

Health Systems Division: Behavioral Health Services - Chapter 309

August 12, 2019

Round 2 Redline

Division 48. INTERMEDIATE AND SKILLED NURSING FACILITIES

309-048-0050 ~~Statement of Purpose and Statutory Authority~~Scope

(1) Purpose. These rules prescribe Division standards and procedures regarding the screening, evaluation and provision of specialized services to persons with mental illness who apply for or reside in Medicaid certified nursing facilities. ~~They~~These rules implement Public Law 100-203 of the Omnibus Budget Reconciliation Act of 1987 that added Section 1919 to the Social Security Act.

(2) Statutory authority and procedure. These rules are authorized by ORS 413.042 and to carry out the provisions of ORS 410.535, 414.065 & 426.490 to 426.500 and Public Law 100-203.

Statutory/Other Authority: ORS 413.042 & 426.500

Statutes/Other Implemented: ORS 410.535, 414.065 & 426.490 to 426.500

History:

MHD 2-1995, f. & cert. ef. 4-6-95

309-048-0060 Definitions

As used in these rules:

In addition to the definitions listed in OAR 309-001-0100, the following definitions apply with respect to this OAR chapter 309, division 048.

(1) “Aging and People with Disabilities Division (APD)” is a division within the Department of Human Services.

~~(2) “Annual resident review” (ARR) means the review of referrals from the annual resident screening process by designees of the Addictions and Mental Health Division. The purpose of the review is to determine the need for a Level II psychiatric evaluation.~~

~~(23) “Annual resident screening” means the annual screening by nursing facility staff of all residents for acute symptoms or indicators of mental illness.~~

~~(342) “Categorical determination” means a decision made by an APD contractor of the Aging and People with Disabilities Division (APD) based on a functional assessment. This determination identifies a person who, despite the presence of mental illness, can be admitted to a nursing facility. The categories are: upon satisfying criteria defined at OAR chapter 411, division 070.~~

~~(a) Individuals requiring nursing facility care for 30 days or less for convalescent care following an acute care hospitalization for illness or surgery;~~

~~(b) Persons with terminal illness with a prognosis of six months or less; and~~

~~(c) Persons with severe medical condition that precludes participation in or benefit from specialized services.~~

~~(453) “Client Process Monitoring System (CPMS)” means the automated client data system maintained by the Division.~~

~~(5) “Community Mental Health Program (CMHP)” means the organization of all services for persons experiencing problems related to mental illness, drug and alcohol abuse, and mental retardation or other developmental disabilities, 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.~~

~~(46) “Determination” means the decision/recommendation made by a designee of the Division regarding an individual’s eligibility for a Level II evaluation, i.e., presence of a serious mental illness and need for “specialized services” as required by Public Law 100-203. Determinations regarding an individual’s need for nursing facility services are the responsibility of the APD.~~

~~(57) “Division” means the Addictions and Mental Health Division of the Oregon Health Authority.~~

~~(8) “Indicators/Indicator of mental illness — applicants.” Applicants” is defined as follows:~~

~~(a) For an applicant to a nursing facilities with facility, the applicant's DSM diagnosis includes one or more of schizophrenia, schizoaffective disorder, bipolar, major depression, and can also include severe post-traumatic stress disorder, or obsessive-compulsive disorder. The applicant must also have a diagnosis of a major mental disorder as defined in OAR chapter 411, division 070 and a history of treatment related to this diagnosis in the past two years are considered to have indicators of mental illness. Alzheimer's and/or a diagnoses of dementia are excluded from this definition of major mental disorder.~~

~~(9) "Indicators of mental illness — residents." Residents of (b) For a resident of a nursing facilities with facility, the presence of psychiatric or behavioral symptoms, with or without a diagnosis of mental illness, that indicate a need for "specialized services" are considered to have indicators of for mental illness regardless of diagnosis or history of treatment.~~

~~(1068) "Level I" means the federally required screening for indicators of mental illness process implemented by APD under OAR chapter 411-, division 070-0043. All applicants to nursing facilities are screened for indicators of mental illness and a determination is made as to whether the applicant requires nursing facility care based on a functional assessment.~~

~~(1197) "Level II" means the federally required evaluation process implemented under OAR chapter 411, division 070 conducted by designees of the Division to determine whether an individual with mental illness requires specialized services. The determination is based on a current functional assessment, history and physical, psychosocial evaluation, a mental health assessment and a medication review. for mental illness.~~

