The *BRS contractor* or *BRS provider* must ensure that the written update to the *MSP* is individualized and developmentally appropriate, and includes at minimum the following:

(A) The *BRS client's* progress towards achieving *service* goals;

(B) The *BRS client's* performance on the behavior management system;

(C) The *BRS client's* performance on any individualized plans developed to address specific behaviors;

(D) Any modifications to *services* based on the *BRS client's* new behaviors or identified needs;

(E) Any changes regarding recommendations, the discharge date, or aftercare and transition plans; and

(F) A summary of incidents involving the *BRS client* that have occurred since the last time the *MSP* was updated.

(5) Aftercare and Transition Plan (ATP):

(a) The *BRS contractor* or *BRS provider* must:

(A) Ensure that a *social service staff* member develops and completes a written ATP at least 30 days prior to or as close as possible to the *BRS client's* planned discharge;

(B) Provide the opportunity for the individuals listed in section (1)(a)(B) of this rule and members of the *service* planning team to participate in developing the *BRS client's* written ATP;

(C) Obtain and maintain the signatures of all participants or documentation that the individuals listed in section (1)(a)(B) of this rule and members of the *service* planning team were provided with the opportunity to participate in developing the written ATP;

(D) Provide a copy of the written ATP to the individuals described in section (1)(a)(B) of this rule and members of the *service* planning team; and

(E) Obtain written approval of the written ATP from the *caseworker* and, as applicable and appropriate, the *BRS client* and the *BRS client's* parent, guardian or legal custodian;

(b) The *BRS contractor* or *BRS provider* must ensure that the written ATP describe how the *BRS client* will successfully transition from its program to the community, specifically addressing the period of 90 days after discharge from its program. The *BRS contractor* or *BRS provider* must ensure that the written ATP includes, at minimum, the following:

(A) Identification of the *BRS client's* individual needs and unmet goals;

(B) Identification of the aftercare services and supports outside of its program that will be available for the 90-day time period;

(C) Identification of the person or entity responsible for providing the aftercare services; and

(D) Schedule for regular telephone contact by *BRS provider* staff with the *BRS client* and, as applicable, the *BRS client's* family, *caseworker* or other identified significant persons;

(c) The *BRS contractor* or *BRS provider* shall not be required to provide an initial and final written ATP under the following circumstances:

(A) The *agency*, legal guardian, or custodian removes the *BRS client* from the program with little or no advance notice and in a manner not in accordance with the existing ATP;

(B) The *BRS client* is discharged from the program on an emergency basis due to the *BRS client's* behavior, runaway status without a plan to return to the program, or transfer to another program or higher level of care; or

(C) The *BRS client* initiates an immediate voluntary discharge from the program.

(6) Discharge Summary: The *BRS contractor* or *BRS provider* must ensure that a *social service staff* member completes and provides a written discharge summary to the *caseworker* within 15 days following the *BRS client's* planned or actual discharge from its program. The discharge summary must include the *BRS client's* progress towards *service* goals.

(7) Aftercare Summary: The *BRS contractor* or *BRS provider* must ensure that a *social service staff* member completes and provides a written aftercare summary to the *caseworker* within 120 days following the *BRS client's* discharge from its program. An aftercare summary is not required if the *BRS provider* was not required to complete an ATP. The aftercare summary must summarize the *BRS client's* status and progress on the ATP for the 90 days following the *BRS*

client's discharge from the *BRS provider*, including but not limited to the *BRS client's* adjustment to the community and any further recommendations.

(8) Notwithstanding sections (5) through (7) of this rule, the *BRS contractor* or *BRS provider* is not required to complete an ATP, discharge summary and aftercare summary for the *BRS clients* receiving *services* and *placement related activities* in the following *BRS types of care*:

- (a) Shelter, Assessment and Evaluation;
- (b) Intensive Community Care; and
- (c) Independent Living Service.

(9) Independent Living Program: A *BRS contractor* or *BRS provider* that provides *services* and *placement related activities* in an Independent Living Program:

- (a) Is not required to complete an *ISP*, AER, ATP, and aftercare summary for the *BRS clients* in its program, notwithstanding sections (1), (2) and (5) through (7) of this rule; and
- (b) Must complete an *MSP*, the *MSP* updates and a discharge summary for the *BRS clients* in its program consistent with the requirements in sections (3) and (4) of this rule, and the additional requirements for a *master service plan - transition* and the *master service plan – transition* updates as described in OAR 416-335-0060.

