

Public Comment addressing ADSS Screening & Referral FAQ, submitted statewide by Marisha Elkins of the Oregon Health Authority.

On 11/17/22, Ms. Elkins of OHA submitted a FAQ concerning screening referrals for DUII clients within the State of Oregon. This FAQ generated several questions and concerns statewide which led to a revised FAQ being submitted by Ms. Elkins on 11/23/22. Ms. Elkins did not provide transparency with the questions and concerns raised by State ADSS's and community partners, which focused on the ADSS seeking the specific ORS that allowed for OHA to determine when and if a screening assessment is charged the statutory \$150.00 fee.

The response received by Ms. Elkins stated, "There isn't a statute that says that, but what they do say is that OHA sets the standards for screenings."

I would disagree with this statement on the following merits:

- 1) Ms. Elkins is using the language included in ORS 813.021 subsection (2) that reads: "The screening interview required by this section shall be conducted by an agency or organization designated by the Court. **The designated agency or organization must meet the standards set by the Director of the Oregon Health Authority to conduct the screening interviews.** Whenever possible a court shall designate agencies or organizations to perform the screening interview that are separate from those that may be designated to carry out a treatment program.
- 2) The highlighted wording being referred to (and used by) Ms. Elkins is not intended to hold authority on when the statutory assessment fee is charged but rather to certify and license an agency or organization that has been appointed as the representing ADSS for that specific court.
- 3) The laws define that all Diversions and convictions result in a requirement to complete a screening assessment through the court-appointed ADSS, with the statutory fee imposed. Convictions specifically require a DTCC be issued upon completion of treatment and therefore, the screening must be designated as a conviction and not a diversion. Also, when a DUII Diversion is revoked due to noncompliance, which may include a new DUII, a new screening would be triggered for this event. Should an individual resolve a new pending DUII at the time of a revoked DUII Diversion, an ADSS can and (should in good faith) include both case convictions under one screening assessment. Should DUII Diversion be revoked, and then months later, the pending DUII resolved, this would trigger 2 separate screenings for each convicted case with the statutory fee imposed.
- 4) For years, there has not been an increase to the statutory fee imposed on screenings. The ADSS is required to complete the screening and then monitor progress in treatment for the appointed court. With OHA wanting to waive this fee, it would impose a financial hardship to the ADSS who would be expected to monitor a 1-year DUII Diversion, coupled with a 2-year court probationary period (totaling 3 years services for \$150.00). Our businesses cannot survive on this financial hardship.
- 5) During the 2022 Modernization Workgroup, Ms. Elkins and OHA staff made a public statement that their agency was moving towards eliminating the current ADSS positions

statewide with an intent to move all screenings and monitoring under Community Corrections. With creating a financial hardship on the statutory fees, this could cause some ADSS's to lose their business and in essence, carry out OHA's agenda.

- 6) The FAQ submitted by Ms. Elkins indicates that her document was reviewed and approved by Governor Brown. There should be a process in place that Ms. Elkins must follow to change or modify current procedures and protocols with legal approval and with the input of community partners.

In addition to this matter, Ms. Elkins indicates in the FAQ that an individual can complete DUII treatment requirements prior to the DUII case being resolved and resulting in a conviction. Per ORS, the screening assessment cannot be completed until a conviction is entered. The DUII Service provider cannot technically provide DUII program services without the DUII screening referral which does not occur until after the date of conviction.

Thank you for considering this additional information and insight.