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TEMPORARY ADMINISTRATIVE ORDER

INCLUDING STATEMENT OF NEED & JUSTIFICATION

DMAP 30-2020

CHAPTER 410
OREGON HEALTH AUTHORITY
HEALTH SYSTEMS DIVISION: MEDICAL ASSISTANCE PROGRAMS

FILED
06/26/2020 10:06 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Updates BRS Rules For Accuracy And Aligns Rule With SB 171 And Family First Act

EFFECTIVE DATE: 07/01/2020 THROUGH 12/27/2020

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NEED FOR THE RULE(S):

The Division needs to amend these rules to align them with SB 171 and Family First Act.

JUSTIFICATION OF TEMPORARY FILING:

The Authority finds that failure to act promptly will result in serious prejudice to the public interest, the Authority, and recipients of Medicaid benefits. These rules need to be adopted promptly so that the Authority may meet the deadlines associated with the implementation of Qualified Residential Treatment Programs (QRTP) per ORS 419B.356 and update several grammatical issues and technical references.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

https://olis.leg.state.or.us/liz/2019R1/Measures/Overview/SB171
https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1024

RULES:
410-170-0000, 410-170-0020, 410-170-0030, 410-170-0040, 410-170-0050, 410-170-0060, 410-170-0070, 410-170-0090, 410-170-0100, 410-170-0110

AMEND: 410-170-0000

RULE TITLE: Administration of the Behavior Rehabilitation Services (BRS) Program

RULE SUMMARY: The Behavior Rehabilitation Services (BRS) Program is to remediate the BRS client's debilitating psychosocial, emotional, and behavioral disorders by providing such services as behavioral intervention, counseling, and skills-training. These rules are meant to describe the general program requirements for the BRS program, prior authorization process, services and placement-related activities, BRS contractor and BRS provider requirements, reimbursement rates, and compliance and oversight activities. General changes have been made to update references, grammar, and definitions. Specific changes have been made to accommodate to the addition of a Qualified Residential Treatment Program (QRTP) type, services and rate due to the implementation of SB 171 and the Family First Act.

RULE TEXT:

(1) All BRS contractors shall, and ensure that their BRS providers, comply with the Medical Assistance programs rules in OAR Chapter 410, Division 120.

(2) All BRS contractors shall, and ensure that their BRS providers, comply with the BRS program general rules in OAR Chapter 410, Division 170.

(a) BRS contractors shall, and ensure that their BRS providers, comply with OAR Chapter 413, Division 095 to provide services or placement-related activities to BRS clients who receive prior authorization from the Department of Human Services;

(b) BRS contractors shall, and ensure that their BRS providers, comply with OAR Chapter 416, Division 335 to provide services or placement-related activities to BRS clients who receive prior authorization from the Oregon Youth Authority.

(3) The Oregon Health Authority may delegate authority to another agency or a unit of government to carry out some of its obligations under these rules.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.065

STATUTES/OTHER IMPLEMENTED: ORS 414.065

AMEND: 410-170-0020

RULE TITLE: Definitions

RULE SUMMARY: The Behavior Rehabilitation Services (BRS) Program is to remediate the BRS client's debilitating psychosocial, emotional, and behavioral disorders by providing such services as behavioral intervention, counseling, and skills-training. These rules are meant to describe the general program requirements for the BRS program, prior authorization process, services and placement-related activities, BRS contractor and BRS provider requirements, reimbursement rates, and compliance and oversight activities. General changes have been made to update references, grammar, and definitions. Specific changes have been made to accommodate to the addition of a Qualified Residential Treatment Program (QRTP) type, services and rate due to the implementation of SB 171 and the Family First Act.

RULE TEXT:

The following definitions apply to terms used in OAR Chapter 410, Division 170.

(1) "Accreditation" as defined in OAR 413-095-0000(2) means:

(a) An endorsement certifying that the BRS program meets all of the rigorous guidelines for service and quality established by any of the following entities:

(A) The Commission on Accreditation of Rehabilitation Facilities (CARF); or

(B) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or

(C) The Council on Accreditation (COA); or

(D) An independent, not for profit accrediting organization approved by the U.S. Department of Health and Human Services.

(b) A provisional endorsement issued by one of the entities described in section (a)(A)-(D) of this rule and conditionally approved by the Department for a period not to exceed 270 days from the date the provisional endorsement is issued.

(2) "Aftercare and Transition Plan (ATP)" means the written individualized service plan developed by the BRS contractor or BRS provider describing how the BRS client will successfully transition from its program to the community and identifying the aftercare services that must be provided to the BRS client following discharge.

(3) "Aftercare and Transition Plan — Stabilization (ATP–S)" means the aftercare and transition plan developed in a short-term stabilization program.

(4) "Aftercare Planning" means the process of developing a detailed description of the services to be delivered to the BRS client and the BRS client's family through parent training during the aftercare period.

(5) "Age-Appropriate or Developmentally-Appropriate Activities" means activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral and social capacities that are typical for an age or age group. In the case of a specific child, age-appropriate or developmentally appropriate activities means activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, behavioral and social capacities of the child.

(6) "Agency" means the state agency that has a contract with the BRS contractor to provide services and placement-related activities to the BRS client and provides prior authorization for the BRS client to receive services and activities pursuant to the BRS program general rules and, as applicable, agency-specific BRS program rules. The agency is one of the following state agencies: The Department of Human Services (Department), the Oregon Health Authority (Authority), or the Oregon Youth Authority (OYA).

(7) "Approved Proctor Foster Parent" means an individual who a BRS contractor, a BRS provider, or OYA approved to provide services or placement-related activities to the BRS client in the home of that individual. Approved proctor foster parents who provide services are considered direct care staff and shall meet those qualifications in OAR 410-170-0030. An OYA approved proctor foster parent is certified by OYA and a child-caring agency in accordance with the applicable provisions in OAR Chapter 416, Division 530 and Chapter 416, Division 550 and is employed by or has a contract or agreement with the child-caring agency to provide some services and placement-related activities to the BRS client in the proctor foster parent's home.

(8) “Abbreviated AER” means the assessment and evaluation report developed when there is a transfer of the BRS client between BRS programs as described in OAR 410-170-0070(2)(d).
(9) “Assessment and Evaluation Report (AER)” means the written report detailing the findings of the assessment and evaluation of the BRS client conducted by a social service staff member as required in OAR 410-170-0070(2).
(10) “Assessment and Evaluation Report — Stabilization (AER–S)” means the assessment and evaluation report developed in a short-term stabilization program.
(11) “Behavior Rehabilitation Services (BRS) Program” means a program that provides services and placement-related activities to the BRS client to address their debilitating psychosocial, emotional, and behavioral disorders in a community placement utilizing either a residential care model or a proctor care model.
(12) “Billable Care Day” means each calendar day the BRS client is in the direct care of the BRS provider at 11:59 p.m. or meets the requirements in OAR 410-170-0110.
(13) “BRS Client” means the person who has prior authorization from an agency to receive services or placement-related activities through the BRS program.
(14) “BRS Contractor” means the entity contracted with an agency to be responsible for providing services and placement-related activities to the BRS client. The BRS contractor may also be the BRS provider if it provides direct services and placement-related activities to the BRS client.
(15) “BRS Provider” means a facility, institution, corporate entity, or other organization that provides direct services and placement-related activities to the BRS client.
(16) “BRS Type of Care” means the type of program model, services, placement-related activities, and staffing requirements and qualifications that are necessary to meet the medical and other needs of the BRS client.
(17) “Caseworker” means the individual who coordinates the services and placement-related activities for the BRS client with the BRS contractor and BRS provider.
(18) “Child or Children” means a person or persons under 21 years of age.
(19) “Child-Caring Agency” means a child-caring agency in ORS 418.205.
(20) “Children’s Health Insurance Program (CHIP)” means the federal and state funded portion of the Oregon Health Plan (OHP) established by Title XXI of the Social Security Act and administered by the Authority.
(21) “Contract Administrator” means the employee or other individual designated in writing by the agency, by name or position description, to conduct the contract administration of a contract or class of contracts.
(22) “Crisis Intervention” means the BRS contractor or the BRS provider responding, either by phone or in person, to a crisis or urgent need of the BRS client or the BRS client’s aftercare resource for the purpose of providing aftercare services to the BRS client.
(23) “Critical Event” means a significant event including incidents described in OAR 413-215-0091(11)(b) occurring in the operation of the BRS contractor’s or BRS provider’s program that is considered likely to cause complaints, generate concerns, or come to the attention of the media, law enforcement agencies, first responders, Child Protective Services, or other regulatory agency.
(24) “Culture” means the sum of attitudes, customs, values, and beliefs that distinguishes one group of people from another.
(25) “Culturally-Sensitive Approach” means to enhance practices with culturally appropriate strategies through the knowledge and interpersonal skills that allow the BRS provider to understand, appreciate, engage, and work with individuals from their culture’s perspective.
(26) “Designated LPHA” means a licensed practitioner of the healing arts who has a contract with, is approved by, or is employed by the agency to make a determination on the medical appropriateness of the BRS program for the BRS client.

(27) “Department of Human Services (Department)” means the agency established in ORS Chapter 409, including such divisions, programs, and offices as may be established therein. For purposes of these rules, it refers to the Child Welfare Programs within the Department.
(28) “Direct Care Staff” means an individual who is employed by or who has a contract or an agreement with the BRS

provider and is responsible for assisting social service staff in providing individual and group counseling, skills-training and therapeutic interventions, and monitoring and managing the BRS client's behavior to provide a safe, structured living environment that is conducive to treatment.
(29) "Evidence-Based" as defined in OAR 413-95-0000(4) means an approach to medicine, education, and other disciplines that emphasizes the practical application of the findings of the best available current research.
(30) "Fictive Kin" as defined in OAR 413-95-0000(5) has the same meaning as kith and means an individual who is not related to the BRS client by blood, adoption or marriage but has an emotionally significant relationship with the BRS client that has the characteristics of a family relationship.
(31) "Gender-Responsive Approach" means integrating those things that intentionally allow gender identity and development to affect and guide services and service delivery in order to create an environment (physical, social, emotional) that is responsive to the issues and needs of the BRS client being served.
(32) "Home Visit" means planned in-person contact between the BRS client and the BRS client's immediate family, extended family, prior foster family, or other natural support persons.
(33) "Initial Service Plan (ISP)" means the initial written individualized services plan developed by the BRS contractor or BRS provider identifying the services that must be provided to the BRS client during the first 45 days in its BRS program or until the master service plan is written.
(34) "Licensed Practitioner of the Healing Arts (LPHA)" means a physician or other practitioner licensed in the State of Oregon who is authorized within the scope of the LPHA's practice, as defined under state law, to diagnose and treat individuals with physical or mental disabilities or psychosocial, emotional, and behavioral disorders.
(35) "Master Service Plan (MSP)" means the written individualized services plan developed by the BRS contractor or BRS provider identifying the services that must be provided to the BRS client in its BRS program.
(36) "Master Service Plan — Stabilization (MSP–S)" means the master service plan developed in a short-term stabilization program.
(37) "Master Service Plan — Transition (MSP–T)" means the master service plan developed in an independent living program.
(38) "Medicaid" means the federal and state funded portion of the medical assistance programs established by Title XIX of the Social Security Act as amended and administered in Oregon by the Authority.
(39) "Monitoring" means in-person, phone or electronic contact by the BRS provider with the BRS client and those defined in 410-170-0070(1)(a)(B) to check on progress for the purpose of aftercare services, based on the needs identified in the BRS client's Aftercare and Transition Plan.
(40) "Non-Qualified Residential Treatment Program" means BRS Contractors and BRS providers that provide services in a residential care model and that do not meet the requirements of a Qualified Residential Treatment Program.
(41) "Oregon Health Authority (Authority)" means the agency established in ORS Chapter 413 that administers the funds for Titles XIX and XXI of the Social Security Act. It is the single state agency for the administration of the medical assistance program under ORS chapter 414.
(42) "Oregon Youth Authority (OYA)" means the state department charged with the management and administration of youth correction facilities, state parole and probation services, and other functions related to state programs for youth offenders.
(43) "Physical Restraint" as defined in OAR 413-215-0076 means the act of restricting the BRS client's voluntary movement as an emergency measure to manage and protect the client or others from injury when no alternate actions are sufficient to manage the client's behavior. Physical restraint does not include temporarily holding a client to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.
(44) "Placement-Related Activities" means the BRS contractor's and BRS provider's activities related to the operation of the program and the care of the BRS client as set forth in the BRS program general rules, applicable agency-specific BRS program rules, the contract or agreement with the agency or the contractor, and applicable federal and state licensing and regulatory requirements. Placement-related activities may include but are not limited to providing the client with food, clothing, shelter, daily supervision; access to educational, cultural, and recreational activities; and case