(10) Short-Term Stabilization Program: A *BRS contractor* or *BRS provider* that provides *services* and *placement related activities* in a Short-Term Stabilization Program:

- (a) Is not required to complete an *ISP* and aftercare summary for the *BRS clients* in its program, notwithstanding sections (1) and (7) of this rule;
- (b) Must complete an AER for the *BRS clients* in its program consistent with the requirements in section (2) of this rule, except in cases where the *BRS client* is not expected to remain in its program for more than 30 days;
- (c) Must complete an ATP for the *BRS clients* in its program consistent with the requirements in section (5) of this rule except for those in section (5)(b)(D), and must complete the additional requirements for an aftercare and transition plan – stabilization in OAR 416-335-0070 for *BRS clients* who are being discharged home or into a non-BRS foster care placement; and
- (d) Must complete a *MSP* and the *MSP* updates for the *BRS clients* in its program consistent with the requirements in sections (3) and (4) of this rule, and the additional requirements for a *master service plan – stabilization* and the *master service plan – stabilization* updates as described in OAR 416-335-0070.

(11) Documentation: The *BRS contractor* or *BRS provider* must ensure that all *BRS service plans* described in this rule are developed and maintained in the *BRS client's* case file in accordance with the timeframes and criteria in this rule, unless otherwise exempted.

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065

410-170-0080

Services

(1) The *BRS contractor* or *BRS provider* must provide *services* to the *BRS client* in accordance with the *BRS client's ISP* or *MSP*.

(2) All *services* must be structured and directly supervised by the *BRS contractor* or *BRS provider's* staff.

(3) Types of *Services*:

(a) Crisis counseling: The *BRS contractor* or *BRS provider* provides the *BRS client* with counseling on a 24-hour basis in order to stabilize the *BRS client's* behavior until the problem can be resolved or assessed and treated by a qualified mental health professional or licensed medical practitioner;

(b) Individual and group counseling: The *BRS contractor* or *BRS provider* provides face-to-face individual or group counseling sessions to the *BRS client* which are designed to remediate the problem behaviors identified in the *BRS client's ISP* or *MSP*;

(c) Milieu therapy: The *BRS contractor* or *BRS provider* provides the *BRS client* with structured activities and planned interventions designed to normalize psycho-social development, promote safety, stabilize environment, and assist in responding in developmentally appropriate ways. The program's staff must monitor the *BRS client* in these activities, which include developmental, recreational, academic, rehabilitative, or other productive work. Milieu therapy occurs in concert with one of the other types of *services*;

(d) Parent training: *Direct care staff* or *social service staff* provide planned activities or interventions (face-to-face or by telephone) to the *BRS client's* family or identified aftercare resource family. Parent training is designed to assist the family in identifying the specific needs of the *BRS client*, to support the *BRS client's* efforts to change, and to improve and strengthen parenting knowledge or skills indicated in the *ISP* or *MSP* as being necessary for the *BRS client* to return home or to another community living resource;

(e) Skills-training: The *BRS contractor* or *BRS provider* provides the *BRS client* with planned, curriculum-based individual or group sessions designed to improve specific areas of functioning in the *BRS client's* daily living as identified in the *ISP* or *MSP*. Skills-training may be designed to develop appropriate social and emotional behaviors, improve peer and family relationships, improve self-care, encourage conflict resolution, reduce aggression, improve anger control, and reduce or eliminate impulse and conduct disorders;

(4) The *BRS contractor* or *BRS provider* must:

(a) Provide a combination of *services* necessary to comply with the *BRS client's ISP* or *MSP* and the requirements in OAR 410-170-0090 for the appropriate *BRS type of care*;

(b) Create and maintain written documentation describing the *services* provided to each *BRS client* which includes at a minimum the following information:

(A) Name of the *BRS client*;

(B) Date of *service*;

(C) Name and position of the staff member providing the *service* to the *BRS client*;

(D) Length of time staff spent providing the *service* to the *BRS client*;

(E) Description of the *service* provided; and

(F) Description of the *BRS client's* participation in the *service*;

(c) Create and maintain a written weekly record in each *BRS client's* case file with the total number of *service* hours provided each day to the *BRS client* and a breakdown of the number of hours spent providing each particular type of *service* described in section (3) of this rule; and

(d) Ensure that that *social service staff* review the documentation described in this section each week for quality, content, and appropriateness with the *BRS client's ISP* or *MSP*.

