

Health Systems Division: Behavioral Health Services - Chapter 309

August 12, 2019

Round 2 Redline

Division 36. COMMUNITY MENTAL HEALTH HOUSING FUND

309-036-0100 Statement of Purpose and Scope

These rules prescribe standards for the development, renovation, and administration of the Community Mental Health Housing Program and the Community Mental Health Housing Fund under ORS 426.502 to ~~426.508~~. The Oregon Health Authority (Authority) through its Health Systems Division (Division) shall administer the Community Mental Health Housing Fund, supported in part by the Community Housing Trust Account.

Statutory/Other Authority: ORS 413.042 & 430.640

Statutes/Other Implemented: ORS 426.502–426.508

History:

BHS 13-2018, amend filed 06/05/2018, effective 06/05/2018

BHS 12-2018, amend filed 05/30/2018, effective 06/01/2018

MHS 7-2010, f. & cert. ef. 6-7-10

MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03

309-036-0105 Definitions

In addition to the definitions listed in OAR 309-001-0100, the following definitions apply to these rules in this OAR chapter 309, division 036.

(1) "Care Provider" means an individual or entity that provides services and support for an individual with serious mental illness or serious and persistent mental illness under a residential service agreement, contract, or other similar arrangement.

(2) "Community Housing" means real property, improvements, and related equipment that are used or could be used to house individuals with a serious and persistent mental illness in community-based settings consistent with ORS 426.502. It includes single-family housing, multiple-unit residential housing, and residential facilities. It does not include hospitals, nursing homes, correctional facilities, and other institutional housing except as provided in these rules. Consistent with the designated housing model, community housing may include accommodations for care providers and resident managers.

(3) "Community Housing Development" means efforts or assistance, financial or otherwise, that result in the establishment of community housing.

(4) "Community Housing Renovation" means efforts that result in the improvement of real property, the use of which is restricted to community housing for individuals with serious and persistent mental illness. Improvement includes but is not limited to replacing worn or non-functional components, making repairs to improve health and safety, expanding the building to accommodate more residents or provide more adequate living quarters, and installing equipment necessary to the operation of the community housing.

(5) "Community Mental Health" means programs and services, delivered in the community, for individuals diagnosed with serious and persistent mental illness (SPMI) or meets criteria for Serious Emotional Disorder (SED) as defined in 309-001

(6) "Community Mental Health Housing Fund" or "Fund" means the fund established by ORS 426.506.

(7) "Community Mental Health Housing Fund Advisory Committee (CMHHFAC)" means the committee described in OAR 309-036-0140.

(8) "Construct" means to build, install, assemble, expand, alter, convert, replace, or relocate includes but is not limited to building, installing, assembling, expanding, altering, converting, repairing, replacing or relocating a community housing development, renovation, or administration. It may also mean to install equipment, and necessary infrastructure to prepare a site.

(9) "Director" means the Director of the Health Systems Division.

(10) "Division" means the Health Systems Division of the Oregon Health Authority (Authority).

(11) "Equipment" means permanently installed fixtures or appliances acquired for the community housing.

(12) "Individual with Serious Mental Illness" means an individual who is:

(a) Diagnosed by a ~~g~~Qualified ~~m~~Mental ~~H~~Health ~~P~~Professional as suffering from a chronic mental disorder as defined by ORS 426.495 that includes but is not limited to conditions such as chronic schizophrenia, chronic affective disorder, chronic paranoid disorder, and other disorders that manifest symptoms that are not solely a result of mental retardation or other developmental disabilities, epilepsy, drug abuse, or alcoholism; which continue for more than one year, or on the basis of a specific diagnosis, are likely to continue for more than one year; and

(b) Impaired to an extent that substantially limits the individual's consistent functioning in one or more of the following areas:

(A) Home environment, independently attending to shelter needs, personal hygiene, nutritional needs, and home maintenance;

(B) Community negotiation, independently and appropriately utilizing community resources for shopping, recreation, and other needs;

(C) Social relations, establishing and maintaining supportive relationships;

(D) Vocational, maintaining employment sufficient to meet personal living expenses or engaging in other age appropriate activities.

