

Secretary of State

NOTICE OF PROPOSED RULEMAKING HEARING

A Statement of Need and Fiscal Impact accompanies this form.

Oregon Health Authority (OHA), Health Systems Division, Medical Assistance Programs (Division)	410	
Agency and Division	Administrative Rules Chapter Number	
Sandy Cafourek	500 Summer St NE, Salem, OR 97301	(503) 945-6430
Rules Coordinator	Address	Telephone

RULE CAPTION

Medicaid Payment for Behavioral Health

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

September 15, 2016	10:30 a.m.	500 Summer St. NE, Salem, OR 97301	Room 160	Sandy Cafourek
Hearing Date	Time	Location		Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: OARs 410-172-0660, 410-172-0670, 410-172-0700, 410-172-0710

REPEAL: OARs 410-172-0740, 410-172-0750, 410-172-0660(T), 410-172-0670(T), 410-172-0700(T), and 410-172-0710(T)

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 413.042 and 430.640

Other Auth.:

Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715

RULE SUMMARY

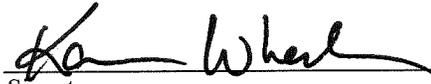
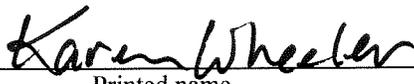
These rules detail the requirements for reimbursement from Oregon Medicaid for services rendered by enrolled behavioral health providers. These rule changes update the rule to ensure compliance with CMS requirements. Behavioral health providers registered by Oregon regulatory boards as interns or licensed as non-clinical providers are eligible to enroll as a provider of services in the Oregon Medicaid program and claim for services rendered to Oregon Medicaid recipients. Occupational therapists licensed by the Oregon occupational therapy board are eligible to enroll as a provider of services in the Oregon Medicaid program and claim for services rendered to Oregon Medicaid recipients.

Inclusion of all allowable provider types as providers of Medicaid funded behavioral health services will align administrative rule with state licensing statute and provide parity for board registered interns and non-licensed clinical providers when enrolling as a Medicaid provider and claiming for services rendered to Oregon Medicaid recipients. Inclusion of these provider types will reduce and assist areas of the state with behavioral health workforce shortages and expand the available opportunities for board registered interns to gain the post graduate experience required for independent licensure. Providers credentialed as qualified mental health professionals are eligible to recommend personal care services for Oregon Medicaid recipients. Clarifying the ability for QMHP providers to recommend facility-based personal care services will support providers to comply with Medicaid state plan requirements.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

September 19, 2016 by 5 p.m. Send written comments to: dmap.rules@state.or.us

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

		
Signature	Printed name	Date

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Health Authority (Authority), Health Systems Division, Medical Assistance Programs (Division) 410
Agency and Division Administrative Rules Chapter Number

Medicaid Payment for Behavioral Health

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: The amendment of OAR 410-172-0660, 410-172-0670, 410-172-0700, 410-172-0710 and the repeal of 410-172-0740, 410-172-0750, 410-172-0660(T), 410-172-0670(T), 410-172-0700(T), and 410-172-0710(T)

Statutory Authority: ORS 413.042 & 430.640

Other Authority:

Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715

Need for the Rule(s): Behavioral health providers registered by Oregon regulatory boards as interns or licensed as non-clinical providers are eligible to enroll as a provider of services in the Oregon Medicaid program and claim for services rendered to Oregon Medicaid recipients. These providers currently are not included in administrative rule and need to be included. Additionally, CMS requires all providers of a service to appear on a claim. Without an option for enrollment for board registered interns, OHA is not compliant with this requirement. Occupational therapists licensed by the Oregon occupational therapy board are eligible to enroll as a provider of services in the Oregon Medicaid program and claim for services rendered to Oregon Medicaid recipients. This provider currently is not included in administrative rule.