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065

410-170-0090

BRS Types of Care

The *BRS types of care* are as follows:

(1) Shelter Assessment and Evaluation, Intensive Community Care, Independent Living Service, Community Step-Down, and Independent Living Program:

(a) The *BRS contractor* or *BRS provider* may use either a *residential care model* or *therapeutic foster care model* for these *BRS types of care*;

(b) The *BRS client* is placed in these *BRS types of care* to identify deficiencies and develop necessary skills;

(c) The *BRS contractor* or *BRS provider* providing one of these *BRS types of care* must ensure that a minimum of six hours of *services* are available per week to each *BRS client* as follows;

(A) One hour of individual counseling or individual skills-training provided by *social service staff*; and

(B) Five hours of any combination of individual or group counseling, crisis counseling, skills-training, or parent training.

(2) Therapeutic Foster Care, BRS Proctor and Multidimensional Treatment Foster Care:

(a) The *BRS contractor* or *BRS provider* must use a *therapeutic foster care model* for these *BRS types of care*;

(b) The *BRS client* placed in these *BRS types of care* requires structure, behavior management, and support services to develop the skills necessary to be successful in a less restrictive environment;

(c) The *BRS contractor* or *BRS provider* providing one of these *BRS types of care* must ensure that a minimum of 11 hours of *services* are available per week to each *BRS client* as follows:

(A) Two hours of individual counseling or individual skills-training, one of which is provided by *social service staff*; and

(B) Nine hours of any combination of individual or group counseling, crisis counseling, skills-training, or parent training.

(3) BRS Proctor Day Treatment:

(a) The *BRS contractor* or *BRS provider* must use a *therapeutic foster care model* for this *BRS type of care* and provide skills-training in a day treatment setting;

(b) The *BRS client* placed in this *BRS type of care* requires enhanced structure during the day time hours. This level of care provides the structure of day treatment for necessary skill development and a less restrictive home setting with an *approved provider parent*;

(c) The *BRS contractor* or *BRS provider* providing this *BRS type of care* must ensure that a minimum of eleven hours of *services* are available per week to each *BRS client* as follows:

(A) Two hours of either individual counseling or individual skills-training, one of which is provided by *social service staff*; and

(B) Nine hours of individual or group counseling, crisis counseling, skills-training, or parent training;

(4) BRS Basic Residential, BRS Rehabilitation Services:

(a) The *BRS contractor* or *BRS provider* must use a *residential care model* for these *BRS types of care*. The *BRS contractor* or *BRS provider* must provide 24 hour supervision of the *BRS client* by

ensuring that at least one *direct care staff* is on duty and awake whenever a *BRS client* is present in its program;

(b) The *BRS client* placed in these *BRS types of care* requires the structure, behavior management, and support services of a *residential care model* for necessary skill development;

(c) The *BRS contractor* or *BRS provider* providing these *BRS types of care* must ensure that a minimum of eleven hours of *services* are available per week to each *BRS client* as follows:

(A) Two hours of either individual counseling or individual skills-training, one of which is provided by *social service staff*; and

(B) Nine hours of any combination of individual or group counseling, crisis counseling, skills-training, or parent training.

(5) Intensive Rehabilitation Services, BRS Residential, BRS Enhanced, Short-Term Stabilization Program:

(a) The *BRS contractor* or *BRS provider* must use a *residential care model* for these *BRS types of care*. The *BRS contractor* or *BRS provider* must provide 24-hour supervision of the *BRS client* by ensuring that at least one *direct care staff* is on duty and awake whenever a *BRS client* is present in its program;

(b) The *BRS client* placed in these *BRS types of care* requires more intensive structure, behavior management and support services than a *BRS client* in the *BRS types of care* described in section (4) of this rule;

(c) The *BRS contractor* or *BRS provider* providing one of these *BRS types of care* must ensure that a minimum of 11 hours of *services* are available per week to each *BRS client* as follows:

(A) Two hours of either individual counseling or individual skills-training, one of which is provided by *social service staff*; and

(B) Nine hours of any combination of individual or group counseling, crisis counseling, skills-training, or parent training.