~~(1101)~~ "Institutional Housing" means housing located at an Oregon State Hospital campus or the Blue Mountain Recovery Center, including buildings, grounds, leased facilities, infrastructure, and ancillary facilities.

~~(12) "Qualified Mental Health Professional (QMHP)" means a Licensed Medical Practitioner (LMP) or any other individual meeting one or more of the following minimum qualifications as authorized by the Local Mental Health Authority or designee:~~

~~(a) Bachelor's degree in nursing and licensed by the State of Oregon;~~

~~(b) Bachelor's degree in occupational therapy and licensed by the State of Oregon;~~

~~(c) Graduate degree in psychology;~~

~~(d) A Graduate degree in social work;~~

~~(e) A Graduate degree in recreational, art, or music therapy; or~~

~~(f) A Graduate degree in a behavioral science field.~~

~~(123) "Serious and Persistent Mental Illness" has the meaning defined in OAR 309-001-0100. means the current Diagnostic and Statistical Manual of Mental Disorders diagnostic criteria for at least one of the following conditions as a primary diagnosis for an adult age 18 or older:~~

~~(a) Schizophrenia and other psychotic disorders;~~

~~(b) Major depressive disorder;~~

~~(c) Bipolar disorder;~~

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

~~(e) Schizotypal personality disorder; or~~

~~(f) Borderline personality disorder.~~

Statutory/Other Authority: ORS 413.042 & 430.640

Statutes/Other Implemented: ORS 426.502–426.508

History:

BHS 13-2018, amend filed 06/05/2018, effective 06/05/2018

BHS 12-2018, amend filed 05/30/2018, effective 06/01/2018

MHS 7-2010, f. & cert. ef. 6-7-10

MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03

309-036-0110 Community Mental Health Housing Fund, Community Mental Health Housing Trust Account, ~~Income and Expenditures~~

(1) The Community Mental Health Housing Fund shall be maintained in the State Treasury. All earnings on investments of moneys in the Fund, including earnings in the Community Housing Trust Account, shall accrue to the Fund. All moneys in the Fund shall be continuously appropriated to the Division to carry out the provisions of ORS 426.504 for the purpose of providing housing for individuals with serious and persistent mental illness.

(a) Income to the Fund shall consist of:

(A) The proceeds, less costs to the state, received from the sale of the F.H. Dammasch State Hospital property under ORS 426.508;

(B) Moneys appropriated to the Fund by the Legislative Assembly;

(C) Proceeds from the sale, transfer, or lease of any surplus real property owned, operated, or controlled by the Division and used for community housing;

(D) Money reallocated from other areas of the Division's budget;

(E) Interest and earnings credited to the fund; and

(F) Gifts of money or other property from any source to be used for the purposes of developing housing for individuals with serious and persistent mental illness. Except as provided in ORS 426.506, income to the fund may be restricted to deposit in the Community Housing Trust Account or may be available for expenditure.

(b) Gifts and other deposits may be designated by the contributor to be used for community housing purposes or institutional housing purposes. The deposits may also be restricted to the Community Housing Trust Account or may be non-restricted and available for expenditure from the Fund or may be designated for a specific expenditure purpose in the Fund. Any gifts restricted or designated by a contributor may not be available for re-allocation except as may be specified by the contributor.

(c) When it is determined that community housing established or assisted consistent with ORS 426.504 is no longer suitable for continued use as community housing, any proceeds realized from the disposition of the property shall be deposited into the Fund and used for community housing purposes.

(2) The Community Housing Trust Account exists within the Community Mental Health Housing Fund and shall consist of:

(a) At least 95 percent of the proceeds received from the sale of the F.H. Dammasch State Hospital property under ORS 426.508; and

(b) Any other funds deposited into the account for the restricted purpose of staying in the Fund for perpetuity.

