

Oregon Secretary of State
Certificate and Order for Filing Temporary Administrative Rules and
Statement of Need and Justification

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on

May 1, 2016 by the

Department of Human Services, Office of Child Welfare Programs

413

Agency and Division

Chapter Number

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to become effective June 14, 2016 through December 10, 2016.*

**Temporary rules are effective for a maximum of 180 days including the effective date.*

Rule Caption: *Adopting and incorporating by reference the updated Behavior Rehabilitation Services (BRS) Rates Table*

In the Matter of: *The amendment of OAR 413-090-0085*

AMEND: 413-090-0085

ORS 409.050, 411.060, 411.070, 411.116, 418.005

Stat. Auth.

None.

Other Auth.

ORS 409.010, 409.050, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.315, 418.490, 418.495

Stats. Implemented

Rule Summary

OAR 413-090-0085 is being amended to incorporate by reference and adopt as Exhibit 1 the BRS (Behavior Rehabilitation Services) Rates Table dated May 1, 2016, which lists the rates at which the Department compensates BRS contractors in accordance with OAR [410-170-0110](#).

The Oregon Youth Authority (OYA), the Department, and the Oregon Health Authority (OHA) participate in the Medicaid State Plan BRS program. The updates to the rate model included in the policy option package were based on work completed through a joint effort of the three state agencies, providers, and child advocates. A 2011 lawsuit filed by providers and settled in 2014 included a requirement for a comprehensive review of the program including eligibility, program standards, design, and rates. The settlement agreement stipulated state agencies shall seek "approval to pursue additional funding for BRS programs during the 17-19 budget cycle."

BRS is a Medicaid program and Foster Care Title IV-E program used by OYA, DHS and OHA. County juvenile departments access the federal match for BRS through contracts with OHA.

These rates will be effective for services provided on or after May 1, 2016. The table showing all changes is available at http://www.dhs.state.or.us/policy/childwelfare/implement/temp_rules.htm.

Need for the Rules

OAR 413-090-0085 needs to be amended because the BRS Rates Table currently incorporated by reference as Exhibit 1 does not reflect the current rates paid to providers. The Oregon Health Authority adopted new rates in the BRS Rates Table dated May 1, 2016 in OAR [410-170-0110](#) to reflect rates negotiated by OHA. This amendment incorporates the table by reference to ensure the Child Welfare BRS payment and billing rule accurately reflects rates paid to BRS providers.

Documents Relied Upon

BRS Rates Table dated May 1, 2016 in the Oregon Health Authority's BRS rules available at <http://www.oregon.gov/oha/healthplan/tools/BRS%20Rate%20Table%20-%20May%201,%202016.pdf>.

Justification of Temporary Rules

The Department finds that failure to act promptly by amending OAR 413-090-0085 will result in serious prejudice to the public interest, the Department, and BRS contractors who are compensated at rates established by OHA in the BRS Rates Table. The Department needs to proceed by temporary rule because the public, the Department, and BRS contractors will immediately benefit when the rule accurately reflects the rates paid to BRS providers as of May 1, 2016 that have been negotiated and guaranteed by the Oregon Health Authority.