management. Room and board is not funded by Medicaid or CHIP.
(45) “Postvention” means the activities implemented by the BRS contractor and the BRS provider after a BRS client’s suspected suicide, including support for the bereaved family, friends, professionals, peers and those with geographic, social or social media ties to the deceased. In order to meet the needs of those bereaved by a suicide and to reduce the risk of contagion. Postvention includes the immediate postvention response implemented in the immediate days and weeks after a BRS client’s suspected suicide.
(46) “Proctor Care Model” means services and placement-related activities provided to the BRS client who resides in the home of an approved proctor foster parent.
(47) “Program Coordinator or Program Director” means an individual employed by or contracted with the BRS provider and responsible for supervising staff, providing overall direction to the BRS provider, planning and coordinating program activities and delivery of services and placement-related activities, and ensuring the safety and protection of the BRS client and the BRS provider’s staff.
(48) “Public Child-Caring Agency” means, for purposes of this rule, a program or institution operated by a governmental agency or unit other than the Department, OYA, or the Authority that provides care to the BRS client in a residential community setting.
(49) “Qualified residential treatment program (QRTP)” means a program that:
(a) Provides residential care and treatment to a BRS client who require specialized, evidence-based supports and services related to the effects of trauma or mental, emotional or behavioral health needs.
(b) Uses a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of the BRS client.
(c) Ensures that the staff at the facility includes licensed or registered nurses licensed under ORS chapter 678 and other licensed clinical staff who:
(A) Provide care within their licensed scope of practice;
(B) Are on site according to the treatment model identified in subsection (b) of this section; and
(C) Are available 24 hours per day and seven days per week.
(d) Facilitates the involvement of the BRS client’s family, as defined in ORS 418.575, in the BRS client’s treatment program, to the extent appropriate and in the BRS client’s best interests.
(e) Facilitates outreach to the BRS client’s family, as defined in ORS 418.575, documents how outreach is made and maintains contact information for any known biological relatives or fictive kin, as defined by the Department.
(f) Documents how the program integrates family into the BRS client’s treatment process, including after discharge, and how sibling connections are maintained.
(g) Provides discharge planning and family-based after-care support for at least six months following the BRS client’s discharge from the program.
(h) Is accredited as outlined in OAR 413-095-0000(2).
(50) “Residential Care Model” means that services and placement-related activities are provided to the BRS client in a residential community setting and not in the home of an approved proctor foster parent.
(51) “Respite Care” means a formally planned arrangement to relieve an approved, proctor foster parent’s responsibilities by an individual temporarily assuming responsibility for the care and supervision of the BRS client in the home of the respite provider or approved proctor foster parent. Respite care shall be 14 or fewer consecutive days.
(52) “Runaway Status” means the period of time when a BRS client has left or failed to return to their BRS placement without prior approval or authorization and has not been discharged from the BRS contractor’s program. This definition is for the purpose of 410-170-0110(3)(c).
(53) “Seclusion” means the involuntary confinement of a BRS client to an area or room from which the BRS client is physically prevented from leaving.
(54) “Service Coordination” means coordination activities identified in the BRS client’s Aftercare and Transition Plan, including: meeting with BRS client and BRS client’s family to develop and review goals; maintain or facilitate contact with service providers; and assist BRS client and BRS client’s family in obtaining services for the purpose of aftercare

services.
(55) “Services” means the treatment provided to the BRS client in a BRS provider’s program, including but not limited to treatment planning, milieu therapy, individual and group counseling, skills-training, and parent training.
(56) “Social Service Staff” means an individual employed by or contracted with the BRS provider and is responsible for case management and the development of the service plans for the BRS client; individual, group, and family counseling; individual and group skills-training; assisting the direct care staff in providing appropriate treatment to the BRS client; coordinating services with other agencies; and documenting the BRS client’s treatment progress.
(57) “Suspected Suicide” means a death of a BRS client reported by a medical examiner or designee that is believed to have been caused by self-directed injurious behavior with an intent to die as a result of the behavior.
(58) “Total Daily Rate” means the total amount of the service payment and placement-related activities payment for a billable care day.
(59) “Transition Facilitator” means a social service staff employed by or contracted with the BRS provider and responsible for overseeing and monitoring the BRS client in the BRS contractor’s independent living program, either operated by itself or by its BRS provider, which includes but is not limited to assisting with developing the BRS client’s service plans and identifying support resources.
(60) “Transition Planning” means the process of preparing for a BRS client to successfully discharge from the BRS program into the community and is described in the ATP.
(61) “Transitional Visit” means an overnight visit by the BRS client to another paid placement for the purpose of facilitating the BRS client’s transition during the last 90 days of placement.
(62) “Trauma-Informed Approach” means an approach that recognizes and responds to the impact of traumatic stress on BRS clients and any other significant persons involved with the BRS client.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.065

STATUTES/OTHER IMPLEMENTED: ORS 414.065

AMEND: 410-170-0030

RULE TITLE: BRS Contractor and BRS Provider Requirements

RULE SUMMARY: The Behavior Rehabilitation Services (BRS) Program is to remediate the BRS client's debilitating psychosocial, emotional, and behavioral disorders by providing such services as behavioral intervention, counseling, and skills-training. These rules are meant to describe the general program requirements for the BRS program, prior authorization process, services and placement-related activities, BRS contractor and BRS provider requirements, reimbursement rates, and compliance and oversight activities. General changes have been made to update references, grammar, and definitions. Specific changes have been made to accommodate to the addition of a Qualified Residential Treatment Program (QRTP) type, services and rate due to the implementation of SB 171 and the Family First Act.

RULE TEXT:

(1) The BRS contractor shall, and ensure that its BRS providers, meet the following minimum requirements:

(a) Have the necessary current and valid licenses, approvals, or certifications required by federal or state law or regulations for the entity and its staff to operate a BRS program;

(b) Have a license to operate a child-caring agency;

(c) Comply with the provider enrollment requirements in OAR 410-120-1260;

(d) Comply with all applicable provisions of ORS 418.205 to 4138.327, OAR 413, Division 215, and any other federal and state laws and regulations governing child-caring agencies that apply to the type of BRS program being operated;

(e) Comply with the requirements in OAR 410-120-1380(1)(c)(J) for excluding individuals and entities from being subcontractors if they are found on the listed exclusion list; and

(f) Have a contract or agreement with an agency or, as applicable, a BRS contractor to provide services and placement-related activities to the BRS client.

(2) The BRS contractor shall, and ensure its BRS providers, comply with all applicable federal and state laws and regulations pertaining to the provision of Medicaid services under the Medicaid Act, Title XIX, 42 USC 1396 et seq. and the BRS program, including but not limited to all applicable provisions in OAR Chapter 410, Division 120.

(3) Confidentiality of BRS client information:

(a) BRS contractors shall, and ensure that their BRS providers, comply with the requirements for financial, clinical, and other records in OAR 410-120-1360, confidentiality requirements in OAR 410-120-1380, and all other applicable federal and state laws, rules, and regulations related to confidentiality and documentation requirements;

(b) The BRS contractor must not, and ensure its BRS providers do not, use or disclose any information concerning a BRS client for any purpose not directly connected with the administration of the BRS contractor's or BRS provider's program or as otherwise permitted by law, except with the written consent of the agency or if the agency is not the BRS client's guardian, on the written consent of the person or persons authorized by law to consent to such use or disclosure;

(c) The BRS contractor shall, and ensure its BRS providers, comply with all applicable confidentiality requirements in the Health Insurance Portability and Accountability Act (HIPAA) of 1996 (Public Law 104-191, August 21, 1996) and its implementing regulations in 45 CFR 160 and 164 et. seq., and all applicable confidentiality requirements in state statutes and administrative rules, including but not limited to ORS 179.505 and OAR chapter 410, division 120;

(d) The BRS contractor shall, and ensure its BRS providers, secure appropriately all records and files related to BRS clients to prevent access by unauthorized persons or entities;

(e) Disclosure to the agency, Authority, or other governmental oversight or licensing entities:

(A) The BRS contractor shall, and ensure its BRS providers, provide access promptly to any information or written documentation in its possession related to the BRS client or its BRS program upon the request of the agency for any reason; and

(B) The BRS contractor shall, and ensure its BRS providers, provide access promptly to any information or written documentation in its possession related to the BRS client or its BRS program that is necessary for evaluating, overseeing, or auditing the BRS contractor's program upon the request of the Authority or other governmental oversight or licensing entities.

(4) The BRS contractor shall ensure that its BRS program, either operated by itself or by its BRS provider, has a program coordinator, social service staff, and direct care staff who meet and maintain the following minimum qualifications:
(a) No less than 50 percent of the direct care staff for a BRS provider shall have a bachelor's degree from an accredited college or university. A combination of formal education and experience with children may be substituted for a bachelor's degree. Direct care staff shall be under the direction of a qualified social service staff member or a program coordinator;
(b) The program coordinator or program director shall have a bachelor's degree from an accredited college or university, preferably with major study in psychology, sociology, social work, social sciences, or a closely allied field. The program coordinator or program director shall also have two years of experience in the supervision and management of a residential facility or a program using a proctor care model for the care and treatment of children;
(c) Social service staff shall have a master's degree from an accredited college or university with major study in social work or a closely allied field and one year of experience in the care and treatment of children; or have a bachelor's degree with major study in social work, psychology, sociology or a closely allied field, and two years of experience in the care and rehabilitation of children. A minimum of one social service staff shall have necessary certifications through evidenced-based programs to provide leadership and training to maintain fidelity and trauma informed services;
(d) Direct care staff, social service staff, and the program coordinator who directly work with BRS clients shall:
(A) Receive a minimum of 28 hours of initial training prior to or within 30 days of employment or certification on the following topics: BRS services documentation, mandatory reporting of child abuse, program policies and expectations, gender- and cultural-specific services, behavior and crisis management, medication administration, discipline and restraint policies, and suicide prevention. Any direct care staff, social service staff, or program coordinator who has not yet completed this initial training prior to employment or certification shall be supervised by an individual who has completed this training when having direct contact with BRS clients; and
(B) Receive a minimum of 16 hours of training annually. Topics shall include skills-training that supports evidence-based or promising practices, behavior and crisis management, suicide prevention, and other subjects relevant to the responsibilities of providing services and placement-related activities to the BRS client; and
(C) Have and maintain cardiopulmonary resuscitation (CPR) and first aid certification.
(5) Fitness Determination:
(a) The BRS contractor and BRS provider shall ensure its employees, volunteers, contractors, vendors, approved proctor foster parents, or other persons providing services or placement-related activities to BRS clients comply with all applicable criminal record and child abuse background checks and any fitness determination process required by federal or state law or regulation;
(b) The BRS contractor and the BRS provider shall ensure its employees, volunteers, contractors, vendors, approved proctor foster parents, or other persons providing services or placement-related activities to BRS clients who have not yet successfully completed the requirements in section (5)(a) of this rule are supervised by a person who has successfully met these requirements when having direct contact with BRS clients.
(c) Except in cases where more stringent legal requirements apply, the BRS contractor and BRS provider shall ensure its employees, volunteers, contractors, vendors, approved proctor foster parents, or other persons providing services or placement-related activities to BRS clients report to it any arrests or court convictions, any known allegation of child abuse or neglect, and any other circumstance that reasonably affects a fitness determination within one business day. The BRS contractor and BRS provider shall report this information to the agency on the same day it receives the information.
(6) Mandatory Reporting:
(a) The BRS contractor shall, and ensure its BRS providers, comply with the child abuse reporting laws in ORS 419B.005 through 419B.015 and the abuse reporting requirements for a child in care as described in ORS 418.257 through 418.258;
(b) The BRS contractor shall, and ensure its BRS providers, require its staff members to immediately report any abuse, as defined in ORS 419B.005(1), to the Department (whether or not they also report it to law enforcement under ORS

419B.015(1)(a)) when the staff member has reasonable cause to believe that a child with whom they have come into contact has suffered abuse or that a person with whom they come into contact has abused a child;
(c) The BRS contractor shall, and ensure its BRS providers, require its staff members to immediately report suspected abuse, as defined in ORS 418.257 through 418.258, of a BRS client or a child in care to the Department;
(d) The BRS contractor shall, and ensure its BRS providers, provide its staff members with an annual training and written materials on its staff members' child abuse reporting obligations under sections (6)(b) and (6)(c) of this rule and information about the child abuse reporting hotline. Annual training and written materials are not needed if the BRS contractor or BRS provider does not have any employees, staff, or volunteers;
(e) For purposes of section (6) of this rule, staff members include the BRS contractor's or BRS provider's employees, volunteers, subcontractors, approved proctor foster parents, or other individuals providing services or placement-related activities to BRS clients.
(7) Communication:
(a) The BRS contractor shall ensure that its BRS program, either operated by itself or by its BRS provider, maintains a system for immediate and on-going communication among program staff regarding the whereabouts, status, and condition of the BRS clients in its program;
(b) The BRS contractor shall ensure and require its BRS provider to ensure that direct care staff and social service staff have access to a BRS client's information to the extent it is relevant to providing the BRS client with services and placement-related activities;
(c) The BRS contractor shall provide or ensure that its BRS provider provides immediate verbal notification to the caseworker and the agency (if an additional contact person is designated) when there is a communication outage at the program and shall provide an alternative means by which the program may be contacted if possible.
(8) Staffing Requirements:
(a) The BRS contractor shall ensure that its BRS program, either operated by itself or by its BRS provider, meets and maintains appropriate staffing levels to ensure supervision of the BRS clients in its program 24 hours a day, seven days a week, including taking steps to ensure that a BRS client is supervised while temporarily outside of the program. The BRS provider may not leave a BRS client unsupervised, except in cases where there is a service plan for the BRS client to be out of the BRS provider's direct supervision;
(b) For QRTP BRS contractors and QRTP BRS providers only: The requirements in section 410-170-0020(49)(c) of this rule may not be construed as requiring a Qualified Residential Treatment Program to acquire licensed nursing and licensed clinical staff solely through means of a direct employer to employee relationship.
(c) Proctor Care Model:
(A) The BRS contractor shall ensure that its BRS program, either operated by itself or by its BRS provider, meets and maintains the following approved proctor foster parent to child ratios in its approved proctor foster parent homes:
(i) Shelter and Independent Living Program:
(I) A maximum of three BRS clients of any age shall be placed in the home of an approved proctor foster parent;
(II) A maximum of five children (including both BRS clients of any age and non-BRS clients under the age of 18) shall live in an approved proctor foster parent home with two parents;
(III) A maximum of four children (including both BRS clients of any age and non-BRS clients under the age of 18) shall live in an approved proctor foster parent home with one parent; and
(IV) No more than two children (including both BRS clients and non-BRS clients) under the age of three shall live in an approved proctor foster parent home.
(ii) Proctor Care, Proctor Enhanced Services, Assessment and Evaluation, and Community Step Down:
(I) A maximum of two BRS clients shall be placed in the home of an approved proctor foster parent;
(II) A maximum of five children (including both BRS clients of any age and non-BRS clients under the age of 18) shall live in an approved proctor foster parent home with two parents;
(III) A maximum of four children (including both BRS clients of any age and non-BRS clients under the age of 18) shall live in an approved proctor foster parent home with one parent; and