(6) Enhanced Therapeutic Foster Care:

(a) The *BRS contractor* or *BRS provider* must use a *therapeutic foster care model* for this *BRS type of care*;

(b) The *BRS client* placed in this *BRS type of care* can be maintained in a home of an *approved provider parent* with structure, behavior management and enhanced supports. The *BRS client* placed in this *BRS type of care* has difficulty in a group setting and requires a placement utilizing a *therapeutic foster care model*;

(c) The *BRS contractor* or *BRS provider* providing this *BRS type of care* must ensure that a minimum of 13 hours of *services* are available per week to each *BRS client* as follows:

(A) Two hours of either individual counseling or individual skills-training, one of which is provided by *social service staff*, and

(B) Eleven hours of any combination of individual or group counseling, crisis counseling, skills-training, or parent training.

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065

410-170-0100

Placement Related Activities for the Authority's BRS Contractors and BRS Providers

(1) In cases where the *Authority* is the *agency*, the *BRS contractor* or *BRS provider* must provide the following *placement related activities*, and all facilities, personnel, materials, equipment, supplies and services, and transportation necessary to provide those activities including but not limited to:

(a) Transportation: The *BRS contractor* or *BRS provider* is responsible for the transportation of the *BRS client* to: attend school, to the extent not provided by the school district; medical, dental, and therapeutic appointments, to the extent not provided through the Oregon Health Plan; recreational and community activities; places of employment; and shopping for incidental items;

(b) Educational and vocational activities: The *BRS contractor* or *BRS provider* must have a system in place to meet the educational and vocational needs of the *BRS client* in its program either on-site or at an off-site location or a combination of the two;

(c) Recreational, social, and cultural activities:

(A) The *BRS contractor* or *BRS provider* shall provide recreation time for the *BRS client* on a daily basis, and offer activities that are varied in type to allow *BRS clients* to obtain new experiences. The *BRS contractor* or *BRS provider* shall document recreation as having been provided, by recording the type of activity the *BRS client* participated in, and the date it occurred;

(B) The *BRS contractor* or *BRS provider* shall provide each *BRS client* 2 to 3 opportunities per week to participate in recreational activities in the community, unless the *BRS client* is clearly unable to participate in offsite activities due to safety issues. If a *BRS client* is restricted from participation in community recreation, the *BRS contractor* or *BRS provider* shall document the reason in the *BRS client's* case file, and the reason must be reviewed regularly to ensure that the *BRS client* is not unnecessarily restricted from offsite activities. The *BRS contractor* or *BRS provider* shall offer any *BRS client* who is restricted from community activities alternative opportunities for recreation on-site;

(C) The *BRS contractor* or *BRS provider* shall provide access to or make available social and cultural activities for the *BRS clients* as part of the therapeutic milieu of the program. These activities are to promote the *BRS client's* normal development and help broaden the *BRS client's* understanding and appreciation of the community, arts, environment and other cultural groups;

(D) The *BRS contractor* or *BRS provider* may not permit *BRS clients* to participate in recreational activities that present a higher level of risk to *BRS clients* without pre-approval by the *caseworker*. This applies to activities that require a moderate to high level of technical expertise to perform safely, present environmental hazards, or where special certification or training is recommended or required such as: whitewater rafting, rock climbing, ropes courses, activities on or in any body of water where a certified lifeguard is not present and on duty, camping, backpacking, mountain climbing, using motorized yard equipment, and horseback riding;

(d) Academic Assistance: The *BRS contractor* or *BRS provider* shall provide adequate opportunities for the *BRS clients* to complete homework assignments with assistance from staff if needed.