413-090-0085

Billing and Payment for Services and Placement-Related Activities

- (1) *Billable care day* (see OAR 410-170-0020):
 - (a) The *BRS contractor* (see OAR 410-170-0020) is compensated for a *billable care day services* (see OAR 410-170-0020) and *placement-related activities* (see OAR 410-170-0020) rates on a fee-for-service basis in accordance with OAR 410-170-0110.
 - (b) The *BRS contractor* may include an overnight *transitional visit* by the *BRS client* (see OAR 410-170-0020) to another placement in its *billable care days*. The *BRS contractor* must:
 - (A) Receive prior approval for the *transitional visit* from the Department;
 - (B) Ensure that the *transitional visit* is in support of the MSP (see OAR 410-170-0020) goals related to transition;
 - (C) Pay the hosting placement at the established *absent day* rate for the sending *BRS provider* (see OAR 410-170-0020); and
 - (D) Ensure the hosting placement will not seek any reimbursement from the Department for the care of the visiting *BRS client*.
- (2) Absent Days:
 - (a) The *BRS contractor* is compensated for an *absent day* at the *absent day* rate in order to hold a *BRS program* placement for a *BRS client* with the prior approval of the *BRS client's caseworker* (see OAR 410-170-0020).
 - (b) Notwithstanding OAR 410-170-0110(4), the *BRS contractor* may request prior approval from the *BRS client's caseworker* to be reimbursed for more than 8 but no more than 14 calendar days of home visits in a month for a *BRS client*. However, any additional days of home visits approved under this rule will be paid at the *absent day* rate.
- (3) The *BRS contractor* may only be reimbursed for the *BRS type of care* (see OAR 410-170-0020) authorized in the contract with the Department.
- (4) Invoice Form:
 - (a) The *BRS contractor* must submit to the Department a monthly invoice in a format acceptable to the Department, on or after the first day of the month following the month in which *services* and *placement-related activities*

were provided to the *BRS client*. The monthly invoice must specify the number of *billable care days* and absent days for each *BRS client* in that month.

- (b) The *BRS contractor* must provide upon request, in a format approved by the Department, written documentation of each BRS client's location for each day claimed as a *billable care day* and an *absent day*.
- (5) *Billable care day* and *absent day* rates for BRS services provided on or after ~~July 1, 2015~~ May 1, 2016, are in the "BRS Rates Table", dated ~~July 1, 2015~~ May 1, 2016, which is adopted as Exhibit 1 and incorporated by reference into this rule. A printed copy may be obtained from the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

Exhibit 1 – BRS Rate Table

OAR 413-090-0085

BRS Type of Care	Placement Model	Service Rate per Billable Care Day	Placement Related Activities Rate per Billable Care Day	Total Daily Rate per Billable Care Day	Absent Day Rate
Shelter Assessment and Evaluation; Intensive Community Care; Independent Living Service; Community Step-Down; and Independent Living Program	Residential Care Model	\$96.10 <u>102.71</u>	\$49.48 <u>50.23</u>	\$145.58 <u>152.94</u>	\$72.79 <u>76.47</u>
	Therapeutic Foster Care Model	\$96.10 <u>102.71</u>	\$49.48 <u>50.23</u>	\$145.58 <u>152.94</u>	\$72.79 <u>76.47</u>
Therapeutic Foster Care; BRS Proctor; and Multidimensional Treatment Foster Care	Therapeutic Foster Care Model	\$105.74 <u>108.38</u>	\$50.30 <u>52.71</u>	\$156.04 <u>161.09</u>	\$78.02 <u>80.54</u>
BRS Proctor Day Treatment	Therapeutic Foster Care Model	\$107.42 <u>112.73</u>	\$50.19 <u>52.98</u>	\$157.61 <u>165.71</u>	\$78.81 <u>82.85</u>
Enhanced Therapeutic Foster Care	Therapeutic Foster Care Model	\$122.63 <u>125.70</u>	\$49.85 <u>52.24</u>	\$172.48 <u>177.94</u>	\$86.24 <u>88.97</u>
BRS Basic Residential; Rehabilitation Services	Residential Care Model	\$115.04 <u>125.89</u>	\$52.20 <u>53.30</u>	\$167.24 <u>179.18</u>	\$83.62 <u>89.59</u>
Intensive Rehabilitation Services; BRS Residential; BRS Enhanced; and Short-Term Stabilization Program	Residential Care Model	\$142.02 <u>152.85</u>	\$54.35 <u>55.41</u>	\$196.37 <u>208.26</u>	\$98.19 <u>104.13</u>

Effective ~~July 1, 2015~~ May 1, 2016