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**PERMANENT ADMINISTRATIVE ORDER**

**BHS 44-2023**

CHAPTER 309  
OREGON HEALTH AUTHORITY  
HEALTH SYSTEMS DIVISION: BEHAVIORAL HEALTH SERVICES

**FILED**

12/22/2023 10:22 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Updating to align with DACT Model, Adding language to align with OHA's mission.

EFFECTIVE DATE: 01/01/2024

AGENCY APPROVED DATE: 12/19/2023

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**RULES:**

309-019-0225, 309-019-0226, 309-019-0230, 309-019-0233, 309-019-0235, 309-019-0240, 309-019-0241, 309-019-0242, 309-019-0245, 309-019-0248, 309-019-0250, 309-019-0255

AMEND: 309-019-0225

RULE TITLE: Assertive Community Treatment (ACT) Definitions

NOTICE FILED DATE: 08/31/2023

RULE SUMMARY: Amended and definitions to more align with DACT and best practices and provide clarity. Added definitions for clarity

**RULE TEXT:**

- (1) In addition to the definitions in OAR 309-019-0105, when used and not otherwise defined in OAR 309-019-0225 through OAR 309-019-0255, the following terms shall have the meaning given in this section.
- (2) "24/7 Crisis Coverage" means there is one identified phone line for ACT participants to contact if they are experiencing a mental health crisis 24 hours a day, 7 days a week, 365 days a year:
  - (a) The ACT Teams will have direct access to this phone line and a procedure in place to receive information about the caller. ACT Teams must be readily available to assist with de-escalation strategies. This could include dispatching out to the individual in need;
  - (b) The ACT Team is required to document all crisis coverage calls as part of this service delivery.
- (3) "Assertive Community Treatment" or "ACT" means an intensive and highly integrated approach that is an evidence-based practice. Objective is to improve outcomes for people with severe mental illness. It is designed to be a team model concept. Program operations are held to a fidelity standard based on Division Approved Fidelity Scale.
- (4) "Community-Based" means services and supports that must be provided in a participant's home and/or surrounding community. This can include but not limited to virtual telehealth, or wherever within the community the participant feels most comfortable. This is person-centered and will be tailored to the participants discretion.
- (5) "Competency" or "Competencies" means six months of work related experience or one year of equivalent training and/or education in the specialty area and demonstration of the specific skills or knowledge.

- (6) "Competitive Integrated Employment" means full-time or part time work with the following criteria:
- (a) At minimum wage or higher;
  - (b) At a rate that is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities;
  - (c) With eligibility for the level of benefits provided to other employees and position is open to the public to ensure competitiveness;
  - (d) Internships that are open to anyone. . This includes work-study opportunities with colleges and or trade schools;
  - (e) Seasonal employment as long as it is consistent with that industry of work;
  - (f) Self-Employment if income is reported to the government and taxes could be filed if income generated met those requirements.
  - (g) Employment from temporary agencies that other community members use is counted if that agency and/or industry typically hires from the temporary services.
- (7) "Comprehensive Assessment" means the organized process of gathering and analyzing current and past information with each individual and any other informal support deemed relevant to create a treatment plan with the following:
- (a) Mental and functional status;
  - (b) Effectiveness of past treatment;
  - (c) Current treatment, rehabilitation, and support needs to achieve person-centered goals and support recovery; and
  - (d) The range of individual strengths (e.g., knowledge gained from dealing with adversity, personal or professional roles, talents, personal traits) that may act as resources to the participant and the recovery plan in pursuing goals. The results of the information gathered, and analysis are used to:
    - (A) Establish immediate and long-term service needs with each ACT Participant;
    - (B) Set goals and develop the first person directed recovery plan with each ACT participant; and,
    - (C) Optimize benefits that can be derived from existing strengths and resources of the participant, family, and natural support network in the community.
- (8) "Co-Occurring Disorders (COD) Services" means integrated assessment and treatment for participants who have co-occurring mental health and substance use condition.
- (9) "Division" means the Health Systems Division of the Oregon Health Authority, or its designee.
- (10) "Division Approved Reviewer" means the Division's contracted entity that is responsible for conducting ACT fidelity reviews, training, and technical assistance to support new and existing ACT programs statewide.
- (11) "Employment Specialist" means the staff identified on the ACT Team to provide Employment Support Services but is part of the ACT Program. This staff member provides Vocational Services per (32) of this rule set and is typically supervised by Team Lead within the ACT program, unless they are part of a separate evidence-based program and just assigned to the ACT Team.
- (12) "Face to Face" means that a personal interaction where communication between at least two-person(s) can be had either in-person or virtually through telehealth services where there is a secured HIPAA approved live streaming audio and video per OAR 410-120-1990 rule set. Virtual Telehealth meetings for Face-to-Face fidelity measurement purposes will be a last resort option if in-person is not safely available or feasible.
- (13) "Fidelity" means the ACT Program is providing services that are faithful to the evidence-based practice model and obtains a satisfactory score from the Division Approved Reviewer
- (14) "Fidelity Tool" means the documents used to score and evaluate programs fidelity based on the Division approved fidelity scale.
- (15) "Fixed Point of Responsibility" means the ACT program provides virtually all needed services, rather than sending participants to different programs. If the ACT program cannot provide a service, the program will accommodate to ensure that the service is provided.
- (16) "Full-Time Equivalent" or "FTE" means for ACT fidelity purposes, it is way to calculate the needed time for a staff member's duties to be dedicated to the ACT program, with a measurement based on a 40-hour work week regardless of program job description FTE status. The consistency of 40 hours is part of the evidence-based practice and ensures

equitable scoring for all programs.