(3) Amounts available from the Fund for expenditure shall consist of:

(a) Up to five percent of the sale proceeds received by the Authority for credit to the account from the Oregon Department of Administrative Services from the sale of the F.H. Dammasch State Hospital property; and

(b) All other deposited, unrestricted funds or account earnings unless a specific deposit is designated by its maker to be placed in the restricted portion of the Community Housing Trust Account.

(4) Interest earned on moneys in the Community Housing Trust Account may be expended in the following manner:

(a) Seventy percent of interest earned on deposits in the Community Housing Trust Account shall be expended for community housing purposes in accordance with these rules; [and](#)

(b) Thirty percent of interest earned on deposits in the Community Housing Trust Account shall be expended for institutional housing purposes in accordance with these rules.

(5) Interest earned on deposits in the account may not be used to support Division operating expenses.

Statutory/Other Authority: ORS 413.042 & 430.640

Statutes/Other Implemented: ORS 426.502–426.508

History:

BHS 13-2018, amend filed 06/05/2018, effective 06/05/2018

BHS 12-2018, amend filed 05/30/2018, effective 06/01/2018

MHS 7-2010, f. & cert. ef. 6-7-10

MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03

309-036-0115 Funds for Community Housing

(1) The Division shall work through community partners to develop community housing and may not acquire or operate community housing directly. In circumstances where a particular type of community housing is desired and no community partner has been identified, however, the Division may acquire or directly operate community housing.

(2) The community housing to be assisted with funds from the Community Mental Health Housing Fund shall include a variety of types of housing integrated into residential neighborhoods of local communities throughout Oregon.

(a) The Division may establish priorities for the types of housing to be assisted based on an analysis of housing needs of individuals with serious and persistent mental illness.

(b) The community housing types to be considered for funding include but are not limited to single-family housing, multiple-unit residential housing, residential facilities, and other residences for individuals with serious and persistent mental illness.

(c) Housing for individuals with serious and persistent mental illness may include improvements and related equipment to enable a provider to offer services on site. When services are not offered on site, the community housing provider must demonstrate that access to services is available elsewhere in the community.

(d) Funds may be used to develop new community housing or to preserve or renovate existing community housing for individuals with serious and persistent mental illness. To this end, funding may be used toward acquisition, remodeling, maintenance, repair, permanently installed fixtures or appliances, and equipment.

(e) The community housing to be assisted with funds from the Community Mental Health Housing Fund must be made available for occupancy by individuals with serious and persistent mental illness. Consistent with the designated housing model, additional individuals such as resident managers, care providers, family members, and roommates may also reside in the housing to the extent allowed under ORS 426.502.

(f) Funds from the Community Mental Health Housing Fund may not be used to support service provision at the community housing.

(3) The Director-Chief Officer shall identify annually the amount of funds available in the Community Mental Health Housing Fund for community housing purposes.

(a) The Chief Officer-Director or designee shall establish with advice and input from the Community Mental Health Housing Fund Advisory Committee (CMHHFAC) a plan for allocating funds. This allocation plan shall designate amounts available for new development and renovation awards, geographic distribution goals, and any desired housing types or resident population priorities;

(b) As funds become available, it shall be the Division's goal to distribute funds in a fair and equitable manner with respect to geographic and service population considerations.

(A) To this end, regional distribution goals shall be established by the Division with input from the CMHHFAC. These goals shall be established based upon the general population distribution in Oregon, Division data on the number of individuals with serious and persistent mental illness served in each region of the state, and other factors relating to housing needs.

(B) The distribution plan goals shall be published in the application materials. If after considering all applications for a region, the resulting awards do not award all funds in accordance with these goals, then remaining funds may be re-allocated to other regions.

