

# Health Systems Division: Behavioral Health Services - Chapter 309

July 9, 2019

## *Round 1 Redline*

### Division 13. ACCOUNTING AND BUSINESS PRACTICES

#### **309-013-0030 Management of Trust Accounts and Patient Funds in the Oregon State Hospital~~State Institutions~~**

(1) Purpose. This rule establishes standards and procedures to be observed by Superintendents and their employees in:

(a) the management of trust accounts and patient funds in the Oregon State Hospital (OSH); state institutions, as well as

(b) making applications on behalf of patients for Social Security or Veterans Administration benefits; or

(c) or being appointed representative payee for a patient's Social Security or Veterans Administration benefit payments.

(2) Statutory Authority and Procedure. This rule is authorized by ORS and carries out the provisions of ORS 179.510 to 179.530.

(3) Definitions. In addition to the definitions in OAR 309-001-0100, the following definitions apply to as used in this rule:

(a) "Agency trust account" means an account established in the name of a patient by the Superintendent of a state institution under ORS 179.510 to retain funds deposited with the Superintendent by or for the named patient;

(b) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority;

(c) "Patient's Designee" means a person designated by the OSH patient in a state institution in writing to receive duplicate copies of documents sent to the patient relating to the patient's funds;

(d) "Representative or Indirect Payee Trust Account" means a trust account established in the name of a patient by the OSH Superintendent of a state institution or other staff representative or indirect payee to retain the patient's Social Security or Veterans benefits paid to the representative payee;

(e) "State Institution" means Dammasch State Hospital in Wilsonville, Oregon State Hospital in Salem, Fairview Training Center in Salem, and Eastern Oregon Hospital and Training Center in Pendleton;

(f) "Superintendent" means the executive head of the state institution as listed in subsection (3)(e) of this rule;

(d) "Treatment Team" means the group whose membership consists of professional and direct care staff.

(4) Admission to State Institution OSH. Upon admission or readmission to OSHa state institution, the patient, a guardian or conservator, and the patient's designee, if any, shall be provided with written notices containing the following information:

(a) The patient's obligation under state law to reimburse the state for the actual cost of the patient's care and maintenance, according to the patient's ability to pay, whichever is less;

(b) The patient's option to place money in either an agency trust account or other suitable depository outside the state institution OSH. The agency trust account withdrawal and deposit procedures and the Superintendent's powers with respect to such accounts shall be explained therein;

(c) In the event the patient requests the state institution to that OSH forward funds outside the state institution OSH to other than a bank or secure financial institution and, in the clinical judgment of the Superintendent, the patient is not able to understand the implications of the patient's request, the Superintendent shall provide notice that the patient's funds have been placed in an agency trust account, and a proceeding to have a conservator appointed will be commenced within ten days from the date of the notice;

(d) Copies of all relevant state laws and rules regarding handling of patient funds and institutional reimbursement shall be made available to the patient, a guardian or conservator, and the patient's designee on request;

(e) The patient, a guardian, or a conservator may designate another responsible person to be representative or indirect payee for benefits and/or to receive duplicate copies of all further documents detailing procedures, agency trust account transactions, applications by the Superintendent for patient benefits, or documents otherwise related to the institutional reimbursement process as it affects the patient. A form for designating one other person to receive such documents shall be provided upon request.

(5) Agency Trust Account Transactions. A monthly statement indicating the deposits and withdrawals during the prior month of the agency trust account shall be delivered to the patient, a guardian or conservator, and the patient's designee, if any.

(6) Representative or Indirect Payee Trust Account Transactions. A monthly statement indicating the deposits and withdrawals during the prior month of the representative or indirect payee trust account shall be delivered to the patient, a guardian or conservator, and the patient's designee, if any.

(7) Determination of Patient's Capability to Manage Funds:

(a)(A) If an investigation indicates the patient is incapable of managing his or her funds, the relevant Social Security Administration or Veterans Administration form and recommendation shall be forwarded to the Superintendent's office. Upon receiving the form, the Superintendent or the Superintendent's designee shall cause notice of the proposed application to be sent as indicated in section (8) of this rule;

(B) Inquiries may be made of attending doctors and other reliable persons who deal with the patient frequently.

(b) When, after investigation, in the opinion of the Superintendent, a patient is or has become incompetent and/or incapable of making an informed consent or incapable of managing funds, and there is no person legally responsible for the patient (such as a guardian or conservator), the Superintendent may:

(A) Apply to have a representative or indirect payee appointed under section (8) of this rule; and/or

(B) Commence proceedings to establish a guardianship or conservatorship.

| (8) Application for Benefits or Notification of Incapacity to Manage Funds.<sup>12</sup>

(a) When, after investigation pursuant to section (7) of this rule, the Superintendent determines that such a step would be in the best interests of the patient, the Superintendent or the Superintendent's designee may apply for Social Security or Veterans benefits on behalf of a patient. Before each application, the patient, a guardian or conservator, and the patient's designee, if any, shall be mailed notice of the proposed application. Notice shall include the following:

(A) A statement of the intention to apply for such benefits;

(B) A copy of the proposed application, indicating the reason for the application and the evidence relied upon in determining that an application is warranted;

(C) If the applicant seeks to be selected as representative or indirect payee, a statement that this will mean that the representative of the federal agency concerned will determine whether it is in the best interests of the patient that a payee be appointed;

(D) A statement that the patient, a guardian or conservator, or the patient's designee, if any, may submit to the Superintendent a written statement including written evidence why the application should not be made. This statement and evidence must be submitted not more than 12 days from the date of the notice; and

(E) A statement that any such written statement submitted on behalf of the patient and received within the time specified shall be considered by the Superintendent or other official in the decision to submit the proposed application.

(b) After such notice has been given, and either:

(A) Twelve days have elapsed without response from the patient, a guardian or conservator, or the patient's designee, if any; or

(B) The statement or written evidence submitted pursuant to paragraph (8)(a)(D) of this rule has been received,

| the Superintendent or the Superintendent's designee shall consider all the evidence submitted and decide whether an application would be in the patient's best interest. If it is decided that the application

should be made, the patient, a guardian or conservator, and the patient's designee, if any, shall receive copies of the application and any supporting materials thereof.

(c) The response of the Social Security Administration or Veterans Administration to the application shall likewise be forwarded, along with information concerning the rights of patients and other interested persons regarding Social Security or Veterans Administration benefits, to the patient, a guardian or conservator, and the patient's designee, if any.

(9) Deposit of Social Security Administration and Veterans Administration Checks:

(a) Checks for which the patient is the payee must be deposited directly into the patient's agency trust account if the patient has elected to have such an account. In the event the patient has elected a suitable depository outside the state institution, arrangements for forwarding the patient's funds to that depository are the responsibility of the patient, a guardian or conservator, or the patient's designee, if any. Notification of receipt of the check and the deposit thereof in the agency trust account shall be made in the next monthly statement to the patient, a guardian or conservator, and the patient's designee, if any. When such Social Security or Veterans funds are deposited in the agency trust account, the funds shall be clearly designated as Social Security Administration or Veterans Administration benefit money;

(b) Social Security or Veterans funds in the agency trust account may be taken to pay the patient's bill for care and maintenance at the state institution only when the patient (if not judicially or factually incompetent) or the patient's guardian or conservator has executed a written consent for that particular transaction. "Blanket" or continuing consents will not be honored insofar as they affect Social Security or Veterans benefits;

(c) Checks payable to the Superintendent or the Superintendent's designee as indirect or representative payee may be deposited directly into the patient's representative or indirect payee trust account. Notification of receipt of the check and the deposit thereof in the representative or indirect payee trust account shall be made in the next quarterly statement to the patient, a guardian or conservator, and the patient's designee, if any.

(10) Discharge from ~~State Institution~~the Oregon State Hospital. At or before discharge -from ~~a-state institution~~OSH, each patient, a guardian or conservator, and the patient's designee, if any, shall be provided with a statement containing the following information:

(a) The patient's continuing obligation under state law to reimburse the state for the actual cost of the patient's care and maintenance, according to the patient's ability to pay;

(b) The patient may contest payments made to the State of Oregon for charges for institutional care and maintenance during the period of recent hospitalization;

(c) Copies of the relevant state laws and administrative rules regarding the patient's post-~~discharge transfer~~ right to contest payments made to the State of Oregon for charges for institutional care and maintenance will be made available to the patient or other interested party on request;

(d) Copies of monthly statements of transactions concerning the activity in the patient's agency trust account and quarterly statement of representative or indirect payee trust account may be made

available to the patient, legal representative, or other designated person not otherwise prohibited from seeing them upon request.

(11) Incapacity to Perform:

- | (a) The patient's OSH treatment team ~~at the state institution~~ may certify in writing that a patient's mental illness or mental retardation has rendered the patient incapable of even minimal understanding of any of the notices provided for in this rule. Notwithstanding any other provision of this rule, should such certification occur, the Division or ~~state institution OSH~~ is not required to provide the patient with the various forms of notice otherwise required by this rule;
- | (b) Certification that a patient's mental illness or mental retardation renders the patient incapable of understanding the notice provided by this rule shall be reviewed and redetermined annually by the Superintendent as part of the patient's annual plan of care.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 179.510 – 179.530

History:

MHD 16-1980, f. & ef. 6-24-80

MHD 9-1980(Temp), f. & ef. 4-18-80

MHD 42(Temp), f. & ef. 9-9-76

**309-013-0035 Patient & Resident Workers: Purpose and ScopeStatutory Authority**

(1) Purpose. The Pay for Patient and Resident Workers Program was established to support the goals or the patient's or resident's treatment/training plan. These rules [at OAR 309-013-0035 to 309-013-0060](#) establish standards and procedures for administering the agency payroll system for patient and resident workers in [state institutions](#)the Oregon State Hospital.