(17) "Hospital Discharge Planning" means the ACT Program will collaborate with Oregon State Hospital (OSH) or any other acute care psychiatric hospital for care coordination and discharge planning, developed and implemented through a person-centered planning process in which the participant has a primary role and is based on principles of self-determination.

(18) "Informal Support System" means a person(s) (often another professional) outside of ACT program that supports the participant, such as, landlord, shelter staff, employer, or other key person(s) identified by the participant or ACT staff.

(19) "Individualized Treatment Plan" means a document that all staff have direct access to and shall include the "Comprehensive Assessment" as defined in (10) of this rule set along with:

(a) Person centered goals;

(b) Person centered preferences and/or culturally specific community partners that ACT Participant may currently or plans to engage with for benefited purposes of their recovery plan.

(20) "Large ACT Team" means an ACT team serving between 80 to 120 individuals.

(21) "Life Skills Training" means training that helps individuals develop skills and access resources needed to increase their capacity to be successful and satisfied in the living, working, learning, and social environments of their choice.

(22) "Medication Management" means the prescribing, administering, and reviewing of medications and their side effects, including both pharmacological management as well as supports and training to the individual. For the purposes of ACT, Medication Management is a collaborative effort between the individual receiving services and the prescribing psychiatrist or psychiatric nurse practitioner with the ACT treatment program.

(23) "Mid-Size Act Team" means an ACT team serving between 41 and 79 individuals.

(24) "Natural Supports" means personal associations and relationships typically developed in the community that enhance the quality and security of life for individuals. This includes but not limited to family relationships, friendships reflecting the diversity of the neighborhood and the community, association with fellow students or coworkers in regular classrooms, and associations developed through participation in clubs, organizations, and other civic activities.

(25) "Psychiatry Services" means the prescribing and administering and reviewing of medications and their side effects, including both pharmacological management as well as supports and training to the individual. Psychiatry services shall be provided by a psychiatrist, or a psychiatric nurse practitioner licensed by the Oregon Medical Board.

(26) "Serious and Persistent Mental Illness (SPMI)" means for the ACT program, the diagnostic eligibility from current DSM criteria for at least one of the following conditions, as a primary diagnosis for an adult 18 years of age or older:

(a) Schizophrenia and other psychotic disorders;

(b) Major depressive disorder;

(c) Bipolar disorder;

(d) Anxiety disorders limited to Obsessive Compulsive Disorder (OCD) and Post Traumatic Stress Disorder (PTSD)and;

(e) Schizotypal personality disorder.

(27) "Single Point of Contact (SPOC)" means the entity that is not directly the certified ACT Program and designated to orchestrate and track referrals. This coordination of services and supports is in collaboration with the Coordinated Care Organizations (CCO), and/or the certified ACT Program.

(28) "Small ACT Team" means an ACT team serving between 10 to 40 individuals.

(29) "Symptom Management" means to prevent or treat as early as possible the symptoms of a disease, side effects caused by treatment of a disease, and psychological, social, and spiritual problems related to a disease or its treatment.

(30) "Telehealth" means services that are delivered using secure HIPAA compliant audio and video communication. All allowable accommodations will be made for any individuals with any hearing, visual or physical impairments or disabilities who agree to utilize services in this manner. per OAR 410-120-1990 rule set

(31) "Telepsychiatry" means the application of telemedicine to the specialty field of psychiatry. The term describes the delivery of psychiatric assessment and care through telecommunications technology, usually videoconferencing.

(32) "Time-unlimited Services" means services that are provided not on the basis of predetermined timelines but if they are medically appropriate.

(33) "Vocational Services" means employment support services that leads to Competitive Integrated employment as defined in 309-019-0225(7)(a) –(g).

(34) "Young Adult" means an individual who is 18 years to 25 years old at time of service

STATUTORY/OTHER AUTHORITY: ORS 413.042

STATUTES/OTHER IMPLEMENTED: ORS 430.630

AMEND: 309-019-0226

RULE TITLE: Assertive Community Treatment (ACT) Overview

NOTICE FILED DATE: 08/31/2023

RULE SUMMARY: Amended to match definition changes. Took out SAMHSA reference as SAMHSA recognizes both DACT and TMACT equally and OHA receives funding for an ACT Evidence Based Practice.

RULE TEXT:

(1) The ACT Model is an evidence-based practice for individuals with SPMI and is Community Based, ACT is characterized by:

- (a) Using a team approach;
- (b) A small client to staff caseload, to consistently provide necessary staffing diversity and coverage;
- (c) Time-unlimited services;
- (d) Flexible service delivery;
- (e) A fixed point of responsibility; and
- (f) 24/7 Crisis Coverage.

(2) ACT services shall include but are not limited to:

- (a) Hospital discharge planning, including OSH and all other acute care psychiatric hospitals;
- (b) Case management;
- (c) Symptom Management;
- (d) Psychiatry Services;
- (e) Nursing services;
- (f) Co-occurring substance use and mental health disorders treatment services;
- (g) Supported Employment services that includes Vocational Services. If there is a certified Individual Placement Support (IPS) Employment Services per OAR 309-019-0270 through 0295 within the agency, this shall be the Employment service provided to ACT participants; if there is not, the ACT Program will in good faith attempt to collaborate with a local IPS program or offer an alternative Supportive Employment.
- (h) Life skills training; and
- (i) Peer delivered services.

(3) ACT programs that uphold the ACT fidelity standards are comprised of the following core staff members:

- (a) Psychiatrist or Psychiatric Nurse Practitioner;
- (b) Psychiatric Nurse;
- (c) Qualified Mental Health Professional (QMHP) ACT Team Supervisor;
- (d) Substance Use Specialist;
- (e) Employment Specialist;

(f) The following staff are optional staff that may assist a program to reach staff capacity requirements:

- (A) Mental Health Case Manager; and
- (B) Certified Peer Support Specialist.