(4) Unless targeted for a specific purpose by the Oregon Legislative Assembly, financial assistance for community housing by the Division shall be based on the assessment of housing needs for individuals with serious and persistent mental illness. In assessing housing needs, the Division shall conduct surveys, review available data, and seek input from advisory bodies that include consumers, family members, service providers, housing providers, citizens, and other interested individuals. The Division may prioritize types of housing and specify subpopulations of individuals with serious and persistent mental illness for occupation in the community housing that will receive financial assistance.

(5) The Division shall implement an application and award process that may include but is not limited to an open process such as a “first come, —first reviewed” solicitation, a demonstration program, or a competitive application process. The Division may also award emergency funds when necessary to ensure the completion of development or continued operation of community housing. The application and award process shall be consistent with the following guidelines:

(a) For the open application process, the Division shall announce the availability of funding from the Community Mental Health Housing Fund and provide instructions for applying for such funding. The announcement of funding shall include a description of the fund, the allocation plan, eligible community housing, application rating criteria, and application materials;

(b) An application for funding shall contain all information required by the Division, including but not limited to:

(A) A description of the proposed community housing project, including but not limited to type of unit or units, number of residents who are individuals with serious and persistent mental illness, proposed rents, site location, the services to be available to residents, and project amenities;

(B) Documentation of the applicant's experience with developing and operating housing;

(C) A statement identifying the length of time the unit or units shall be dedicated for use by individuals with serious and persistent mental illness;

(D) An operating budget showing anticipated revenues and expenses;

(E) The development plan, including a development budget with all sources of funding identified; and

(F) Documentation describing how the proposed community housing is consistent with allocation plan priorities. Applicants shall have a minimum of sixty days to complete and return applications.

(c) Completed applications shall be submitted to the ~~Director~~ Chief Officer or designee.;

(A) Applications shall be reviewed and rated by a review panel established by the ~~Director~~Chief Officer or designee. The review panel shall include at least three members of the Community Mental Health Housing Fund Advisory Committee. The review panel shall make recommendations for funding decisions to the ~~Director~~Chief Officer;

(B) For applications made on an emergency basis under these rules, the Division may use an expedited review process that includes review and comment by at least three members of the Community Mental Health Housing Fund Advisory Committee;

(C) Results of the review shall be presented to the ~~Director~~Chief Officer who will make the final funding decisions. Applicants shall receive written notice of funding decisions.

(d) Applicants who disagree with funding decisions are encouraged to discuss their application with Division staff. If the issue is not resolved, applicants may submit a request for appeal of the decision to the ~~Director~~Chief Officer or designee as follows:

(A) The applicant requesting an appeal shall submit a written request to the ~~Director~~Chief Officer or designee within seven business days after receiving the written funding decision;

(B) The ~~Director~~Chief Officer or designee shall approve or deny the request for an appeal and shall notify the applicant in writing of the decision to approve or deny the requested appeal within fifteen business days of receipt of the appeal. The decision shall be final;

(C) The decision to grant the appeal in favor of the applicant for one request does not set a precedent that must be followed by the Division when evaluating subsequent requests for appeal.

(6) The Division shall develop procedures for the disbursement of funds consistent with prudent accounting practices and the Division's financial procedures.

(7) All funds disbursed in amounts greater than \$10,000 for the purpose of community housing shall be secured by a trust deed or other instrument to secure the investment and ensure continuing use of the property, improvements, and related equipment in accordance with the purposes of the award.

(8) Recipients of funding for community housing shall ensure that all eligible individuals with serious and persistent mental illness shall be considered for residency without regard to:

(a) Race;

(b) Color;

(c) Sex ~~or sexual orientation~~, except as may be limited by room arrangement;

(d) Sexual orientation, gender identity, or gender presentation, as those terms are defined in OAR 309-018-0105;

(e) Religion;

| (fe) Creed;

| (gf) National origin;

| (hg) Age;

| (ih) Familial status;

| (ij) Marital status;

| (kj) Source of income; or

| (lk) Disability in addition to the serious and persistent mental illness.

