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PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 410

OREGON HEALTH AUTHORITY

HEALTH SYSTEMS DIVISION: MEDICAL ASSISTANCE PROGRAMS

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RULES:

410-144-0000, 410-144-0005, 410-144-0010, 410-144-0020, 410-144-0025, 410-144-0030, 410-144-0040, 410-144-0050, 410-144-0060

AMEND: 410-144-0000

NOTICE FILED DATE: 12/30/2024

RULE SUMMARY: This rule has been amended for clarification, and to include language related to United We Heal (HB 4002).

CHANGES TO RULE:

410-144-0000

Purpose

These rules ~~establish~~ outline the requirements for participation in three different Workforce Development programs for supplemental payment through Medicaid which were enacted by the Oregon legislature under Senate Bill 800 (Enrolled 2021 Regular Session), House Bill 3396 (Enrolled 2023 Regular Session), and House Bill 4002 (Enrolled 2024 Regular Session). The Essential Workforce Health-Care Program (EWHP) ~~and~~, the Essential Workforce Development Program (EWDP) also known as CareWorks Supplemental Payment program. ~~The EWHP and EWDP a, and the United We Heal Supplemental Payment Program (UWHP) were established for participating employers to~~ with the goal of developing certain segments of the healthcare workforce in this State. Eligible employers that participate in an EWHP, EWDP, or UWHP may be eligible to receive supplemental Medicaid payments by providing health care benefits, on-the-job training, and apprenticeship and mentorship opportunities to the employees of their facilities. Oregon Health Authority (Authority) shall provide supplemental payments to support the funding of these benefits in accordance with the rules in this Division 144.

Statutory/Other Authority: ORS 410.070, 413.042, ~~183.310~~

Statutes/Other Implemented: ORS 414.033, 735.520, OL 2021 ch. 595

AMEND: 410-144-0005

NOTICE FILED DATE: 12/30/2024

RULE SUMMARY: This rule has been amended for clarity, and to add definitions relating to the United We Heal payment program.

CHANGES TO RULE:

410-144-0005

Definitions

(1) "Employee Retirement Income Security Act of 1974 (ERISA)" means the federal law that sets minimum standards for most voluntarily established retirement and health plans in private industry to provide protection for individuals in these plans.-¶

(2) "Essential Workforce Health Care Fund (EWHF)" means a jointly administered employee welfare benefit plan governed by ERISA and applicable law that has been established for the purpose of providing health and related benefits to employees of participating employers and their beneficiaries and under the conditions specified in the EWHF Plan in accordance with SB 800 (2021).-¶

(3) "Essential Workforce Development Program (EWDP)" means a Medicaid supplemental payment program for qualified nursing facilities (NFs) authorized in the Medicaid State Plan amendment as the CareWorks Supplemental Payment Program. Supplemental payments shall be made to qualified nursing facilities participating in a qualified labor-management training trust that expand on-the-job training, apprenticeship opportunities and other programs that support the development of NF health care professionals in accordance with HB 3396 and SB 1049 (2023).-¶

(4) "United We Heal Supplemental Payment Program (UWHP)" means a supplemental Medicaid assistance program for eligible behavioral health care providers (BHCP) to access enhanced apprenticeship and training programs and opportunities by participating in a labor-management training trust that meets the requirements outlined in House Bill 4002 (Enrolled 2024 Regular Session) and as further detailed in the rules in this Division 144.¶

(5) "Qualified Labor Management Training Trust" means a joint labor management training trust with ¶

(a) equal voting rights of labor and management trustees; ¶

(b) provides high quality education and training and benefits to health care workers across multiple nursing facilities and behavioral healthcare providers statewide; ¶

(c) was in existence when HB 3396 was and HB 4002 were signed into law; and ¶

(d) agrees to use Net Payments exclusively for the benefit of Oregon nursing facilities or Oregon behavioral health care providers. ¶