(IV) No more than two children (including both BRS clients and non-BRS clients) under the age of three shall live in an approved proctor foster parent home;
(V) If the contractor provides proctor enhanced services subject to OAR 410-170-0090(3), the contractor shall provide supervision by professionally trained staff while any BRS client is in the facility.
(iii) Notwithstanding section (8)(b)(A)(i) and (ii) of this rule, a maximum of five BRS clients may be placed in the home of an approved proctor foster parent who is providing respite care.
(B) An OYA BRS contractor shall ensure its BRS program, either operated by itself or by its BRS provider, meets and maintains the approved proctor foster parent to child ratios described in OYA-specific BRS program rules for OYA approved proctor foster parent homes.
(d) For the residential care model, the BRS contractor shall ensure that its BRS program, either operated by itself or by its BRS provider, meets and maintains the following direct care staff to BRS client ratios for the BRS type of care it provides in its residential care BRS program:
(A) Shelter and Independent Living Program Staffing Ratio:
(i) Minimum Daily:
(I) Awake (16 hours); 1 staff: 7 BRS clients;
(II) Asleep (8 hours); 1 staff: 10 BRS clients.
(ii) Weekly Average:
(I) Awake (16 hours); 1 staff: 5.5 BRS clients;
(II) Asleep (8 hours); 1 staff: 10 BRS clients.
(B) Community Step-Down, Enhanced Structure Independent Living Program, Assessment and Evaluation, Basic Residential, and Rehabilitation Services Staffing Ratio:
(i) Minimum Daily:
(I) Awake (16 hours; 1 staff: 6 BRS clients;
(II) Asleep (8 hours); 1 staff: 10 BRS clients.
(ii) Weekly Average:
(I) Awake (16 hours); 1 staff: 4.7 BRS clients;
(II) Asleep (8 hours); 1 staff: 10 BRS clients.
(C) Intensive Rehabilitation Services, Intensive Residential, and Short-Term Stabilization Program Staffing Ratio:
(i) Minimum Daily:
(I) Awake (16 hours); 1 staff: 5 BRS clients;
(II) Asleep (8 hours); 1 staff: 10 BRS clients.
(ii) Weekly Average:
(I) Awake (16 hours); 1 staff: 3.7 BRS clients;
(II) Asleep (8 hours); 1 staff: 9 BRS clients.
(D) Intensive Behavioral Support Program Staffing Ratio:
(i) Minimum Daily:
(I) Awake (16 hours); 1 staff: 3.5 BRS clients;
(II) Asleep (8 hours); 1 staff: 4.5 BRS clients.
(ii) Weekly Average:
(I) Awake (16 hours); 1 staff: 2.8 BRS clients;
(II) Asleep (8 hours); 1 staff: 4.5 BRS clients.
(e) For purposes of calculating the number of direct care staff under section (8)(c) of this rule only, a social service staff member or program coordinator may be included if that staff member is specifically scheduled to and actually provides direct supervision to BRS clients onsite during the relevant time period;
(f) Under section (8)(c) of this rule only, in the event that no BRS clients are onsite at the program due to home visits, transitional visits, or other planned absences, the BRS contractor and BRS provider shall ensure that its program has the resources and procedures in place to serve the BRS client who may need to return to the program prior to the scheduled

return date;
(g) In the event a BRS client is temporarily admitted to a hospital (other than to a psychiatric hospital) but is still enrolled in the BRS provider's program, the BRS contractor and BRS provider shall ensure that its program works with the caseworker and the family when appropriate to develop a plan approved by the agency for supervision during the BRS client's hospitalization;
(h) The BRS contractor may or allow its BRS provider to request prior written agency approval for its BRS program to deviate from the ratios described in section (8)(b) of this rule or agency-specific BRS program rules. If the agency grants a waiver, this shall apply only to BRS program ratio requirements specified in these rules and agency-specific BRS program rules. The BRS contractor and BRS provider shall comply with any ratio requirements applicable under federal or state licensing requirements or approvals.
(9) The BRS contractor shall ensure that its BRS program, either operated by itself or by its BRS provider, does the following:
(a) Provides an environment suitable for the treatment of a BRS client that meets all applicable safety, health, and general environment standards required for a residential community setting if services are provided to the client in a residential care model, or in the home of an approved proctor foster parent certified by the BRS provider if services are provided to the client in a proctor care model;
(b) Provides separate bedrooms for persons under 18 and persons 18 years or older, except in cases where the child shares a bedroom with a person over 18 years old who is the child's parent and caregiver or where there is written approval from the agency, and, if the BRS provider is a child-caring agency, the Children's Care Licensing Program;
(c) Provides separate bedrooms for BRS clients who have inappropriate sexual behaviors identified in their service plan and BRS clients who do not have those behaviors identified in their service plan, unless there is written approval from the agency;
(d) Provides that BRS clients who have inappropriate sexual behaviors identified in their service plan occupy a bedroom either individually or in a group of three or more BRS clients who have inappropriate sexual behaviors identified in their service plan, unless there is written approval from the agency;
(e) Provides separate bedrooms for BRS clients and other members of the household, unless there is written approval from the agency;
(f) Provides separate bedrooms or dormitories for females and males. An exception to this requirement may be requested to the agency contract administrator and Children's Care Licensing Program for BRS clients who identify outside of these gender binary categories, or for cases where the child shares a bedroom with a person of the opposite sex who is the child's parent and caregiver;
(g) Provides physical separation of BRS clients served in its BRS program from individuals housed in a detention facility or youth correction facility;
(h) Provides that at least one door in each bedroom is unlocked at all times;
(i) Provides that at least one door in each dormitory is unlocked at all times, unless the BRS contractor or BRS provider receives prior written agency approval to lock all dormitory doors for eight hours at night; and
(j) Provides a means of egress for BRS clients to leave the residence.
(10) BRS providers and BRS contractors are not required to comply with section (9)(b) and (c) of this rule if they provide services or placement-related activities in a dormitory setting.
(11) BRS Program Policies and Procedures:
(a) The BRS contractor shall ensure that its BRS program, either operated by itself or by its BRS provider, has the following written policies and procedures that have been reviewed and approved by the agency:
(A) Admission criteria and standards to accept a BRS client into its program;
(B) Staff training policies and procedures, including child abuse reporting expectations under ORS 419B.005, 419B.010, and 419B.015;
(C) Policies and procedures related to reviewing referrals to its program and notification of admission decisions;
(D) A behavior management system policy designed to consistently encourage appropriate behaviors by the BRS client

in a non-punitive manner;
(E) A behavioral rehabilitation program model that uses evidence-based or promising practices whenever possible and the curriculum, policies, and procedures that implement that model;
(F) Policies regarding the BRS client's and family's rights, including but not limited to the search and seizure of the BRS client's person, property, and mail; visitation and communication; and discharges initiated by the BRS client;
(G) A grievance policy describing the process through which the BRS client, and, if applicable, the BRS client's parent, guardian, or legal custodian may present grievances to the BRS provider about its operation and a process to resolve issues;
(H) A suicide prevention policy and procedure that describes how the BRS provider shall respond in the event a BRS client exhibits self-injurious, self-harm, or suicidal ideation. This policy shall describe warning signs of suicide; emergency protocol, and contacts; training requirements for staff, including suicide prevention training and suicide risk assessment tool training; procedures for determining implementation of additional supervision precautions and for determining removal of additional supervision precautions; suicide risk assessment procedures on the day of intake; documentation requirements for suicide ideation, self-harm, and special observation precautions to ensure immediate communication to all staff; a process for tracking suicide behavioral patterns; and a postvention plan with identified resources in the event of a suspected suicide;
(I) A seclusion and physical restraint policy that describes when such interventions may be used in compliance with applicable federal and state laws and regulations, including but not limited to requirements for licensed child-caring agencies and agency-specific BRS program rules. Physical restraint or seclusion shall be used only as a last resort, and may not be used for discipline, punishment, convenience of personnel, or as a substitute for activities, treatment, or training. The policy shall describe how staff are trained and monitored, who may perform such interventions, and how data on interventions are collected, maintained, and reported;
(J) A medication management policy that complies with applicable licensing requirements and agency-specific BRS program rules. At minimum, the policy shall describe:
(i) How and where medications are stored and dispensed; and
(ii) How the BRS provider shall notify the caseworker if the BRS client refuses prescribed medications for more than seven days or refuses a medication that is identified by any LPHA as requiring an immediate report for health care reasons.
(K) A quality improvement policy and procedures that monitor the operation of the BRS program to ensure compliance with all applicable laws and regulations, including but not limited to tracking service hours, monitoring the timeliness of reporting requirements, monitoring the quality of service delivery, and frequency of seclusion and physical restraints.
(L) For QRTP BRS Contractors only: A QRTP Compliance policy that describes how BRS contractor shall, and ensure that its BRS provider, implements and maintains QRTP requirements, and how BRS Contractor shall notify the Agency of its compliance status. This includes a description of how the BRS contractor and its BRS provider will ensure that a licensed or registered nurse, licensed under ORS chapter 678, and a licensed clinical professional are available 24 hours per day and seven days per week to provide care, within the licensed scope of practice of the nurse or professional, to a BRS client.
(b) The BRS contractor shall ensure that its BRS program, either operated by itself or by its BRS provider, reviews and updates its policies and procedures as listed in section (8)(a) of this rule biannually and has any updated policies and procedures reviewed and approved by the agency;
(c) Additional policies may be required by the agency;
(d) The BRS contractor shall ensure that its BRS program, either operated by itself or by its BRS provider, complies with and maintains documentation of its compliance with all policies and procedures described in section (8)(a) of this rule and with any modifications to their policies and procedures that are required by the agency.
(12) Documentation Requirements:
(a) The BRS contractor and BRS provider shall:
(A) Comply with all documentation requirements in OAR 410-120-1360, BRS program general rules, and agency-

specific BRS program rules;
(B) Use forms reviewed and approved by the agency to document the following if required: All service plans and updates; the assessment and evaluation report; the daily and weekly log for service hours; and the invoice form;
(C) Maintain current documentation of its staff's compliance with applicable training, qualifications, and licensing requirements, which shall be readily available for on-site review by the caseworker, agency, and other appropriate licensing or oversight entity;
(D) Create, maintain, and update an individualized case file for each BRS client either in hard copy or electronically, including but not limited to signed consent for the BRS client to participate in the BRS program; documentation regarding home or other family visits and transitional visits; documentation of recreational, social, and cultural activities; documentation of legal custody or voluntary placement status; service documentation (service plans, weekly service description and hour records, and discrete service notes); face sheet with frequently referenced information; medical insurance information; education and vocation activities; school enrollment, attendance, progress, and discipline information; referral information; and any restriction or special permission for participation in activities, which shall be readily available for on-site review by the BRS provider's direct care staff and social service staff, the caseworker, the agency, and the appropriate licensing or oversight entity;
(E) Ensure that all documentation about the BRS client is written in terms that are easily understood by all persons involved in service planning and delivery, including but not limited to the service plans, progress notes and reports, assessments, and incident reports; and
(F) Ensure that all documentation (paper or electronic) identifies any corrections made, including the original information, what was corrected or changed, the date of the correction, and who made the correction. White out, eraser tape, electronic deletions, or other means of eradicating information to make corrections on documentation may not be used.
(b) The BRS contractor shall ensure that its BRS program, either operated by itself or by its BRS provider, creates and maintains a record of all incidents, including but not limited to incidents described in OAR 413-215-0091(11)(b) and any use of seclusion or physical restraint on a form approved by the agency:
(A) Incident reports shall contain the following information:
(i) Name of the BRS client;
(ii) The date, location, type of incident, and duration of any seclusions or physical restraints employed in the context of the incident;
(iii) Name of staff involved in the incident, including the names of any witnesses;
(iv) Description of the incident, including precipitating factors, preventative efforts employed, and description of circumstances during the incident;
(v) Physical injuries to the BRS client or others resulting from the incident, including information regarding any follow-up medical care or treatment;
(vi) Documentation showing that any necessary reports were made to the appropriate agency, any other entity required by law to be notified, and, as applicable, the BRS client's parent, guardian, or legal custodian;
(vii) Documentation indicating the date that a copy of the incident report was sent to the caseworker;
(viii) Actions or interventions taken by program staff;
(ix) Any follow-up recommendations for the BRS client or staff;
(x) Any follow-up or investigation conducted by the BRS contractor or BRS provider's supervisory staff and administrative personnel, the Department, the Authority, OYA or other entities; and
(xi) The BRS contractor's or BRS provider's review of the incident.
(B) The BRS contractor shall ensure that its BRS program, either operated by itself or by its BRS provider, provides immediate verbal or electronic notification to the caseworker, the agency's contract administrator, and, as applicable, the appropriate licensing entity of the following types of critical events: Incidents posing a risk to the status or custody of the BRS client and any other incidents that are of a nature serious enough to raise safety, programmatic, or other serious concerns. Immediate notification shall be followed up by the submission of a written incident report to the