~~(12108) "Level II summary" means the form approved by OMHS which the Division that identifies data to be collected by Division designees in the during a Level II evaluation.~~

~~(13119) "Licensed medical professional" means a medically trained person who is licensed to practice in the State of Oregon and has one of the following degrees: MD (Medical Doctor); DO (Doctor of Osteopathy); NP (Nurse Practitioner); PA (Physician's Assistant); or RN (Registered Nurse).~~

~~(141210) "Nursing facility (NF)" means a facility that contains Medicaid-certified inpatient beds and, provides medical services but excludes, and does not provide hospital/ or surgical procedures. The facility must be licensed and certified by APD.~~

~~(15) "Office of Mental Health Services (OMHS)" means that portion of the Division responsible for mental health services.~~

~~(161311) "Pre-admission screening (PAS)" is the state-required process used by APD to screen all Medicaid-eligible persons seeking admission to nursing facilities. This screening covers functional, medical, economic and psychosocial variables and is the basis for making a determination regarding the individual's categorical status and his/her need for nursing facility services. as implemented under OAR chapter 411, division 070.~~

~~(171412) "Pre-Admission Screening and Annual-Resident Review (PASARR)" is the assessment process implemented under OAR chapter 411, division 070 that is conducted by agencies within the Oregon Health Authority that implements in accordance with the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), Subsection 1919(e)(7), which prohibits a Medicaid-certified nursing facility from~~

~~admitting any individual until a screening is completed to determine mental illness or mental retardation (or related conditions), and whether the individual requires nursing facility services or specialized services for mental illness.)~~

~~(181513)~~ “Private admission assessment” is the process that APD uses to screen for indicators of mental illness and conduct categorical statusdeterminations in non-Medicaid applicants to a nursing facilities.

~~(19)~~ “Qualified mental health professional (QMHP)” means a mental health practitioner with qualifications defined in OAR 309-032-1505.

~~(20)~~ “Senior and Disabled Services Division (SDSD)” means the Oregon Health Authority agency responsible for the provision of nursing facility services as specified in OAR chapter 411.

~~(211614)~~ “Specialized psychiatric rehabilitative services” means services of a lesser intensity than required under specialized services for mental illness. The nursing facility may provide these services directly or make arrangements for their provision with private sector practitioners or community mental health programs, or through Coordinated Care Organizations.

~~(221715)~~ “Specialized services for mental illness” means ~~the implementation of~~ an individualized plan of care developed, provided and supervised by a physician and qualified mental health professionals in an inpatient psychiatric hospital. This plan of care shall prescribe specific therapies and activities for the treatment of persons who are experiencing an acute episode of severe mental illness. ~~A nursing facility resident requiring specialized services shall be considered to be eligible for the level of services provided in an inpatient psychiatric hospital. Residents requiring this level of care will require relocation to an inpatient facility until the “acute” nature of their symptoms are stabilized.~~

Statutory/Other Authority: ORS 413.042 & 426.500

Statutes/Other Implemented: ORS 410.535, 414.065 & 426.490 to 426.500

History:

MHD 2-1995, f. & cert. ef. 4-6-95

309-048-0070 ~~Procedures for Level I, Pre-Admission Screening (PAS)~~ II Screenings

(1) ~~Nursing facility placement. A~~ Consistent with OAR chapter 411, division 070, a person identified ~~with to have one or more indicators of mental illness indicators~~ who requests placement in a nursing facility must meet APD-~~PAS~~ criteria demonstrating a need for nursing facility care under the Pre-Admission Screening assessment and determination process. The person may be placed in a nursing facility without a Level II evaluation if the person either:

(a) Meets the criteria ~~offor a~~ categorical ~~determinations~~ determination defined at OAR 309-048-0060 ~~chapter 411, division 070~~; or

(b) Has a primary diagnosis of dementia; and

~~(c) Does not require specialized services~~ for mental illness.

(2) Consistent with OAR 309-048-0060(22).

~~(2) Level II referrals. Persons~~ chapter 411, division 070, persons shall be referred to the Division for a Level II evaluation prior to placement in a nursing facility if:

(a) A Level I ~~pre-admission screen~~ screening or a private admission assessment has identified the individual as having one or more indicators of mental illness; and

(b) The individual is not eligible for a categorical determination.

