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**PERMANENT ADMINISTRATIVE RULES**

Oregon Health Authority, Division of Medical Assistance  
Programs

410

Agency and Division

Administrative Rules Chapter Number

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**RULE CAPTION**

Update Age Limitation, Identify Three PDN Programs, Update Benefit Package, Add  
CCOs

Not more than 15 words

**RULEMAKING ACTION**

**ADOPT:**

**AMEND:**

410-132-0020, 410-132-0030, 410-132-0060, 410-132-0070, 410-132-0080, 410-132-0100, 410-132-0120, 410-132-0180, 410-132-0200

**REPEAL:** 410-132-0050

**RENUMBER:**

**AMEND & RENUMBER:**

**Stat. Auth.:** ORS 413.042

**Other Auth.:**

**Stats. Implemented:** ORS 414.065

**RULE SUMMARY**

The Private Duty Nursing (PDN) Services program administrative rules govern the

Division of Medical Assistance Programs' (Division) private duty nursing services. In 2012, the Centers for Medicare and Medicaid Services (CMS) approved the PDN State Plan Amendment (SPA) adjustment to reflect current practice for age limitation (not covered if the client is 21 years of age or older). These rule changes will align the rule with the SPA and current practice. The rule amendments clarify the three distinct PDN programs under the Division, DHS, and ODE; introduce and define new terminology; and provide clarifying language. These rules also update the benefit package and add coordinated care organizations (CCO)'s. These rules are being amended to reflect current practice.



DAVID SIMMITT

8/21/2015

Authorized Signer

Printed Name

Date

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**DIVISION OF MEDICAL ASSISTANCE PROGRAMS**

**DIVISION 132**

**PRIVATE DUTY NURSING SERVICES**

**410-132-0020**

**Private Duty Nursing Services**

(1) The practice of nursing is governed by the following: Oregon State Board of Nursing, ORS 678.010 to 678.410, and Oregon State Board of Nursing, chapter 851, divisions 031, 045, and 047.

(2) Private duty nursing is considered supportive to the care provided to a client by the client's family, foster parents, and delegated caregivers, as applicable. Nursing services shall be medically appropriate. Medically appropriate for private duty nursing shift care is determined by qualifying for services based on the Private Duty Nursing Acuity Grid (DMAP 591). Increases or decreases in the level of care and number of hours or visits authorized shall be based on a change in the client's condition, program limitations, and the family, foster parents, or delegated caregiver's ability to provide care.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

**410-132-0030**

**Definitions**

(1) "Activities of daily living or 'ADL'" means activities usually performed in the course of a normal day in an individual's life including:

(a) Eating: Assisting the individual in feeding or fluid intake by any means from a receptacle into the body, including monitoring to prevent choking or aspiration;

(b) Bathing: Assisting the individual with cleansing the body, washing hair, shaving, nail care, and using assistive devices when necessary to get in and out of the bathtub or shower;

(c) Dressing: Assisting the individual with putting on, fastening, and taking off all items of clothing, braces, and artificial limbs, including obtaining and replacing items from their storage area in the immediate environment;

(d) Toileting: Assisting the individual in getting to and from, on and off, the toilet, commode, or bedpan for elimination of feces and urine. This includes cleansing after elimination and adjusting clothing as necessary;

(e) Maintaining Continence: Including external cleansing of Foley catheter, emptying catheter drainage bag, maintenance bowel care, changing and replacing incontinence products, including colostomy or ileostomy bags;

(f) Transferring: Assisting the individual with mobility, transfers, and repositioning by any means including use of an assistive device and includes turning or adjusting padding for physical comfort or pressure relief and encouraging or assisting with range of motion exercises.

(2) "Admission" means acceptance of the client into the private duty nursing program contingent upon meeting the criteria as stated in rule.