individuals or entities described in this section within one business day. Compliance with this notification requirement does not satisfy child abuse reporting requirements under ORS 419B.005 to 419B.015 and ORS 418.257 and 418.258;
(C) At the end of each month, the BRS contractor shall ensure that its BRS program, either operated by itself or by its BRS provider, sends copies of all incident reports for that month, not previously submitted under section (12)(b)(B) of this rule, to the BRS client's caseworker and contract administrator.
(c) The BRS contractor and BRS provider shall provide prompt documentation to the agency upon request or by the deadline specified in a written request, whichever is sooner. The BRS contractor's or BRS provider's failure to provide the agency with the requested documentation by the agency's deadline may result in the agency pursuing any one or a combination of the sanctions or remedies against the BRS contractor described in OAR 410-170-0120 or agency-specific BRS rules.
(13) The BRS contractor shall ensure that its program, either operated by itself or by its BRS provider, provides prior notification to the caseworker whenever the BRS client is sleeping outside of its program for any reason, excluding cases of emergency:
(a) Initial approval shall be completed at intake and shall include information from the caseworker documenting any special instructions such as:
(A) Conditions under which an overnight absence from the program would be approved;
(B) Home visit resources that are acceptable;
(C) Any required notifications to the community: Victim, court, special interest group, or law enforcement;
(D) Approved and non-approved contacts during absences, as applicable; and
(E) Approved and non-approved activities, as applicable.
(b) After initial approval by the caseworker, the BRS contractor shall ensure that its BRS program, either operated by itself or by its BRS provider, notifies the caseworker of each upcoming overnight visit at least two business days prior to the visit and provides the following information:
(A) Dates of visit;
(B) Type of visit or activity;
(C) Location of visit or activity; and
(D) Explanation of how any special conditions or requirements are addressed.
(c) The BRS contractor and BRS provider may not permit the BRS client to leave the state or country without prior written approval by the agency.
(14) BRS contractors shall, and ensure that their BRS providers, are not institutions for mental diseases, as defined in 42 CFR 435.1010, unless they are providing inpatient psychiatric services to BRS clients in compliance with the requirements in 42 CFR 441.151 and 42 CFR 440.160.
(15) The BRS contractor's supervision of the BRS provider:
(a) The BRS contractor is responsible for monitoring and ensuring that its BRS providers comply with all applicable laws and regulations related to the BRS program. The Authority may pursue any sanctions, remedies, or recoveries as described in OAR 410-170-0120, OAR 410-120-1397, or OAR 410-120-1400 against the BRS contractor for failing to monitor and ensure its BRS providers comply with all applicable laws and regulations related to the BRS program;
(b) The BRS contractor is solely responsible for all obligations owed to its BRS provider under its subcontract or agreement.
(16) The BRS contractor's supervision of the approved proctor foster parent:
(a) The BRS contractor shall, and ensure that its BRS provider, monitors and ensures that its approved proctor foster parents comply with all applicable laws and regulations related to the BRS program. The Authority may pursue any sanctions, remedies, or recoveries described in OAR 410-170-0120, OAR 410-120-1397, or OAR 410-120-1400 against the BRS contractor for failing to monitor and ensure its approved proctor foster parents are in compliance with all applicable laws and regulations related to the BRS program;
(b) The BRS contractor shall, and ensure that its BRS provider:
(A) Recruits, trains, reimburses, and supports the approved proctor foster parent in providing services or placement-

related activities to the BRS client;
(B) Visits the approved proctor foster parent's home a minimum of one time each month for the purposes of support that includes but is not limited to monitoring, training, and supervision;
(C) Provides at minimum the following support services to the approved proctor foster parent:
(i) The BRS contractor shall, and ensure that its BRS provider, have staff available to provide the approved proctor foster parent with back-up services 24 hours per day, seven days a week, which includes on-call services, consultation, and direct crisis counseling. Approved proctor foster parents shall receive the contact details (names and phone numbers) of the program staff that are available to provide these back-up services;
(ii) The BRS contractor shall provide, or ensure that its BRS provider provides, the approved proctor foster parent with the opportunity to receive 48 hours per month of time away from approved proctor foster parent responsibilities. Daytime supervision and night-time monitoring equivalent to that provided by the approved proctor foster parent shall be arranged and provided to the BRS client during that time.
(c) The BRS contractor or, as applicable, the BRS provider is solely responsible for all obligations owed to the approved proctor foster parent under its subcontract or agreement.
(17) The BRS contractor shall, and ensure that its BRS provider, notifies the agency in writing when a current employee or newly hired employee is also an employee of the agency. The BRS contractor shall, and ensure that its BRS provider, submits the notification to the contract administrator and the agency's contracts unit and shall include the name of the employee and their job description. The agency shall review the employment situation for any actual or potential conflicts of interest as identified under ORS chapter 244.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.065

STATUTES/OTHER IMPLEMENTED: ORS 414.065

AMEND: 410-170-0040

RULE TITLE: Prior Authorization for the BRS Program; Hearing Rights

RULE SUMMARY: The Behavior Rehabilitation Services (BRS) Program is to remediate the BRS client's debilitating psychosocial, emotional, and behavioral disorders by providing such services as behavioral intervention, counseling, and skills-training. These rules are meant to describe the general program requirements for the BRS program, prior authorization process, services and placement-related activities, BRS contractor and BRS provider requirements, reimbursement rates, and compliance and oversight activities. General changes have been made to update references, grammar, and definitions. Specific changes have been made to accommodate to the addition of a Qualified Residential Treatment Program (QRTP) type, services and rate due to the implementation of SB 171 and the Family First Act.

RULE TEXT:

(1) The BRS program requires prior authorization from the agency in accordance with the Authority's rules, the general BRS program rules, and applicable agency-specific BRS program rules. A referral by an LPHA or agency to the Authority for prior authorization of the BRS program is not a prior authorization.

(2) Prior Authorization Criteria for the BRS program:

(a) The Authority shall provide prior authorization for the BRS program to an individual who:

(A) Is enrolled in the Oregon Health Plan (OHP), is eligible for Oregon's Medicaid or CHIP program, and is eligible for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services, according to the procedures established by the Authority;

(B) Has a determination by a designated LPHA that the BRS program is medically appropriate to meet the individual's medical needs;

(C) Is not receiving residential mental health or residential developmental disability services from another governmental unit or entity;

(D) Is a child; and

(E) Does not have a current prior authorization for the BRS program for the requested time period from OYA or the Department.

(b) OYA or the Department may provide prior authorization for the BRS program for an individual that meets the requirements in its agency-specific BRS program rules.

(3) To meet the requirement in section (2)(a)(B) of this rule, the designated LPHA shall determine that the BRS program is medically appropriate because the individual:

(a) Has a primary mental, emotional, or behavioral disorder or developmental disability that prevents the individual from functioning at a developmentally appropriate level in the individual's home, school, or community;

(b) Demonstrates severe emotional, social, and behavioral problems, including but not limited to: Drug and alcohol abuse; anti-social behaviors requiring close supervision, intervention, and structure; sexual behavioral problems; or behavioral disturbances;

(c) Requires out-of-home behavioral rehabilitation treatment to restore or develop the individual's appropriate functioning at a developmentally appropriate level in the individual's home, school, or community;

(d) Is able to benefit from the BRS program at a developmentally-appropriate level;

(e) Does not have active suicidal, homicidal, or serious aggressive behaviors; and

(f) Does not have active psychosis or psychiatric instability.

(4) The Authority may also request that the designated LPHA determine the BRS type of care that is medically appropriate for the individual. The designated LPHA shall make that determination based on the following factors, including but not limited to the:

(a) Severity of the individual's psychosocial, emotional, and behavior disorders;

(b) Intensity and type of services that would be appropriate to treat the individual;

(c) Type of setting or treatment model that would be most beneficial to the individual;

(d) Least restrictive and intensive setting based on the individual's treatment history, degree of impairment, current

symptoms, and the extent of family and other supports; and
(e) Behavior management needs of the individual.
(5) The agency is not required to provide prior authorization or to make payment for services or placement-related activities under the following circumstances:
(a) The individual was not eligible for the BRS program at the time services or placement-related activities were provided;
(b) The documentation is not adequate to determine the type, medical appropriateness, or frequency and duration of services;
(c) The services or placement-related activities billed or provided are not consistent with the information submitted when the prior authorization was requested;
(d) The services or placement-related activities billed are not consistent with those provided;
(e) The services or placement-related activities were not provided within the timeframe specified on the notice of prior authorization;
(f) The BRS program is not covered under the individual's medical assistance package;
(g) The services or placement-related activities were not authorized or provided in compliance with the BRS program general rules, agency-specific BRS program rules, or applicable Oregon Health Authority General Rules (OAR Chapter 410, Division120);
(h) The individual does not meet the prior authorization requirements as stated above;
(i) The BRS contractor or BRS provider was not eligible to receive reimbursement through the BRS program at the time the services or placement-related activities were provided; or
(j) The individual's needs are better met through another system of care; the individual is eligible for services under that system of care; the individual is given notice of that eligibility; and the services necessary to support a successful transition to the alternate system of care are provided.
(6) Retroactive eligibility and authorization:
(a) In those instances when the BRS client is made retroactively eligible for the BRS program, the agency may grant prior authorization if:
(A) The BRS contractor or BRS provider received preliminary approval from the agency prior to admitting the BRS client into its program while the prior authorization process was pending; and
(B) The BRS client met all prior authorization criteria and eligibility requirements on the date that the services and placement-related activities were provided; and
(C) The BRS provider delivered the services and placement-related activities in accordance with all applicable BRS program general rules and agency-specific BRS program rules; and
(D) Prior authorization was retroactively approved by the agency within five business days from the date that the BRS client was admitted into the BRS provider's program.
(b) Prior authorization after five business days from the date the BRS client was admitted into the BRS contractor's or BRS provider's program requires documentation that prior authorization could not have been obtained within those five business days.
(7) Prior authorization is valid for the time-period specified on the agency's prior authorization notice but is not to exceed 12 months from the date on the notice, unless the BRS client is no longer eligible for a medical assistance program that covers the BRS program, in which case the authorization shall terminate on the date coverage ends.
(8) The BRS contractor and BRS provider is responsible for ensuring that there is a prior authorization from the agency for the BRS client in advance of providing the services or placement-related activities for the applicable time period unless section (6) of this rule applies.
(9) If an individual is denied prior authorization for the BRS program under section (2)(a) of this rule, OAR 413-095-0040(1)(a) or OAR 416-335-0040(1)(a), the individual is entitled to notice and contested hearing rights under OAR 410-120-1860 and 410-120-1865. The contested case hearing shall be held by the Authority.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.065

STATUTES/OTHER IMPLEMENTED: ORS 414.065

AMEND: 410-170-0050

RULE TITLE: Program Referrals and Admission to BRS Provider

RULE SUMMARY: The Behavior Rehabilitation Services (BRS) Program is to remediate the BRS client's debilitating psychosocial, emotional, and behavioral disorders by providing such services as behavioral intervention, counseling, and skills-training. These rules are meant to describe the general program requirements for the BRS program, prior authorization process, services and placement-related activities, BRS contractor and BRS provider requirements, reimbursement rates, and compliance and oversight activities. General changes have been made to update references, grammar, and definitions. Specific changes have been made to accommodate to the addition of a Qualified Residential Treatment Program (QRTP) type, services and rate due to the implementation of SB 171 and the Family First Act.

RULE TEXT:

(1) After the BRS client receives prior authorization for the BRS program, the agency shall refer the BRS client for admission to one or more BRS contractors or BRS providers that provide the appropriate BRS type of care.

(2) The agency shall provide the BRS contractor or, as applicable, the BRS provider with the following documents in the BRS client's referral packet:

(a) Information identifying the individual or entity with legal authority over the BRS client, which may be the BRS client's parent, guardian, or legal custodian;

(b) Any prior evaluations, assessments, or other documents that provide background information about the BRS client or that support the need for the BRS client's current level of services; and

(c) The caseworker's case plan describing necessary services or similar planning form for the BRS client.

(3) The BRS contractor or, as applicable, the BRS provider shall make admission decisions for the BRS client based on its agency-approved written admission criteria, unless provided with written authorization from the agency to accept a BRS client who does not meet its admission criteria.

(4) The BRS contractor or, as applicable, the BRS provider may not deny an eligible BRS client admission to its program if a vacancy exists within the program at the time of referral and the BRS client meets its agency-approved admission criteria, unless it receives written approval from the referring agency.