(2) Statutory Authority. These rules are authorized by ORS 413.042, and carry out the provisions of ORS 179.440, [and](#) 426.385 [and](#) 427.031.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 426.385 & 179.440

History:

MHD 2-1985, f. & ef. 2-7-85

MHD 2-1981, f. & ef. 6-25-81

## **309-013-0040 Patient & Resident Workers: Definitions**

In addition to the definitions listed in OAR 309-001-0100, the following definitions apply to OAR 309-013-0035 to 309-013-0060. As used in these rules:

(1) "Appointment Notice" means the form used at the institution to enter a patient or resident worker into the agency payroll system.

(2) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(23) "Patient Worker" means a person in an OSH state-institution for the mentally or emotionally disturbed who performs work for pay that is of therapeutic benefit to the patient.

(34) "Resident Worker" means a person in an OSH state-institution for the mentally retarded and other developmentally disabled who performs work for pay that is of training benefit to the resident.

(5) "State Institution" means Dammasch State Hospital in Wilsonville, Oregon State Hospital in Salem, Fairview Training Center in Salem, and Eastern Oregon Psychiatric Center and Eastern Oregon Training Center in Pendleton.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 426.385 & 179.440

History:

MHD 2-1985, f. & ef. 2-7-85

MHD 2-1981, f. & ef. 6-25-81

## **309-013-0045 Patient & Resident Workers: Wage Standards**

(1) State institutions OSH will use the first step of the state wage scale, which corresponds with the existing state classification of the job to be performed, or prevailing wage, whichever is higher, to calculate payments for work performed by patient and resident workers.

~~(2) Patients and residents whose productivity is lower than the productivity normally required to perform the job will be paid a percentage of the first step amount. The percentage will be commensurate with the level of productivity as calculated by the institution, and consistent with the Personnel Division Compensation Plan.~~

A revised section will be added based on SB494 which allows pay for amounts less than the first step based on a productivity calculation.

(3) Patients and residents who are paid an amount equal to less than the first step of the state wage scale for the existing classification will be allowed, upon request, to review their record with regard to the calculation of their productivity level.

(4) Wages will be paid based either on the time spent doing the job or on the rate established for completing a specific task multiplied by the number of tasks completed.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 426.385 & 179.440

History:

MHD 2-1985, f. & ef. 2-7-85

MHD 2-1981, f. & ef. 6-25-81

## **309-013-0055 Patient & Resident Workers: Hiring Procedure**

(1) Prior to employment, all patient and resident workers must be informed verbally, and in writing, of their rights with respect to their working relationship with the state institution. Those rights are as follows:

- (a) To receive reasonable compensation for all work performed, other than personal housekeeping chores;
- (b) To receive overtime compensation for work performed in excess of an eight hours per day or 40 hours per week;
- (c) To refuse any work except personal housekeeping chores and, that which is essential for their treatment or training;
- (d) To review their productivity rating if less than 100 percent.

(2) The institution-OSH must complete an appointment notice for each patient and resident worker.

(3) Each patient worker and resident worker must complete a Form W-4.

(4) Each patient and resident worker without a Social Security number must apply for and receive one prior to employment.

(5) Each patient and resident worker who receives Social Security benefits (SSI or SSD), or is eligible for Title XIX, must be informed that an earnings record will be sent to those offices for possible payment adjustment.

(6) Each patient and resident worker under 18 years of age must have a work permit prior to employment.

(7) If applicable, the patient or resident worker must sign, in the presence of a witness, the Notice to Patient/Resident Worker form, (MHD-ADM-0169), prior to beginning work. No billing for cost of care based on agency earnings will predate the delivery of this notice.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 426.385 & 179.440

History:

MHD 2-1985, f. & ef. 2-7-85

MHD 2-1981, f. & ef. 6-25-81

**309-013-0060 Patient & Resident Workers: Payroll Procedure**

(1) Each state institution-OSH campus will use a gross payroll system for processing the agency payroll for patient and resident workers. Biennial budgets for agency payroll will be based on expected gross payroll expenses.

(2) The work supervisor will keep a record of each patient or resident worker's work times and/or specific tasks completed.

(3) Each institution-OSH campus shall adopt written procedures, approved by the Division Administrator, to prepare, distribute, and account for agency payroll payments.

(4) Payroll records will be maintained in accordance with the appropriate record retention requirements of the Secretary of State's Archives Division.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 426.385 & 179.440

History:

MHD 2-1985, f. & ef. 2-7-85

MHD 2-1981, f. & ef. 6-25-81

## **309-013-0075 Purpose and ScopeStatutory Authority**

(1) Purpose. These rules at OAR 309-013-0080 through 309-013-0105 prescribe procedures for handling cases of fraud and embezzlement involving Division employees working in the central office or in the Oregon State Hospitalstate institutions, persons working under personal service contracts with the Division, and service providers and subcontractors of service providers contracting with the Division.