(4) ACT Programs must adhere to the following:

- (a) Providing explicit admission criteria that aligns with Oregon Administrative Rules (OAR) with the SPMI Eligibility defined in 309-019- 0225 (27) utilizing the Universal Referral Form provided by the Division;
- (b) The admission process and Universal Referral Form must be published for any public person(s) and/or community partners to freely access on program websites to ensure equitable access for all community members.
- (c) Provide a space for group therapy and/or skill building workshops for participants per the fidelity standard requirements.

STATUTORY/OTHER AUTHORITY: ORS 161.390, 413.042, 430.256, 430.640

STATUTES/OTHER IMPLEMENTED: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205- 430.210, 430.254

- 430.640, 430.850 - 430.955, 743A.168

AMEND: 309-019-0230

RULE TITLE: ACT Provider Qualifications

NOTICE FILED DATE: 08/31/2023

RULE SUMMARY: Amended title of ruleset and removed information that no longer aligns with the title.

RULE TEXT:

- (1) In order to be eligible for Medicaid or State General Funds for ACT reimbursement, ACT services shall be provided only by those programs meeting the following minimum qualifications:
- (2) The program shall hold and maintain a certificate issued under the Oregon Health Authority established in OAR Chapter 309, Division 008 for the purpose of providing Outpatient Behavioral Health Treatment Services; and
- (3) The provider must hold and maintain a certificate issued by the Division under OAR 309-019-0225 through 309-019-0255 for the purpose of providing ACT; and
- (4) A provider certified to provide ACT services must be reviewed annually for fidelity adherence by the Division Approved Reviewer and may not bill Medicaid or use General Funds for the provision of ACT services unless they complete an annual fidelity review by the Division Approved Reviewer.

STATUTORY/OTHER AUTHORITY: ORS 161.390, 413.042, 430.256, 430.640

STATUTES/OTHER IMPLEMENTED: ORS 109.675, 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

ADOPT: 309-019-0233

RULE TITLE: ACT Program Certification

NOTICE FILED DATE: 08/31/2023

RULE SUMMARY: Adopted rule set to allow more clarification and specific section for review

RULE TEXT:

(1) A program that has achieved a minimum score of 114 during a fidelity review by the Division Approved Reviewer, is eligible for certification as an ACT Program.

(2) Requests for re-certification are driven by the programs compliance with the annual fidelity review. Failure to comply with annual fidelity review; will result in automatic de-certification.

(3) Certification by the Division will be approved for no longer than one year from re-certification Extensions to certification date can only be done with the Division approval if there is a Waiver or Plan of Correction (POC) needed for Failure of Fidelity per OAR 309-019-0240.

(4) Provisional Status is requested by following outlined procedure:

(a) A program already holding a certification of approval under OAR chapter 309, division 008 may request the addition of ACT services be added to their certificate;

(b) When a program is pursuing initial certification, all staff shall receive ACT 101 training from the Division Approved Reviewer prior to letter of request for provisional certification through Division;

(c) Provisional status must be requested in writing by the intended program to the Division and contain the following:

(A) Geographical location(s) of service areas

(B) Intended capacity of program

(C) Any specific/specialized target population demographic's (i.e. Young Adult, culturally specific, etc)

(D) Letter of support from Division Approved Reviewer that confirms 1(c)(A)(B) and (C) of this rule set.

(d) The request must be submitted in at least two months (60 days) prior to projected provisional start date and letter must specify the projected provisional start date.

(e) Provisional status, if approved can be for no longer than one calendar year;

(f) Technical Support is provided throughout the provisional status by the Division Approved Reviewer;

(5) If a program does not meet fidelity requirements, as outlines in OAR 309-019-0235, before a provisional certification expires the program must apply for a new provisional certification through the Division.

STATUTORY/OTHER AUTHORITY: ORS 161.390, 413.042, 430.256 & 430.640, ORS 109.675

STATUTES/OTHER IMPLEMENTED: 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168



AMEND: 309-019-0235

RULE TITLE: ACT Fidelity Requirements

NOTICE FILED DATE: 08/31/2023

RULE SUMMARY: Amended title and amended rule set to align with new definitions and specific to fidelity requirements to allow more organization

RULE TEXT:

- (1) A program certified to provide ACT services shall be reviewed annually for fidelity adherence by the Division Approved Reviewer and may not bill Medicaid or use General Funds for the provision of ACT services unless they achieve a minimum score of 114 on the fidelity scale. Extension of a certification period has no bearing on the frequency or scope of fidelity reviews or re-certification reviews required under OAR chapter 309, division 008.
- (2) Proposed changes to fidelity tools by the Division Approved Reviewer that would impact scoring must be communicated to The Division prior to being implemented.
- (3) Fidelity reviews shall be conducted utilizing the Division approved ACT Fidelity Scale, which the Division Approved Reviewer shall make the Fidelity Tools available to providers electronically at least 45 calendar days prior to scheduled fidelity review.
- (4) Within 30 calendar days following the fidelity review, the Division Approved Reviewer shall provide a comprehensive fidelity review report to the Division and the program. If the designated CCO request a copy of this report, the Division Approved Reviewer shall provide a copy timely.
- (5) Unless otherwise specified in CCO and program contract, the Program shall send a copy of the fidelity review report to the appropriate CCO within 7 calendar days following issuance of the fidelity review report.
- (6) If a program meets the benchmark score of 114, there will be a meeting scheduled within 20 calendar days after the publication and issuance of the comprehensive report. This meeting shall include the Division, Division Approved Reviewer and ACT Program. If a CCO requests to be present, the meeting invite will be forwarded to them upon request.