(5) The BRS contractor may not and shall ensure its BRS providers do not deny an eligible BRS client admission to its program for any of the following reasons:

(a) The presence or absence of family members to support the placement;

(b) The race, religion, sexual orientation, color, or national origin of the BRS client involved;

(c) The BRS client's place of residence; or

(d) The absence of an identified after-care resource.

(6) The BRS contractor shall, and ensure its BRS provider, notifies the caseworker of its admission decision within five business days of receiving the BRS client's referral packet unless an earlier timeframe is required in agency-specific BRS rules. If the BRS provider denies admission to the BRS client, then it shall provide the caseworker with a written explanation.

(7) The BRS contractor shall, and ensure its BRS provider, maintains documentation (either electronically or in hard copy) of all its admission decisions for BRS clients referred by an agency or BRS contractor, which includes the following:

(a) The name of the BRS client referred;

(b) The date the referral was received;

(c) The reason the referral was accepted or denied; and

(d) The date the referral was responded to in writing.

(8) Intake Procedures:

(a) On the day that the BRS client is physically admitted to the BRS contractor's or BRS provider's program, its staff shall provide the BRS client and, as applicable, the BRS client's parent, guardian, or legal custodian with copies of the following policies:

(A) Behavior management system policy;
(B) Grievance policy;
(C) BRS client's and family's rights policies, including but not limited to visitation and communication policies and the policies regarding the search and seizure of the BRS client's person, property, and mail;
(D) Discharge polices, including but not limited to a discharge initiated by the BRS client;
(E) Seclusion and physical restraint policies;
(F) Suicide prevention policy and procedures; and
(G) Medication management policy.
(b) The BRS contractor must ensure its program, either operated by itself or by its BRS provider, maintains signed documentation indicating that the BRS client and, as applicable, the BRS client's parent, guardian, or legal custodian received and understood the information described in section (8)(a) of this rule;
(c) If any of the policies described in section (8)(a) of this rule are individualized for a BRS client and differ from the program's standard documented practices, these variations shall be explained and documented and included in or attached to the BRS client's service plan;
(d) If the BRS client's parent, guardian, or legal custodian is unavailable at the time of admission, the BRS contractor shall ensure its program, either operated by itself or by its BRS provider, documents in the BRS client's case file that it forwarded this information to the BRS client's parent, guardian, or legal custodian by facsimile, mail, or electronic mail within 48 hours of the BRS client's admission to the program.
(9) The agency is responsible for notifying the BRS contractor or BRS provider of any changes to the information described in section (2) of this rule. In addition, the agency shall provide the BRS contractor or BRS provider with the following information:
(a) Applicable written authorizations by the BRS client or the BRS client's parent, guardian, or legal custodian consenting to the BRS client's participation in the BRS program;
(b) If applicable, the prepaid health plan or coordinated care organization in which the BRS client is enrolled;
(c) The BRS client's current medical information, medication regime, and other medical needs; and
(d) If applicable, the BRS client's school information, parental contact information, or similar types of information.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.065

STATUTES/OTHER IMPLEMENTED: ORS 414.065

AMEND: 410-170-0060

RULE TITLE: Discharge from the BRS Contractor or BRS Provider

RULE SUMMARY: The Behavior Rehabilitation Services (BRS) Program is to remediate the BRS client's debilitating psychosocial, emotional, and behavioral disorders by providing such services as behavioral intervention, counseling, and skills-training. These rules are meant to describe the general program requirements for the BRS program, prior authorization process, services and placement-related activities, BRS contractor and BRS provider requirements, reimbursement rates, and compliance and oversight activities. General changes have been made to update references, grammar, and definitions. Specific changes have been made to accommodate to the addition of a Qualified Residential Treatment Program (QRTP) type, services and rate due to the implementation of SB 171 and the Family First Act.

RULE TEXT:

(1) Planned discharge initiated by the BRS contractor, BRS provider, or the agency:

(a) Initiated by the BRS contractor or BRS provider:

(A) The BRS contractor shall, and require that its BRS providers, notify the caseworker in writing as soon as reasonably practicable regarding its intent to initiate the planned discharge of the BRS client from its program;

(B) Following notification, the BRS contractor or BRS provider and caseworker shall meet to discuss the case. If a discharge date can be agreed upon, the BRS client shall be discharged on that date. If they cannot agree, the caseworker shall remove the BRS client from the program within 30 days from the original written notice to the caseworker, resulting in the BRS client's planned discharge.

(b) Initiated by the agency:

(A) The BRS client's caseworker shall notify the BRS contractor or BRS provider in writing as soon as reasonably practicable regarding the agency's intent to initiate the planned discharge of the BRS client from its program;

(B) Following notification, the caseworker and the BRS contractor or BRS provider must meet to discuss the case. If a discharge date can be agreed upon, the BRS client must be discharged on that date. If they cannot agree, the caseworker may remove the BRS client from the program resulting in the BRS client's planned discharge.

(2) Emergency Discharge:

(a) Initiated by the BRS contractor or BRS provider:

(A) The BRS contractor or BRS provider may request the immediate discharge of a BRS client from its program if, after contact with the agency staff, there is agreement that the BRS client is a clear and immediate danger to self or others. In such situations, the caseworker must consider the notification a priority and respond to the BRS contractor or BRS provider as soon as practicable but no later than one business day;

(B) The BRS contractor shall, and ensure its BRS providers, discuss the BRS client's continuation in, temporary removal from, or discharge from the program.

(b) The agency may immediately remove the BRS client from the BRS contractor's or BRS provider's program for any reason, resulting in the BRS client's emergency discharge;

(c) A parent or guardian with appropriate legal authority, as determined by the agency, may immediately remove the BRS client from the BRS contractor's or BRS provider's program, resulting in the BRS client's emergency discharge.

(3) Discharge initiated by the BRS client:

(a) The BRS client may initiate discharge from the BRS provider by submitting a written request to the BRS contractor, BRS provider, or caseworker:

(A) If the request is submitted to the program, the BRS contractor shall, and ensure its BRS provider, submits immediate verbal or written notification to the caseworker and the agency's designated contact and, if applicable, the BRS client's parent, guardian, or legal custodian to allow for alternate placement arrangements;

(B) The caseworker or the agency's designated contact shall make alternative placement arrangements within five business days from receiving the request from the BRS client or the notice from the BRS contractor or BRS provider, whichever is earlier.

(b) Section (3)(a) of this rule does not apply to clients less than 18 years old in a BRS placement that:

(A) Does not meet the definition of a “public institution” in 42 CFR 435.1010; or
(B) Meets the definitions of a “publicly operated community residence” or a “child-care institution” in 42 CFR 435.1010.
(c) Notwithstanding section (3)(a) of this rule, the child’s legal guardian may commit a child to a BRS placement without the child’s consent or over the child’s objection (i.e., override the child’s decision to leave the BRS program) if the following conditions are met:
(A) The child is under the age of 18 and is not legally emancipated or married;
(B) The guardian has legal authority to make medical decisions for the child; and
(C) The child’s placement is not the result of a court determination of delinquency.
(4) Discharge from a program does not impact a BRS client’s prior authorization for the BRS program generally. A BRS client may be referred to another BRS contractor or BRS provider or request re-referral to the same program if the prior authorization remains valid and the BRS client remains eligible for the BRS program.
(5) The agency may temporarily remove the BRS client for any reason without resulting in a discharge from the BRS contractor’s or BRS provider’s program.
(6) Storage of the BRS client’s personal property:
(a) The BRS contractor shall, and ensure its BRS providers, store property belonging to the BRS client in its program for up to 30 days in a secure location following discharge when the BRS client exits the program without the client’s property;
(b) The BRS contractor shall, and ensure its BRS providers, contact the BRS client’s caseworker as soon as possible to make arrangements for the property to be retrieved.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.065

STATUTES/OTHER IMPLEMENTED: ORS 414.065

AMEND: 410-170-0070

RULE TITLE: BRS Service Planning

RULE SUMMARY: The Behavior Rehabilitation Services (BRS) Program is to remediate the BRS client's debilitating psychosocial, emotional, and behavioral disorders by providing such services as behavioral intervention, counseling, and skills-training. These rules are meant to describe the general program requirements for the BRS program, prior authorization process, services and placement-related activities, BRS contractor and BRS provider requirements, reimbursement rates, and compliance and oversight activities. General changes have been made to update references, grammar, and definitions. Specific changes have been made to accommodate to the addition of a Qualified Residential Treatment Program (QRTP) type, services and rate due to the implementation of SB 171 and the Family First Act.

RULE TEXT:

(1) Initial Service Plan (ISP):

(a) A BRS contractor that provides services and placement-related activities in a Shelter, Independent Living program, Enhanced Structure Independent Living program, Proctor Care, Proctor Enhanced Services, Assessment and Evaluation, Basic Residential, Basic Rehabilitation, Intensive Residential, Intensive Rehabilitation, or Intensive Behavioral Support program shall, and require that its BRS providers:

(A) Ensure that a social service staff member completes a written ISP within two business days of the BRS client's admission to its program;

(B) Provide an opportunity for the following individuals to participate in developing the BRS client's ISP, including but not limited to the BRS client, the BRS client's family, social service staff, the BRS client's caseworker, and any other significant individuals involved with the BRS client;

(C) Obtain and maintain documentation that the individuals listed in section (1)(a)(B) of this rule were provided with the opportunity to participate in developing the ISP;

(D) Obtain written approval of the ISP prior to its implementation from the caseworker and, as applicable and appropriate, the BRS client and the BRS client's parent, guardian, or legal custodian; and

(E) Provide the services identified in the ISP during the first 45 days in the BRS provider's program or until the MSP is written.

(b) The BRS contractor shall, and require that its BRS provider types listed in section (1)(a) of this rule, ensure that the ISP is individualized, developmentally appropriate, based on a thorough assessment of the BRS client's referral information, and include at minimum the following:

(A) A plan to address specific behaviors and needs identified in the referral information including the intervention to be used;

(B) A plan for any overnight home visits and transitional visits;

(C) The anticipated discharge date;

(D) The anticipated type of placement at discharge;

(E) Existing orders for medication and any prescribed treatments for medical conditions, mental health conditions, or substance abuse;

(F) Any type of behavior management system that is used as an intervention; and

(G) A plan for behavior management needs if needs are greater than usual for the program.

(2) Assessment and Evaluation Report (AER):

(a) A BRS contractor that provides services and placement-related activities in a Shelter, Proctor Care, Proctor Enhanced Services, Assessment and Evaluation, Basic Residential, Basic Rehabilitation, Intensive Residential, Intensive Rehabilitation or Intensive Behavioral Support program shall, and require that its BRS providers:

(A) Ensure that a social service staff member conducts a comprehensive assessment of the BRS client and completes a written AER; and

(B) Submit the written AER to the caseworker within 45 days of the BRS client's admission to its program.

(b) The BRS contractor and the BRS provider types listed in section (2)(a) of this rule must ensure that the AER includes

information about the BRS client regarding the following domains:
(A) Legal custody and basis for custody;
(B) Medical information including prescribed medications and dosages;
(C) Family information including specific cultural factors;
(D) Mental health information;
(E) Alcohol and drug use both current and historical;
(F) Educational needs;
(G) Vocational services, if the BRS client is 14 years of age or older;
(H) Social living skills; and
(I) Placement plans including home visits, transitional visits, anticipated discharge date, and placement resources.
(c) The BRS contractor shall, and require that its BRS provider types listed in section (2)(a) of this rule, ensure that the AER describes the following:
(A) Identified problems, reason for referral or placement, and pertinent historical information;
(B) The BRS client's behaviors, response to current services, and strengths and assets;
(C) Significant incidents or interventions or both;
(D) A plan for behavior management needs if needs are greater than usual for the program;
(E) Identification of any service goals; and
(F) Identified needs by assessment and history.
(d) The BRS contractor shall, and require that its BRS provider types listed in section (2)(a) of this rule, ensure that the Abbreviated AERs meet the following requirements:
(A) If a BRS client is transferred to the current BRS program from another BRS program and the client's most recent AER is less than 90 days old, the current BRS contractor or BRS provider may submit an abbreviated AER to the caseworker within 30 days of the client's transfer to its program instead of the AER required in section (2) of this rule;
(B) The BRS contractor shall, and require that its BRS provider types listed in section (2)(a) of this rule, ensure that an abbreviated AER includes at minimum the information in section (2)(b)(A) of this rule and any other specific information requested by the caseworker. If the information is available, the BRS contractor or BRS provider must also include the information in section (2)(b)(B) through (D) of this rule.
(3) Master Service Plan (MSP):
(a) A BRS contractor that provides services and placement-related activities in a Shelter, Community Step Down, Proctor Care, Proctor Enhanced Services, Assessment and Evaluation, Basic Residential, Rehabilitation, Intensive Residential, Intensive Rehabilitation, or Intensive Behavioral Support program shall, and require that its BRS provider:
(A) Ensure that a social service staff member completes a written individualized MSP within 45 days of the BRS client's admission to its program;
(B) Provide the opportunity for the individuals listed in section (1)(a)(B) of this rule to participate in developing the BRS client's MSP;
(C) Obtain and maintain documentation that the individuals listed in section (1)(a)(B) of this rule were provided with the opportunity to participate in developing the MSP;
(D) Obtain written approval of the MSP prior to its implementation from the caseworker and, as applicable and appropriate, the BRS client and the BRS client's parent, guardian, or legal custodian; and
(E) Provide the services identified in the MSP.
(b) The BRS contractor shall, and require that its BRS provider types listed in section (3)(a) of this rule, ensure that the MSP includes goals that are measurable and attainable within a specified time frame and address at minimum the following domains where need is indicated by the BRS client's assessment and history:
(A) Legal custody and basis for custody;
(B) Medical information including medications and dosages;
(C) Family information including specific cultural factors;
(D) Mental health information;