Statutory/Other Authority: ORS 413.042 & 430.640

Statutes/Other Implemented: ORS 426.502–426.508

History:

BHS 13-2018, amend filed 06/05/2018, effective 06/05/2018

BHS 12-2018, amend filed 05/30/2018, effective 06/01/2018

MHS 7-2010, f. & cert. ef. 6-7-10

MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03

309-036-0120 Funds for Institutional Housing

(1) The institutional housing to be assisted with 30 percent of interest earnings from the Community Housing Trust Account, pursuant to OAR 309-036-0110(4)(b), and any other funds restricted to institutional housing purposes, shall be for occupancy by individuals with serious and persistent mental illness.

(2) The ~~Division's Director~~Chief Officer or designee shall identify annually the amount of funds available in the Community Mental Health Housing Fund for institutional housing purposes.;

(a) The superintendents of the ~~state-Oregon State Hospital~~ psychiatric hospital facilities shall submit prioritized requests for funding of institutional housing improvements to the ~~Director~~Chief Officer or designee. The ~~Director~~Chief Officer or designee shall create an allocation plan based on a consolidated prioritized list of requests;

(b) As funds become available, they shall be distributed to ~~state-OSH~~ psychiatric hospital facilities for improvements in accordance with the allocation plan.

(3) The Community Mental Health Housing Fund Advisory Committee shall review the allocation plan and make recommendations to the ~~Director~~Chief Officer regarding distribution of funds for institutional housing purposes.;

†The ~~Director~~Chief Officer shall make the final funding decisions.

Statutory/Other Authority: ORS 413.042 & 430.640

Statutes/Other Implemented: ORS 426.502–426.508

History:

BHS 13-2018, amend filed 06/05/2018, effective 06/05/2018

BHS 12-2018, amend filed 05/30/2018, effective 06/01/2018

MHS 7-2010, f. & cert. ef. 6-7-10

MHD 7-2003, f. 8-15-03 cert. ef. 9-1-03

309-036-0130 Real Property for Community Housing

(1) In accordance with ORS 426.508, the Oregon Department of Administrative Services in coordination with the City of Wilsonville and the Division shall reserve not more than ten acres from the sale of the property formerly known as the F.H. Dammasch State Hospital for transfer to the Division. The Division shall use the reserved land to develop community housing for individuals with serious mental illness. The Division shall coordinate with the City of Wilsonville to identify the specific real property reserved from the sale. Development of the land reserved for community housing shall be consistent with the Dammasch Area Transportation Efficient Land Use Plan described in ORS 426.508.

(2) When one or more specific lots of land reserved for community housing are confirmed on the proposed subdivision plat, the Division shall distribute the property through a process that may include but is not limited to an open process such as a “first come—, first reviewed” solicitation, a demonstration program, a competitive review process, or as emergency funds when necessary to ensure development or continued operation of community housing on the site.

(3) Applications shall be reviewed and rated by a review panel established by the ~~Director~~Chief Officer or designee. The review panel shall include at least three members of the Community Mental Health Housing Fund Advisory Committee. The review panel shall make recommendations for funding decisions to the ~~Director~~Chief Officer, who shall make the final funding decisions.

(4) The applicant selected as a result of the application process shall own the community housing site. The selected applicant shall be responsible for coordinating the development of the community housing designated for the site with oversight by the Division.

(5) In awarding the reserved land to the selected applicant, the Division shall restrict the property’s use to community housing for individuals with serious mental illness. The Division shall transfer the property title with a deed restriction or another legal restriction approved by the Oregon Department of Justice.

(6) When the property title is transferred to the selected applicant, the terms of the property transfer agreement, promissory note, and trust deed shall restrict the property’s use to community housing for individuals with serious mental illness and provide the Division with a right to reclaim the property in the event of non-performance.