(3) "Basic tasks of client/nursing care" means procedures that do not require the education or training of a registered nurse or licensed practical nurse that cannot be performed by the client independently. Basic tasks of client/nursing care also means procedures that may be directed by the client. These basic tasks include, but are not limited to, activities of daily living. Basic tasks may vary from setting to setting depending on the client population served in that setting and the acuity and complexity of the client's care needs. Basic tasks may require the assignment and supervision of a licensed nurse. The need for supervision is at the discretion of the registered nurse. See State Board of Nursing rules that govern the practice of nursing.

(4) "Critical/fluctuating condition" means a situation where the client's clinical and behavioral state is of a serious nature expected to rapidly change and be in need of continuous reassessment and evaluation.

(5) "Delegation" means that a registered nurse authorizes an unlicensed person to perform tasks of nursing care in selected situations and indicates that authorization in writing. The delegation process includes nursing assessment of a client in a specific situation, evaluation of the ability of the unlicensed persons, teaching the task, ensuring supervision of the unlicensed persons, and re-evaluating the task at regular intervals. For the purpose of these rules, the unlicensed person, caregiver, or certified nursing assistant performs tasks of nursing care under the Registered Nurse's delegated authority.

(6) "Discharge" means the client no longer meets the Division rules and criteria of the private duty nursing program.

(7) "Habilitation" means services that are provided in order to assist an individual to acquire a variety of skills including self-help, socialization, and adaptive skills. Habilitation is aimed at raising the level of physical, mental, and social functioning of an individual. Habilitation is contrasted to rehabilitation, which involves the restoration of function an individual lost.

(8) "Home" means a place of temporary or permanent residence, not including a hospital, intermediate care facility for individuals with intellectual disabilities (ICF/ID), nursing facility, or licensed residential care facility.

(9) "Instrumental activities of daily living or 'IADL'" means activities usually performed in the course of a normal day in an individual's life and include:

(a) Personal Hygiene: Perform or assist with activities required to keep one's appearance neat, secure clothing, comb/brush hair, nail care, foot care, skin care, mouth care, and oral hygiene, etc.;

(b) Light Housework: Perform or assist with housekeeping tasks necessary to maintain the individual in a healthy and safe living environment;

(c) Laundry: Perform or assist with laundering or cleaning of clothing, bedding, and other linens;

(d) Meal Preparation: Perform or assist with healthy meal planning and preparation, insuring special diets are followed;

(e) Transportation: Assist the individual in getting to and from necessary appointments and community activities through available means of transportation;

(f) Grocery Shopping: Perform or assist the individual in planning for and purchasing basic needs and household items;

(g) Using the Telephone: Perform or assist the individual in arranging necessary appointments and making desired phone calls;

(h) Medication Management: Assist with medications that are ordinarily self-administered, including administering medication and observing to insure the individual is taking medication as ordered, documenting and monitoring any notable side effects, and refilling prescriptions in a timely manner. Assist with use, maintenance, and cleaning of in-home equipment, monitoring client's condition, and ordering and maintaining necessary supplies;

(i) Money Management: Perform or assist with budgeting, making payments for monthly expenses, and use of personal funds for desired items and activities.

(10) "Maintenance care" means the level of care needed when the goals and objectives of the care plan are reached, the condition of the client is stable or predictable, the plan of care does not require the skills of a licensed nurse in continuous attendance, or the client, family, foster parents, or caregivers have been taught and have demonstrated the skills and abilities to carry out the plan of care.

(11) "Medically Fragile Children's (MFC) program" means a Department of Human Services (Department) organizational unit that coordinates and funds appropriate services for children ages 0 to 18 years with intensive medical needs that require in-home and technological supports and meet MFC clinical criteria.

(12) "Member of the household" means any individual sharing a common home as part of a single family unit, including domestic employees and others who live together as part of a family unit, but not including a roomer or boarder.

(13) "Plan of care" means written instructions detailing how the client is to be cared for. The plan is initiated by the private duty nurse or nursing agency with input from the prescribing physician. See the "Documentation Requirements" section of the Private Duty Nursing Services administrative rules.