(56) "Facility" means a facility that is:¶

(a) A long-term care facility licensed under ORS 441.020;-¶

(b) A residential facility as defined in ORS 443.400; or-¶

(c) An in-home care agency licensed under ORS 443.315.-¶

(67) "Authority" means Oregon Health Authority.-¶

(78) "Participating employer" means an operator of a facility that:-¶

(a) Is a participating provider in the state medical assistance program (defined in OAR 410-120-0000);-¶

(b) Elects to participate in the Oregon Essential Workforce Health Care Program; and-¶

(c) Meets requirements prescribed by the Oregon Health Authority in this rule.-¶

(89) "Nursing Facility" means a long-term care facility licensed under ORS 441.020.-¶

(910) "Qualified Nursing Facility" means an operator that:-¶

(a) Is a participating provider in the state medical assistance program (defined in OAR 410-120-0000);-¶

(b) Have~~s~~ received a Medicaid payment for a nursing facility claim for services provided during the effective dates of payment;-¶

(c) Be~~s~~ a privately-owned nursing facility;-¶

(d) Participate~~s~~ in a labor-management training trust that supports the development of health care professionals during the effective date; and-¶

(e) Have~~s~~ a memorandum of understanding with the Authority that specifies how the supplemental payments shall be used to support training health care workers.¶

(11) "Behavioral Health Care Provider" means providers certified under OAR 309-008-0250 to provide behavioral health treatment services.

Statutory/Other Authority: ORS 410.070, 413.042, ~~183.310~~

Statutes/Other Implemented: ORS ~~414.033, 735.520~~ 410.070, 414.033, OL 2021 ch. 595

AMEND: 410-144-0010

NOTICE FILED DATE: 12/30/2024

RULE SUMMARY: This rule defines eligibility for the affected programs.~~22~~This rule was amended for clarity, and to include eligibility requirements for United We Heal.

CHANGES TO RULE:

410-144-0010

Eligibility

(1) Requirements for an ~~eligible employer~~employer to be eligible to participate in the Essential Workforce Health Care Program include:~~¶~~

~~(a) S that the employer shall:¶~~

~~(a) Have a signed~~Have a signed memorandum of understanding with the Oregon Health Authority (Authority) that specifies how the supplemental payments ~~shall~~must be used:~~¶~~

~~(b) Agree to participate in evidence-based workforce and quality of care improvements:~~¶~~ and¶~~

~~(c) Annually report quality and other metrics.~~¶~~~~

(2) Requirements for a qualified nursing facility to participate in the Essential Workforce Development Program include: ~~that the facility shall:¶~~

~~(a) Have a signed a~~Have a signed memorandum of understanding with the Authority that specifies how the supplemental payments ~~shall~~must be used to support training health care workers:~~¶~~

~~(b) Annually report workforce development metrics:~~¶~~~~

~~(c) Be a participating provider in the Oregon medical assistance program:~~¶~~~~

~~(d) Have received a Medicaid payment for a nursing facility claim for services provided during the effective dates of payment:~~¶~~~~

~~(e) Be a privately-owned nursing facility; and¶~~

~~(f) Participate in a labor-management training trust that supports the development of health care professionals during the effective dates.¶~~

(3) Requirements for a behavioral health care provider to participate in the United We Heal Supplemental Payment Program include that the provider shall: ¶

~~(a) Have a signed memorandum of understanding with the Authority that specifies how the supplemental payments must be used to access apprenticeship and training programs and opportunities to increase the available behavioral health care workforce;¶~~

~~(b) Annually report apprenticeship and training metrics;¶~~

~~(c) Have received a Medicaid payment for a behavioral health care provider claim for services provided during the effective dates of payment; and¶~~

~~(d) Participate in a labor-management training trust that supports the development of behavioral health care professionals during the effective dates.~~

Statutory/Other Authority: ORS 410.070, 413.042, ~~183.310~~

Statutes/Other Implemented: ORS ~~414.033, 735.520~~410.070, 414.033, OL 2021 ch. 595

AMEND: 410-144-0020

NOTICE FILED DATE: 12/30/2024

RULE SUMMARY: This rule has been amended for clarity, and to include positions eligible for participation in United We Heal.