(E) Alcohol and drug use both current and historical;
(F) Educational needs;
(G) Vocational needs;
(H) Social living skills;
(I) Placement plans including home visits, transitional visits, anticipated discharge date, and placement resources;
(J) Other needs identified in the BRS client's AER that do not fall in one of the other identified domains above; and
(K) Completion criteria individualized for each BRS client. Completion is defined by progress in acquiring pro-social behaviors, attitudes, and beliefs while in the program, and not engaging in behavior that seriously jeopardizes the safety of staff and other program participants.
(c) The BRS contractor and the BRS provider types listed in section (3)(a) of this rule must ensure that the MSP is individualized and developmentally appropriate and includes:
(A) Specifically stated and prioritized service goals for the BRS client that include the caseworker's recommendations and goals that the BRS client wants to achieve;
(B) Specific interventions and services its program shall provide to address each goal, including the use of a behavior management system as an intervention and a plan for behavior management needs if needs are greater than usual for the program;
(C) Staff responsible for providing the identified services;
(D) Specifically stated behavioral criteria for evaluating the achievement of goals;
(E) A timeframe for the completion of goals;
(F) The method used to monitor the BRS client's progress towards completing goals;
(G) Transition goals and planning; and
(H) Aftercare Services, including a detailed description of available services that may be offered to the BRS client. These services can include but are not limited to crisis intervention, service coordination, monitoring, skills training and parent training.
(d) The BRS contractor shall, and require that its BRS provider types listed in section (3)(a) of this rule, clearly list in the MSP those needs identified in a BRS client's AER that are to be addressed by an outside provider and then identify the outside provider that will be responsible for addressing those needs. The BRS contractor shall, and require that its BRS provider, facilitate the BRS client's access to other providers whenever needs identified in the AER cannot be met within the scope of the services offered by its program;
(e) The BRS contractor shall, and require that its BRS provider types listed in section (3)(a) of this rule, also describe in the MSP any plan for the BRS client to participate in overnight home visits or transitional visits, including but not limited to documenting when the home visits or transitional visits are to occur, identifying the frequency of the visits (up to a maximum of eight days per month for a combination of home visits and transitional visits), and describing how the visits relate to the BRS client's goals identified in the MSP. The BRS contractor shall, and require that its BRS provider, make every attempt to schedule home visits and transitional visits so that they do not conflict with services. Any deviation from the approved home visit and transitional visit plan requires prior written approval from the agency.
(4) Master Service Plan 90 Day Updates:
(a) A BRS contractor that provides services and placement-related activities in a Shelter, Community Step Down, Proctor Care, Proctor Enhanced Services, Assessment and Evaluation, Basic Residential, Rehabilitation, Intensive Residential, Intensive Rehabilitation, or Intensive Behavioral Support program shall, and require that its BRS provider:
(A) Ensure that a social service staff member reviews and updates in writing the BRS client's MSP no later than 90 days from the date the MSP was first finalized or the last time it was updated and every 90 days thereafter. Social service staff must review the MSP and update it in writing if necessary, earlier whenever additional information becomes available that suggests that other services should be provided;
(B) Provide the opportunity for the individuals listed in section (1)(a)(B) of this rule to participate in developing the BRS client's MSP updates;
(C) Obtain and maintain documentation that the individuals listed in section (1)(a)(B) of this rule were provided with the

opportunity to participate in developing the MSP updates;
(D) Obtain written approval of an updated MSP prior to its implementation from the caseworker and, as applicable and appropriate, the BRS client and the BRS client's parent, guardian, or legal custodian; and
(E) Provide the services identified in the most recent MSP update.
(b) The BRS contractor shall, and require that its BRS provider types listed in section (4)(a) of this rule, ensure that the written update to the MSP is individualized and developmentally appropriate and includes at minimum the following:
(A) The BRS client's progress towards achieving service goals;
(B) The BRS client's performance on the behavior management system;
(C) The BRS client's performance on any individualized plans developed to address specific behaviors;
(D) Any modifications to services based on the BRS client's new behaviors or identified needs;
(E) Any changes regarding recommendations, the discharge date, and transition plans;
(F) Aftercare Planning with a detailed description of the services to be delivered to the BRS client and during the aftercare period; and
(G) A summary of incidents involving the BRS client that have occurred since the last time the MSP was updated.
(5) Aftercare and Transition Plan (ATP):
(a) A BRS contractor that provides services and placement-related activities in Community Step Down, Proctor Care, Proctor Enhanced Services, Independent Living, Enhanced Structure Independent Living Program Assessment and Evaluation, Basic Residential, Rehabilitation, Intensive Residential, Intensive Rehabilitation, or Intensive Behavioral Support shall, and require that its BRS provider:
(A) Ensure that a social service staff member develops and completes a written ATP at least 30 days prior to, or when there is insufficient notice, as close as possible to 30 days prior to the BRS client's planned discharge incorporating information from the latest MSP;
(B) Provide the opportunity for the individuals listed in section (1)(a)(B) of this rule and members of the service planning team to participate in developing the BRS client's written ATP;
(C) Obtain and maintain documentation that the individuals listed in section (1)(a)(B) of this rule and members of the service planning team were provided with the opportunity to participate in developing the written ATP;
(D) Provide a copy of the written ATP to the individuals described in section (1)(a)(B) of this rule and members of the service planning team; and
(E) Obtain written approval of the written ATP from the caseworker and, as applicable and appropriate, the BRS client and the BRS client's parent, guardian, or legal custodian.
(b) The BRS contractor shall, and require that its BRS providers listed in section (5)(a) of this rule, ensure that the written ATP describes how the BRS client will successfully transition from its program to the community, specifically addressing the period of 180 days after discharge from its program. The BRS contractor and BRS provider must ensure that the written ATP includes, at minimum, the following:
(A) Identification of the BRS client's individual needs and unmet goals;
(B) Identification of the aftercare services and supports outside of its program that will be available for the 180-day time-period;
(C) Identification of the individual or entity responsible for providing the aftercare services outside of its program; and
(D) Identification of aftercare services and supports provided by the program to the BRS client and the BRS client's family that will be available for the 180-day time period. These services may include crisis intervention, service coordination, monitoring, and skills training. Minimum contact schedule is one time per week for the first 30 days, two times per month for the next 60 days, and one time per month for the remaining 90 days. Document the type, duration, and description of contact in the record pertaining to the BRS client.
(E) Schedule for regular telephone contact by BRS provider staff with the BRS client and, as applicable, the BRS client's family, caseworker, or other identified significant individuals.
(c) The BRS contractor shall, and require that its BRS providers listed in section (5)(a) of this rule, provide services identified in the ATP.

(d) The BRS contractor and its BRS provider types listed in section (5)(a) of this rule will not be required to provide aftercare services and supports if the BRS client decline services or when the BRS client transitions to another BRS program. The BRS contractor or BRS provider is still required to complete an initial and final written ATP.
(e) The BRS contractor or BRS provider types listed in section (5)(a) of this rule may not be required to provide an initial and final written ATP under the following circumstances:
(A) The agency, legal guardian, or custodian removes the BRS client from the program with little or no notice and in a manner not in accordance with the existing ATP;
(B) The BRS client is discharged from the program on an emergency basis due to the BRS client's behavior, runaway status without a plan to return to the program, or transfer to another program or higher level of care;
(C) The BRS client is discharged to another BRS provider; or
(D) The BRS client initiates an immediate voluntary discharge from the program.
(6) For a discharge summary, a BRS contractor that provides services and placement-related activities in a Shelter, Community Step-down, Independent Living program, Enhanced Structure Independent Living program, Proctor Care, Proctor Enhanced Services, Assessment and Evaluation, Basic Residential, Rehabilitation Services, Intensive Residential, Intensive Rehabilitation, Short-Term Stabilization, or Intensive Behavioral Support program shall, and require that its BRS provider, ensure that a social service staff member completes and provides a written discharge summary to the caseworker within 15 days following the BRS client's planned or actual discharge from its program. The discharge summary must include the BRS client's progress towards service goals.
(7) Aftercare Summary:
(a) A BRS contractor that provides services and placement-related activities in a Community Step-down, Independent Living, Enhanced Structure Independent Living Program, Proctor Care, Proctor Enhanced Services, Assessment and Evaluation, Basic Residential, Rehabilitation Services, Intensive Residential, Intensive Rehabilitation, Short-Term Stabilization, and Intensive Behavioral Support program shall, and require that its BRS provider:
(A) Ensure that a social service staff member completes and provides a written aftercare summary to the caseworker within 210 days following the BRS client's discharge from its program;
(B) Summarize the BRS client's status and progress on the ATP for the 180 days following the client's discharge from the BRS provider, including but not limited to the client's adjustment to the community and any further recommendations;
(C) Summarize the specific services provided by the BRS contractor and BRS provider for the 180 days following discharge to include a description of each type of service provided, number of service hours provided per month, and the names of individuals receiving the services.
(b) An aftercare summary is not required if the BRS provider type listed in section (7)(a) of this rule was not required to complete an ATP under circumstances listed in section (5)(e)(A-E) of this rule.
(8) Master Service Plan – Transition (MSP-T):
(a) A BRS contractor that provides services and placement-related activities in an Independent living program or Enhanced Structure Independent Living program shall, and require that its BRS provider:
(A) Ensure that the transition facilitator completes with the BRS client a standardized assessment of independent living skills prior to the development of the MSP-T;
(B) Ensure that a transition facilitator in collaboration with the BRS client completes a written MSP-T within 30 days of the BRS client's admission to the program;
(C) Provide the services identified in the MSP-T;
(D) Provide the opportunity for the individuals listed in section (1)(a)(B) of this rule to participate in developing the BRS client's MSP-T;
(E) Ensure the MSP-T is individualized and developmentally appropriate and includes:
(i) Specifically stated and prioritized service goals for the BRS client that include the caseworker's recommendations and goals that the BRS client wants to achieve;
(ii) Specific interventions and services the program shall provide to address each goal, including the use of a behavior management system as an intervention and a plan for behavior management needs if needs are greater than usual for

the program;
(iii) Staff responsible for providing the identified services;
(iv) Specifically stated behavioral criteria for evaluating the achievement of goals;
(v) A timeframe for the completion of goals;
(vi) The method used to monitor the BRS client's progress towards completing goals.
(b) The BRS contractor shall, and require that its BRS provider type listed in section (8)(a) of this rule, obtain and maintain documentation that the individuals listed in section (1)(a)(B) of this rule were provided with the opportunity to participate in developing the MSP-T;
(c) The BRS contractor shall, and require that its BRS provider type listed in section (8)(a) of this rule, obtain and maintain written approval of the MSP-T prior to its implementation from the caseworker and, as applicable and appropriate, the BRS client and the client's parent, guardian, or legal custodian;
(d) The BRS contractor shall, and require that its BRS provider type listed in section (8)(a) of this rule, ensure that the MSP-T includes goals that are measurable and attainable within a specified time frame and address at minimum the following domains where need is indicated by an assessment of the BRS client's referral information and history:
(A) Legal custody and basis for custody;
(B) Medical information including medications and dosages;
(C) Family information including specific cultural factors;
(D) Mental health information;
(E) Alcohol and drug use including relapse prevention;
(F) Educational needs;
(G) Vocational needs;
(H) Placement plans including home visits, transitional visits, anticipated discharge date, and placement resources;
(I) Social living skills needs, including barriers to building healthy social support, recreation, and community connection or membership (including planning for supportive relationships);
(J) Independent living skills needs, which may include barriers regarding the use of technology, finances, and consumer awareness, transportation planning and responsibility, and free-time supervision and structure.
(9) Master Service Plan — Transition 30-day Updates:
(a) The BRS contractor of an Independent Living or Enhanced Structure Independent Living program shall, and require that its BRS provider:
(A) Ensure that the transition facilitator in collaboration with the BRS client reviews and updates in writing the BRS client's MSP-T no later than 30 days from the date the MSP-T was first finalized or the last time it was updated and every 30 days thereafter;
(B) Provide an opportunity for the individuals listed in section (1)(a)(B) of this rule to participate in developing the BRS client's MSP-T update;
(C) Obtain and maintain documentation that the individuals listed in section (1)(a)(B) of this rule were provided with the opportunity to participate in developing the MSP-T updates;
(D) Obtain written approval of an MSP-T update prior to its implementation from the caseworker and, as applicable and appropriate, the BRS client and the BRS client's parent, guardian, or legal custodian; and
(E) Provide the services identified in the most recent MSP-T update.
(b) The BRS contractor and its BRS provider type listed in section (9)(a) of this rule, must ensure that the written MSP-T update is individualized and developmentally appropriate and includes at minimum the following:
(A) The BRS client's progress towards achieving service goals;
(B) The BRS client's performance on the behavior management system;
(C) The BRS client's performance on any individualized plans developed to address specific behaviors;
(D) Any modifications to services based on the BRS client's new behaviors or identified needs;
(E) Any changes regarding recommendations, the discharge date, or aftercare and transition plans; and
(F) A summary of incidents involving the BRS client that have occurred since the last MSP-T update.