(14) "Private duty nursing shift care" means an RN or LPN nursing service for the client's critical/fluctuating conditions requiring the need for reassessment and evaluation with a high probability that complications would arise without skilled nursing management of the treatment program supplied in a specified block of time.

(15) "Practice of nursing" means using the nursing process under doctor's orders to diagnose and treat human response to actual or potential health care problems, health teaching and health counseling, the provision of direct client care, and the teaching, delegation, and supervision of others who provide tasks of nursing care to clients. See State Board of Nursing rules that govern the practice of nursing.

(16) "Private duty nursing visit" means RN or LPN skilled nursing services for non-critical/stable conditions requiring reassessment and evaluation with a moderate probability that complications would arise without skilled nursing management of the treatment program supplied on an intermittent per visit basis.

(17) "Respite" means short-term or intermittent care and supervision in order to provide an interval of rest or relief to family or caregivers.

(18) "Responsible unit" means the agency responsible for approving or denying prior authorization.

(19) "Shift" means four to twelve hours of private duty nursing.

(20) "Skilled nursing services" means client care services pertaining to the curative, restorative, or preventive aspects of nursing performed by or under the supervision of a registered nurse pursuant to the plan of care established by the physician in consultation with the registered nurse. Skilled nursing emphasizes a high level of nursing direction, observation, and skill. The focus of these services shall be the use of the nursing process to diagnose and treat human responses to actual or potential health care problems, health teaching, and health counseling. Skilled nursing services include the provision of direct care and the teaching, delegation, and supervision of others who

provide tasks of nursing care to clients. These services shall comply with the Nurse Practice Act and administrative rules of the Oregon State Board of Nursing.

(21) "Special tasks of client/nursing care" means tasks that require the education and training of a registered nurse or licensed practical nurse to perform. Special tasks may vary from setting to setting depending on the client population served in that setting and the acuity/complexity of the client's care needs. Examples of special tasks include, but are not limited to, administration of injectable medications, suctioning, and complex wound care.

(22) "Stable/predictable condition" means a situation in which the client's clinical and behavioral status is known and does not require the regularly scheduled presence and evaluation of a licensed nurse. See State Board of Nursing rules that govern the practice of nursing.

(23) "Teaching" means the registered nurse instructs an unlicensed person in the correct method of performing a selected task of client/nursing care. See State Board of Nursing rules that govern the practice of nursing.

(24) "Unlicensed Person" means an individual who is not licensed to practice nursing, medicine, or any other health occupation requiring a license in Oregon, but who provides tasks of nursing care or is taught to administer non-injectable medications. A certified nursing assistant, as defined by these rules, is an unlicensed person. For the purpose of these delegation rules, unlicensed persons do not include members of the client's immediate family. Family members may perform tasks of nursing care without specific delegation from a Registered Nurse. The terms "unlicensed person" and "caregiver" may be used interchangeably.

(25) "Visit" means nursing service supplied on an intermittent basis in the home.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

**410-132-0060**

### **Private Duty Nursing Transition into Maintenance**

(1) Private duty nursing services become maintenance care when any one of the following situations occurs:

(a) Medical and nursing documentation supports that the condition of the client is stable/predictable;

(b) The plan of care does not require a licensed nurse to be in continuous attendance;

(c) The client, family, foster parents, or caregivers have been taught the nursing services and have demonstrated the skills and ability to carry out the plan of care;

(d) The combined score on the Acuity Grid and Psychosocial Grid is less than 54.

(2) This rule does not apply to individuals in the MFC program.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

**410-132-0070**

### **Documentation Requirements**

(1) Documentation of services provided shall be maintained in the client's place of residence by the private duty nurse until discharged from service. Payment may not be made for services where the documentation does not support the definition of skilled nursing. Documentation shall meet the standards of the Oregon State Board of Nursing.

(2) The private duty nurse shall ensure completion and documentation of a comprehensive assessment of the client's capabilities and needs for nursing services within seven days of admission. Comprehensive assessments shall be updated and submitted to the responsible unit by the next work day after any significant change of condition and reviewed by the responsible unit within the Oregon Health Authority at least every 60 days. Some examples of significant change in condition are hospital admission, emergency room visit, and change in status, death, or discharge from care.