STATUTORY/OTHER AUTHORITY: ORS 161.390, 413.042, 430.256, 430.640

STATUTES/OTHER IMPLEMENTED: 430.254 - 430.640, 430.850 - 430.955, 743A.168, ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210

AMEND: 309-019-0240

RULE TITLE: ACT Failure to Meet Fidelity Standards

NOTICE FILED DATE: 08/31/2023

RULE SUMMARY: Amended section to align with current fidelity expectations and provide clarity on procedures for this rule set.

RULE TEXT:

(1) If a certified ACT program does not achieve a minimum score of at least 114 on a fidelity review, the following shall occur:

(a) Within 14 calendar days, unless otherwise extended by the Division, the Division, the Division Approved Reviewer, and the ACT program shall meet to discuss the outcome of the failed fidelity review. If a CCO requests to be involved, the host/scheduler shall forward the invite to the CCO.

(b) The Division Approved Reviewer must provide technical assistance for a period of 90 days from the date of the fidelity review publication to address problem areas identified in the failed fidelity review. These areas for Technical Assistance (TA) will include any area that scores a two or below and any sections that do not meet OAR requirements per 309-019-0225 through 0255 or any other applicable statutes, administrative rules, or other regulations;

(c) The Division will extend certification on a temporary basis for 90 days to allow for the technical assistance with anticipation that corrections to program operations will be made.

(d) At the end of the 90-day technical assistance period, The Division Approved Reviewer shall conduct a follow-up re-review to include all TA identified sections per (1)(b) of this rule set.

(e) Within 30 days following the fidelity re-review, the Division Approved Reviewer shall provide a comprehensive amended fidelity report to the Division and the program.

(f) Unless otherwise specified in CCO and program contract, the Program shall send a copy of the amended fidelity re-review report to the appropriate CCO within 7 calendar days following issuance of that amended fidelity re-review report.

(2) If the program achieves a minimum score of 114 or above on the follow-up re-review and meets the requirements of all applicable statutes, administrative rules, or other regulations, the Division shall recertify the program for one year.

(3) The Division may deny, revoke, suspend or place conditions on the programs ACT Certification if the re-review results in a fidelity score of less than 114.

(4) Congruent with the process outlined in section (1) above, if the Division determines a program is not operating in substantial compliance with all applicable statutes, administrative rules or other regulations, the Division may require the program submit a Plan of Correction (POC). The Division shall provide written notice of the requirement to submit a POC and the program shall submit a POC according to the following terms:

(a) The program shall submit a POC to the Division and the appropriate CCO within 30 days of receiving a notice of requirement to submit a POC. The Division may issue up to a 90-day extension to the existing certification to allow the program to complete the POC process; and

(b) The POC shall address each finding of non-compliance and shall include:

(A) The planned action already taken, or to be taken, to correct each finding of non-compliance.

(B) The anticipated or requested timeframe for the completion of each corrective action not yet complete at the time of POC submission to the Division;

(C) A description of and plan for quality assurance activities intended to ensure ongoing compliance; and

(D) The name and role of the individual responsible for ensuring the implementation of each corrective action within the POC.

(c) If the Division finds that clarification or supplementation to the POC is required prior to approval, the Division shall contact the program to provide notice of requested clarification or supplementation, and the program shall submit an amended POC within 14 calendar days of receiving notification.

(d) The program must submit a sufficient POC approved by the Division prior to receiving a certificate. Upon the

Division's approval of the POC, the Division shall issue the appropriate certification.

(e) The Division may deny, revoke, suspend, not renew, or place conditions on the program's certification if the program fails to submit an adequate POC within the timeframes established in this rule.

(5) When the Division determines the need to deny, revoke, not renew, or place conditions on the program's certificate issued under these rules, a notice of intent to take action on the certificate shall be issued to the program.

(6) Immediate suspension may occur if the Division finds there is a serious danger to the public health and safety during a specified period of time and/or there is a substantial failure to comply with applicable statutes, administrative rules, or other applicable regulations.

(a) The program may request a contested case hearing to contest the immediate suspension order in accordance with ORS Chapter 183.

(b) Requests for a hearing must be received by the Division within 90 days from the date the immediate suspension order was served on the program personally, or by certified or registered mail.

(7) When the Division issues an Order of Suspension, a notice of intent to revoke, notice of intent to deny an application or notice of refusal to renew the certificate to a program pursuant to these rules, the Division shall offer the program an opportunity for an informal conference. The program shall make its request for an informal conference in writing within 14 calendar days of the issuance of the notice of intent or Order of Suspension.

(a) Upon receipt of a timely written request, the Division shall select a location and time for such conference. Following the conference, the Division may:

(A) withdraw or amend the notice of intent or suspension order; or

(B) not withdraw the notice of intent or suspension order.

(b) the Division shall provide written notice of its decision within 14 calendar days following the informal conference.

(8) A program who is issued a notice of intent to deny, revoke, refuse to renew, or apply a condition on programs certificate under these rules shall be entitled to request a hearing in accordance with ORS Chapter 183.

(9) A Variance per OAR 309-019-0220 and 309-008-1600 is not allowable for failure to meet fidelity for ACT programs. It can be used to substitute and/or contract program core staffing structure per OAR 309-019-0226 (1) & (2), but the request must be done in time of need as a proactive effort of the program to maintain ACT fidelity standards and quality of services.

(a) If a program meets the above criteria and contracts key positions to fulfill the ACT fidelity standards, a Variance must be submitted to Division within 30 calendar days of known agreement and/or contracted position.

(b) A Variance submission must be submitted in at least 60 days prior to scheduled fidelity review; unless there are unforeseen circumstances that result in termination and/or resignation of a core position on the ACT Team. This must be communicated immediately to Division Approved Reviewer and The Division.

