

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Health Authority, Division of Medical Assistance Programs (Division)	410	
Agency and Division	Administrative Rules Chapter Number	
Sandy Cafourek	500 Summer St. NE E35, Salem, OR 97301	503-945-6430
Rules Coordinator	Address	Telephone

RULE CAPTION

Reorganize Rule Text for Clarity and Amend Rules to Ensure Consistency with Federal Rules
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

March 18, 2014	10:30 a.m.	500 Summer St. NE, Salem, OR 97301 Rm. 137B	Sandy Cafourek
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: OAR 410-129-0020, 410-129-0065, 410-129-0070

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 413.042, 414.065

Other Auth.:

Stats. Implemented: ORS 414.065

RULE SUMMARY

The Speech-Language Pathology, Audiology and Hearing Aid Services Program administrative rules govern Division of Medical Assistance Programs' (Division) payments for services provided to Oregon Health Plan clients. The Division amends rules for clarity and to align rules with the Center for Medicare and Medicaid Services' (CMS) Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program rules.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

March 20, 2014 by 5:00 p.m. dmap.rules@state.or.us
Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

	Judy Melita PETERSON	02/03/2014
Signature	Printed name	Date

Note: Hearing Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Health Authority, Division of Medical Assistance Programs (Division) 410
Agency and Division Administrative Rules Chapter Number

Reorganize Rule Text for Clarity and Amend Rules to Ensure Consistency with Federal Rules
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: The proposed amendment of administrative rules that govern Speech-Language Pathology, Audiology and Hearing Aid Services Program. The Division will amend OARs 410-129-0020, 410-129-0065 and 410-129-0070.

Statutory Authority: ORS 413.042, 414.065

Other Authority:

Stats. Implemented: ORS 414.065

Need for the Rule(s): The Division needs to amend rules listed above to ensure clarity and consistency in rule text and to align rules with the Center for Medicare and Medicaid Services' (CMS) Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program rule.

Documents Relied Upon, and where they are available: ORS sited and 42 CFR § 441.50-.62 EPSDT
<http://www.gpo.gov/fdsys/pkg/CFR-2013-title42-vol4/pdf/CFR-2013-title42-vol4-part441-subpartB.pdf>

Fiscal and Economic Impact:

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No impact on other state agencies, units of local government or the public is anticipated.
2. Cost of compliance effect on small business (ORS 183.336): None.
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Minimal to no impact on small business.
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: None.
 - c. Equipment, supplies, labor and increased administration required for compliance: None.

How were small businesses involved in the development of this rule? Small businesses were not involved as the proposed changes to the rules are based on federal law.

Administrative Rule Advisory Committee consulted? Yes, but no one attended the meeting.

If not, why? A meeting was scheduled for 10 a.m., January 22, 2014, but no one showed up in person or chose to participate by phone.


Signature

Judy Mohr Peterson 02/03/2014
Printed name Date

410-129-0020

Therapy Plan of Care, Goals/Outcomes and Record Requirements

(1) Therapy will be based on a prescribing practitioner's written order and a therapy treatment plan with goals and objectives developed from an evaluation or re-evaluation.

(2) The therapy regimen will be taught to individuals who can assist in the achievement of goals and objectives, including the patient, family members, foster parents, and/or caregivers to assist in the achievement of the goals and objectives. No extra treatments will be authorized for teaching.

(3) All speech-language pathology (SLP) treatment services require a therapy plan of care which is required for prior authorization (PA) for payment.

(4) The SLP therapy plan of care must include:

(a) Client's name, diagnosis, type, amount, frequency and duration of the proposed therapy;

(b) Individualized, measurably objective short-term and long-term functional goals;

(c) Dated signature of the therapist or the prescribing practitioner establishing the therapy plan of care; and

(d) Evidence of certification of the therapy plan of care by the prescribing practitioner.

(5) SLP therapy records must include:

(a) Documentation of each session;

(b) Therapy provided;

(c) Duration of therapy; and

(d) Signature of the SLP.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.060, ~~681.205~~, ~~681.220~~

410-129-0065

Licensing Requirements

(1) The Division of Medical Assistance Programs (Division) enrolls only the following types of providers as performing providers under the Speech-Language Pathology, Audiology and Hearing Aid Services program:

(a) A person licensed by the relevant State licensing authority to practice speech-language pathology;

(b) A person licensed by the relevant State licensing authority to practice audiology; and

(c) A person licensed by the relevant State licensing authority for "dealing in hearing aids" as defined in Oregon Revised Statute 694.015.