(3) The nursing care plan shall document that the private duty nurse, through case management and coordination with all interdisciplinary staff and agencies, provides services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each client in accordance with a written, dated, nursing care plan. The nursing care plan shall:

(a) Be completed within seven days after admission for children and adolescents with short-term needs who are served through the Division. The nursing care plan shall be reviewed, updated, and submitted whenever the client's needs change, but at least every 60 days;

(b) Describe the medical, nursing, and psychosocial needs of the client and how the private duty nurse will actively coordinate and facilitate meeting those needs. This description of needs shall include interventions, measurable objectives, goals, and time frames in which the goals and objectives will be met and by whom;

(c) Include the rehabilitation potential including functional limitations related to Activities of Daily Living (ADL), types and frequency of therapies, and activity limitations per physician order;

(d) Include services related to school-based care according to the IEP and the Individualized Family Service Plan, if applicable;

(e) Show coordination of all services being provided including, but not limited to, the client or representative, registered nurse (RN) case manager, Department case worker, physician, other disciplines involved, and all other care providers involved in the client's treatment plan;

(f) Include a statement of the client's potential toward discharge. Timelines shall be included in the plan outline;

(g) Be available to and followed by all caregivers involved with the client's care.

(4) Documentation of private duty shift care and responses to care shall be written in an accurate, timely, thorough, and clear manner on the narrative or flow sheet. Documentation shall comply with the requirements of the Oregon State Board of Nursing in OAR chapter 851 and shall include:

(a) The name of the client on each page of documentation;

(b) The date of service;

(c) Time of start and end of service delivery by each caregiver;

(d) Anything unusual from the standard plan of care shall be expanded on the narrative;

(e) Interventions;

(f) Outcomes including the client's response to services delivered;

(g) Nursing assessment of the client's status and any changes in that status per each working shift; and

(h) Full signature of provider.

(5) Documentation of delegation, teaching, and assignment shall be in accordance with the Oregon State Board of Nursing Rules.

(6) For documentation to be submitted with prior authorization, see OAR 410-132-0100.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

**410-132-0080**

### **Limitations**

(1) General pertains to both shift care and visits:

(a) Private duty nursing is not covered if the client is:

(A) Twenty-one years of age or older;

(B) A resident of a nursing facility;

(C) A resident of a licensed intermediate care facility for individuals with intellectual disabilities (ICF/ID);

(D) In a hospital;

(E) In a licensed residential care facility;

(b) Private duty nursing is not covered solely to allow the client's family or caregiver to work or go to school;

(c) Private duty nursing is not covered solely to allow respite for caregivers or the client's family;

(d) Payment for private duty nursing may not be authorized for parents, siblings, grandparents, foster care parents, significant others, members of the client's household, or individuals paid by other agencies to provide caregiving services;

(e) Costs of private duty nursing services are not reimbursable if they are provided concurrently with care being provided under home health or hospice program rules;

(f) Home nursing visits as defined in the Home Enteral/Parenteral Nutrition and IV Services rules are not covered in conjunction with private duty nursing services;

(g) These services are provided for individuals aged 0 to 21 who need PDN or the same or similar nursing services during school hours. These services are provided through the school-based health services program in conjunction with the individual's Individual Education Plan (IEP) or Individualized Family Service Plan (IFSP) under the Individuals with Disabilities Education Act (IDEA);

(h) Holidays are paid at the same rate as non-holidays;

(i) Hours nurses spend in training are not reimbursable;

(j) Travel time to reach the job site is not reimbursable;

(k) Maintenance care is not reimbursable, except for those individuals in the MFC program.

(2) Private duty nursing visit:

(a) The nursing care plan and documentation supporting the medical appropriateness for private duty nursing shall be reviewed every 60 days to continue the service for children and adolescents with short-term needs who are served by the Division. Reviews shall be conducted by the responsible unit;

(b) Private duty nursing visits are limited to two per day.

