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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

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

FILED
07/18/2019 11:27 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Repeal of Home and Community Based Rules OAR 410-172-0700

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/21/2019 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S):

With the initiation of 410-173-1915(i) Home and Community Based Services State Plan Option, the 410-172-0700 rules are obsolete and not applicable.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

OAR 410-173-0075

FISCAL AND ECONOMIC IMPACT:

None

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1) None. 2)a): 54 Residential Treatment Homes, 49 Residential Treatment Facilities, 147 Adult Foster Homes, 100 + in home agencies

2)b) HSD does not expect administrative costs associated with repealing of 410-172-0700.

2)c) HSD does not expect costs associated with equipment, supplies, labor and administrative costs associated with the repeal of 410-172-0700.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

OAR 410-172-0700 is being repealed. Small business representatives are invited to engage through the public

comment process.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

HSD will hold a RAC for the initiation of OAR 410-173-0000-0075, the new chapter of rule which replaces the repealed rule of 410-172-0700.

REPEAL: 410-172-0700

RULE SUMMARY: With the initiation of 410-173 1915(i) Home and Community Based Services State Plan Option, the 410-172-0700 rules are obsolete and not applicable.

CHANGES TO RULE:

410-172-0700

~~1915(i) Home and Community Based Services~~

~~(1) Habilitation services are designed to help an individual attain or maintain their maximal level of independence, including the individual's acceptance of a current residence and the prevention of unnecessary changes in residence. Services are provided in order to assist an individual to acquire, retain, or improve skills in one or more of the following areas: Assistance with activities of daily living, cooking, home maintenance, community inclusion and mobility, money management, shopping, community survival skills, communication, self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings.¶¶~~

~~(2) Psychosocial rehabilitation services are medical or remedial services recommended by a licensed physician or other licensed practitioner to reduce impairment to an individual's functioning associated with the symptoms of a mental disorder or to restore functioning to the highest degree possible.¶¶~~

~~(3) Providers seeking reimbursement for the provision of rehabilitative behavioral health services shall meet one of the following qualifications:¶¶~~

~~(a) Physician or Physician Assistant licensed in the State of Oregon;¶¶~~

~~(b) Advanced Practice Nurse including Clinical Nurse Specialist and Certified Nurse Practitioner licensed by the Oregon Board of Nursing;¶¶~~

~~(c) Psychologist licensed by the Oregon Board of Psychology;¶¶~~

~~(d) Professional Counselor or Marriage and Family Therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists;¶¶~~

~~(e) Clinical Social Worker licensed by the Oregon Board of Licensed Social Workers;¶¶~~

~~(f) Licensed Psychologist Associate granted independent status as described in OAR 858-010-0039;¶¶~~

~~(g) Licensed Master Social Worker licensed by the Oregon Board of Licensed Social Workers as described in OAR 877-015-0105;¶¶~~

~~(h) Licensed Occupational Therapist licensed by the Oregon Occupational Therapy Licensing Board;¶¶~~

~~(i) Organizational certificate of approval issued by the Division as described in OAR 309-012-0130 through 309-012-0220.¶¶~~

~~(4) Board registered intern providers shall be supervised by a paid provider as described in section (3)(c-f) of this rule under an active board approved plan of practice and supervision and meet one of the following qualifications:¶¶~~

~~(a) Psychologist Associate Residents as described in OAR 858-010-0037;¶¶~~

~~(b) Licensed Psychologist Associate under continued supervision as described in OAR 858-010-0038;¶¶~~

~~(c) Licensed Professional Counselor intern or Marriage and Family Therapist intern registered with the Oregon Board of Licensed Professional Counselors and Therapists as described in OAR 833-050-0011;¶¶~~

~~(d) Certificate of Clinical Social Work Associate issued by the Oregon Board of Licensed Social Workers as described in OAR 877-020-0009;¶¶~~

~~(e) Registered bachelor of social work issued by the Oregon Board of Licensed Social Workers as described in OAR 877-015-0105.¶¶~~

~~(5) Providers exempt from licensure or registration per ORS 675.090(f), 675.523(3), or 675.825(c) shall be employed by or contracted with a provider organization certified by the Authority under ORS 430.610 to 430.695 as described in (3)(i) of this rule and meet one of the following qualifications:¶¶~~

~~(a) Qualified mental health professional as defined in OAR 309-019-0105;¶¶~~

~~(b) Qualified mental health associate as defined in OAR 309-019-0105;¶¶~~

~~(c) Mental health intern as defined in OAR 309-019-0105; or¶¶~~

~~(d) Peer Support Specialist as defined in OAR 410-180-0305;¶¶~~

~~(e) Recovery Assistant.¶¶~~

~~(6) Providers of 1915(i) services may be required to meet Community Mental Health Program (CMHP) liability insurance requirements.¶¶~~

~~(7) Due to federal requirements for the Authority to ensure the impartiality of paid providers rendering services to 1915(i) eligible members, providers may be restricted from conducting eligibility reviews or developing the behavioral health assessment or service plan.¶¶~~

~~(8) To be eligible for services under the 1915(i) State Plan HCBS, the individual shall meet the following requirements:¶¶~~

~~(a) Been diagnosed with a chronic mental illness as defined in ORS 426.495;¶¶~~

~~(b) Been assessed as needing assistance to perform at least two personal care services as identified in these rules due to a chronic mental illness.¶¶~~

~~(9) Eligibility for 1915(i) services is determined by an external Independent and Qualified Agent (IQA) as identified by the Division.~~

Statutory/Other Authority: ORS 413.042, 430.640

Statutes/Other Implemented: 430.640, 430.705, 430.715, ORS 413.042, 414.025, 414.065