(2) Statutory Authority. These rules are authorized by ORS 179.040 and 413.042, and carry out the provisions of 430.021(2).

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 430.021

History:

MHD 18-1982, f. & ef. 8-6-82

## **309-013-0080 Fraud & Embezzlement: Definitions**

In addition to the definitions listed in in OAR 309-001-0100, the following definitions apply to OAR 309-013-0080 through 309-013-0105. As used in these rules:

- (1) "Central Office" means all organizational elements of the Addictions and Mental Health Division which are not a part of a state institution~~OSHOHA~~.
- (2) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.
- (3) "Embezzlement" means any action to willfully take or convert to one's own use, money or property of another, which the wrongdoer acquired lawfully through some office or employment or position of trust.
- (4) "Fraud" means any action by an individual to knowingly, willfully and with deceitful intent take or use for their own personal gain money or property which does not belong to them.
- (5) "Service Provider" means a public or private community agency or organization that has been approved by the Division to provides a particular mental health service (such as preschool services for the developmentally disabled, a detoxification center, or a day treatment program)~~approved by the Division~~. An agency organization may provide more than one service element, and more than one agency or organization in a county may provide the same service element.
- (6) "State Institution" means Dammasch State Hospital in Wilsonville, Oregon State Hospital in Salem, Fairview Training Center in Salem, and Eastern Oregon Hospital and Training Center in Pendleton.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 430.021

History:

MHD 18-1982, f. & ef. 8-6-82

**309-013-0085 Fraud & Embezzlement: Reporting of Suspected Cases~~Fraud and Embezzlement~~**

(1) Upon discovery, all cases of suspected fraud and embezzlement related to the central office shall be referred, along with all related information, to the AdministratorChief Officer. The AdministratorChief Officer shall review the case, call upon appropriate sources to investigate, and notify appropriate authorities.

(2) In case of suspected fraud or embezzlement involving ~~a state institution OSH~~, the appropriate OSH superintendent ~~of the institution~~ shall review the case, call upon appropriate sources to investigate, and notify appropriate authorities. All cases under review shall be reported to the AdministratorChief Officer.

(3) Each service provider contracting with the Division shall report to the Chief Officer in writing the details of all cases of suspected fraud and embezzlement involving its employees and/or the employees of its subcontractors ~~to the Division's Administrator~~ not later than one working day after the date the alleged activity comes to their attention. The report shall describe the incident and action being taken to resolve the problem.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 430.021

History:

MHD 18-1982, f. & ef. 8-6-82

**309-013-0090 Fraud & Embezzlement: Investigation of Suspected Cases~~Fraud and Embezzlement~~**

(1) In cases of suspected fraud and embezzlement involving funds and resources of the Division:

(a) The Administrator-Chief Officer shall begin the investigation immediately and may, in the course of investigation, call upon the services of appropriate law enforcement agencies, the Attorney General, the Division Audit Unit, and/or other who may be of assistance in developing the case;

(b) A service provider which has contracted with the Division is responsible for developing cases of suspected fraud and embezzlement involving its employees and/or the employees of its subcontractors, and is responsible for referral to the proper authorities. However, the Division may assume control of any case not handled to the Division's satisfaction.

(2) In cases of suspected fraud and embezzlement which do not involve funds and resources of the Division:

(a) The aggrieved parties shall seek their own resolution, and the Division will not become involved in development of the case or prosecution, except it may intervene in cases involving resources of clients of service providers;

(b) The Division shall review the case to determine whether the lack of internal controls which allowed fraud or embezzlement to occur might also endanger Division resources. If that possibility exists, the service provider shall be required to adopt and follow procedures which the Division decides are needed to minimize chances for recurrence of the fraud or embezzlement. Failure of the service provider to adopt and follow such procedures shall constitute grounds for refusing to contract with the service provider in the future, and for terminating the existing contract.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 430.021

History:

MHD 18-1982, f. & ef. 8-6-82

## 309-013-0095 Fraud & Embezzlement: Consequences of Failure to Adopt Procedures

Failure of a service provider to adopt and follow procedures which the Division decides are needed to minimize chances for fraud and embezzlement of Division resources shall constitute grounds for terminating any contract between the Division and that service provider. If the service provider is a subcontractor of a service provider contracting with the Division, then such failure on the part of the subcontractor shall constitute grounds for stipulation by the Division that no Division managed funds be used for payment to that subcontractor.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 430.021

History:

MHD 18-1982, f. & ef. 8-6-82

### **309-013-0100 Fraud & Embezzlement: Disclosure Requirement**

Disclosure must be made to the Division before a contract is entered into, or at the time it becomes known, of the name of any person who has ownership or control interest of five percent or more, or is an officer, director, agent, or managing employee, and has been convicted of a criminal offense related to the involvement of such person in any such state or federal social benefit program, including theft of patient funds. Failure to make this disclosure shall constitute grounds for terminating that contract.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 430.021

History:

MHD 18-1982, f. & ef. 8-6-82

### **309-013-0105 Fraud & Embezzlement: Disciplinary Action**

Fraud or embezzlement of Division resources and/or patient or resident funds committed by Division employees shall constitute grounds for disciplinary action. The type and extent of disciplinary action will be determined in accordance with the Division's collective bargaining agreements and "Personnel Relations Law, Personnel Rules and Personnel Policies." Statewide human resource policies and State Personnel Law. Notwithstanding any portion of these rules, existing agreements with unions representing the employee(s) involved, governing complaint investigation, shall be observed.

