

Health Systems Division: Behavioral Health Services - Chapter 309

August 14, 2019

Round 2 Redline

Division 39. ~~STANDARDS FOR THE APPROVAL OF PROVIDERS OF GROUP~~ HEALTH INSURANCE REIMBURSEMENT FOR NON-INPATIENT MENTAL HEALTH TREATMENT SERVICES

309-039-0500 Purpose and Scope

These rules apply to certifications of provider organizations that render non-inpatient mental health treatment services. The certifications exist solely for the purpose of qualifying for [group health insurance reimbursement pursuant to ORS 743A.168](#). Agencies that contract with the Oregon Health Authority (OHA), subcontract with OHA, or contract with a Community Mental Health Program are not eligible for the “non-inpatient” certification.

Statutory/Other Authority: ORS 413.042 & 743A.168

Statutes/Other Implemented: ORS 743A.160 & 743.168

History:

MHS 19-2016, f. 11-28-16, cert. ef. 11-30-16

MHS 8-2016(Temp), f. 6-28-16, cert. ef. 7-1-16 thru 12-27-16

MHS 11-2014, f. 6-17-14, cert. ef. 6-19-14

MHS 13-2013(Temp), f. & cert. ef. 12-20-13 thru 6-18-14

MHD 1-1993, f. 2-24-93, cert. ef. 2-26-93

MHD 4-1989, f. & cert. ef. 8-25-89

MHD 2-1989(Temp), f. 3-13-89, cert. ef. 3-14-89

~~309-039-0510 Definitions~~

As used in these rules:

~~(1) "Community Mental Health Program" means the organization of all services for persons with mental or emotional disturbances, drug abuse problems, mental retardation or other developmental disabilities, and alcoholism and alcohol abuse problems, 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.~~

~~(2) "Certificate" means the document or documents issued by the Division, which identifies and declares certification of a provider pursuant to OAR 309-008-0100 to 309-008-1600. A letter accompanying issuance of the certificate will detail the scope and approved service delivery locations of the certificate.~~

~~(3) "Division" means the Health Systems Division of the Oregon Health Authority.~~

~~(4) "Facility" means a corporate or other entity which provides services for the treatment of mental health conditions.~~

~~(5) "Non-Related Adult" means any person over 18 years of age who is not related by blood, marriage or living situation. Foster parents and adults co-habiting with a child may be considered to be related adults.~~

~~(6) "Outpatient Program" means a program that provides evaluation, treatment and rehabilitation on a regularly scheduled basis or in response to crisis in a setting outside an inpatient program, residential program, day treatment or partial hospitalization program which is certified by the Division pursuant to OAR 309-008-0100 to 309-008-1600.~~

~~(7) "Program" means a particular type or level of service that is organizationally distinct within a facility.~~

~~(8) "Provider" means a program operated by either a licensed business or a corporation that provides mental health services.~~

~~(9) "Qualified Mental Health Associate (QMHA)" means a person delivering services under the direct supervision of a QMHP who meets the minimum qualifications as authorized by the LMHA, or designee, and specified in 309-019-0125(7).~~

~~(10) "Qualified Mental Health Professional (QMHP)" means a LMP or any other person meeting the minimum qualifications as authorized by the LMHA, or designee, and specified in 309-019-0125(8).~~

~~(11) "Qualified Supervisor" means any person meeting the following qualifications:~~

~~(a) A medical or osteopathic physician licensed by the Board of Medical Examiners for the State of Oregon and who is board-eligible for the practice of psychiatry;~~

~~(b) A psychologist licensed by the State Board of Psychologist Examiners;~~

~~(c) A registered nurse certified as a psychiatric nurse practitioner by the Oregon State Board of Nursing;~~

~~(d) A clinical social worker licensed by the State Board of Clinical Social Workers;~~

~~(e) A Licensed Professional Counselor (LPC) licensed by the State of Oregon; or~~

~~(f) A Licensed Marriage and Family Therapist (LMFT), licensed by the State of Oregon.~~

~~(12) "Residential Program" means a program that provides room, board, and an organized full-day program of mental health services in a facility for six or more persons who do not require 24-hour nursing care.~~

~~Statutory/Other Authority: ORS 413.042 & 743A.168~~

~~Statutes/Other Implemented: ORS 743A.160 & 743.168~~

~~History:~~

~~MHS 19-2016, f. 11-28-16, cert. ef. 11-30-16~~

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~~MHD 4-1989, f. & cert. ef. 8-25-89~~

~~MHD 2-1989(Temp), f. 3-13-89, cert. ef. 3-14-89~~

309-039-0520 ~~Eligible Providers~~ Eligible for Certification Under This Division

~~(1) Agencies that currently hold a Certificate of Approval for the provision of mental health services as a contractor of OHA, a subcontractor of OHA, or a contractor of a Community Mental Health Program, or a license to provide residential or adult foster care services, are not eligible for the “non-inpatient” certification.~~