(10) For an Initial Service Plan – Stabilization (ISP-S), a BRS contractor that provides services and placement-related activities in a Short-term Stabilization program shall, and require that its BRS provider:
(a) Ensure that a social service staff completes a written ISP-S within two business days of the BRS client's admission to the program;
(b) Provide an opportunity for the individuals listed in section (1)(a)(B) of this rule to participate in developing the BRS client's ISP-S;
(c) Obtain and maintain documentation that the individuals listed in section (1)(a)(B) of this rule were provided with the opportunity to participate in developing the ISP-S;
(d) Obtain written approval of the ISP-S prior to its implementation from the caseworker and, as applicable and appropriate, the BRS client and the BRS client's parent, guardian, or legal custodian;
(e) Provide the services identified in the ISP-S during the BRS client's first 30 days in the program.
(f) Ensure that the ISP-S is individualized, developmentally appropriate, and based on a thorough assessment of the BRS client's referral information, and includes at minimum the following:
(A) A plan to address specific behaviors and needs identified in the referral information including the intervention to be used;
(B) A plan for any overnight home visits and transitional visits;
(C) The anticipated discharge date;
(D) The anticipated type of placement at discharge;
(E) Existing orders for medication and any prescribed treatments for medical conditions, mental health conditions, or substance abuse;
(F) Any type of behavior management system used as an intervention;
(G) A plan for behavior management needs if needs are greater than usual for the program;
(H) Objectives for placement as described by the caseworker; and
(I) Goals that are measurable and attainable within the first 30 days of the BRS client's placement in the BRS program.
(11) Assessment and Evaluation Report — Stabilization (AER-S):
(a) A BRS contractor that provides services and placement-related activities in a short-term stabilization program shall, and require that its BRS provider, ensure a social service staff member conducts an assessment of each BRS client who is expected to remain in the program for more than 30 days;
(b) A BRS contractor and BRS provider in a short-term stabilization program shall, after conducting the assessment, require that the staff member submit a written AER-S to the BRS client's caseworker within 30 days from the date the client was admitted into the program. The written AER-S shall include the following information about the BRS client:
(A) A summary of the client's problems and needs, the reason for referral or placement, and any pertinent historical information;
(B) Identified reasons for behavioral instability;
(C) Summary of BRS client's readiness for return to previous placement or recommended placement;
(D) The BRS client's behaviors, response to current services, and strengths and assets;
(E) Assessment of BRS client's characteristics that may require service delivery modifications to ensure successful participation in BRS services;
(F) Significant incidents or interventions or both;
(G) A plan for behavior management needs if needs are greater than usual for the program, if applicable.
(c) The BRS program as described in section (11)(a) of this rule is not required to conduct an assessment or submit a written AER-S, as described in section (11)(b) of this rule, when the BRS client is expected to remain in the program for 30 days or less.
(12) Master Service Plan – Stabilization (MSP-S):
(a) The BRS contractor of a short-term stabilization program shall, and require that its BRS provider:
(A) Ensure that a social service staff completes a written MSP-S within 30 days of the BRS client's admission to the program;

(B) Provide an opportunity for the individuals listed in section (1)(a)(B) of this rule to participate in developing the BRS client's MSP-S;
(C) Obtain and maintain documentation that the individuals listed in section (1)(a)(B) of this rule were provided with the opportunity to participate in developing the MSP-S;
(D) Obtain written approval of the MSP-S prior to its implementation from the caseworker and, as applicable and appropriate, the BRS client and the BRS client's parent, guardian, or legal custodian;
(E) Ensure that the MSP-S is individualized and based on the BRS client's needs identified in the AER-S;
(F) Provide the services identified in the current MSP-S.
(b) The BRS contractor of a short-term stabilization program shall, and require that its BRS provider, ensure that the MSP-S describes the following:
(A) Specifically stated and prioritized service goals for the BRS client based on the AER-S that include the caseworker's recommendations and goals that the BRS client wants to achieve;
(B) Medical information including medications and dosages.
(c) The BRS contractor of a short-term stabilization program shall, and require that its BRS provider, ensure that the MSP-S is individualized and developmentally appropriate and includes:
(A) Specific interventions and services its program shall provide to address each goal, including the use of a behavior management system as an intervention and a plan for behavior management needs if needs are greater than usual for the program;
(B) Staff responsible for providing the identified services;
(C) Specifically stated behavioral criteria for evaluating the achievement of goals;
(D) A timeframe for the completion of goals;
(E) The method used to monitor the BRS client's progress towards completing goals;
(F) Aftercare and transition goals and planning, including anticipated discharge date and placement resource;
(G) Completion criteria individualized for each BRS client. Completion is defined by progress in acquiring pro-social behaviors, attitudes, and beliefs while in the program and not engaging in behavior that seriously jeopardizes the safety of staff and other program participants.
(d) For the Assessment and Evaluation Report, the BRS contractor of a short-term stabilization program shall, and require its BRS provider, to identify in the MSP-S those needs identified in a BRS client's AER-S that will be addressed by an outside provider and identify that provider. The BRS contractor shall, and require that its BRS provider, facilitate the BRS client's access to other providers whenever needs identified in the AER-S cannot be met within the scope of the services offered by its program;
(e) The BRS contractor of a Short-term Stabilization program shall, and require that its BRS provider, describe in the MSP-S any plan for the BRS client to participate in overnight home visits and transitional visits, including but not limited to documenting when the home visits and transitional visits are to occur, identifying the frequency of the visits (up to a maximum of eight days per month), and describing how the visits relate to the BRS client's goals identified in the MSP-S. The BRS contractor shall, and require that its BRS provider, make every attempt to schedule home and transitional visits so that they do not conflict with services. Any deviation from the approved home visit and transitional visit plan requires prior written approval from the BRS client's caseworker.
(13) Master Service Plan – Stabilization Updates (MSP-S):
(a) The BRS contractor of a Short-term Stabilization program shall, and require that its BRS provider:
(A) Ensure that a social service staff member reviews and updates in writing the BRS client's MSP-S no later than 30 days from the date the MSP-S was first finalized or the last time it was updated and every 30 days thereafter. Social service staff must review the MSP-S and update it in writing earlier, if necessary, whenever additional information becomes available that suggests that other services should be provided;
(B) Provide the opportunity for the individuals listed in section (1)(a)(B) of this rule to participate in developing the BRS client's MSP-S updates;
(C) Obtain and maintain documentation that the individuals listed in section (1)(a)(B) of this rule were provided with the

opportunity to participate in developing the MSP updates;
(D) Obtain written approval of an updated MSP-S prior to its implementation from the caseworker and, as applicable and appropriate, the BRS client and the BRS client's parent, guardian, or legal custodian; and
(E) Provide the services identified in the most recent MSP-S update.
(b) The BRS contractor of a Short-term Stabilization program shall, and require that its BRS provider, ensure that the written update to the MSP-S is individualized and developmentally appropriate and includes at minimum the following:
(A) The BRS client's progress towards achieving service goals;
(B) The BRS client's performance on the behavior management system;
(C) Any modifications to services based on the BRS client's new behaviors or identified needs;
(D) Any changes regarding recommendations, the discharge date, or aftercare and transition plans; and
(E) A summary of incidents involving the BRS client that have occurred since the last time the MSP-S was updated.
(14) Aftercare and Transition Plan - Stabilization (ATP-S):
(a) The BRS contractor of a Short-term Stabilization program shall, and require that its BRS provider:
(A) Ensure that a social service staff member develops and completes a written ATP-S at least 30 days prior to or as close as possible to the BRS client's planned discharge;
(B) Provide the opportunity for the individuals listed in section (1)(a)(B) of this rule and members of the service planning team to participate in developing the BRS client's written ATP-S;
(C) Obtain and maintain documentation that the individuals listed in section (1)(a)(B) of this rule and members of the service planning team were provided with the opportunity to participate in developing the written ATP-S;
(D) Provide a copy of the written ATP-S to the individuals described in section (1)(a)(B) of this rule and members of the service planning team; and
(E) Obtain written approval of the written ATP-S from the caseworker and, as applicable and appropriate, the BRS client and the client's parent, guardian, or legal custodian.
(b) The BRS contractor of a short-term stabilization program shall, and require its BRS provider, ensure the written ATP-S describes how the BRS client is successfully transitioning from its program to the community, specifically addressing the period of 180 days after discharge from its program. The BRS contractor shall, and require that its BRS provider, ensure the written ATP-S includes, at minimum, the following:
(A) Identification of the BRS client's individual needs and unmet goals;
(B) Identification of the aftercare services and supports outside of its program that are available for the 180-day time-period;
(C) Identification of the individual or entity responsible for providing the aftercare services.
(D) Identification of aftercare services and supports provided by the BRS program to the BRS client that will be available for the 180-day time period. These services may include crisis intervention, service coordination, monitoring, and skills training. Minimum contact schedule is one time per week for the first 30 days, two times per month for the next 60 days, and one time per month for the remaining 90 days. Document the type, duration, and description of contact in the record pertaining to the BRS client.
(E) Schedule for regular telephone contact by BRS provider staff with the BRS client and, as applicable, the BRS client's family, caseworker, or other identified significant individuals.
(c) The BRS contractor of a short-term stabilization program shall, and require that its BRS provider, complete an ATP-S for BRS clients who are being discharged home or into a non-BRS foster care placement;
(d) The BRS contractor or BRS provider will not be required to provide aftercare services and supports if the BRS client decline services as documented in the ATP-S. The BRS contractor or BRS provider is still required to complete an ATP-S.
(e) The BRS contractor or BRS provider of a short-term stabilization program may not be required to provide a written ATP-S under the following circumstances:
(A) The agency, legal guardian, or custodian removes the BRS client from the program with little or no notice and in a manner not in accordance with the current service plan;
(B) The BRS client is discharged from the program on an emergency basis due to the BRS client's behavior, runaway

status without a plan to return to the program, or transfer to another program or higher level of care; or
(C) The BRS client initiates an immediate voluntary discharge from the program.
(15) The BRS contractor shall, and require that its BRS provider, ensure that all BRS service plans described in this rule are developed and maintained in the BRS client's case file in accordance with the timeframes and criteria in this rule, unless otherwise exempted.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.065

STATUTES/OTHER IMPLEMENTED: ORS 414.065

AMEND: 410-170-0090

RULE TITLE: BRS Types of Care

RULE SUMMARY: The Behavior Rehabilitation Services (BRS) Program is to remediate the BRS client's debilitating psychosocial, emotional, and behavioral disorders by providing such services as behavioral intervention, counseling, and skills-training. These rules are meant to describe the general program requirements for the BRS program, prior authorization process, services and placement-related activities, BRS contractor and BRS provider requirements, reimbursement rates, and compliance and oversight activities. General changes have been made to update references, grammar, and definitions. Specific changes have been made to accommodate to the addition of a Qualified Residential Treatment Program (QRTP) type, services and rate due to the implementation of SB 171 and the Family First Act.

RULE TEXT:

(1) Shelter, Community Step-Down, and Independent Living Program:

(a) The BRS contractor or BRS provider may use either a residential care model or proctor care model for these BRS types of care;

(b) The BRS contractor providing one of these BRS types of care shall, and require that its BRS provider, ensure that a minimum of six hours of services are available per week to each BRS client as follows:

(A) One hour of individual counseling or individual skills-training provided by social service staff; and

(B) Five hours of any combination of individual or group counseling, crisis counseling, skills-training, or parent training.

(c) The BRS client is placed in a shelter type of care as a short-term intervention to develop necessary skills;

(d) The BRS client is placed in a community step-down type of care from a higher BRS level of care following a thorough Assessment and Evaluation Report and when the BRS client requires only six BRS hours of service but the same level of BRS structure and support;

(e) The BRS client placed in an independent living program type of care requires a structured, supervised setting prior to transitioning to a supported community placement or living independently.

(2) Enhanced Structure Independent Living Program:

(a) This BRS type of care follows a residential care model;

(b) The BRS contractor providing this BRS type of care shall, and require that its BRS provider, ensure that a minimum of six hours of services are available per week to each BRS client as follows:

(A) One hour of individual counseling or individual skills-training provided by social service staff; and

(B) Five hours of any combination of individual or group counseling, crisis counseling, skills-training, or parent training.

(c) The BRS client placed in an enhanced structure independent living program type of care requires a structured, supervised setting with increased staff supervision and support prior to transitioning to a supported community placement or living independently.

(d) The BRS client placed in an independent living program type of care requires a structured, supervised setting prior to transitioning to a supported community placement or independent living.

(3) Proctor Care, Proctor Enhanced Services, Assessment and Evaluation Proctor:

(a) These BRS types of care follow a proctor care model;

(b) The BRS contractor providing one of these BRS types of care shall, and require that its BRS provider, ensure that a minimum of 11 hours of services are available per week to each BRS client as follows:

(A) Two hours of individual counseling or individual skills-training, one of which is provided by social service staff; and

(B) Nine hours of any combination of individual or group counseling, crisis counseling, skills-training, or parent training.