CHANGES TO RULE:

410-144-0020

Memorandum of Understanding

All participating employers that receive a supplemental payment under these programs shall sign a Memorandum of Understanding with the Authority. The Memorandum of Understanding shall document the requirements and responsibilities for using the supplemental payments to provide some of the following: health care benefits to their employees, on-the-job training, apprenticeship opportunities, educational opportunities and/or other programs that support the development of health care professionals, including medical technicians, certified nursing assistants, ~~and phlebotomists, pre-apprenticeships,~~ Certified Alcohol and Drug Counselors (CADC), Qualified Mental Health Associates (QMHA), and/or Qualified Mental Health Professionals (QMHP).

Statutory/Other Authority: ORS 410.070, 413.042, ~~183.310~~

Statutes/Other Implemented: ORS ~~414.033, 735.520~~ 410.070, 414.033, OL 2021 ch. 595

AMEND: 410-144-0025

NOTICE FILED DATE: 12/30/2024

RULE SUMMARY: This rule has been amended for clarity, and to include usage requirements within United We Heal.

CHANGES TO RULE:

410-144-0025

Use of Supplemental Payments

Participating employers who receive supplemental payments under these ~~/programs shall~~ EWHP, EWDP, or UWHP must use the supplemental payments ~~to participate in the Essential Workforce Health Care Program or the Essential Workforce Development Program as outlined in this rule and as further detailed in the MOU entered into with the Authority.~~ ¶

(1) Payments under Essential Workforce Health Care Program ~~shall~~ must be used to provide health care benefits to employees of the participating facilities through the Essential Workforce Health Care Fund (EWHF). ¶

(2) Participating employers use of the supplemental payments are subject to the requirements established by the Essential Workforce Health Care Fund (EWHF). ¶

(3) Payments under Essential Workforce Development Program ~~shall~~ (CareWorks) must be used to provide apprenticeships, on-the-job training, and other approved programs to employees of the participating facilities through an Eligible Labor Management Training Trust. ¶

(4) Qualified nursing facility's use of the supplemental payments are subject to the requirements established by an Eligible Labor Management Training Trust. ¶

(5) Payments under United We Heal Supplemental Payment Program must be used to provide pre-apprenticeships, apprenticeships, on-the-job training, and other approved programs to employees of the participating providers through an Eligible Labor Management Training Trust. ¶

(6) Eligible Behavioral Health Care Providers use of the supplemental payments is subject to the requirements established by an Eligible Labor Management Training Trust.

Statutory/Other Authority: ORS 410.070, 413.042, ~~183.310~~

Statutes/Other Implemented: ORS 414.033, 735.520 0.070, 414.033, OL 2021 ch. 595

AMEND: 410-144-0030

NOTICE FILED DATE: 12/30/2024

RULE SUMMARY: This rule has been amended for clarity.

CHANGES TO RULE:

410-144-0030

Evidence-based Workforce and Quality of Care Improvements

Participating employers ~~agree to~~ in Essential Workforce Health Care Program must participate in evidence-based workforce and quality of care improvements, including all of the requirements in this rule.¶

(1) Workforce input into benefit design;¶

(2) ~~Quantitative and qualitative reporting on impact of health care benefit on workforce;~~¶

(3) Retention strategies for workforce; and¶

(4) Others as mutually agreed upon by the Authority and participating employers.

Statutory/Other Authority: ORS 410.070, 413.042, ~~183.310~~

Statutes/Other Implemented: ORS ~~414.033, 735.520~~ 410.070, 414.033, OL 2021 ch. 595

AMEND: 410-144-0040

NOTICE FILED DATE: 12/30/2024

RULE SUMMARY: This rule has been amended to include program requirements for participation in the United We Heal program.

