

**DEPARTMENT OF HUMAN SERVICES
SENIORS AND PEOPLE WITH DISABILITIES DIVISION
OREGON ADMINISTRATIVE RULES**

CHAPTER 411

**DIVISION 71
PRIVATE ADMISSION ASSESSMENT**

411-071-0000 Purpose
(Effective 9/1/2004)

(1) The purpose of Private Admission Assessment is to ensure that non-Medicaid eligible individuals applying for or considering admission to a Medicaid certified nursing facility receive information regarding appropriate service and placement alternatives.

(2) These rules establish procedures and requirements for admission assessment of non-Medicaid eligible individuals applying for or considering admission to a Medicaid certified nursing facility as required in ORS 410.505 to 410.545. The admission assessment includes mandatory services necessary to comply with the federal pre-admission screening requirements established by the Health Care Financing Administration. It also provides optional information regarding appropriate care settings and services, including nursing facilities and community-based options such as adult foster care, assisted living, residential care, in-home services, and other community-based services.

(3) These rules establish a certification process for programs henceforth called "certified programs," to perform admission assessments to individuals seeking admission to nursing facilities with a Medicaid contract. These rules establish standards for assessments performed by certified programs, local Area Agencies on Aging and Department personnel. Recommendations made during the admission assessment are not binding. Each individual has the right to choose from any of the long-term care options available.

Stat. Auth.: ORS 410.505 - 410.545
Stats. Implemented: ORS 410.030 & 410.510

411-071-0005 Definitions

(Effective 9/1/2004)

(1) "Act" means the provisions of ORS 410.505 to 410.545 and ORS 410.890.

(2) "Activities of Daily Living (ADL)" means those personal functional activities required by an individual for continued well being and are essential for health and safety. This includes eating, dressing/grooming, bathing/personal hygiene, mobility, bowel and bladder management, and cognition.

(3) "Admission Assessment" means a professional program that provides an assessment of the long-term care needs of an individual applying for or considering admission to a nursing facility who is not or does not appear to be Medicaid eligible. The admission assessment includes mandatory services necessary to comply with the federal pre-admission screening requirements and optional information regarding appropriate care settings and services, including nursing facilities and community-based options.

(4) "Adult Foster Home" means any family home or other facility in which care is provided for compensation to five or fewer elderly or disabled adults who are not related to the provider by blood or marriage.

(5) "Applicant" means a hospital or private agency applying for certification to conduct admission assessments according to the provisions of the Act.

(6) "Application for Certification" means the application form designated and distributed by the Department to applicants.

(7) "Area Agency on Aging (AAA)" means the agency designated by the Department and charged with the responsibility of providing a comprehensive and coordinated system of services to the elderly and people with disabilities in a planning and service area.

(8) "Assessment Fee" means the amount of money charged by a certified program to the Department or to an individual for admission assessment services.

(9) "Assisted Living Facility" means a program approach, within a physical structure that provides or coordinates a range of services, available on a 24-hour basis, for support of an individual's independence in a residential setting. Assisted living promotes resident self-direction and participation in decisions and emphasizes choice, dignity, privacy, individuality, independence and home-like surroundings.

(10) "Certification" means the process of being certified by the Department to conduct admission assessments for non-Medicaid individuals. Hospitals and private agencies wishing to conduct admission assessments must be certified by the Department.

(11) "Certification Fee" means a fee charged to an applicant program to become certified under ORS 410.505 et seq.

(12) "Certified Program" means a hospital, private agency, an Area Agency on Aging, or an individual certified by the Department to conduct admission assessments in accordance with ORS 410.530.

(13) "Continuing Care Retirement Community" means a facility as defined in ORS 101.020.

(14) "Civil Penalty" means a penalty imposed on a nursing facility by the Department in the manner provided in ORS 441.705 to 745.

(15) "Community-Based Care" means services provided in local communities including, but not limited to, adult foster care, assisted living, residential care, and in-home services.

(16) "Decertify" means to revoke the certification to conduct admission assessments.

(17) "Department" means the Department of Human Services/Seniors and People with Disabilities.