(c) If a Variance is needed for this intended purpose, The Division cannot approve for a period that may not exceed approval of 1 year.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 430.256, 430.640

STATUTES/OTHER IMPLEMENTED: ORS 428.205 - 428.270, 430.010, 430.205- 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

AMEND: 309-019-0241

RULE TITLE: Waiver of Minimum Fidelity Requirements

NOTICE FILED DATE: 08/31/2023

RULE SUMMARY: Amended section to align with current practices and provide clarity on procedures.

RULE TEXT:

(1) The Division may at its discretion, grant a waiver of minimum ACT fidelity requirements and extend an ACT program's certification period if the waiver to the requirement does not diminish the effectiveness of the ACT model, violate the purposes of the program, or adversely affect the program participants' health and welfare:

(a) Waivers may not be granted that are inconsistent with the individual participant's rights or federal, state, or local laws and regulations;

(b) The Division shall review waivers to minimum fidelity requirements on a case-by-case basis.

(2) Waivers granted to ACT minimum fidelity requirements shall result in an extension to the ACT program's certification period. An ACT program that has an approved waiver by The Division, is eligible to receive Medicaid and State General Fund reimbursement for ACT services if the ACT program meets the following criteria:

(a) The ACT program shall receive technical assistance from the Division approved reviewer and develop a plan to meet the minimum fidelity requirements at the end of the Waiver period. As a result of the approved Waiver, the 90-day follow-up re-review is suspended per OAR 309-019-0240;

(b) The ACT program shall notify the appropriate CCO that the program is operating under the Division approved waiver of minimum fidelity requirements per their contractual agreements.

(3) The Division shall grant waivers of minimum fidelity requirements for a period that may not exceed 180 days.

(a) At the end of the 180-day waiver period, the Division Approved Reviewer shall conduct a fidelity re-review of all areas that on initial fidelity report scored less than a two and any areas that are out of compliance with OAR's 309-019-0225 through 0255.

(b) If the program achieves a minimum score of 114 on the fidelity re-review and meets the requirements of all applicable statutes, administrative rules or other regulations, the Division shall recertify the program for one year per original annual certification date.

(4) A waiver of minimum fidelity requirements may only be granted to ACT programs that have received a fidelity review within 12 months prior to the request.

(5) Requests for a waiver of minimum fidelity requirements shall be submitted to the Division for approval.

(6) If a program does not meet fidelity after a Waiver period the Division may immediately suspend or revoke certification.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 430.256, 430.640

STATUTES/OTHER IMPLEMENTED: ORS 430.010, 430.205- 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

AMEND: 309-019-0242

RULE TITLE: ACT Program Operational Standards

NOTICE FILED DATE: 08/31/2023

RULE SUMMARY: Amended section to reflect new definitions and align with current fidelity procedures per DACT Amended for clarity.

RULE TEXT:

(1) All ACT teams shall be available seven days a week, 24 hours a day by direct phone link and regularly accessible to individuals who work or are involved in other scheduled vocational or rehabilitative services during non-traditional hours. 2ACT teams will need to utilize equitable split staff assignment from multiple ACT program staff to achieve this coverage and:

(a) Operate continuous 24/7 crisis coverage that includes direct after-hours on-call system with staff experienced in the program and skilled in crisis intervention procedures.

(b) The ACT team shall have the capacity to triage crisis calls and respond accordingly, either in person or by telephone depending on the participants needs in the moment of crisis event.

(c) To ensure ACT Participants have direct access to the ACT Team; the provider shall utilize a single crisis phone line system that will include procedures of notifying the identified ACT Program staff who is on-call. This staff member can evaluate, and triage appropriate response needed by ACT Program per (2)(a) of this rule set.

(d) ACT program staff shall document any crisis dispatches or calls they attend to within the participant's chart,

(e) If the ACT staff respond to a call and need additional supports, they may coordinate with other Mental Health community programs and/or Law Enforcement as per clinical judgement to ensure the crisis is properly handled for the individual in need. Collaboration and resourcing out for additional supports while responding to crisis will not count against fidelity as long as it is properly documented why additional supports were needed.

(2) Service Intensity:

(a) The ACT team shall have the capacity to provide the frequency and duration of staff-to-participant Face to Face contacts required by each Individual Recovery Plan and their immediate needs per the model and fidelity tools;

(b) The ACT team shall have the capacity to increase and decrease Face to Face contacts based upon daily assessment of the individual's clinical need with a goal of maximizing independence;

(c) The team shall have the capacity to provide multiple contacts to participants in high need and a rapid response to early signs of relapse;

(d) Natural supports and Informal Support System contacts as defined in OAR 309-019-0225 will be utilized as part of the treatment goal.

(e) The ACT team Psychiatrist and the Psychiatric Nurse Practitioner (PNP) shall have scheduling flexibility to accommodate individual needs. If the individual will not come to meet the Psychiatrist or the PNP at the ACT office, the Psychiatrist or PNP shall provide services as clinically indicated for that participant in the community. Secure telepsychiatry may be used when clinically indicated;

(f) The ACT team shall have the capacity to provide services via group modalities that are Face to Face as defined 309-019-0225(13).

(3) The ACT Team shall ensure that services are designed to meet participants needs in a culturally, linguistically and are developmentally appropriate. This includes collaboration and/or MOU's with local Tribal Communities or other diverse community partners within the ACT program's service area that would benefit participants treatment goals.

(4) Staffing Guidelines for ACT teams:

(a) ACT team individual to clinical staff ratio may not exceed 10:1; if there is a vacancy longer than 30 calendar days that impacts this ratio, the program must communicate this to Division Approved Reviewer to discuss possibility of submitting a Variance to The Division per 309-019-0240(9) and seek Technical Assistance and support on filling that core position to ensure quality of evidence-based services.