CHANGES TO RULE:

410-144-0040

Annual Reporting of Quality Metrics

(1) Essential Workforce Health Care Fund (EWHF) ~~shall~~ annually provide reports on ~~all of~~ the following metrics related to quality health benefits:¶

(a) Health benefits design, including total premium, employer/employee premium split, deductible, out-of-pocket maximum, co-pays, co-insurance;¶

(b) Services covered by benefit;¶

(c) Number of employees and their dependents enrolled in the health benefit;¶

(d) Network adequacy;¶

(e) Waiting times for select services;¶

(f) Other measures of employee health and wellness as mutually agreed upon between the Authority and participating employers;¶

(g) Narrative description of significant changes from the past year or anticipated future changes;¶

(h) Workforce retention metrics; and¶

(i) Equity metrics.¶

(2) The report shall be due to the Authority by January 31 of each year.¶

(3) The Qualified Labor Management Training Trust shall annually provide reports on ~~all of~~ the following metrics related to apprenticeships, on-the-job training, and other programs contemplated in HB 3396 (2023):¶

(a) Number of qualified nursing facilities participating in a labor-management training trust to expand on-the-job training, apprenticeship opportunities and other programs that support the development of health care professionals;¶

(b) Participant demographics;¶

(c) Training completions;¶

(d) Job placement wages; and¶

(e) Retention of training participants.¶

~~(f)¶~~

(e) Retention of training participants;¶

(f) Equity metrics (REALD and SOGI); and ¶

(g) Narrative description of significant changes in the participating employees from prior to training, through training, and anticipated future.¶

(4) The report shall be due to the Authority by January 31 of each year.¶

(5) The Qualified Labor Management Training Trust shall annually provide reports on the following metrics related to pre-apprenticeships, apprenticeships, on-the-job training, and other programs contemplated in HB 4002 (Enrolled 2024 regular session):¶

(a) Number of eligible behavioral health care providers participating in a labor-management training trust to expand on-the-job training, pre-apprentice and apprenticeship opportunities and other programs that support the development of behavioral health care professionals;¶

(b) Participant demographics;¶

(c) Training completions;¶

(d) Job placement wages;¶

(e) Retention of training participants;¶

(e) Equity metrics (REALD and SOGI); and¶

(gf) Narrative description of significant changes in the participating employees from prior to training, through training, and anticipated future.¶

(46) The report shall be due to the Authority by January 31 of each year.

Statutory/Other Authority: ORS 410.070, 413.042, ~~183.310~~

Statutes/Other Implemented: ORS 414.033, 735.5200.070, 414.033, OL 2021 ch. 595

RULE SUMMARY: This rule has been amended to include payment methodology for United We Heal supplemental payments.

CHANGES TO RULE:

410-144-0050

Supplemental Payments Methodology

Supplemental payments are determined using the following methods:-¶

(1) The aggregate available supplemental payment amount for privately-owned Nursing Facilities (NFs) is calculated for each aggregate Medicaid supplemental payment limit calculation period by taking the difference between the aggregate upper payment limit (UPL) from paragraph (a) of this subsection and the aggregate Medicaid payment from paragraph (b) of this subsection.-¶

(a) The aggregate upper payment limit for privately-owned NFs, as presented in the most recently completed Medicaid NF UPL calculation submitted to CMS, shall be calculated in accordance with the Medicaid UPL provisions codified at Title 42 CFR § 447.272 as follows:-¶

(A) Determine aggregate costs under Medicare cost principles using the most recently filed or settled CMS 2540 skilled nursing facility cost reports for privately-owned NFs.-¶

(B) Determine the per diem cost by dividing the aggregate costs from subparagraph (A) of this paragraph by total days of service associated with the same cost reports.-¶

(C) Extract Medicaid days of service for privately-owned NFs from the state's Medicaid Management Information System (MMIS) for the cost reporting periods associated with the cost reports described in clause (A) of this subparagraph.-¶