(18) "Exception" means a variance from the provisions of these rules granted by the Department to a certified program.

(19) "Exemption" means an individual who does not have a diagnosis of mental illness or mental retardation and is not subject to the requirement for an admission assessment prior to admission to a nursing facility in accordance with ORS 410.520(2).

(20) "Facility" means, unless otherwise indicated, a nursing facility as defined under these Rules.

(21) "Financial Interest" means ownership in any nursing facility or other facility licensed by the Department, or receiving placement fee from a facility. This includes ownership as an individual or as a fiduciary, a relationship in a capacity as a director, or an advisor or any other participant holding legal or equitable interest.

(22) "Hospital" means an acute care facility, as defined in ORS 442.015(13)(a), licensed by the Health Services under ORS 441.020 - 441.097.

(23) "Individual" means the person applying for or considering admission to a nursing facility and who is not or does not appear to be Medicaid eligible.

(24) "Legally Designated Representative" means a legal guardian or a person holding the power of attorney for health care as defined in ORS 127.305(10).

(25) "Level II Evaluation" means a comprehensive assessment implemented by the Department of individuals with mental illness or mental retardation/developmental disabilities to evaluate and determine whether nursing facility services and Specialized Services are needed.

(26) "Long-Term Care" means community-based services and nursing facility care funded by public and/or private money.

(27) "New Admission" for pre-admission screening means an individual admitted to any nursing facility for the first time. With the exception of certain hospital discharges in accordance with OAR 411-071-0015, new admissions are subject to Pre-Admission Screening.

(28) "Nursing Facility" means a facility licensed to provide nursing care. Unless indicated otherwise, "nursing facility" means a Medicaid certified nursing facility.

(29) "Placement" means a nursing facility or community-based care setting where an individual will reside and receive services.

(30) "Program" means a certified program as defined under these rules.

(31) "Recommend Placement" means to communicate to an individual information about a specific facility and/or service(s) that have been determined to be most appropriate to the individual's needs and preferences.

(32) "Referral" means the process by which an individual may receive assessment services from a different assessment source.

(33) "Resident" means any individual who is residing in a hospital or nursing facility.

(34) "Residential Care Facility" means a facility that provides care for six or more persons over the age of 18 on a 24-hour basis in one or more buildings on contiguous property.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.505

411-071-0010 Assessment Requirements

(Effective 9/1/2004)

(1) An admission assessment must be provided prior to admission for all non-Medicaid eligible individuals applying as new admissions to a Medicaid certified nursing facility except as provided in OAR 411-071-0015. The admission assessment must occur no more than 90 days prior to the date of admission.

(2) Admission assessments are to be performed by certified programs.

(3) If the assessment is performed by personnel from a certified program, such personnel must make a good faith effort to determine whether the individual receiving the assessment is or appears to be Medicaid eligible based on a review of optional income and asset information provided by the individual. If the individual appears to be Medicaid eligible or may become Medicaid eligible within 60 days, the certified program must contact and coordinate with the local Area Agency on Aging/Seniors and People with Disabilities unit to provide further assessment services.

Stat. Auth.: ORS 410.505 - 410.545

Stats. Implemented: ORS 410.510 & 410.520

411-071-0015 Exemptions

(Effective 9/1/2004)

(1) The criteria under which an individual is exempted must be clearly indicated on the form designated by the Department.

(2) An exemption from the full assessment process may be granted for an individual who meets one of the following criteria:

(a) An individual seeking temporary admission to a nursing facility from a hospital and meets all of the following criteria as certified by the attending physician:

(A) Seeks admission directly from a hospital, or within 30 days of discharge from the hospital, after receiving acute inpatient care at the hospital; and

(B) Requires nursing facility services for the condition for which he or she received care in the hospital; and

(C) Requires nursing facility services for 30 days or less.

(b) An individual has a medical prognosis with life expectancy of 30 days or less;

(c) An individual seeking temporary admission for respite services with expected length of stay of 30 days or less;

(d) A resident of a continuing care retirement community who is seeking admission to a Medicaid certified nursing facility that is part of the same continuing care retirement community; or

(e) An individual certified by the attending physician that he/she must be admitted from the community or hospital emergency room without delay due to a serious and immediate threat to the individual's health and safety.