(3) ~~Level II waiver~~. The Division may waive the Level II evaluation requirement if:

(a) The individual does not need specialized services for mental illness or has received maximum benefit from such specialized services; and

(b) The individual has been determined to be in need of nursing facility services by an APD designee or contractor; and

(c) A facility has been identified that can meet the individual's mental health needs.

(4) ~~Level II eligibility. Individuals may be required by he~~ The Division may require individuals to have a Level II evaluation to determine the need for specialized services for mental illness prior to placement in a nursing facility if any of the ~~above~~ conditions ~~(subsections under Section (3)(a), (b) and (c) of this rule)~~ are not met.

(5) A Level II evaluation shall:

(a) Be completed by a qualified mental health professional within 7 business days of the pre-admission screening referral;

(b) Include a mental health assessment, a psychosocial evaluation, relevant testing and a review of the medication regime and physical examination by a licensed medical professional;

(c) Establish a diagnosis and determine the need for specialized services for mental illness.

(6) If the need for specialized services for mental illness is not established, the evaluation shall include treatment recommendations for specialized psychiatric rehabilitation services whenever indicated.

Statutory/Other Authority: ORS 413.042 & 426.500

Statutes/Other Implemented: ORS 410.535, 414.065 & 426.490 to 426.500

History:

MHD 2-1995, f. & cert. ef. 4-6-95

~~309-048-0080 Procedures for Annual Resident Reviews (ARR)~~

~~A resident screened and referred by a nursing facility as having indicators of mental illness shall be reviewed by a Division designee using a format approved by the Division.~~

~~(1) Timelines. The review shall be completed by a QMHP within 7 working days of receipt of the referral from the nursing facility.~~

~~(2) Screening and consultation. The review shall consist of up to two hours of screening and consultation to determine if the indicators of mental illness require a comprehensive evaluation (Level II).~~

~~Statutory/Other Authority: ORS 413.042 & 426.500~~

~~Statutes/Other Implemented: ORS 410.535, 414.065 & 426.490 to 426.500~~

~~History:~~

~~MHD 2 1995, f. & cert. ef. 4-6-95~~

~~309-048-0090 Level II Evaluations~~

~~(1) Content. (5) A Level II evaluation shall:~~

~~(a) Be completed by a QMHP qualified mental health professional within 30 calendar days of the annual resident review referral or within seven working 7 business days of the pre-admission screening referral;~~

~~(b) Include a mental health assessment, a psychosocial evaluation, relevant testing and a review of the medication regime and physical examination by a licensed medical professional;~~

~~(c) Establish a diagnosis and determine the need for specialized services for mental illness.~~

~~(2) Specialized psychiatric rehabilitation. (6) If the need for specialized services for mental illness is not established, the evaluation shall include treatment recommendations for specialized psychiatric rehabilitation services whenever indicated.~~

~~Statutory/Other Authority: ORS 413.042 & 426.500~~

~~Statutes/Other Implemented: ORS 410.535, 414.065 & 426.490 to 426.500~~

~~History:~~

~~MHD 2 1995, f. & cert. ef. 4-6-95~~

309-048-0100 Documentation

(1) Level II waivers. The Division shall send a copy of any ~~waiver from the pre-admission requirement for a~~ Level II ~~waiver~~ to the APD Level I screener who ~~has~~ determined that the individual needs nursing facility care ~~pursuant to OAR 309-048-0060~~.

(2) ~~Nursing facility. A Community Mental Health Program (CMHP) evaluators~~ shall send ~~the nursing facility~~ copies of the ~~annual~~ resident review ~~within 7 calendar days~~ and ~~the~~ Level II evaluation ~~to the nursing facility~~ within ~~7 and 30~~ calendar days ~~respectively~~.

(3) ~~Division~~. CMHP evaluators shall send ~~copies~~ a copy of the annual resident review, Level II evaluation and the Level II summary sheet to the ~~OMHS~~ Division within 30 calendar days of receipt of the nursing facility referral.

~~(4) Client Process Monitoring System.~~ (4) CMHP designees shall enter information on all persons receiving a Level II evaluation into ~~CPMS~~ the Client Process Monitoring System.