~~Oregon Revised Statute (ORS) 681.420 and 681.460, Board of Examiners in Speech Pathology and Audiology chapter 335:~~

~~(a) Will govern the practice of licensed speech pathologists. Licensed speech pathologists may enroll as providers and be reimbursed for services;~~

(b2) The Oregon Board of Examiners for Speech-Language Pathology and Audiology licenses and the Division recognizes services provided by:

(a) Conditional Speech-Language Pathologists; and

(b) Speech-Language Pathology Assistants.

(3) Services of graduate SLP students, furnished under a Conditional SLP License:

(a) in speech-language pathology, under supervision of a licensed speech pathologist during training or during the clinical fellowship year. Must be provided in compliance with supervision requirements of the state licensing board and the American Speech-Language-Hearing Association;

(b) Must be compliant with applicable record and documentation requirements (see also Oregon Administrative Rule 335 Division 10); and

(c) ~~are reimbursable to the licensed supervising SLP speech pathologist. Graduate speech-language pathologists who are performing a clinical fellowship year need to hold a provisional license issued by the Oregon Board of Examiners in Speech Pathology and Audiology. ORS 681.325 "Issuance of Conditional License Scope of Practice and Renewal";~~

~~(c4) Services of a licensed SLPspeech pathologist while teaching or supervising students in SLPspeech pathology will not be reimbursed;~~

~~(d) Services of a certified speech language pathology assistant are reimbursable to the supervising licensed speech language pathologist. Only covered services within the scope of duties of a certified speech language pathologist assistant, as defined in Oregon Administrative Rule (OAR) 335-095-0060, will be reimbursed.~~

~~(2) Audiologists. ORS 681, 681.420 and 681.460, Board of Examiners in Speech Pathology and Audiology chapter 335, will govern the practice of licensed audiologists. Licensed audiologists may enroll as providers and be reimbursed for services.~~

~~(3) Hearing aid dealers. ORS 694.015 through 694.199, Board of Hearing Aid Dealers licensing program chapter 333 will govern the services by licensed hearing aid dealers. Licensed hearing aid dealers may enroll as providers and be reimbursed for services.~~

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025, 414.032, 414.039, 414.065, 681.205, 681.230, 681.250, 681.260, 681.360 & 681.605

410-129-0070

Limitations

~~(1) The rules contained in Oregon Administrative Rule (OAR) 410-129-0010, 410-129-0080 and 410-129-0220 also apply to services delivered by home health agencies and by hospital-based therapists in the outpatient setting. They do not apply to services provided to hospital inpatients. Billing and reimbursement for therapy services delivered by home health agencies and hospital outpatient departments is to be in accordance with Division of Medical Assistance Programs (Division) administrative rules.~~

~~(21) Speech language pathology (SLP) services:~~

~~(a) All speech pathology services will be provided performed by a practitioner outlined in Oregon Administrative Rule (OAR) 410-129-0065(1);~~

~~(b) Therapy treatment: licensed speech pathologist or a graduate student in training or a graduate speech pathologist in the clinical fellowship year being supervised by a licensed speech pathologist. Only therapy and evaluation services rendered on-site are billable under the codes listed in the Speech-Language Pathology, Audiology and Hearing Aid Services Program administrative rules in OAR chapter 410, division 129;~~

~~(A) Speech pathology therapy treatments may not exceed one hour per day, either group or individual;~~

~~(B) Treatment must be either group or individual and cannot be combined in the authorization period; -and~~

~~(C) Requires prior authorization.~~

~~(c) Therapy records must include:~~

~~(A) Documentation of each session;~~

~~(B) Therapy provided and amount of time spent; and~~

~~(C) Signature of the therapist;~~

~~(d) Documentation (progress notes, etc.) must be retained in the provider's records. All report and clinical notes by graduate students in training or graduate speech pathologists in the clinical fellowship year must be countersigned by the supervising licensed speech pathologist;~~

~~—(e) Services of a graduate student in training or a graduate speech pathologist during the clinical fellowship year, under direct supervision of a licensed speech pathologist are reimbursable to the licensed supervisor under the following conditions:~~

~~— (A) Supervision must occur on the same premises and the supervisor must be readily accessible to the resident performing the actual service;~~

~~(B) Strict supervision requirements adhering to the American Speech Language-Hearing Association requirements must be followed, which includes a minimum amount of time the supervisor must be physically present during therapy and evaluation time. Therapy is 15 minutes per hour and evaluation time is 30 minutes per hour;~~