(b) A single ACT program will not serve more than 120 participants.

- (c) ACT Program must hire the appropriate staff to meet the minimum 1:10 staff ratio to individuals served.
- (d) Programs may not create multiple teams unless the program is at or above the 120 individuals served;
- (e) There is an identified geographical service area and/or specialized targeted population that is person centered for additional team.
- (f) A Small ACT Team per OAR 309-019-0225(29) is recommended to have no more than 10 staff
- (g) A Mid-Size ACT Team per OAR 309-019-0225(24) is recommended to have no more than 12 staff
- (h) A Large ACT Team per OAR 309-019-0225(21) is recommended to have no more than 14 staff.
- (5) No individual ACT staff member shall be assigned less than .20 FTE for their role on the team unless filling the role of psychiatrist or PNP. The ACT team psychiatrist or PNP may not be assigned less than .10 FTE.
- (6) ACT team staffing is multi-disciplinary. The core minimum staffing for an ACT team includes:
  - (a) A team leader position that shall be occupied by only one individual per team. The team leader is a QMHP level clinician qualified to provide direct supervision to all ACT staff except the psychiatric care provider and nurse.
  - (b) Psychiatric Care Provider (Psychiatrist or PNP) FTE is recommended by the number of individuals served by the ACT team based on The Division Approved Fidelity Scale.
  - (c) The Nurse FTE is recommended by the number of individuals served by the ACT team based on The Division Approved Fidelity Scale;
  - (d) The Program Administrative Assistant FTE is not counted in the clinical staff ratio.
- (7) ACT team minimum staffing shall include clinical staff with the following FTE and specialized competencies:
  - (a) The Substance Use Specialist FTE is recommended by the number of individuals served by the ACT team based on The Division Approved Fidelity Scale. A Substance Use Specialist specialized competencies shall include:
    - (A) Substance Use assessment and substance use diagnosis;
    - (B) Principles of Integrated Dual Disorder Treatment and practices of harm reduction;
    - (C) Knowledge and application of motivational interviewing strategies.
  - (b) The Employment Specialist FTE is dictated by the number of individuals served by the ACT team based on The Division Approved Fidelity Scale. An Employment Specialist specialized competencies shall include:
    - (A) Competence in the Vocational Services;
      - (i) Complete a Vocational assessment for any participant that communicates interest in employment;
      - (ii) Job exploration and matching to individual's interest and strengths and ensure all employment possibilities explored are Competitive and Integrated Employment.
      - (iii) Skills development related to choosing, securing, and maintaining employment.
- (c) The ACT Program can utilize a Certified Peer Support Specialist or Peer Wellness Specialist as described in OAR 410-180-0300 to 0380 and defined in OAR 309-019-0105(81) and 309-019-0105(84). A registry of certified Peer Support Specialist Specialists and Peer Wellness Specialists may be found at the Office of Equity and Inclusion's Traditional Health Worker's website.
- (8) ACT Team Staffing Core Competencies:
  - (a) Upon hiring, all clinical staff on an ACT team shall have experience in providing direct services related to the treatment and recovery of individuals with a serious and persistent mental illness. Staff shall be selected consistent with the ACT core operating principles and values. Clinical staff shall have demonstrated competencies in clinical documentation and engagement interventions ;
  - (b) All staff shall demonstrate basic core competencies in designated areas of practice, including the Assertive Community Treatment core principles, integrated mental health and substance abuse treatment, supported employment, psycho-education, and wellness self-management;
- (9) The ACT team shall conduct organizational staff meetings: The Division recommends at least four times per week. These meetings shall be conducted per evidence-based practice.
  - (a) The ACT team shall maintain in writing:
    - (A) A roster of the participants served in the program; and
    - (B) For each participant, a brief documentation of any treatment or service contacts that have occurred during the last

24 hours and a concise, behavioral description of the individual's status that day.

(b) During the organizational staff meeting, the ACT team shall plan for emergency and crisis situations and add service contacts to the daily staff assignment schedule.

(10) The ACT team shall conduct treatment planning meetings under the supervision of the team leader that include the input from the Psychiatrist or PNP. These treatment planning meetings shall occur at least annually or as needed per the participants progression in the program. The Division recommends more frequent meetings on new admissions. The ACT Participants presence is needed to ensure the identified treatment plan is an approved pathway for the individual and attainable

(a) Convene at regularly scheduled times per a written schedule set by the team leader;

(b) Occur and be scheduled when the majority of the team members can attend, including the psychiatrist or psychiatric nurse practitioner, team leader, and all members of the treatment team including any Peer Support Specialists;

(c) Require individual staff members to present and systematically review and integrate an individual's information into a holistic analysis and prioritize problems.

(11) A Comprehensive Assessment and Individualized Treatment Plan is completed upon each individual's admission to the ACT program

(12) Service Note Content:

(a) More than one intervention, activity, or goal may be reported in one service note, if applicable;

(b) ACT team staff shall complete a service note for each contact or intervention provided to an individual. Each service note shall include all the following:

(A) Individual's name;

(B) Medicaid identification number or client identification number;

(C) Date of service provision;

(D) Name of service provided;

(E) Type of contact;

(F) Place of service;

(G) Purpose of the contact as it relates to the goals on the individual's treatment plan;

(H) Description of the intervention provided if one occurred.

(I) Amount of time spent performing the intervention;

(J) Assessment of the effectiveness of the intervention and the individual's progress towards the individual's goal;

(K) Signature and credentials and/or job title of the staff member who provided the service.

STATUTORY/OTHER AUTHORITY: ORS 413.042

STATUTES/OTHER IMPLEMENTED: ORS 430.630

AMEND: 309-019-0245

RULE TITLE: ACT Admission Criteria

NOTICE FILED DATE: 08/31/2023

RULE SUMMARY: Amended section for clarity.