(D) Determine aggregate Medicaid costs by multiplying the per diem Medicaid cost from section (B) of this paragraph by Medicaid days of service from section 1(a)(C) of this ~~section~~-rule.-¶

(b) The aggregate Medicaid payment is equal to sum of Medicaid payments for privately-owned NFs from the aggregate Medicaid supplemental payment limit calculation period. Payment data includes Medicaid regular per diem payments, per diem drug payments, and per diem client contributions.-¶

(2) The aggregate available supplemental payment amount is not to exceed the lower of 95 percent of the aggregate available supplemental payment amount for privately owned NFs from section (1) of this rule and the general fund revenue allocated to the program plus associated federal matching funds.-¶

(3) The state may further reduce the aggregate available supplement payment amount from section (2) of this rule if the aggregate upper payment limit for privately-owned NFs from section (1)(a) of this rule is projected to decrease between the aggregate Medicaid supplemental payment limit calculation period and the federal fiscal year within which the applicable NF-level Medicaid supplemental payment limit calculation period falls.-¶

(4) Methodology to calculate NF-specific supplemental payment amounts:-¶

(a) Divide the aggregate available supplemental payment amount from section (2) of this rule by ~~four~~ a minimum of two (2);-¶

(b) Extract Medicaid days of service for privately-owned NFs that have qualified for a supplemental payment from the state's MMIS for the NF-level Medicaid supplemental payment limit calculation period;-¶

(c) The allocation percentage for each qualifying NF shall be determined by dividing the individual NF's total Medicaid days from section (2) of this rule by the aggregate sum of all qualifying NFs' Medicaid days from the same section;-¶

(d) The NF-specific supplemental payment for the NF-level Medicaid supplemental payment limit calculation period shall equal the aggregate available supplemental payment amount from subsection (4)(a) of this rule multiplied by the NF's allocation percentage from subsection (4)(c) of this rule.-¶

(e) The supplemental payment does not exceed applicable Federal upper payment limit requirements.-¶

(5) Methodology to calculate eligible behavioral health care provider (BHCP) supplemental payment amounts.-¶

(a) Establish a payment pool of total available supplemental payment amount for all qualifying BHCP which is equal to the general fund revenue appropriated plus associated federal matching funds.-¶

(b) Extract Medicaid payments for eligible BHCPs determined per Eligibility rule 410-144-0010 section (4)(a-d) from the state's Medicaid Management Information System (MMIS) for effective dates of payments.-¶

(c) The allocation percentage for each eligible BHCP will be determined by dividing the BHCP's total Medicaid revenue from subsection (4)(b) of this rule by the aggregate sum of all eligible BHCPs' Medicaid revenue from the same subsection.-¶

(d) The BHCP-specific supplemental payment will equal the total available supplemental payment amount from subsection (4)(a) of this rule multiplied by the allocation percentage from subsection (4)(c) of this rule.-¶

(e) The supplemental payment does not exceed applicable Federal upper payment limit requirements.
Statutory/Other Authority: ORS 410.070, 413.042, ~~183.310~~
Statutes/Other Implemented: ORS ~~414.033, 735.520~~410.070, 414.033, OL 2021 ch. 595

AMEND: 410-144-0060

NOTICE FILED DATE: 12/30/2024

RULE SUMMARY: This rule has been amended to add language about contested case proceedings.

CHANGES TO RULE:

410-144-0060

Oversight

All payments authorized for these/~~Programs~~ are subject to audit at the discretion of the/~~Authority~~ Authority. The Authority will terminate payments if the provider fails to abide by or violates the terms of their signed MOU. A provider may request a contested case proceeding to challenge a termination.

Statutory/Other Authority: ORS 410.070, 413.042, ~~183.314~~ 410.120

Statutes/Other Implemented: ORS ~~414.033, 735.520~~ 410.070, 414.033, OL 2021 ch. 595