(3) Private duty nursing shift care:

(a) Medically appropriate private duty nursing shift care for clients up to 21 years old may be covered for acute episodes of illness, injury, or medical condition up to 60 continuous days in cases where it has been determined that skilled management by a licensed nurse is required;

(b) A client may be referred to the MFC program to determine if they meet the criteria for program admission at the time of the initial request for services if any of the following are determined to exist:

(A) The client's medical needs are for habilitation or maintenance; or

(B) The client's medical needs are long term.

(c) Individuals who no longer qualify for private duty nursing shift care shall be referred to the Department for determination of their long-term care needs;

(d) The number of hours of private duty nursing services that a client may receive is determined by the score on the Private Duty Nursing Acuity Grid (DMAP 591):

(A) The client shall score greater than 60 points on the Acuity Grid to receive up to 24 hours per day immediately after discharge from a hospital or if there is a significant worsening or decline of condition; or

(B) The client shall score 50 to 60 points on the Acuity Grid to receive up to 16 hours per day immediately after discharge from a hospital or if there is a significant worsening or decline of condition; or

(C) The client shall score 40 to 49 points on the Acuity Grid to receive up to 84 hours per week immediately after discharge from a hospital or if there is a significant worsening or decline of condition; or

(D) If the score is 30 to 39 on the Acuity Grid, then the Private Duty Nursing Psychosocial Grid (DMAP 590) shall be used to determine eligibility. If the score is 24 or above, the client may receive up to 84 hours per week of shift care.

(e) The banking, saving, or accumulating unused prior authorized hours used for the convenience of the family or caregiver is not covered.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

#### **410-132-0100**

##### **Prior Authorization**

(1) Private duty nursing providers shall obtain prior authorization (PA) for all services.

(2) Providers shall request PA as follows (see the Private Duty Nursing Services Supplemental Information booklet for contact information):

(a) For individuals served by the MFC), from the Department's MFC Program;

(b) For clients enrolled in the fee-for-service (FFS) Medical Case Management (MCM) program, from the MCM contractor;

(c) For members enrolled in a coordinated care organization (CCO) or prepaid health plan (PHP), from the CCO or the PHP;

(d) For all other clients, from the Division.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

#### **410-132-0120**

##### **Billing Information**

(1) If the client has not enrolled in a CCO or PHP, bill with the appropriate Division unique procedure codes and follow the instructions on how to complete the CMS-1500.

(2) Client copayments may be required for certain services. See OAR 410-120-1230 for specific details.

(3) Claims shall be submitted on a CMS-1500, electronically or on paper. Paper claims shall be sent to the Division.

(4) Contact the Division's Electronic Billing Representative for information about electronic billing.

(5) Bill on a CMS-1500 and enter the appropriate TPR Explanation Code in Field 9 when billing for clients with Medicare.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

#### **410-132-0180**

##### **Procedure Codes**

(1) All private duty nursing services require prior authorization.

(2) Private duty nursing visit:

(a) T1030 -- Nursing care in the home by registered nurse per diem;

(b) T1031 -- Nursing care in the home by licensed practical nurse per diem.

(3) Private duty nursing shift care:

(a) S9123 -- Nursing care in the home by registered nurse per hour -- 1 unit equals one hour;

(b) S9124 -- Nursing care in the home by licensed practical nurse per hour -- 1 unit equals one hour.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

#### **410-132-0200**

##### **Provider Enrollment**

(1) Registered nurses and licensed practical nurses shall submit a copy of licensure every two years upon renewal by the Oregon State Board of Nursing to be enrolled or continue enrollment as a Division provider.

(2) If the Division provider is a nursing employment/staffing agency, the agency shall:

(a) Be licensed in the State of Oregon as an in-home care agency with a comprehensive licensure as defined in OAR 333-536 or Home Health Agency OAR 333-027;

(b) Conduct a background check through the Department CRIMS;

(c) Provide a copy of the state licensure to the Authority upon request.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065