RULE TEXT:

(1) Participants shall meet the medically appropriate standard as designated in OAR 309-019-0105. Participants who are medically appropriate shall have the following characteristics:

(a) Participants who meet the SPMI Eligibility per OAR 309-019-0225(27) are the primary target population for ACT services per evidence-based model

(b) Individuals with a primary diagnosis of a substance use disorder intellectual developmental disabilities, traumatic brain injury, personality disorder, or an autism spectrum disorder are not the intended recipients of ACT and may not be referred to ACT if they do not have a co-occurring, qualifying SPMI Eligibility disorder;

(c) Participants with significant functional impairments as demonstrated by at least one of the following conditions:

(A) Significant difficulty consistently performing the range of practical daily living tasks required for basic adult functioning in the community (e.g., caring for personal business affairs; obtaining medical, legal, housing services; recognizing common dangers or hazards meeting nutritional needs; maintaining personal hygiene) or persistent or recurrent difficulty performing daily living tasks except with significant support or assistance from others such as friends, family, or relatives;

(B) Significant difficulty maintaining consistent employment at a self-sustaining level or significant difficulty consistently carrying out activities needed for independent living(e.g., household meal preparation, washing clothes, budgeting, or child-care tasks and responsibilities);

(C) Significant difficulty maintaining a safe living situation (e.g., repeated evictions or loss of housing).

(2) Participants with one or more of the following problems, which are indicators of continuous high service needs (e.g., greater than eight hours per month):

(a) High use of acute care psychiatric hospitals or emergency departments for psychiatric reasons, including psychiatric emergency services as defined in OAR 309-023-0110(18) (e.g., two or more readmissions in a six-month period);

(b) Intractable (e.g., persistent or very recurrent) severe major symptoms, affective, psychotic, suicidal;

(c) Coexisting substance use disorder of significant duration (e.g., greater than six months);

(d) High risk or history of criminal justice involvement (e.g., arrest, incarceration);

(e) Significant difficulty meeting basic survival needs, residing in substandard housing, homelessness, or imminent risk of becoming homeless;

(f) Residing in an inpatient or supervised community residence in the community, and clinically assessed to be able to live in a more independent living situation if intensive services are provided or requiring a residential or institutional placement if more intensive services are not available;

(g) Difficulty effectively utilizing traditional office-based outpatient services.

(3) The ACT program provides community-based, long-term, or time-unlimited services.

(4) If an individual is unable to maintain in community without 1:1 constant care; this is beyond the scope of what ACT could provide. ACT program may deny if the care requires 1:1 intervention on a continuum basis that is beyond the scope of ACT and make proper recommendations for higher level of care.

STATUTORY/OTHER AUTHORITY: ORS 161.390, 413.042, 430.256, 430.640

STATUTES/OTHER IMPLEMENTED: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168



AMEND: 309-019-0248

RULE TITLE: ACT Admission Process

NOTICE FILED DATE: 08/31/2023

RULE SUMMARY: Amended section to reflect grammar updates and parameters of referral process to ensure health equity that the process is consistent for all Oregonians and/or referral entities know when they can expect a determination.

RULE TEXT:

- (1) The ACT Program shall complete a Comprehensive Assessment that demonstrates medical appropriateness prior to the provision of this service. If a substantially equivalent assessment is available that reflects current level of functioning and contains standards consistent with OAR 309-019-0135 to include sufficient information and documentation to justify the presence of a diagnosis that is the medically appropriate reason for services, the equivalent assessment may be used to determine admission eligibility for the ACT program.
- (2) A referral for The ACT Program is managed and coordinated by a designated SPOC, as defined in these rules:
  - (a) The CCO, SPOC and or ACT Program shall accept all referrals utilizing the Universal Referral Form provided by the Division and verify the required documentation that supports ACT criteria. The referral must include when an approximate, reasonable date of admission and/or Intake for further evaluation for the ACT program is anticipated.
  - (b) Based on the CCO and ACT Program's published referral process and contractual language, the deciding entity shall have 14 calendar days of receipt of a referral to communicate to referring party and requested participant of final determination. This determination shall reference applicable OAR's for acceptance or denial. If there is insufficient information to process the referral, the deciding entity will respond to referring party requesting the additional information; which will be referred to as a pending referral
  - (c) If a pending referral is resubmitted, the deciding entity based on their published referral process, will have an additional 14 calendar days after receipt of this resubmission. A final determination must be made by the second resubmission timeframe based on relevant Administrative Rules.
- (3) The final determination must:
  - (a) Be a formal written response addressed to the requested participant and referring party; only if HIPAA allows for care coordination purposes or if legal status allows such communication.
  - (b) This decision must cite applicable administrative rule and criteria to support the final determination.
  - (c) A referral can be reflective as "pending" if there is more than 60 days until discharge from an acute care setting and the ACT Team requests monitoring for progression. If this option is utilized, the ACT program must document and site this OAR while also continuing to be actively involved in care coordination and will provide a final determination in good faith prior to discharge or end of jurisdiction date to ensure decision does not interfere with discharge process.
- (4) Referrals shall be accepted from mental health outpatient programs, residential treatment facilities or homes, families or individuals, and other community sources.
- (5) Given the severity of mental illness and functional impairment of individuals who qualify for ACT services, the final decision to admit a referral can rest with the CCO based on contractual language with said provider. Any referral to a provider shall include supporting medical documentation attached to the Universal ACT Referral Form provided by the Division and include an approximate date the referred individual will be able to enroll in an ACT program.
  - (a) The individual's decision not to take psychiatric medication is not a sufficient reason for denying admission to an ACT program;
  - (b) ACT capacity in a geographic regional service area is not a sufficient reason for not providing ACT services to an ACT eligible individual. If an individual who is ACT eligible cannot be served due to capacity, the SPOC and or CCO shall provide the individual with the option of being added to a waiting list until such time the ACT eligible individual may be admitted to a certified ACT program:
    - (A) The ACT eligible individual who is on the waitlist due to capacity shall be offered alternative community-based rehabilitative services as described in the Oregon Medicaid State Plan that includes evidence-based practices to the

extent possible;

(B) Alternative evidence-based services shall be made available to the individual, until the individual is admitted into an ACT Program.