~~(C) Documentation of the supervisor must clearly indicate her/his level of involvement in the delivery of each service in order to assure quality of care to the client;~~

~~(D) Documentation by the graduate student in training or the clinical fellow must demonstrate to the satisfaction of the agency that services are medically appropriate in continuing the treatment plan for the client and the notation must be clear and legible.~~

~~(cf) The Covered following SLP services that do not require payment authorization but are limited to:~~

~~(A) Two SLP evaluations of speech/language will be reimbursed in a 12-month period;~~

~~(B) Two evaluations for dysphagia will be reimbursed in a 12-month period;~~

~~(C) Up to four re-evaluations in a 12-month period;~~

~~(D) One evaluation for speech-generating/augmentative communication system or device will be reimbursed per recipient in a 12-month period;~~

~~(E) One evaluation for voice prosthesis or artificial larynx will be reimbursed in a 12-month period;~~

~~(F) Purchase, repair or modification of electrolarynx;~~

~~(G) Supplies for speech therapy will be reimbursed up to two times in a 12-month period, not to exceed \$5.00 each. 410-129-0070 Page 2~~

~~(g) Services that require payment authorization:~~

~~(A) All speech pathology therapy treatments;~~

~~(dB) The purchase, rental, repair or modification of a Sspeech-generating/augmentative communication system or device, purchase or rental requires prior authorization. Rental of a speech-generating/ augmentative communication system or device is limited to one month. All rental fees must be applied to the purchase price. See OAR 410-129-0220.;~~

~~(C) Repair/modification of a speech-generating/augmentative communication system or device;~~

~~(h) Services not covered:~~

~~(A) Services of a licensed speech pathologist while teaching or supervising students of speech pathology will not be reimbursed;~~

~~(B) Maintenance therapy is not reimbursable as described in OAR 410-1290040.~~

(23) Audiology and hearing aid services:

(a) All hearing services must be performed by a licensed physician, audiologists or hearing aid specialistdealers;

(b) Reimbursement is limited to one (monaural) hearing aid every five years for adults (age 21 and older) who meet the following criteria: Loss of 45 decibel (dB) hearing level or greater in two or more of the following three frequencies: 1000, 2000, and 3000 Hertz (Hz) in the better ear;

(c) Adults who meet the criteria above and, in addition, have vision correctable to no better than 20/200 in the better eye, may be authorized for two hearing aids for safety purposes. A vision evaluation must be submitted with the prior authorization request;

(d) Two (binaural) hearing aids will be reimbursed no more frequently than every three years for children (birth through age 20)~~19 years of age and under~~ who meet the following criteria:

(A) Pure tone average of 25dB for the frequencies of 500Hz, 1000Hz and 2000Hz; or

(B) High frequency average of 35dB for the frequencies of 3000Hz, 4000Hz and 6000Hz;

(e) An assistive listening device may be authorized for individuals aged 21 or over who are unable to wear or who cannot benefit from a hearing aid. An assistive listening device is defined as a simple amplification device designed to help the individual hear in a particular listening situation. It is restricted to a hand-held amplifier and headphones;

(f) Services that do not require payment authorization:

(A) One basic audiologic assessment in a 12-month period;

(B) One basic comprehensive audiometry (audiologic evaluation) in a 12month period;

(C) One hearing aid examination and evaluation/tests/selection in a 12-month period;

(D) One pure tone audiometry (threshold) test; air and bone in a 12-month period;

(E) One electroacoustic evaluation for hearing aid; monaural in a 12-month period;

- (FE) One electroacoustic evaluation for hearing aid; binaural in a 12-month period;
- (GF) Hearing aid batteries, maximum of 60 individual batteries in a 12-month period.
Client M must meet the criteria for a hearing aid.

(g) Services that require payment authorization:

- (A) Hearing aids;
- (B) Repair of hearing aids, including ear mold replacement;
- (C) Hearing aid dispensing and fitting fees;
- (D) Assistive listening devices;
- (E) Cochlear implant batteries.

(h) Services not covered:

- (A) FM systems, vibro-tactile aids;
- (B) Earplugs;
- (C) Adjustment of hearing aids is included in the fitting and dispensing fee and is not reimbursable separately;
- (D) Aural rehabilitation therapy is included in the fitting and dispensing fee and is not reimbursable separately;
- (E) Tinnitus masker(s).

[ED. NOTE: Forms referenced are available from the agency.]

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065, 414.705 & 681.325