(3) The assessment must be completed and signed by a certified program, the attending physician, or a professional medical staff person working directly under the supervision of the attending physician for individuals admitted under an exemption criteria.

(4) An individual admitted to a nursing facility under an exemption under subsections (2)(a), (b), or (c) of this rule must receive an assessment within 7 days after the 30th day of admission.

(5) An individual temporarily admitted to a nursing facility under subsection (2)(e) of this rule must receive an assessment within seven days from the date of admission.

(6) No assessment or exemption is required for:

(a) An individual returning to a nursing facility after having entered a hospital from the same nursing facility; or

(b) An individual transferring from one Oregon nursing facility to another Oregon nursing facility with or without an intervening hospital stay.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.520

411-071-0020 Assessment Process

(Effective 9/1/2004)

(1) The Department must develop and provide to certified programs an assessment instrument to be used for all admission assessments.

(2) The admission assessment must consist of:

(a) Information necessary to comply with federal pre-admission screening requirements as established by the Centers for Medicare Services;

(b) Recommendations regarding appropriate care settings and services based on the individual's personal, family, and community support system, discussion of the individual's lifestyle preferences and goals, and other information. An individual or the individual's representative must indicate on the assessment form provided by the Department whether the individual has received information about care options or does not want the information. An individual may not be required to receive this information. Documentation by non-hospital based programs must be on the form designated by the Department. Hospital based programs must document information regarding appropriate care settings and services in their own discharge planning documents for all individuals assessed.

(3) Appropriate information about care settings and services may be made available to individuals choosing to receive such information, including information on community-based care services, nursing facility options, and additional information as may be appropriate to a particular geographic area.

(4) The recommendations of the admission assessment are not binding; an individual has the right to choose any or none of the available options. An individual may designate someone to participate in the assessment process.

(5) As part of the admission assessment process, the individual or the individual's representative, as specified in section (6) of this rule, must be requested to certify on the assessment instrument whether the individual has received information about care options or does not want the information.

(6) The following descending hierarchy is to be observed when certifying the information required in sections (5) and (6) of this rule and signing the assessment form:

(a) The individual, if the individual is capable at the time the assessment is performed;

(b) The individual's legally designated representative (as defined in OAR 411-071-0005(24)) if the individual is not capable at the time the admission assessment is performed;

(c) The individual's next of kin or, if appropriate, a knowledgeable friend if the individual has no legally designated representative and is not capable at the time the admission assessment is performed;

(d) The person performing the assessment if a good faith effort fails to locate the individual's next of kin or appropriate friend, the individual has no legally designated representative, and is not capable at the time the admission assessment is performed;

(e) The person performing the assessment if the individual is capable at the time the assessment is performed but refuses to sign.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.510, 410.525 & 410.530

411-071-0025 Recommendations for Placement/Prohibition on Conflict of Interest

(Effective 9/1/2004)

(1) If the individual chooses to have long-term care information provided by a certified program, the certified program must provide information about appropriate care settings and services.

(2) A certified program must not recommend placement to a specific nursing facility, assisted living facility, residential care facility or adult foster home in which it has a financial interest.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.525 & 410.530

411-071-0027 Confidentiality of Assessment Information
(Effective 9/1/2004)

(1) Any records, forms, or information collected during the assessment process that identify an individual by name or address must be confidential and subject to the Department's rules on confidentiality set forth in OAR chapter 411, division 005.

(2) Certified programs must not release information obtained during the assessment process to any person or entity not authorized by law to receive such information without the written consent of the individual or the individual's legal guardian.

Stat. Auth.: ORS 410
Stats. Implemented: ORS 410.535

411-071-0030 Assessment Fees
(Effective 9/1/2004)

A certified program must not charge an individual for any portion of the assessment.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.515, 410.525 & 410.530

411-071-0035 Certification Process
(Effective 9/1/2004)

(1) Any hospital, agency, program, or Area Agency on Aging must obtain certification from the Department before providing admission assessment services.

(2) The certification issued to a program is not valid for use by any other program.