Statutory/Other Authority: ORS 179.040 & 413.042 [ORS 240](#)

Statutes/Other Implemented: ORS 430.021

History:

MHD 18-1982, f. & ef. 8-6-82

## **309-013-0120 Audits: Purpose and Statutory Authority Scope**

(1) Purpose. These rules [at OAR 309-013-0120 through 309-013-0220](#) establish a Division procedure for audits of community mental health programs, mental health organizations and their subcontractors and vendors and any service provider agreeing to offer services through direct contract with the Division. These rules also establish basic record keeping standards for programs subject to audit under these rules, establish procedures for appealing audit findings, and set out a process to implement the findings of the final audit report.

(2) Statutory Authority. These rules are authorized by ORS 179.040, 413.042 & 430.640 and are promulgated to enable the Division to carry out its responsibilities under ORS 414.018 to 414.024 and 430.610 through 430.695.

Statutory/Other Authority: ORS 179.040, 413.042 & 430.640

Statutes/Other Implemented: ORS 414.018 & 430.610–430.695

History:

MHD 15-1998, f. 8-12-98, cert. ef. 9-1-98, Renumbered from 309-013-0020

MHD 9-1978, f. & ef. 12-11-78

## **309-013-0130 Audits: Definitions**

In addition the definitions listed in OAR 309-001-0100, the following definitions apply to OAR 309-013-0120 through 309-013-0220.

- (1) "Audit" means the examination of documents, records, reports, systems of internal control, accounting and financial procedures, and other evidence for one or more of the following purposes:
  - (a) To ascertain whether the financial statements present fairly the financial position and the results of financial operations of the fund types and/or account groups in accordance with Generally Accepted Accounting Principles and federal and state rules and regulations;
  - (b) To determine compliance with applicable laws, rules, regulations and contract provisions;
  - (c) To review the efficiency and economy with which operations are carried out; and
  - (d) To review effectiveness in achieving program results.
- (2) "Capital Construction" is an expenditure related to construction or remodeling of physical facilities with a projected cost of \$250,000 or more.
- (3) "Capital Improvement" is an expenditure related to construction or remodeling of physical facilities with a projected cost of more than \$5,000 but less than \$250,000.
- (4) "Capital Outlay" are purchases of equipment and tangible personal property of a non-expendable nature which have a useful life of more than one year. The minimum dollar threshold for determining if a purchase is capital outlay can-not exceed the amount set for state purchases of capital outlay. The current threshold for the State of Oregon is \$5,000, however, a lesser amount may be used.
- (5) "Community Mental Health Program (CMHP)" means the organization of all services for individuals with mental or emotional disturbances, developmental disabilities or chemical dependency, operated by, or contractually affiliated with, a local mental health authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.
- (6) "Direct Contractor" means a person or organization which operates under a direct contract with the Division to provide services to persons with mental or emotional conditions and/or developmental disabilities.
- (7) "Internal Auditor" means auditors within the Audit Unit of the Division.
- (8) "Internal Control Structure" means the plan of organization including all of the methods and measures adopted within a business to safeguard its assets, check the accuracy and reliability of its accounting data, and promote operational efficiency and adherence to management's policies.
- (9) "Local Mental Health Authority (LMHA)" means the county court or board of county commissioners of one or more counties who choose to operate a CMHP; or, if the county declines to operate or contract for all or part of a CMHP, the board of directors of a public or private corporation which contracts with the Division to operate a CMHP for that county.

(10) "Addictions and Mental Health Division (Division)" means the Oregon Health Authority (Authority) Agency responsible for the administration of the State mental health and developmental disability services to persons who qualify for certain programs under federal and state laws, rules and regulations.

(11) "Mental Health Organization (MHO)" means a managed care entity that provides behavioral health services through the Oregon Health Plan, as defined in OAR 410-141-3000, a Prepaid Health Plan under contract with the Division to provide covered services under the Oregon Health Plan Medicaid Demonstration Project. MHOs can be Fully Capitated Health Plans (FCHPs), CMHPs or private MHOs or combinations thereof.

(12) "Non-Allowable Expenditures" means expenditures made by a contractor or subcontractor of the Division which are not consistent with relevant federal and state laws, rules, regulations and contract provisions. To be allowable, expenditures must be necessary and reasonable for the proper and efficient performance of the contracted services. If only state funds are involved, expenditures will be evaluated based on state laws and rules, the contract provisions, and whether they are necessary and reasonable for the proper and efficient performance of the contracted services. When federal funds are involved, determination of allowable expenditures includes, but is not limited to, those rules and regulations itemized and referred to in applicable Office of Management and Budget circulars.