~~(5) Standards. Level II evaluations shall follow documentation standards set forth in OAR 309-032-1535.~~

Statutory/Other Authority: ORS 413.042 & 426.500

Statutes/Other Implemented: ORS 410.535, 414.065 & 426.490 to 426.500

History:

MHD 2-1995, f. & cert. ef. 4-6-95

309-048-0110 Specialized Services for ~~Individuals Residing~~Mental Illness

~~(1) A person identified by a Level II evaluation as in Nursing Facilities need of specialized services for mental illness shall not enter or remain in a nursing facility.~~

~~(1) Location.~~ Specialized services for ~~persons with~~ mental illness are provided only in inpatient psychiatric settings that provide 24-hour coverage by trained mental health professionals who can deliver mental health services designed by an interdisciplinary team ~~which~~that includes a psychiatrist.

~~(2) Readmission to nursing facilities.~~ ~~(b) A person identified by a Level II evaluation as in need of nursing facility resident who requires~~ specialized services shall ~~not enter or remain in a nursing facility.~~ be eligible for the level of services provided in an inpatient psychiatric hospital and must be relocated to an inpatient facility until the acute nature of their symptoms are stabilized.

~~(2) When a client an individual has received maximum benefit from specialized services for mental illness, the ~~client~~individual can be reconsidered for admission subject to Level I requirements or return to a nursing facility placement subject to ~~APD OAR 411-088-0000 to 411-088-0080, Licensing Requirements for Nursing Facilities, Transfer Rules~~OAR chapter 411, division 088.~~

~~(3) Procurement of specialized services.~~ When a ~~client~~an individual is identified to be in need of specialized services for mental illness, the Level II evaluator shall:

(a) Assist the nursing facility or Level I screener in locating an appropriate treatment resource;

(b) ~~Ensure~~ that the ~~client~~individual in need of such specialized services is informed of ~~his/her~~the treatment options, including the right to refuse treatment;

(c) Inform all parties involved, of procedures related to precommitment investigation, if the client refuses such specialized services and presents a danger to self or others; and

(d) Notify the Division within 72 hours if a ~~client~~an individual is determined to be in need of specialized services for mental illness and ~~these~~such services are not being provided.

Statutory/Other Authority: ORS 413.042 & 426.500

Statutes/Other Implemented: ORS 410.535, 414.065 & 426.490 to 426.500

History:

MHD 2-1995, f. & cert. ef. 4-6-95

309-048-0120 Relocation of Persons with Mental Illness From Nursing Facilities to Other Residential Settings

(1) ~~Coordination of Plans.~~ CMHP, ~~N~~nursing facility and APD staff shall coordinate relocation plans for residents of nursing facilities with mental illness found to be ineligible for nursing facility care.

(2) ~~Right of return.~~ All relocations of residents must comply with nursing facility transfer rules, under OAR chapter 411, division 088.

Statutory/Other Authority: ORS 413.042 & 426.500

Statutes/Other Implemented: ORS 410.535, 414.065 & 426.490 to 426.500

History:

MHD 2-1995, f. & cert. ef. 4-6-95

309-048-0130 Appeals

~~In accordance with ORS 413.042, adults~~Individuals with mental illness, ~~and court approved legal or their guardians for individuals with mental illness,~~ shall have the right to appeal decisions made by the Division ~~based on~~regarding screenings, admission waiver ~~request, requests, and~~ discharge and relocation plans.

(1) ~~Appeals.~~ Appeals shall be submitted to the Children, Adult and Families Division (CAF) Hearings Office and arrive there within 30 calendar days after receipt of the contested determination, ~~decision.~~

(2) ~~Negotiations.~~ The CAF Division Hearings Office shall, when it deems appropriate, refer appealed decisions back to the Division for efforts to negotiate an agreement. If the Division is unable to negotiate an agreement within 10 ~~working~~business days, the Division will ~~re~~send the appeal back to the CAF Hearings Office for final disposition.

(3) ~~Hearings.~~ The CAF Hearings Office shall convene a hearing in accordance with OAR ~~chapter 461-, division 025-0300 through 461-025-0375,~~ and reach a final determination on the appeal within ~~ninety~~ (90) days of the final day of the hearing.

(4) Determinations. All decisions of the CAF Hearing Office shall be final.

Statutory/Other Authority: ORS 413.042 & 426.500

Statutes/Other Implemented: ORS 410.535, 414.065 & 426.490 to 426.500

History:

MHD 2-1995, f. & cert. ef. 4-6-95