(3) Certification is valid for the length of the contract unless revoked or suspended by the Department.

Stat. Auth.: ORS 410.505 - 410.545

Stats. Implemented: ORS 410.530

411-071-0040 Application Process

(Effective 9/1/2004)

(1) Application for certification must be submitted in writing on a form provided by the Department. The application must include but not be limited to:

(a) The name, address, phone number and other descriptive information about the applicant;

(b) A statement of the applicant's experience in performing functional assessments and knowledge of long term care resources in the area to be served by the applicant. This statement must demonstrate, to the satisfaction of the Department, the ability of the applicant to perform admission assessments;

(c) Information and supporting documentation regarding qualifications and training of personnel performing assessments, as required by the Department;

(d) Examples of informational materials provided to individuals receiving admission assessments;

(e) Information pertaining to the program's financial interests in nursing facilities, assisted living facilities, residential care facilities and adult foster homes; and

(f) A signed and dated statement from the applicant stating that the applicant will comply with the requirements of ORS 410.505 to 410.545 and these rules.

(2) The application will not be considered complete until all the required information is received by the Department.

(3) After receipt of the completed application materials, the Department will investigate the information submitted and consult with the local Area Agency on Aging/Seniors and People with Disabilities unit and health care providers who have worked with the applicant to determine compliance with these rules.

(4) If the Department determines after review of the completed application that the applicant does not meet the requirements for certification, the Department must issue a written notice to the applicant citing the deficiencies in the application. If the applicant fails to correct the deficiencies within the time frames specified by the Department, the application may be denied. If denied, the applicant is entitled to a hearing as defined in ORS Chapter 183.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.530

411-071-0043 Qualifications for Personnel Performing Admission Assessments

(Effective 9/1/2004)

(1) Except as provided in section (2) of this rule, all persons performing admission assessments shall meet one of the following criteria:

(a) Be a registered nurse licensed by the State of Oregon;

(b) Have a master of social work degree from an accredited institution of higher education; or

(c) Have a bachelor's degree from an accredited institution of higher education and have experience in gerontology, health care, long-term care, or other relevant human services.

(2) Any applicant or Certified Program may request that the Division allow an employee who meets the following conditions to perform admission assessments:

(a) The employee for whom the exception is being requested works directly under the supervision of someone qualifying under section (1) of this rule; and

(b) One or more of the following apply:

(A) The employee has at least one year of experience performing functions substantially similar to admission assessments;

(B) The employee has other work or educational experiences that provide clear and convincing evidence of the person's ability to perform admission assessments.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.530

411-071-0045 Issuance of the Certificate for Private Admission Assessment

(Effective 9/1/2004)

Within 60 days of receipt of a completed application, the Department must issue a Certificate for Private Admission Assessment to the applicant if the applicant meets all the requirements of ORS 410.505 to 410.545 and these rules. The Certificate must indicate the name, address and telephone number of the program and the name of the owner and/or manager of the program.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.530

411-071-0050 Contracts, Reimbursements, and Certification Fees

(Effective 9/1/2004)

(1) Certified programs eligible for reimbursement must enter into a contract with the Department regarding provision of admission assessment services. Certified hospital programs that only provide inpatient admission

assessment services and are not eligible for reimbursement must enter into an agreement with the Department regarding provision of assessment services.

(2) The maximum fee a certified program may charge to the Department for the admission assessment will be \$140 for all assessments, including those performed on an outpatient basis by hospitals that are certified programs.

(3) Each certified program that has a contract with the Department must pay an annual certification fee to the Department of \$200. Fee payments must be received by the Department within 60 days of the date the invoice was issued, unless other specific arrangements have been approved by the Department. Failure to pay fees in a timely fashion may be cause for suspension of reimbursement payments and/or suspension or revocation of a program's certification.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.515, ORS 410.530 & ORS 410.535

411-071-0055 Renewal

(Effective 2/1/1991)

(1) At least 30 days prior to the expiration of the Certificate for Private Admission Assessment, a reminder notice and renewal application shall be sent by the Division to the certified program. Submittal of a renewal application and the certification fee prior to the expiration date will keep certification in effect until the Division takes action. If the renewal application and fee are not submitted prior to the expiration date, the program shall no longer be considered certified by the Division.