Documents Relied Upon, and where they are available: None

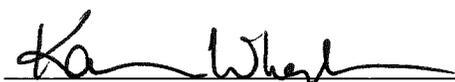
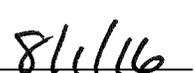
Fiscal and Economic Impact: There is no anticipated fiscal impact. This rule amendment allows for non-payable providers who are board-registered interns to enroll as non-paid providers of Medicaid services. Work performed by these provider types is captured in current program expenditures.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): Amending these rules will have no fiscal impact on the Authority, other state agencies, units of local government, the public, or businesses, including small businesses.
2. Cost of compliance effect on small business (ORS 183.336):
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Estimated to be 1,150.
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: Medicaid providers employing board registered interns will have to enroll those providers with OHA Medicaid. This requirement for all providers is already in place.
 - c. Equipment, supplies, labor and increased administration required for compliance: Internet, access to mail or email.

How were small businesses involved in the development of this rule? There was no involvement by small businesses in the development of this rule other than the rule is a response to multiple requests by private practice behavioral health providers.

Administrative Rule Advisory Committee consulted?: No. If not, why?: This is a regulatory adjustment and not a programmatic or service change.

  
Signature Printed Name Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Service Specific Rules

410-172-0660

Rehabilitative Behavioral Mental Health Services

(1) Rehabilitative behavioral mental health services means medical or remedial services recommended by a licensed medical practitioner or other licensed practitioner to reduce impairment to an individual's functioning associated with the symptoms of a mental disorder or substance use disorder and are intended to restore functioning to the highest degree possible.

(2) Remedial rehabilitative behavioral health services shall be recommended by a licensed practitioner of the healing arts within the scope of their practice under state law.

(3) Rehabilitative behavioral health services that include medical services shall be provided under ongoing oversight of a licensed medical practitioner.

(4) Paid providers of rehabilitative behavioral health services shall meet one of the following qualifications or hold at least one of the following educational degrees and valid licensure:

(a) Physician or Physician Assistant licensed by the Oregon Medical Board;

(b) Advanced Practice Nurse including Clinical Nurse Specialist and Certified Nurse Practitioner licensed by the Oregon Board of Nursing;

(c) Psychologist licensed by the Oregon Board of Psychology;

(d) Professional Counselor or Marriage and Family Therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists;

(e) Clinical Social Worker licensed by the Oregon Board of Licensed Social Workers;

(f) Licensed Occupational Therapist licensed by the Oregon Occupational Therapy Licensing Board;

(gf) Certificate issued by AMH-the Health Systems Division (Division) as described in OAR 309-012-0130 through 309-012-0220.

(5) Non-paid providers shall be supervised by a paid provider as described in this rule under a board approved plan of practice and supervision or be employed by or contracted with a provider organization certified by OHA as described in OAR 309-012-0130 through 309-012-0220 and meet one of the following qualifications:

(a) Psychologist resident as described in OAR 858-010-0037;

(b) Psychologist associate as described in OAR 858-010-0015;

(c) Licensed Professional Counselor intern or Marriage and Family Therapist intern registered with the Oregon Board of Licensed Professional Counselors and Therapists as described in OAR 833-050-0011;

(d) Licensed Master Social Worker licensed by the Oregon Board of Licensed Social Workers as described in OAR 877-015-0105;

~~(e) Board Certified Behavior Analyst issued by the Oregon Board of Behavioral Analysis Regulatory Board as described in OAR 824-030-0010;~~

~~(ef) Certificate of Clinical Social Work Associates issued by the Oregon Board of Licensed Social Workers as described in OAR 877-020-0009;~~

~~(fg) Registered bachelor of social work issued by the Oregon Board of Licensed Social Workers as described in OAR 877-015-0105;~~

~~(hg) Qualified mental health professional as defined in OAR 309-019-0105;~~

~~(ih) Qualified mental health associate as defined in OAR 309-019-0105;~~

~~(ji) Mental health intern as defined in OAR 309-019-0105; or~~

~~(jk) Peer-Support Specialist as defined in OAR 410-180-0305.~~

(6) In addition to meeting the provider requirements described in this rule, providers of Assertive Community Treatment (ACT) services shall be certified as a fidelity ACT team by the Division or its designee as described in OAR 309-019-0100.

(7) In addition to meeting the provider requirements described in this rule, providers of Supported Employment or Supported Education services shall be certified by the division or its designee as described in OAR 309-019-0100.