(2) Non BRS-Related Medical Care:

(a) If there is no record that the BRS client has received a physical examination within the six months immediately prior to the *BRS client's* placement with its program, the *BRS contractor* or *BRS provider* shall ensure or make every effort to ensure that the *BRS client* receives a general medical check, consistent with health insurance allowances, within 30 days of placement. The *BRS contractor* or *BRS provider* shall keep documentation of this procedure in the *BRS client's* file and send a copy to the *BRS client's caseworker*;

(b) The *BRS contractor* or *BRS provider* shall ensure that each *BRS client's* mental health, physical health, (including alcohol and drug treatment services), dental and vision needs are arranged for. This does not include paying the cost of services or medications which are covered by the Oregon Health Plan (OHP) or by the *BRS client's* third party private insurance coverage. For services or medications not covered by OHP or third party private insurance, the *BRS contractor* or *BRS provider* must notify and work with the *caseworker* to resolve payment issues;

(c) The *BRS contractor* or *BRS provider* shall administer and monitor medications consistent with all applicable licensing rules and the program's own medication management policy;

(d) The *BRS contractor* or *BRS provider* shall facilitate the *BRS client's* access to other providers whenever identified needs cannot be met within the scope of *services* offered by the program. If health care services are needed but the program is unable to access the needed services for the *BRS client*, the *BRS contractor* or *BRS provider* shall immediately notify the *caseworker* about this in writing and document its unsuccessful efforts to access healthcare for the *BRS client* in the *BRS client's* case file.

(3) The *Authority's BRS contractor*, if not also the *BRS provider*, is responsible for ensuring its *BRS provider* provides the *placement related activities* to the *BRS client* as described in this rule.

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065

410-170-0110

Billing and Payment for Services and Placement Related Activities

(1) The *BRS contractor* is compensated for a *billable care day* (*service and placement related activities rates*) on a fee-for-service basis, except as otherwise provided for in these rules. The *Authority* does not make payments for any calendar day that does not meet the definition of a *billable care day* under this rule.

(2) *Billable care day* rates are provided in the “BRS Rates Table”, dated January 1, 2014, which is adopted as Exhibit 1 and incorporated by reference into this rule. The BRS Rates Table is available at www.dhs.state.or.us/policy/healthplan/guides/brs/main.html. A printed copy may be obtained from the *agency*.

(3) *Billable Care Day*:

(a) For purposes of computing a *billable care day*, the *BRS client* must be in the direct care of the *BRS provider* at 11:59 p.m. of that day or be on an authorized home visit in accordance with section (4) of this rule;

(b) A *billable care day* does not include any day where the *BRS client* is on runaway status, in detention, an inpatient in a hospital, or has not yet entered or has been discharged from the *BRS contractor’s* or *BRS provider’s* program.

(4) Home Visits:

(a) The *BRS contractor* shall only include a maximum of 8 calendar days of home visits in a month as *billable care days*;

(b) In order to qualify as an authorized home visit day, the *BRS contractor* must:

(A) Ensure that the home visit is tied to the *BRS client’s ISP* or *MSP*;

(B) Work with the *BRS client* and the *BRS client’s* family or substitute family on goals for the home visit and receive regular reports from the family on the *BRS client’s* progress while on the home visit;

(C) Have staff available to answer calls from the *BRS client* and *BRS client’s* family or substitute family, and to provide *services* to the *BRS client* during the time planned for the home visit if the need arises;

(D) Document communications with the *BRS client’s* family or substitute family; and

(E) Document the *BRS client's* progress on goals set for the home visits.

(5) Invoice form:

(a) The *BRS contractor* must submit a monthly billing form to the *agency* in a format acceptable to the *agency*, on or after the first day of the month following the month in which it provided *services* and *placement related activities* to the *BRS client*. The billing form must specify the number of *billable care days* provided to each *BRS client* in that month;

(b) The *BRS contractor* must provide upon request, in a format that meets the *agency's* approval, written documentation of each *BRS client's* location for each day claimed as a *billable care day*;

(c) The *BRS contractor* may only submit a claim for a *billable care day* consistent with the *agency's* prior authorization.

(6) Payment for a *Billable Care Day*:

(a) The *agency* shall pay the *service and placement related activities* rates to the *BRS contractor* for each *billable care day* in accordance with the BRS Rates Table described in section (2) of this rule;

(b) Notwithstanding section (6)(a) of this rule, the *Authority* shall only pay the *service* rate for each *billable care day* to a *public child-caring agency*, who by rule or contract provides the local match share for *Medicaid* claims under OAR 410-120-0035 and 42 CFR 433 Subpart B. The *Authority* shall not pay the *placement related activities* rate for each *billable care day* to these types of *public child-caring agencies*;

(c) To the extent the payment for *services* is funded by *Medicaid* and *CHIP* funds, the *BRS contractor* and the *BRS provider* are subject to *Medicaid* billing and payment requirements in these rules and the *Authority's* general rules (OAR 410-120-0000 to 410-120-1980).