(2) In making its renewal decision, the Division may investigate any information in the renewal application and evaluate past performance upon consultation with area agencies on aging/SPD units. The Division may refuse to renew the certification if the renewal application does not meet the requirements of these rules

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.530 & ORS 410.535

411-071-0060 Exceptions

(Effective 9/1/2004)

(1) A certified program may make written request to the Department for an exception from the provisions of these rules. An exception may be granted if the certified program proves to the Department by clear and convincing evidence that such an exception is in compliance with ORS 410.505 to 410.545 and the federal criteria for pre-admission assessment, and will not jeopardize the health, safety, and welfare of the individuals receiving the admission assessment.

(2) Exceptions will be granted in writing and reviewed at each renewal period.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.530 & 410.535

411-071-0065 [Renumbered to 411-071-0043]

411-071-0070 Orientation Requirement

(Effective 9/1/2004)

(1) Management and supervisory personnel responsible for the admission assessment activities of the program applying for certification must participate in orientation or training sessions conducted by the Department.

(2) All personnel of the certified program, who will be performing admission assessments, must participate in the earliest available orientation or training session conducted by or approved by the Department on the admission assessment process, the forms designated by the Department and the continuum of long term care options available.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.530 & 410.535

411-071-0075 Record Keeping

(Effective 9/1/2004)

Certified programs must maintain records for three calendar years of the following materials:

- (1) Completed assessment forms for each individual assessed;
- (2) Personnel records for all employees engaged in performing admission assessments;
- (3) Billing and financial records required by the program's contract with the Department; and
- (4) Any other information as required by the Department and necessary for the implementation and enforcement of ORS 410.505 to 410.595 and these rules.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.530 & 410.535

411-071-0080 Complaints Against Certified Programs

(Effective 9/1/2004)

- (1) Any person who believes these rules or the provisions of ORS 410.505 to 410.545 have been violated may file a complaint with the Department or with a local Area Agency on Aging/Seniors and People with Disabilities unit.
- (2) The Department or its representative must notify the certified program that a complaint has been filed.
- (3) After consultation with the local area agency on aging/Seniors and People with Disabilities unit, the Department or its designee will investigate the complaint. Department investigators may interview employees of the certified program and must have access to pertinent documents and records of the program. The Department will notify the program of the results of the investigation and any proposed action or sanction.

(4) Any complainant, witness or employee of a certified program must not be subject to retaliation by a program for making a report, for being interviewed about a complaint, or for being a witness.

(5) The certified program is responsible for violation of these rules by its employees, subcontractors or agents.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.530 & 410.535

411-071-0085 Procedures for Corrections of Violations

(Effective 9/1/2004)

(1) After investigation, if the Department has determined that a certified program has violated the Act or these rules, the Department or its authorized representative must so notify the program in writing. The Notice of Violation must include:

(a) A description of the matters asserted or charged;

(b) A reference to the particular section of the statute, rule or order involved;

(c) A specific time frame for correction, that must be no later than 60 days after receipt of the notice;

(d) A statement of the sanctions that may be imposed against the program for failure to correct the violations; and

(e) A statement of the right to request a hearing if a sanction is imposed.

(2) At any time during the time frame for correction specified in the Notice of Violation, the certified program or the Department may request a conference. The conference must be scheduled within ten days of a request by either party.

(3) The purpose of the conference is to discuss the violations stated in the Notice of Violation and to provide information to the certified program to assist the program in complying with the requirements of these rules.

(4) The certified program must notify the Department of correction of violations no later than the date specified in the Notice of Violation.

(5) The Department may reinvestigate the certified program after the date the Department receives the report of compliance or after the date by which the violations must be corrected as specified in the Notice of Violation.

(6) All hearings must be conducted according to the applicable provisions of ORS 183.310 to 183.550.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.530 & 410.535

411-071-0090 Complaint Records

(Effective 9/1/2004)

(1) A record must be maintained by the Department of all complaints and any action taken on the complaint. Any information regarding the investigation of the complaint must not be filed in the public file until the investigation has been completed.