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715

410-172-0670

Substance Use Disorder Treatment Services

(1) Substance Use Disorder (SUD) treatment services include, but are not limited to, screening; assessment; individual counseling; group counseling; individual family, group or couple counseling; care coordination; medication-assisted treatment; medication management; collection and handling of specimens for substance analysis; interpretation services; detoxification for substance use disorders; synthetic opioid treatment; and acupuncture.

(2) Paid providers of SUD treatment services shall meet one of the following requirements:

(a) Outpatient substance use disorder providers shall have a certificate issued by AMH the Division as described in OAR chapter 415 division 012;

(b) Any facility that meets the definition of a residential treatment facility for substance-dependent individuals under ORS 443.400 or a detoxification center as defined in ORS 430.306 shall have a certificate issued by AMH the Division as described in OAR chapter 415, division 012;

(c) Synthetic opioid treatment programs shall meet the requirements described in OAR chapter 415, division 020;

(d) Substance use detoxification programs shall meet the standards described in OAR 415, chapter 050;

(e) Physician or Physician Assistant licensed by the Oregon Medical Board;

(f) Advanced Practice Nurse including Clinical Nurse Specialist and Certified Nurse Practitioner licensed by the Oregon Board of Nursing;

(g) Professional Counselor or Marriage and Family Therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists;

(h) Clinical Social Worker licensed by the Oregon Board of Licensed Social Workers;

(i) Psychologist licensed by the Oregon Board of Psychology;

~~(j) Licensed Occupational Therapist licensed by the Oregon Occupational Therapy Licensing Board;~~

~~(j) Acupuncturist licensed by the Oregon Medical Board;~~

(3) Non-paid providers shall be supervised by a paid provider as described in this rule under a board approved plan of practice and supervision or be employed by or contracted with a provider organization certified by OHA as described in OAR 309-012-0130 through 309-012-0220 and meet one of the following qualifications:

(a) Psychologist resident as described in OAR 858-010-0037;

(b) Psychologist associate as described in OAR 858-010-0015;

(c) Licensed Professional Counselor intern or Marriage and Family Therapist intern registered with the Oregon Board of Licensed Professional Counselors and Therapists as described in OAR 833-050-0011;

(d) Licensed Master Social Worker licensed by the Oregon Board of Licensed Social Workers as described in OAR 877-015-0105;

(e) Certificate of Clinical Social Work Associates issued by the Oregon Board of Licensed Social Workers as described in OAR 877-020-0009;

(f) Registered bachelor of social work issued by the Oregon Board of Licensed Social Workers as described in OAR 877-015-0105;

(g) Qualified mental health professional as defined in OAR 309-019-0105;

(h) Qualified mental health associate as defined in OAR 309-019-0105;

(i) Mental health intern as defined in OAR 309-019-0105; or

(j) Peer-Support Specialist as defined in OAR 410-180-0305.

~~(k) Non-paid providers shall be employed by a provider organization licensed or certified by AMH and meet one of the following qualifications for the scope of service provided:~~

~~(A) Qualified mental health professional as defined in OAR 309-019-0105;~~

~~(B) Qualified mental health associate as defined in OAR 309-019-0105;~~

~~(C) Mental health intern as defined in OAR 309-019-0105;~~

~~(D) Peer support specialist as defined in OAR 410-180-0305;~~

(kL) SUD counselor certified by a national or state accrediting body, including Certified Alcohol and Drug Counselor (CADC) certificate issued by the Addictions Counselor Certification Board of Oregon (ACCBO) including:

(A) CADC I - Requires education, supervised experience hours, and successful completion of a written examination: 150 hours of SUD education provided by an accredited or approved body; 1,000 hours of supervised experience; completion of the NCAC I professional psychometric national certification examination from the National Association of Alcohol and Drug Abuse Counselors;

(B) CADC II – Requires a minimum of a BA or BS degree with a minimum of 300 hours of SUD education provided by an accredited or approved body; 4,000 hours of supervised experience; completion of the NCAC II professional psychometric national certification examination from the National Association of Alcohol and Drug Abuse Counselors;

(C) CADC III – Requires a minimum of a Master's degree with a minimum of 300 hours of SUD education provided by an accredited or approved body; 6,000 hours of supervised experience; completion of the NCAC II professional psychometric national certification examination from the National Association of Alcohol and Drug Abuse Counselors.