(7) The Division shall develop procedures for the disbursement of funds consistent with prudent accounting practices and the Division's financial procedures.

(8) All funds disbursed in amounts greater than \$10,000 for the purpose of community housing shall be secured by a trust deed or other instrument to secure the investment and ensure continuing use of the property, improvements, and related equipment in accordance with the purposes of the award.

(9) Recipients of funding for community housing shall ensure that all eligible individuals with serious mental illness shall be considered for residency without regard to:

(a) Race;

(b) Color;

(c) Sex or sexual orientation, except as may be limited by room arrangement;

(d) Sexual orientation, gender identity, or gender presentation, as those terms are defined in OAR 309-018-0105;

(~~ee~~) Religion;

(~~fe~~) Creed;

(~~gf~~) National origin;

(~~hg~~) Age;

(~~ih~~) Familial status;

(~~ji~~) Marital status;

(~~kj~~) Source of income; or

(~~lk~~) Disability in addition to the serious mental illness.

Statutory/Other Authority: ORS 413.042 & 430.640

Statutes/Other Implemented: ORS 426.502–426.508

History:

BHS 13-2018, amend filed 06/05/2018, effective 06/05/2018

BHS 12-2018, amend filed 05/30/2018, effective 06/01/2018

MHS 7-2010, f. & cert. ef. 6-7-10

309-036-0135 Monitoring of Division-Funded Community Housing ~~Awarded Financial Assistance~~

(1) The Division shall confirm annually, or more frequently at its discretion, that the community housing developed with financial assistance from the Division continues to operate according to the agreed terms of the financial assistance.

(2) If the Division determines that the community housing is not operating according to the agreed terms, the owner shall be provided with an opportunity for remedy. If the remedy proves unsuccessful, the Division shall consider the project in default.

(3) A project shall be considered in default when it is no longer operated consistent with the terms of the financial assistance after the operator has been provided an opportunity for remedy. When a project is in default, the Division shall take action to recover any payment or settlement owed per the terms of the executed security document or contractual agreement.

Statutory/Other Authority: ORS 413.042 & 430.640

Statutes/Other Implemented: ORS 426.502–426.508

History:

BHS 13-2018, amend filed 06/05/2018, effective 06/05/2018

BHS 12-2018, amend filed 05/30/2018, effective 06/01/2018

MHS 7-2010, f. & cert. ef. 6-7-10

309-036-0140 Community Mental Health Housing Fund Advisory Committee

(1) The Community Mental Health Housing Fund Advisory Committee (CMHHFAC) shall be comprised of not less than 11 members who shall be appointed by the ~~Director~~Chief Officer or designee. Each member shall be appointed for a term of four years. Members may be reappointed for two additional four-year terms.

(2) CMHHFAC members shall consist of at least one Division employee, who shall be responsible for convening the committee. The Division shall provide clerical support. Additional members shall include but not be limited to at least one state psychiatric hospital representative, three consumer advocates, one family advocate, one representative from the Housing and Community Services Department, one community mental health service provider, one nonprofit housing provider, and two members of the public at large.

(3) The CMHHFAC shall meet no less than two times per year.

(4) The CMHHFAC shall be responsible for:

(a) Recommending an allocation plan for funding awards from the Community Mental Health Housing Fund;

(b) Recommending maximum award amounts;

(c) Reviewing and evaluating the award decisions for community housing and institutional housing awards and making recommendations regarding the award process;

(d) Making policy recommendations for the operation and investment of the fund; and

(e) Such other advisory actions as might be assigned by the ~~Director~~Chief Officer.

Statutory/Other Authority: ORS 413.042 & 430.640

Statutes/Other Implemented: ORS 426.502–426.508

History:

BHS 13-2018, amend filed 06/05/2018, effective 06/05/2018

BHS 12-2018, amend filed 05/30/2018, effective 06/01/2018

MHS 7-2010, f. & cert. ef. 6-7-10