(13) "Office of Medical Assistance Programs (OMAP)" means the office of the Oregon Health Authority responsible for coordinating the Medical Assistance Program within the State of Oregon.

(14) "Reasonable Cost" means a cost that in nature or amount does not exceed that which would be incurred by a prudent person under the circumstance prevailing at the time the decision was made to incur the cost. Consideration shall be given to whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization; what restraints or requirements exist such as those imposed by factors of generally accepted sound business practices, federal and state laws and regulations, and terms and conditions of the contract; whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, their employer, their clients, the public and the governments; and whether significant deviations from the organization's established practices unjustifiably increase costs.

(15) "Service Element" and "Service Provider" have the meanings defined in OAR 309-014-0005 means a distinct service or combination of services as defined in Part III of the Intergovernmental Agreement for persons with mental or emotional conditions and or developmental disabilities provided in the community setting by a contract with the Division or through a subcontract with a local mental health authority.

(16) "Service Provider" means a public or private community agency or organization contracted by the Division that provides recognized mental health or developmental disability service(s) and is approved by the Division or other appropriate agency to provide these service(s). For the purpose of this rule, "provider" or "program" is synonymous with "service provider."

Statutory/Other Authority: ORS 179.040, 413.042 & 430.640

Statutes/Other Implemented: ORS 414.018 & 430.610–430.695

History:

MHD 15-1998, f. 8-12-98, cert. ef. 9-1-98, Renumbered from 309-013-0020

MHD 9-1978, f. & ef. 12-11-78

## **309-013-0140 Scope and Application of the Rule-Audits: General Standards**

(1) Under these rules, the Division may audit any service provider that provides any part of the community mental health program including:

(a) ~~t~~The community mental health program CMHP itself;

(b) Mental Health Organizations providing services under the Oregon Health Plan, including subcontractors and vendors providing mental health services; ~~or~~ and

(c) ~~a~~Any direct contractor.

(2) The scope of the audit shall include only Division funds or related matching funds. However, the Division may include other funds in its tests to the extent necessary to audit Division funds or matching funds.

(3) These rules shall be read and applied consistently with the CMHP rules at OAR 309-014-0000 through 309-014-0040, and -(Community Mental Health Contractors) or the Division of Medical Assistance Programs Oregon Health Plan general rules at (OAR 410-120-0000 through 410-120-1980) when these are applicable.

Statutory/Other Authority: ORS 413.042 & 430.640

Statutes/Other Implemented: ORS 430.610–430.695

History:

MHD 15-1998, f. 8-12-98, cert. ef. 9-1-98, Renumbered from 309-013-0020

MHD 9-1978, f. & ef. 12-11-78

## **309-013-0150 Audits: Revenue**

(1) A service provider shall maintain a revenue account for each income source which results from the operation of the service or is used to support the service. For example, separate revenue accounts shall be established for each service element for which the provider receives payment from the Division or the Division of Medical Assistance Programs Authority, direct federal payments, donations, fees, interest earned, rentals collected from subleases and parking lots, sales of capital equipment, training grants or any other source of income.

(2) Only cash revenue may be used to match state funds unless the Division gives prior authorization in writing to use contributed services or property to match state funds.

Statutory/Other Authority: ORS 179.040, 413.042 & 430.640

Statutes/Other Implemented: ORS 414.018 & 430.610–430.695

History:

MHD 15-1998, f. 8-12-98, cert. ef. 9-1-98, Renumbered from 309-013-0020

MHD 9-1978, f. & ef. 12-11-78

## **309-013-0160 Audits: Expenses**

(1) A service provider subject to audit under these rules shall keep its accounting records consistent with Generally Accepted Accounting Principles.

(a) Accounting records shall be retained for three years from the date of the expiration of the Division's agreement or from the finalization of an audit, whichever comes later.

(b) Allocation methods for expenses shall be documented. Relevant calculations representing allocations shall be shown. The allocation method shall reasonably distribute expenses which are shared by service providers or service elements.

(c) Charges assessed against a service provider by a related organization shall be justified by the related organization as to the method and reason for relevant cost allocation.

(d) The expense invoice shall list the location where services and supplies purchases are delivered for any item in excess of \$1,000.