~~(2) Certification as a non-inpatient mental health provider is not a substitute for the certification and Medicaid provider enrollment processes that are required to render services to individuals enrolled in the Oregon Health Plan, or to individuals whose services are otherwise funded by the State.~~

~~(13) Only providers as defined in OAR 309-039-0510(10) are To be~~ eligible for approval as a “non-inpatient provider” under this OAR chapter 309, division 039, 309-039-0500 through 309-039-0580 the provider must be a licensed business or a corporation that provides mental health services. In addition, An eligible provider must:

- (a) Control the office space, such as by owning, renting or leasing it;
- (b) Control the intake to the program and determine which therapist provides assessment and treatment;
- (c) Control all clinical records, including storage;
- (d) Process Do all the billing and collect all fees, including deductibles and co-payments, in a manner that is not wholly reliant on third-party contractors;
- (e) Employ paid program staff to render services Pay staff for clinical services provided; and
- (f) Display the provider name on the premises so as to be clearly visible to clients.

(2) The following individuals and entities are not eligible for certification as “non-inpatient providers”:

~~(a1) Agencies~~ An entity that currently holds a c Certificate of Approval for the provision of mental behavioral health services as a contractor of OHA, a subcontractor of OHA, or a contractor of a € community M mental H health P program;

~~(b) An entity that holds, or a license to provide residential or adult foster care services; and, are not eligible for the “non-inpatient” certification.~~

~~(c4) An individual operating as a private practitioner, whether or not the individual’s solo practice is organized as a licensed business or corporation, is not eligible for approval under these rules.~~

~~(32) Certification as a non-inpatient mental health provider is not a substitute for the certification and Medicaid provider enrollment processes that are required to render services to individuals enrolled in the Oregon Health Plan, or to individuals whose services are otherwise funded by the State.~~

Statutory/Other Authority: ORS 413.042 & 743A.168

Statutes/Other Implemented: ORS 743A.160 & 743.168

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MHD 2-1989(Temp), f. 3-13-89, cert. ef. 3-14-89

309-039-0530 Certificate Application and Approval Processes

(1) ~~The procedures for certificate application, renewal, and Division review are Request for initial certification or certification renewal shall be submitted to the Division compliant with the process governed by OAR 309-008-0100 to 309-008-1600.~~

(2) ~~In addition to the requirements set in OAR chapter 309, division 008, the applicants for initial certification or renewal under this OAR chapter 309, division 039 will include with the application a check or money order in the amount of \$600.00 payable to the Division. This application fee shall be non-refundable irrespective of whether the provider is issued a Certificate of Approval.~~

(a) Any provider submitting an application for initial certification or renewal after the effective date of this rule shall pay the application and certification fees;

(b) The fees shall be increased biennially at the same rate as approved by the Legislative Assembly or the Emergency Board for other services and programs of the Division.

~~(2) A Certificate is valid for up to three years, shall be issued to the provider when the administrative and certification reviews of the program by the Division indicate the provider is in compliance with the applicable parts of OAR 309-039-0500 through 309-039-0580. The Certificate will be issued pursuant to the process governed OAR 309-008-0100 to 309-008-1600.~~

~~(4) The award, renewal, and duration of Certificates of Approval as well as periodic and interim reviews, establishment of conditions, denial, revocation and hearings shall comply with OAR 309-008-0100 to 309-008-1600.~~

Statutory/Other Authority: ORS 413.042 & 743A.168

Statutes/Other Implemented: ORS 743A.160 & 743.168

History:

MHS 19-2016, f. 11-28-16, cert. ef. 11-30-16

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MHS 11-2014, f. 6-17-14, cert. ef. 6-19-14

MHS 13-2013(Temp), f. & cert. ef. 12-20-13 thru 6-18-14

MHD 1-1993, f. 2-24-93, cert. ef. 2-26-93

MHD 4-1989, f. & cert. ef. 8-25-89

MHD 2-1989(Temp), f. 3-13-89, cert. ef. 3-14-89

309-039-0540 ~~General Standards~~ Staff Qualifications, Documentation, Training, and Supervision

Each provider is required to meet all applicable standards described in ~~from~~ the following standards~~rules~~:

(1) OAR 309-019-0125, Specific Staff Qualifications and Competencies, ~~detailed in OAR 309-019-0125~~; and

(2) OAR 309-019-0130, Personnel Documentation, Training and Supervision, ~~detailed in OAR 309-019-0130~~.