(43) For Treatment staff holding certification in addiction counseling, qualification for the certification shall include at least: 750 hours of supervised experience in substance use counseling; 150 contact hours of education and training in substance use related subjects; and successful completion of a written objective examination or portfolio review by the certifying body.

(54) For treatment staff holding a health license described in this rule, the provider shall possess documentation of at least 60 (120 for supervisors) contact hours of academic or continuing professional education in SUD treatment.

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, & 430.715

410-172-0700

1915(i) Home and Community Based Services

(1) Habilitation services are designed to help an individual attain or maintain their maximal level of independence, including the individual's acceptance of a current residence and the prevention of unnecessary changes in residence. Services are provided in order to assist an individual to acquire, retain, or improve skills in one or more of the following areas: Assistance with activities of daily living, cooking, home maintenance, community inclusion and mobility, money management, shopping, community survival skills, communication, self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings.

(2) Psychosocial rehabilitation services are medical or remedial services recommended by a licensed physician or other licensed practitioner to reduce impairment to an individual's functioning associated with the symptoms of a mental disorder or to restore functioning to the highest degree possible.

(3) Paid providers of 1915(i) services shall meet one of the following qualifications:

(a) Physician or Physician Assistant licensed by the Oregon Medical Board;

(b) Advanced Practice Nurse including Clinical Nurse Specialist and Certified Nurse Practitioner licensed by the Oregon Board of Nursing;

(c) Professional Counselor or Marriage and Family Therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists;

(d) Clinical Social Worker licensed by the Oregon Board of Licensed Social Workers;

(e) Psychologist licensed by the Oregon Board of Psychology;

(f) Licensed Occupational Therapist licensed by the Oregon Occupational Therapy Licensing Board;

(gf) Residential treatment home or facility licensed pursuant to OAR chapter 309, division 035;

(hg) Adult Foster Home licensed pursuant to OAR chapter 309, division 040;

(ih) Certificate issued by AMH the Division pursuant to OAR chapter 309, division 012.;

(4) Non-paid providers shall be supervised by a paid provider as described in this rule under a board approved plan of practice and supervision or be employed by or contracted with a provider organization certified by OHA as described in OAR 309-012-0130 through 309-012-0220 and meet one of the following qualifications:

(a) Psychologist resident as described in OAR 858-010-0037;

(b) Psychologist associate as described in OAR 858-010-0015;

(c) Licensed Professional Counselor intern or Marriage and Family Therapist intern registered with the Oregon Board of Licensed Professional Counselors and Therapists as described in OAR 833-050-0011;

(d) Licensed Master Social Worker licensed by the Oregon Board of Licensed Social Workers as described in OAR 877-015-0105;

(e) Certificate of Clinical Social Work Associates issued by the Oregon Board of Licensed Social Workers as described in OAR 877-020-0009;

(f) Registered bachelor of social work issued by the Oregon Board of Licensed Social Workers as described in OAR 877-015-0105;

(g) Qualified mental health professional as defined in OAR 309-019-0105;

(h) Qualified mental health associate as defined in OAR 309-019-0105;

(i) Mental health intern as defined in OAR 309-019-0105; or

(j) Peer-Support Specialist as defined in OAR 410-180-0305;

~~(4) Non-paid providers shall be employed or subcontracted with a provider licensed or certified by AMH and meet one of the following qualifications:~~

~~(a) Qualified Mental Health Professional as defined in OAR 309-019-0105;~~

~~(b) Qualified Mental Health Associate as defined in OAR 309-019-0105;~~

~~(c) Mental Health Intern as defined in OAR 309-019-0105;~~

~~(d) Peer-Support Specialist as defined in OAR 410-180-0305;~~

~~(k) Recovery Assistant.~~

(5) Providers of 1915(i) services may be required to meet Community Mental Health Program (CMHP) liability insurance requirements.

(6) Due to federal requirements for the Authority to ensure the impartiality of paid providers rendering services to 1915(i) eligible members, providers may be restricted from conducting eligibility reviews or developing the behavioral health assessment or service plan.