(2) The name, addresses and other identifying information of the complainant, client and any witnesses are confidential and must not be placed in the public record.

(3) Any person has the right to inspect and photocopy the public complaint file maintained by the Department. Disclosure of information of the public complaint file must be governed by relevant statutes concerning public records and confidentiality.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.530 & 410.535

411-071-0095 Sanctions

(Effective 9/1/2004)

(1) The Department may suspend, revoke or refuse to renew the certification to provide admission assessment if the Department finds that the program has violated any provision of the Act or these rules, including:

(a) Substantial failure to comply with these rules or with the Act;

(b) Refusal by a program or employee to allow access and inspection of records by an authorized representative of the Department;

(c) Fraudulent information or material misrepresentations in the application or renewal for a Certificate for Private Admission Assessment; or

(d) Failure to comply with a final order of the Department imposing an administrative sanction.

(2) The Department may require a certified program to be involved in a process of corrective action and may provide the program a specified amount of time to meet the standards of the Act and these rules before suspension or revocation of their certification.

(3) If the Department imposes an administrative sanction, it must serve notice of administrative sanction upon the program personally or by certified mail.

(4) The Notice of Administrative Sanction must include:

(a) Each sanction imposed;

(b) A description of each violation;

(c) A reference to the particular section of the statute, rule or order involved;

(d) A statement of the certified program's right to a contested case hearing;

(e) A statement that the Department's files on the subject of the contested case automatically become part of the contested case record upon default for the purpose of proving a prima facie case; and

(f) A statement that the notice becomes a final order upon default if the program fails to request a hearing within the specified time.

(5) If an administrative sanction is imposed it must be preceded by a hearing if the program requests the hearing in writing within 60 days after receipt of the notice. All hearings must be conducted according to the applicable provisions of ORS 183.310 to 183.550.

(6) If a program fails to request the hearing within the 60 days, the notice of administrative sanction will become a final order of the Department in accordance with ORS 183.310.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.530 & 410.535

411-071-0100 Responsibilities of Nursing Facilities

(Effective 9/1/2004)

(1) A Medicaid eligible individual must have an AAA/Seniors and People with Disabilities Pre-Admission Screening and prior authorization of payment prior to admission to a nursing facility. A nursing facility must not admit a Medicaid eligible individual based on a Private Admission Assessment.

(2) A nursing facility receiving an application for admission from an individual who is subject to the admission assessment requirement but has not had an assessment performed within the preceding 90 days must provide the individual with information on the admission assessment process and a list of certified programs provided by the Department or the area agency on aging/Seniors and People with Disabilities office.

(3) Except as provided in section (4) of this rule, nursing facilities must not admit an individual without a completed and signed assessment form in the

client record. Such forms are to be maintained as a permanent part of the client record.

(4) A nursing facility may admit an individual without a completed and signed assessment form in the client record provided the facility has received verbal confirmation from a certified program that an assessment has been completed for the individual within the preceding 90 days and a copy of the assessment form will be sent to the facility as soon as is reasonably possible. The facility must note in the client record the name of the certified program, the name and title of the person providing the verbal confirmation, and the date and time confirmation was provided.

(5) If a nursing facility admits an individual under an exempted hospital discharge set forth in OAR 411-071-0015(3)(a) for the purpose of rehabilitative and/or nursing services for 30 days or less, the nursing facility must contact a certified program to ensure a Private Admission Assessment is completed within seven days after the 30th day of admission.

(6) If a nursing facility admits an individual under an emergency exemption set forth in OAR 411-071-0015(3)(e), the nursing facility must contact a certified program and must ensure a Private Admission Assessment is completed within seven days of admission.

(7) A nursing facility receiving an application from an individual who is not an Oregon resident, or from an individual who is being discharged from a hospital that is not a certified program, or from an individual currently residing in a nursing facility outside the state of Oregon must immediately notify the local Area Agency on Aging/Seniors and People with Disabilities unit of the need for the individual to receive an admission assessment. The nursing facility must contact a certified program to ensure a Private Admission Assessment is completed within seven days of admission.