(2) Record requirements for Personal Services:

(a) Reports reflecting the distribution of labor of each employee must be maintained for all staff members, professional and nonprofessional, whose compensation is charged in whole or in part to Division funds. To support the allocation of indirect costs, such reports must also be maintained for other employees whose work involves two or more functions or activities if a distribution of their compensation between such functions or activities is needed in the determination of the organization's indirect cost rate(s). Reports maintained to satisfy these requirements must meet the following standards:

(A) The reports must reflect an after-the-fact determination of the actual activity of each employee. Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to Division funds;

(B) Each report must account for the total activity for which employees are compensated and which is required in fulfillment of their obligations to the organization;

(C) The reports must be signed by the individual employee, or by a responsible supervisory official having first-hand knowledge of the activities performed by the employee, to attest that the distribution of activity represents a reasonable distribution of the actual work performed by the employee during the periods covered by the reports;

(D) The reports must be prepared at least monthly and must coincide with one or more pay periods;

(E) Periodic time studies, in lieu of ongoing time reports, may be used to allocate salary and wage costs. However, the time studies used must meet the following criteria:

(i) A minimally acceptable time study must encompass at least one full week per month of the cost reporting period;

- (ii) Each week selected must be a full work week (e.g., Monday to Friday, Monday to Saturday, or Sunday to Saturday);
- (iii) The weeks selected must be equally distributed among the months in the cost reporting period (e.g., for a 12-month period, three of the 12 weeks in the study must be the first week beginning in the month, three weeks the second week beginning in the month, three weeks the third, and three weeks the fourth);
- (iv) No two consecutive months may use the same week for the study, (e.g., if the second week beginning in April is the study week for April, the weeks selected for March and May may not be the second week beginning in those months);
- (v) The time study must be contemporaneous with the costs to be allocated. Thus, a time study conducted in the current cost reporting year may not be used to allocate the costs of prior or subsequent cost reporting years;
- (vi) The time study must apply to a specific provider. Thus, chain organizations may not use a time study from one provider to allocate the costs of another provider or a time study of a sample group of providers to allocate the costs of all providers within the chain.

(b) Any person non-employee being compensated for services to a service provider who is not an employee of the organization shall have a written contract with the service provider. The contract shall set forth the specific services being purchased, the contract time period, the rate at which compensation will be paid and an hourly rate where applicable.

(3) Record Requirements for Capital Expenditures:

- (a) Depreciation for capital outlay, capital improvements, and capital construction shall be documented in a depreciation schedule. The depreciation schedule at a minimum shall include a description of the asset, date of acquisition, cost basis, depreciation method, estimated useful life, annual depreciation expense and accumulated depreciation.
- (b) Any capital expenditures purchased by a service provider using Division funds shall be listed on an inventory system showing location of item and reference to purchase invoice and payment receipt location. The inventory shall be checked annually and verification of the inventory list shall be signed by the inventory control person. All capital items purchased with Division funds must be used in a Division-approved program.

(4) Reasonable Procedures will be established to ensure the security of cash, blank checks, purchase orders, check protector machines, and signature stamps.

(5) A service provider must expend funds consistent with an intergovernmental agreement or direct contract, these rules, the required program or licensing rule, and federal and state requirements. For service elements contracted with a predetermined rate, Division funds not used in delivering the service of the required quantity and quality shall be classified as carryover. Carryover of Division-administered funds shall be spent for Division services. These funds shall be kept in restricted accounts in the financial records. Funds spent on unallowed costs shall be considered noncompliance and shall be returned to Division.

(6) All travel expenses shall be supported by a system of authorized trip reports, receipts, and/or other documentation. Authorization is indicated by approval of the travel expenditure by the Director (or person with delegated authority) of the service provider.

Statutory/Other Authority: ORS 179.040, 413.042 & 430.640

Statutes/Other Implemented: ORS 414.018 & 430.610–430.695

History:

MHD 15-1998, f. 8-12-98, cert. ef. 9-1-98, Renumbered from 309-013-0020

MHD 9-1978, f. & ef. 12-11-78

## **309-013-0170 Audits: Process and Reports**

(1) Any person, organization, or agency, including the Division, may request an audit of a community mental health program or any service provider offering a service thereunder or any direct contractor by submitting an audit request in writing to the Division Internal Audit Unit Coordinatoragencies Internal Audit and Consulting (IAC) Chief Audit Officer. The request shall clearly identify the service provider to be audited, setting forth its name, location, program director, the period for which the audit is requested and the reason for the request.

(2) The Internal Audit Unit Coordinator shall review the request and arrange for scheduling if an audit is considered appropriate. The Internal Audit Unit Coordinator shall notify appropriate Assistant Administrators of the audit schedule.

(3) The Assistant Administrator of the Division for the Office of Finance has the discretion to notify the appropriate community mental health program director of the scheduled audit in advance. The Division retains the right to perform an audit without prior notice to the subject service provider.

(4) Upon completion of the audit, the Internal Audit Unit Coordinator shall prepare a report setting forth the findings, recommendations, and auditee responses where applicable. Audit work papers shall be available showing the details of the audit findings.