(7) To be eligible for services under the 1915(i) State Plan HCBS, the individual shall meet the following requirements:

- (a) Been diagnosed with a chronic mental illness as defined in ORS 426.495;
- (b) Been assessed as needing assistance to perform at least two personal care services as identified in these rules due to a chronic mental illness.

(8) Eligibility for 1915(i) services is determined by an external ~~Quality Improvement Organization (QIO)~~ Independent and Qualified Agent (IQA) as identified by the Division.

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, & 430.715

410-172-0710

Residential Personal Care

(1) Personal care services provided to a resident of an ~~AMH-Division~~ licensed residential treatment program include a range of assistance, as developmentally appropriate, and are provided to individuals with behavioral health conditions that enable them to accomplish tasks that they would normally do for themselves if they did not have a behavioral health condition. Assistance may be in the form of hands-on assistance (actually performing a personal care task) or cueing (redirecting) so that the individual performs the task by him or herself. Behavioral health personal care attendant services are provided in accordance with an individual's authorized plan for services recommended by a QMHP as defined in OAR 309-019-0105.

(2) Personal care assistance most often relates to performance of activities of daily living (ADLs) and instrumental activities of daily living (IADLs). ADLs include eating, bathing, dressing, toileting, transferring, and maintaining continence. IADLs capture more complex life activities and include personal hygiene, light housework, laundry, meal preparation, transportation, grocery shopping, using the telephone, medication management, and money management.

(3) Personal care services may be provided on a continuing basis or on episodic occasions.

(4) Paid providers of facility-based personal care services shall meet one of the following:

- (a) Licensed residential facility pursuant to OAR chapter 309, divisions 035 and 040;
- (b) Secure Residential Treatment Facility (SRTF);
- (c) Residential Treatment Facility (RTF);
- (d) Residential Treatment Home (RTH);
- (e) Adult Foster Home (AFH).

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, & 430.715

410-172-0740

Supported Employment

~~(1) To be eligible for Medicaid reimbursement, supported employment (SE) services shall be provided by a qualified SE provider.~~

~~(2) To become a qualified SE provider, an agency shall provide the evidence-based practice of individual placement support (IPS) and SE and submit a copy to AMH of a fidelity review conducted by an AMH approved fidelity reviewer that resulted in a score of 100 or better.~~

~~(3) Providers implementing IPS supported employment may become a provisionally-qualified SE provider by submitting a request to AMH with a letter of support that indicates receipt of technical assistance and training from an AMH approved IPS SE trainer. Medicaid reimbursement to a provisionally-qualified SE provider ends after 12 months. This option is intended only for providers initiating SE services.~~

Stat. Auth.: ORS 413.042, 430.640

Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715

Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

410-172-0750

Assertive Community Treatment (ACT)

~~(1) Assertive Community Treatment (ACT) services shall be provided by a qualified ACT provider to be eligible for Medicaid reimbursement.~~

~~(2) An agency shall provide the evidence-based practice of ACT to become a qualified ACT provider and submit to AMH a copy of a fidelity review conducted by an AMH approved ACT Fidelity Reviewer with a minimum score of 114.~~

~~(3) Agencies may become a provisionally-qualified ACT provider by submitting to AMH a request with a letter of support that indicates receipt of technical assistance and training from an AMH approved ACT Trainer. Provisional ability to receive Medicaid reimbursement shall end after 12 months. This option is intended only for providers initiating ACT services.~~

~~(4) If a Qualified ACT provider does not receive a minimum score of 114 on a fidelity review, the following shall occur:~~

~~(a) Technical assistance shall be made available for a period of 90 days to address problem areas identified in the fidelity review;~~

~~(b) At the end of the 90-day period, a follow-up review shall be conducted by an AMH approved reviewer.~~

~~(5) The provider shall forward a copy of the amended fidelity review report to AMH.~~

~~(6) If the 90-day review results in a score of less than 114, the agency's designation as a Qualified ACT provider may be suspended for up to one calendar year.~~

~~Stat. Auth.: ORS 413.042, 430.640~~

~~Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715~~