(7) Third Party Resources:

(a) The *Authority's BRS contractors* must make reasonable efforts to obtain payment first from other resources consistent with OAR 410-120-1280(16);

(b) The *Department's* and *OYA's BRS contractors* are not required to review or pursue third party resources. The *Department* and *OYA* must make reasonable efforts to obtain payment first from other resources consistent with OAR 410-120-1280(16) for *Medicaid-eligible BRS clients*.

(8) *Public child-caring agencies*, who are responsible by rule or contract for the local match share portion of eligible *Medicaid* claims, must comply with OAR 410-120-0035 and 42 CFR 433 Subpart B.

(9) In cases where the *BRS contractor* is not also the *BRS provider*, the *BRS contractor* is responsible for compensating the *BRS provider* for *billable care days* pursuant to the *agency-*approved subcontract between the *BRS contractor* and the *BRS provider*.

(10) The *Authority* shall not be financially responsible for the payment of any claim that the Centers for Medicare and Medicaid Services (CMS) disallows under the *Medicaid* or *CHIP* program. If the *Authority* has previously paid the *agency* or *BRS contractor* for any claim which CMS disallows, the payment shall be recouped pursuant to OAR 410-120-1397. The *Authority* shall recoup or recover any other overpayments as described in OAR 410-120-1397 and OAR 943-120-0350 and 943-120-0360.

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065

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Compliance Reviews & Sanctions

(1) The *BRS contractor* must cooperate, and ensure its *BRS providers* cooperate, with program compliance reviews or audits conducted by any federal or state or local governmental agency or entity related to the *BRS program*.

(2) The *Authority* or *agency*, or both, must conduct compliance reviews periodically, including but not limited to review of documentation and onsite inspections.

(3) If the *agency* determines that the *BRS contractor* is not in compliance with its contract to provide *BRS services* or *placement related activities*, including but not limited to non-compliance with state or federal law or regulation, then the *agency* may:

(a) Provide technical assistance;

(b) Require the *BRS contractor* or *BRS provider* to develop and implement a corrective action plan;

(c) Pursue any or all remedies authorized under the contract;

(d) Pursue any other remedy authorized by state or federal law; or

(e) Pursue any combination of the above.

(4) If the *agency* determines that the *BRS contractor* or the *BRS provider* is not in compliance with state or federal law or regulation then, in addition to pursuing any contract remedy, the *agency* may:

(a) Provide technical assistance;

(b) Require the *BRS contractor* or *BRS provider* to develop and implement a corrective action plan;

(c) Refer the case to an appropriate licensing or other oversight federal or state or local governmental agency or entity;

(d) Pursue any other remedy authorized by state or federal law; or

(e) Pursue any combination of the above.

(5) In addition to the remedies provided in section (3) and (4) above, if the *Authority* determines that the *BRS contractor* or the *BRS provider* is not in compliance with state or federal law or regulation, then the *Authority* may:

(a) Impose sanctions pursuant to OAR 410-120-1400 and 410-120-1460;

(b) Recover an overpayment pursuant to OAR 410-120-1397; or

(c) Any combination of the above.

(6) Overpayment:

(a) *The Authority Identified*: When an overpayment is identified, the *Authority* must notify the *BRS contractor* or *BRS provider* in writing. The overpayment amount will be determined at the *Authority's* discretion through direct examination of claims, through statistical sampling and extrapolation techniques or other means. Procedures for recovery of funds are as described in OAR 410-120-1397 or by applicable contract language;

(b) *BRS contractor* or *Provider Identified*: When a *BRS contractor* or *BRS provider* discovers that they requested and may have received reimbursement not in compliance with all applicable rules they must contact the Division's Medicaid Policy Unit and Office of Payment Accuracy and Recovery (OPAR) promptly to report the possible inappropriate payment and discuss the manner by which the appropriateness will be determined as well as programmatic changes and other notifications to be made.

(7) The *BRS contractor* or the *BRS provider* may appeal an *Authority's* notice of action for sanctions or overpayments under the appeal processes specified in the notice and applicable administrative rules for the *Authority*.

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065