Statutory/Other Authority: ORS 179.040, 413.042 & 430.640

Statutes/Other Implemented: ORS 414.018 & 430.610–430.695

History:

MHD 15-1998, f. 8-12-98, cert. ef. 9-1-98, Renumbered from 309-013-0020

MHD 9-1978, f. & ef. 12-11-78

## **309-013-0180 Audits: Disposition of Audit Findings**

- (1) To the extent an audit documents non-allowable expenditures in non-capitated programs, the Division shall recover such funds.
- (2) To the extent an audit report evidences non-compliance with applicable program and/or licensing rules, the audit findings may be referred to the [Administrator of the](#) Division to assess civil penalties, where applicable, or for other corrective action deemed necessary by the program office.
- (3) Notwithstanding any other provisions of these rules, to the extent an audit report reveals non-compliance with Generally Accepted Accounting Principles or these rules, the Division may require corrective action to bring the deficiencies into compliance with state and federal rules and regulations. Non-compliance which results in substantial misrepresentation of financial activities may result in termination of the license and/or contract upon consultation with Division program offices and/or the local mental health authority.

Statutory/Other Authority: ORS 179.040, 413.042 & 430.640

Statutes/Other Implemented: ORS 414.018 & 430.610–430.695

History:

MHD 15-1998, f. 8-12-98, cert. ef. 9-1-98, Renumbered from 309-013-0020

MHD 9-1978, f. & ef. 12-11-78

## **309-013-0190 Audits: Provider Appeals**

(1) A provider may appeal certain decisions affecting the provider by making a written request to the Division Assistant Administrator for the Office of Finance. The request must state whether the provider wants an administrative review, and/or a contested case hearing, as outlined in [the OMAP General Rules](#) OAR 410-120-1560, [Provider Appeals](#), through 410-120-[16001840, Provider Hearings-Role of Hearings Officer](#). If the subject service provider decides to appeal the audit, it shall set forth in writing the reasons for its appeal within 30 days of receipt of the report.

(2) When the Division seeks to recover funds under these rules, the Division shall negotiate the terms and conditions of repayment with the audited service provider, after consultation with the community mental health program director or the MHO director (if applicable).

Statutory/Other Authority: ORS 179.040, 413.042 & 430.640

Statutes/Other Implemented: ORS 414.018 & 430.610–430.695

History:

MHD 15-1998, f. 8-12-98, cert. ef. 9-1-98, Renumbered from 309-013-0020

MHD 9-1978, f. & ef. 12-11-78

## **309-013-0200 Audits: Basic Accounting Records**

(1) A service provider subject to audit under these rules shall maintain a chart of accounts that defines all items included in determining the cost for each service element. The chart of accounts shall list all revenues and expense accounts.

(2) The organization shall have bank deposit records and documentation to verify the source of revenue.

(3) Revenue and expense accounts, with related asset, liability, and equity accounts, shall account for all expenditures related to delivery of the service.

(4) All basic accounting records shall be retained for at least three years following the expiration of the contract or from the finalization of an audit including any appeal, whichever is later.

Statutory/Other Authority: ORS 179.040, 413.042 & 430.640

Statutes/Other Implemented: ORS 414.018 & 430.610–430.695

History:

MHD 15-1998, f. 8-12-98, cert. ef. 9-1-98, Renumbered from 309-013-0020

MHD 9-1978, f. & ef. 12-11-78

## **309-013-0210 Audits: Internal Controls**

(1) Establishing and maintaining an internal control structure is the responsibility of the service provider. Effective internal controls are considered essential to achieving the proper conduct of business with full accountability for the resources made available.

(2) Internal controls shall be implemented and maintained to provide reasonable assurance that:

(a1) The provider identifies, assembles, classifies, records, analyzes, and reports its transactions in conformity with Generally Accepted Accounting Principles or appropriate regulatory requirements for preparing financial statements and other required financial reports;

(b2) Losses or misappropriations of assets due to errors or irregularities in processing transactions and handling the related assets are prevented or detected;

(c3) Noncompliance with applicable federal and state laws and rules and regulations and terms of the contract is prevented or detected;

(d4) State and federal funds are reasonably, prudently and economically spent; and

(e5) All costs are appropriately allocated among programs, departments, and other benefiting units.

Statutory/Other Authority: ORS 179.040, 413.042 & 430.640

Statutes/Other Implemented: ORS 414.018 & 430.610–430.695

History:

MHD 15-1998, f. 8-12-98, cert. ef. 9-1-98, Renumbered from 309-013-0020

MHD 9-1978, f. & ef. 12-11-78

## 309-013-0220 Audits: Independent Audit Reports

The Division may, in its discretion, accept an independent audit, in lieu of a Division audit, if it determines the workpapers and procedures of the independent auditor meet Government Auditing Standards (where applicable), Generally Accepted Auditing Standards and other audit standards which may be adopted by the Division.

Statutory/Other Authority: ORS 179.040, 413.042 & 430.640

Statutes/Other Implemented: ORS 414.018 & 430.610–430.695

History:

MHD 15-1998, f. 8-12-98, cert. ef. 9-1-98, Renumbered from 309-013-0020

MHD 9-1978, f. & ef. 12-11-78