Statutory/Other Authority: ORS 413.042 & 743A.168

Statutes/Other Implemented: ORS 743A.160 & 743.168

History:

MHS 11-2014, f. 6-17-14, cert. ef. 6-19-14

MHS 13-2013(Temp), f. & cert. ef. 12-20-13 thru 6-18-14

MHD 1-1993, f. 2-24-93, cert. ef. 2-26-93

MHD 4-1989, f. & cert. ef. 8-25-89

MHD 2-1989(Temp), f. 3-13-89, cert. ef. 3-14-89

309-039-0560 Standards for Mental Health Partial Hospitalization and Day Treatment Programs

In addition to OAR 309-039-0500 through 309-039-0540, each provider operating a mental health partial hospitalization or day treatment program shall comply with the following standards:

(1) Facility standards. The facility shall meet all applicable state and local fire, safety, and health standards.

(2) Treatment standards. Each provider shall provide four hours a day, five days a week, structured treatment activities ~~which that~~ address mental health conditions. ~~Treatment shall and which~~ includes each of the following services, which shall be delivered a minimum of weekly, unless a more frequent schedule is specified below each week:

(a) Daily group therapy for mental health conditions;

(b) Individual counseling with a primary therapist;

(c) Family therapy, as appropriate to the individual needs of the client;

(d) Psychotropic medication management or monitoring; and

(e) Skills training, vocational training, socialization, or structured recreational/physical fitness activities.

Statutory/Other Authority: ORS 413.042 & 743A.168

Statutes/Other Implemented: ORS 743A.160 & 743.168

History:

MHS 11-2014, f. 6-17-14, cert. ef. 6-19-14

MHD 1-1993, f. 2-24-93, cert. ef. 2-26-93

MHD 4-1989, f. & cert. ef. 8-25-89

MHD 2-1989(Temp), f. 3-13-89, cert. ef. 3-14-89

309-039-0570 Standards for Mental Health Residential Programs

For purposes of this rule, “residential program” means a program that provides room, board, and an organized full-day program of mental health services in a facility for six or more persons who do not require 24-hour nursing care. In addition to ~~meeting~~ OAR 309-039-0500 through 309-039-0540, each provider operating a mental health residential program shall meet the following standards:

~~(1) Facility standards. Each provider shall meet OAR 309-035-0100 through 309-035-0190.~~

~~(12) Treatment standards. Each provider shall provide eight hours of structured services out of every 12 hours from 8 a.m. to 8 p.m. The following services shall be delivered a minimum of weekly, unless a more frequent schedule is specified below which, each week, includes:~~

~~(a) Daily group therapy which that addresses the mental health ~~or nervous~~ condition;~~

~~(b) Individual counseling which that addresses the mental health or nervous condition, which shall be conducted with a primary therapist two times per week;~~

~~(c) Family therapy, as appropriate to the individual needs of the client;~~

~~(d) Psychotropic medication management or monitoring, as appropriate to the individual needs of the client;~~

~~(e) One hour per day of structured recreational/physical fitness activities; ~~and~~~~

~~(f) Structured skills training, vocational training, or socialization activities; ~~and~~~~

~~(g) Peer delivered services for youth and families.~~

~~(3) Treatment standards for children and adolescents:~~

~~(a) Each provider shall comply with OAR 309-035-0100 through 309-035-0190;~~

~~(b) Each residential facility serving children or adolescents shall meet the standards described by OAR 413-210-0100 through 413-210-0250, Standards for reviewing, inspecting and licensing those private child caring agencies which are for residential care and treatment services for children and which are subject to the provisions of ORS Chapter 418, for licensure by the Children’s Services Division.~~

~~(24) Staffing standards. Each provider shall:~~

~~(a) Provide staff coverage 24 hours ~~a~~ day, seven days ~~a~~ week;~~

~~(b) Employ sufficient qualified mental health professionals to maintain a maximum caseload of no more than eight clients per QMHP;~~

~~(c) Have a qualified mental health associate on site, and awake, from 8 p.m. to 8 a.m.; ~~and~~~~

~~(d) Have ~~available~~ a mental health professional-QMHP available on-call from 8 p.m. to 8 a.m.; ~~and~~~~

[\(e\) Make peer delivered services available to the youth and their families when requested or clinically indicated.](#)

Statutory/Other Authority: ORS 413.042 & 743A.168

Statutes/Other Implemented: ORS 743A.160 & 743.168

History:

MHS 11-2014, f. 6-17-14, cert. ef. 6-19-14

MHS 13-2013(Temp), f. & cert. ef. 12-20-13 thru 6-18-14

MHD 4-1989, f. & cert. ef. 8-25-89

MHD 2-1989(Temp), f. 3-13-89, cert. ef. 3-14-89

309-039-0580 Variances

A variance to these rules may be requested ~~and granted to a provider via the~~ pursuant to the process described in ~~governed by~~ OAR 309-008-1600.

Statutory/Other Authority: ORS 413.042 & 743A.168

Statutes/Other Implemented: ORS 743A.160 & 743.168

History:

MHS 19-2016, f. 11-28-16, cert. ef. 11-30-16

MHS 8-2016(Temp), f. 6-28-16, cert. ef. 7-1-16 thru 12-27-16

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