(8) The nursing facility is responsible for assuring that an individual subject to the Level II pre-admission screening evaluation required by the federal pre-admission screening requirements has been referred to the Seniors and People with Disabilities of the Department of Human Services.

(9) The Department may disallow payment for nursing services provided to an individual who has not been screened in compliance with the federal

pre-admission screening requirements or an individual who is subject to the Level II evaluation and determination but who has not received such a determination within the time limits established in the federal pre-admission requirements.

(10) A nursing facility failing to comply with these rules may be subject to administrative sanctions as provided in ORS 410.540 and/or civil penalties as provided in OAR 411-071-0105.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.515 & 410.540

411-071-0105 Civil Penalties

(Effective 9/1/2004)

(1) Civil penalties, not to exceed \$5,000, may be assessed to nursing facilities for violation of the Act or these rules, and must be imposed in the manner provided in ORS 441.705 to 441.745.

(2) Any civil penalty imposed must become due and payable when the nursing facility incurring the penalty receives a notice in writing from the Department. The notice must be sent by registered or certified mail and shall include:

- (a) A reference to the particular sections of the Act involved;
- (b) A short and plain statement of the matters asserted or charged;
- (c) A statement of the amount of the penalty or penalties imposed;
and
- (d) A statement of the right to request a hearing.

(3) The facility to which the notice is addressed will have ten days from the date of mailing in which to make written application for a hearing.

(4) All hearings must be conducted according to the applicable provisions of ORS 183.310 to 183.550.

(5) If the nursing facility fails to request a hearing within the time specified, or if the facility is found to be in violation of ORS 410.540 or these rules, an order may be entered assessing a civil penalty.

(6) Unless the penalty is paid within ten days after the date the order becomes final, the order constitutes a judgement and may be filed in accordance with ORS 183.413 to 183.470. Execution may be issued upon the order in the same manner as upon a judgement of a court of record.

(7) Judicial review of civil penalties imposed must be as provided in ORS 183.480, except that the court may, in its discretion, reduce the amount of the penalty.

(8) All penalties recovered under ORS 410.505 to 410.545 must be paid into the State Treasury and credited to the General Fund.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.540 & 410.890

411-071-0110 Responsibility of Certified Programs

(Effective 9/1/2004)

A certified program performing an admission assessment must:

(1) Transmit a copy of the assessment form to the nursing facility upon admission of the individual;

(2) Send a copy of the completed assessment form to the Department;

(3) Provide a copy of the assessment form to the individual who receives the assessment or exemption; and

(4) Refer to either Seniors and People with Disabilities of the Department of Human Services, or Mental Health and Addiction Services of Health Services, for an individual subject to the Level II pre-admission screening evaluation required by the federal pre-admission screening requirements.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.530 & 410.535

411-071-0115 Responsibility of Adult Foster Homes, Residential Care Facilities and Non-Medicaid Nursing Facilities
(Effective 9/1/2004)

(1) On or after February 1, 1991, except as provided in section (2) of this rule, prior to admission to an adult foster home, a residential care facility, or a non-Medicaid certified nursing facility, the facility must advise the individual seeking admission of the availability of admission assessment services at their own expense.

(2) An individual who is entering a non-Medicaid certified nursing facility that is part of a closed system continuing care retirement community shall be exempt from this requirement.

(3) The facility must certify on a form provided by the Department that the individual has been so advised. The facility shall maintain a copy of the form in the individual's client record and make a copy available to the Area Agency on Aging/Seniors and People with Disabilities unit upon request.

(4) Adult foster homes, residential care facilities and non-Medicaid nursing facilities who fail to comply with these rules will be subject to sanctions against their license as specified in: ORS 443.705 to 443.820 and OAR chapter 411, division 50, for adult foster homes; ORS 443.400 to 443.455 and chapter OAR 411, division 54, for residential care facilities; and ORS chapter 441 and OAR chapter 411, divisions 85 through 89, for non-Medicaid nursing facilities.

Stat. Auth.: ORS 410.505 - ORS 410.545
Stats. Implemented: ORS 410.515 & ORS 410.540