(c) The BRS client placed in proctor care types of care requires structure, behavior management, and support services to develop the skills necessary to be successful in a less restrictive home setting with an approved proctor foster parent;

(d) The BRS client placed in proctor enhanced services types of care requires enhanced structure during the daytime hours. This level of care provides the structure of day treatment for necessary skill development with a less restrictive home setting with an approved proctor foster parent;

(e) The BRS client is placed in assessment and evaluation proctor type of care to identify deficiencies and develop

necessary skills.
(4) Basic Residential, Rehabilitation Services, Intensive Residential, Intensive Rehabilitation Services, Assessment and Evaluation Residential, Short-Term Stabilization:
(a) These types of care follow a residential care model. The BRS contractor shall, and require that its BRS provider, provide 24-hour supervision of the BRS client by ensuring that at least one direct care staff is on duty and awake whenever a BRS client is present in its program;
(b) The BRS contractor providing these BRS types of care shall, and require that its BRS provider, ensure that a minimum of 11 hours of services are available per week to each BRS client as follows:
(A) Two hours of either individual counseling or individual skills-training, one of which is provided by social service staff; and
(B) Nine hours of any combination of individual or group counseling, crisis counseling, skills-training, or parent training.
(c) The BRS client placed in basic residential BRS types of care requires the structure, behavior management, and support services of a residential care model for necessary skill development;
(d) The BRS client placed in rehabilitation services types of care requires the structure, behavior management, and support services of a residential care model for necessary skill development;
(e) The BRS client is placed in assessment and evaluation residential BRS type of care to identify deficiencies and develop necessary skills;
(f) The BRS client placed in intensive residential or intensive rehabilitation services BRS types of care requires more intensive structure, behavior management, and support services than a BRS client in the basic residential or rehabilitation BRS types of care;
(g) The BRS client placed in short-term stabilization BRS type of care requires short-term intervention to provide behavioral stabilization.
(5) Intensive Behavioral Support:
(a) This type of care follows a residential care model. The BRS contractor shall, and require that its BRS provider, provide 24-hour supervision of the BRS client by ensuring that at least one direct care staff is on duty and awake whenever a BRS client is present in its program;
(b) The BRS contractor providing this level of care shall, and require that its BRS provider, ensure that a minimum of 11 hours of services are available per week to each BRS client as follows:
(A) Three hours of individual counseling or individual skills-training, two hours of which are provided by social service staff; and
(B) Eight hours of any combination of individual or group counseling, crisis counseling, skills-training, or parent training.
(c) BRS clients placed in the intensive behavioral support type of care have difficulty re-regulating their emotions due to the presence of complex developmental trauma or other mental health concerns. They require skill training and intensive behavioral support.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.065

STATUTES/OTHER IMPLEMENTED: ORS 414.065

AMEND: 410-170-0100

RULE TITLE: Placement-Related Activities for the Authority's BRS Contractors and BRS Providers

RULE SUMMARY: The Behavior Rehabilitation Services (BRS) Program is to remediate the BRS client's debilitating psychosocial, emotional, and behavioral disorders by providing such services as behavioral intervention, counseling, and skills-training. These rules are meant to describe the general program requirements for the BRS program, prior authorization process, services and placement-related activities, BRS contractor and BRS provider requirements, reimbursement rates, and compliance and oversight activities. General changes have been made to update references, grammar, and definitions. Specific changes have been made to accommodate to the addition of a Qualified Residential Treatment Program (QRTP) type, services and rate due to the implementation of SB 171 and the Family First Act.

RULE TEXT:

(1) In cases where the Authority is the agency, the BRS contractor shall, and require that its BRS provider, provide the following placement-related activities and all facilities, personnel, materials, equipment, supplies and services, and transportation necessary to provide those activities including but not limited to:

(a) For transportation, the BRS contractor shall, and require that its BRS provider, be responsible for the transportation of the BRS client to attend school to the extent not provided by the school district as covered by the Every Student Succeeds Act – 20 USC 6301 et seq, as amended by Every Student Succeeds Act, P.L. 116-94 (December 20, 2019). For transportation to medical, dental, and therapeutic appointments to the extent not provided through the Oregon Health Plan; to recreational and community activities; to places of employment; and to shop for incidental items;

(b) For educational and vocational activities, the BRS contractor shall, and require that its BRS provider, have a system in place to meet the educational and vocational needs of the BRS client in its program either on-site or at an off-site location or a combination of the two;

(c) Recreational, social, and cultural activities:

(A) The BRS contractor shall, and require that its BRS provider, provide recreation time for the BRS client daily and offer activities that are varied in type to allow BRS clients to obtain new experiences. The BRS contractor shall, and require that its BRS provider, document recreation as having been provided by recording the type of activity the BRS client participated in and the date it occurred;

(B) The BRS contractor shall, and require that its BRS provider, provide each BRS client at least one opportunity per week to participate in recreational activities in the community, unless the BRS client is clearly unable to participate in offsite activities due to safety issues. If a BRS client is restricted from participation in community recreation, the BRS contractor shall, and require that its BRS provider, document the reason in the BRS client's case file, and the reason must be reviewed regularly to ensure that the BRS client is not unnecessarily restricted from offsite activities. The BRS contractor shall, and require that its BRS provider, offer any BRS client who is restricted from community activities alternative opportunities for recreation on-site;

(C) The BRS contractor shall, and require that its BRS provider, provide access to or make available social and cultural activities for the BRS clients as part of the therapeutic milieu of the program. These activities are to promote the BRS client's normal development and help broaden the BRS client's understanding and appreciation of the community, arts, environment, and other cultural groups;

(D) The BRS contractor must not, and ensure that its BRS provider does not, permit BRS clients to participate in recreational activities that present a higher level of risk to BRS clients without pre-approval by the caseworker. This applies to activities that require a moderate to high level of technical expertise to perform safely, present environmental hazards, or where special certification or training is recommended or required such as: whitewater rafting, rock climbing, ropes courses, activities on or in any body of water where a certified lifeguard is not present and on duty, mountain climbing, and using motorized yard equipment.

(d) The BRS contractor shall, and require that its BRS provider, provide adequate opportunities for the BRS clients to complete homework assignments with assistance from staff if needed.

(2) The BRS contractor shall, and require that its BRS provider, facilitate the BRS client's access to other providers

whenever identified needs are not met within the scope of services offered by the program. If health care services are needed but the program is unable to access the needed services for the BRS client, the BRS contractor shall, and require that its BRS provider, immediately notify the caseworker about this in writing and document its unsuccessful efforts to access healthcare for the BRS client in the BRS client's case file:
(a) If there is no record that the BRS client received a physical examination within the six months immediately prior to the BRS client's placement with its program, the BRS contractor shall, and require that its BRS provider, ensure or make every effort to ensure that the BRS client receives a general medical checkup consistent with the OHP or health insurance allowances within 30 days of placement. The BRS contractor shall, and require that its BRS provider, keep documentation of this procedure in the BRS client's file and send a copy to the BRS client's caseworker;
(b) The BRS contractor shall, and require that its BRS provider, ensure that services are provided for each BRS client's mental health, physical health (including alcohol and drug treatment services), dental, and vision needs. This does not include paying the cost of services or medications that are covered by the OHP or by the BRS client's third party private insurance coverage. For services or medications not covered by OHP or third party private insurance, the BRS contractor shall, and ensure that its BRS provider, notify and work with the caseworker to resolve payment issues;
(c) The BRS contractor shall, and require that its BRS provider, administer and monitor medications consistent with all applicable licensing rules and the program's own medication management policy.
(3) The Authority's BRS contractor, if not also the BRS provider, is responsible for ensuring its BRS provider provides the placement-related activities to the BRS client as described in this rule.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.065

STATUTES/OTHER IMPLEMENTED: ORS 414.065

AMEND: 410-170-0110

RULE TITLE: Billing and Payment for Services and Placement-Related Activities

RULE SUMMARY: The Behavior Rehabilitation Services (BRS) Program is to remediate the BRS client's debilitating psychosocial, emotional, and behavioral disorders by providing such services as behavioral intervention, counseling, and skills-training. These rules are meant to describe the general program requirements for the BRS program, prior authorization process, services and placement-related activities, BRS contractor and BRS provider requirements, reimbursement rates, and compliance and oversight activities. General changes have been made to update references, grammar, and definitions. Specific changes have been made to accommodate to the addition of a Qualified Residential Treatment Program (QRTP) type, services and rate due to the implementation of SB 171 and the Family First Act.

RULE TEXT:

(1) The BRS contractor is compensated for a billable care day (service and placement-related activities rates) on a fee-for-service basis, except as otherwise provided for in these rules. The Authority does not make payments for any calendar day that does not meet the definition of a billable care day under this rule.

(2) Billable care day rates are provided in the "BRS Rates Table," dated July 1, 2019, which is adopted as Exhibit 1 and incorporated by reference into this rule. The BRS Rates Table is available at http://www.oregon.gov/oha/HSD/OHP/Pages/Policy-BRS.aspx. A printed copy may be obtained from the agency. BRS contractors not meeting the QRTP requirements will be paid at the non-QRTP rate.

(3) Billable Care Day:

(a) For purposes of computing a billable care day, the BRS client must be in the direct care of the BRS contractor or BRS provider at 11:59 p.m. of that day, be on runaway status as defined in this rule or be on an authorized home or transitional visit in accordance with section (4) of this rule;

(b) A billable care day does not include any day where the BRS client is in detention, an inpatient in a hospital, or has not yet entered or is discharged from the BRS contractor's or BRS provider's program;

(c) A billable care day does not include any day in which a BRS client is on runaway status and the BRS contractor or BRS provider who was responsible for less than an accumulated period of 8 hours for the primary care, support, safety, and well-being of the BRS client.

(4) Home and Transitional Visits:

(a) The BRS contractor and BRS provider shall include only a maximum of eight calendar days of a combination of home and transitional visits in a month, as billable care days;

(b) In order to qualify as an authorized home or transitional visit day, the BRS contractor and BRS provider must:

(A) Ensure that the home or transitional visit is tied to the BRS client's service plan;

(B) Work with the BRS client and the BRS client's family or aftercare resource on goals for the home or transitional visit and receive regular reports from the family or aftercare resource on the BRS client's progress while on the visit;

(C) Have staff available to answer calls from the BRS client and BRS client's family or aftercare resource and to provide services to the BRS client during the time planned for the home or transitional visit if the need arises;

(D) Document communications with the BRS client's family or aftercare resource; and

(E) Document the BRS client's progress on goals set for the home or transitional visits.

(5) Invoice form:

(a) The BRS contractor shall submit a monthly billing form to the agency in a format acceptable to the agency on or after the first day of the month following the month in which it provided services and placement-related activities to the BRS client. The billing form must specify the number of billable care days provided to each BRS client in that month;

(b) The BRS contractor shall provide upon request, in a format that meets the agency's approval, written documentation of each BRS client's location for each day claimed as a billable care day;

(c) The BRS contractor shall submit only claims for billable care days consistent with the agency's prior authorization.

(6) Payment for a Billable Care Day:

(a) The agency shall pay the service and placement related activities rates to the BRS contractor for each billable care

day in accordance with the BRS Rates Table described in section (2) of this rule;
(b) Notwithstanding section (6)(a) of this rule, the Authority shall pay only the service rate for each billable care day to a public child-caring agency who by rule or contract provides the local match share for Medicaid claims under OAR 410-120-0035 and 42 CFR 433 Subpart B. The Authority may not pay the placement related activities rate for each billable care day to these types of public child-caring agencies;
(c) To the extent the payment for services is funded by Medicaid and CHIP funds:
(A) The BRS contractor and the BRS provider are subject to Medicaid billing and payment requirements in these rules and the Authority's general rules (OAR Chapter 410, Division 120);
(B) Payment using Medicaid and CHIP funds may be made only to the originating BRS contractor and not to the aftercare resource.
(d) To be eligible as a QRTP and receive the QRTP rate, the BRS contractor and the BRS provider are required to:
(A) Meet the QRTP definition in OAR 410-170-0020; and
(B) Submit accreditation documentation in writing annually to the contract administrator; and
(C) Maintain compliance as described in OAR 410-170-0030(11)(L).
(7) Third Party Resources:
(a) The Authority's BRS contractors must make reasonable efforts to obtain payment first from other resources consistent with OAR 410-120-1280;
(b) The Department's and OYA's BRS contractors are not required to review or pursue third party resources. The Department and OYA must make reasonable efforts to obtain payment first from other resources consistent with OAR 410-120-1280 for Medicaid-eligible BRS clients.
(8) Public child-caring agencies who are responsible by rule or contract for the local match share portion of eligible Medicaid claims must comply with OAR 410-120-0035 and 42 CFR 433 Subpart B.
(9) In cases where the BRS contractor is not also the BRS provider, the BRS contractor is responsible for compensating the BRS provider for billable care days pursuant to the agency-approved subcontract between the BRS contractor and the BRS provider.
(10) The Authority may not be financially responsible for the payment of any claim that the Centers for Medicare and Medicaid Services (CMS) disallows under the Medicaid or CHIP program. If the Authority previously paid the agency or BRS contractor for any claim that CMS disallows, the payment shall be recouped pursuant to OAR 410-120-1397. The Authority shall recoup or recover any other overpayments as described in OAR 410-120-1397 and 943-120-0350 and 943-120-1505.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.065

STATUTES/OTHER IMPLEMENTED: ORS 414.065