(6) Individuals who meet admission criteria and are not admitted to an ACT program due to program capacity shall be placed on a waiting list. The Division shall monitor each regional waiting list until sufficient ACT program capacity is developed to meet the needs of the ACT eligible population.

(7) In addition, if an individual is denied ACT services the individual or their guardian may appeal the decision by filing a grievance in the manner set forth in OAR 309-008-1500 or for an Administrative Hearing which will be documented on The Division's form number MSC 0443 by either the Program, CCO or The Division and submitted through appropriate channels.

STATUTORY/OTHER AUTHORITY: ORS 161.390, 413.042, 430.256, 430.640

STATUTES/OTHER IMPLEMENTED: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205- 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

AMEND: 309-019-0250

RULE TITLE: ACT Transition to Less Intensive Services and Discharge

NOTICE FILED DATE: 08/31/2023

RULE SUMMARY: Amended section to reflect legal notifications to participants that has always been a requirement in 410's; also amended for parameters for discharges.

RULE TEXT:

- (1) Transition to less intensive services shall occur if the individual has confirmed they no longer require ACT level of care and requests a voluntarily discharge.
- (2) The ACT Program may transition and graduate an individual when the participant has:
  - (a) Successfully reached individually established goals for full transition;
  - (b) Successfully demonstrated an ability to function in all major role areas including but not limited to work, social, and self-care without ongoing assistance from the ACT Program;
  - (c) Requests discharge or declines or refuses services;
  - (d) Moves outside of the geographic area of the ACT program's responsibility. In such cases, the ACT team shall arrange for transfer of mental health service responsibility to an ACT provider or another provider wherever the individual is moving. The ACT team shall maintain contact with the individual until this service is implemented.
- (3) The Individual is incarcerated or institutionalized for more than three months with a date of discharge and/or release longer than six months out.
- (4) The ACT Program may discharge a Participant for behavior that is abusive to the point that the continued enrollment seriously impairs the provider's ability to furnish services to the participant:
  - (a) The Participant commits physical violence directed at ACT staff;
  - (b) If an ACT Program discharges a participant for abusive violent behavior, they must provide a copy of the discharge notice per 309-019-0250(4) to The Division and appropriate CCO.
- (5) If there have been unsuccessful documented attempted contacts by the ACT program that last up to 90 days that indicates whereabouts unknown the Participant may be discharged;
  - (a) These attempts must be documented and ACT Programs in good faith, have attempted all forms of communication that includes but not limited to:
    - (A) In-person,
    - (B) mail,
    - (C) phone calls and
    - (D) outreach to Natural Supports and/or Informal Support System.
  - (b) If an individual is discharged for whereabouts unknown and they make contact after the discharge date, the program has discretion on readmittance or re-referral.
- (6) Documentation of discharge or transition to lower levels of care even for graduation purposes shall follow OAR 410-120-1865 and include the following:
  - (a) The reasons for discharge or graduation citing administrative rule
  - (b) The individual's biopsychosocial status at discharge or transition.
  - (c) A plan for follow-up treatment developed in conjunction with the individual.
  - (d) The ACT program, in good faith, must provide a copy of discharge or transition to lower level of care to the participant:
    - (A) Mailed or electronic copy as long as HIPAA approved/permission given to communicate electronically.
    - (B) Mailed or faxed to facility of known incarceration/institutionalization.

STATUTORY/OTHER AUTHORITY: ORS 161.390, 413.042, 430.256, 430.640

STATUTES/OTHER IMPLEMENTED: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205- 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168



AMEND: 309-019-0255

RULE TITLE: ACT Reporting Requirements

NOTICE FILED DATE: 08/31/2023

RULE SUMMARY: Amended to reflect definitions and current expectations that are already in place.

RULE TEXT:

(1) ACT Programs certified by the Division to provide ACT services shall submit quarterly outcome reports using forms and procedures prescribed by the Division.

(2) ACT Programs shall submit quarterly outcome reports within 45 days following the end of each subject quarter to the Division or the Division Approved Reviewer. Each quarterly report shall provide the following information if available:

(a) Participants served:

(A) Who are houseless at any point during a quarter;

(B) With safe stable housing for the last six months;

(C) Using emergency departments during each quarter for a mental health reason;

(D) Hospitalized in OSH or in an acute psychiatric facility during each quarter;

(E) Hospitalized in an acute care psychiatric facility during each quarter;

(F) Encountered the criminal court system at any point during each quarter. This includes incarceration, institutionalization or charged with criminal offense

(G) Receiving Supported Employment Services during each quarter;

(H) Who are employed in competitive employment, as defined above;

(I) That are not enrolled in Medicaid.

(b) Referrals and Outcomes:

(A) Number of total referrals received during each quarter;

(B) Number of participants pending during each quarter;

(C) Number of participants admitted during each quarter; and

(D) Number of participants denied during each quarter and the reason for each denial;

(E) Number of participants who have been placed on a waitlist and time on waitlist.

STATUTORY/OTHER AUTHORITY: ORS 161.390, 413.042, 430.256, 430.640

STATUTES/OTHER IMPLEMENTED: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168