

**CHAPTER 411
DIVISION 27**

PAYMENT LIMITATIONS

411-027-0000 Payment Limitations in Community-Based Care
(Amended 3/1/1998)

(1) Payment for Services.

(a) Division service payments under this rule shall be limited to home and community-based care services provided under Oregon's Title XIX SDSL 1915(c) Waiver.

(b) Community-based care services include, but are not limited to:

(A) In-Home Care Services (client-employed providers and home care agencies);

(B) Residential Care Facility Services;

(C) Assisted Living Facility Services;

(D) Adult Foster Home Services; and

(E) Specialized Living Services.

(2) Payment Basis

(a) Unless otherwise specified, service payment shall be based upon each client's assessed need for care as documented by the Division on the SDS 360.

(b) Payments for community-based care services are not intended to replace the resources available to a client from their natural support system of relatives, friends, and neighbors. Payment by the Division may be authorized only when the natural support system is unavailable, insufficient or inadequate to meet the needs of the client. Clients with excess income shall contribute to the cost of care

pursuant to OAR 461-160-0610 and OAR 461-160-0620.

(c) Case plans shall be based upon the least costly means of providing adequate care consistent with client choice.

(d) SDSD/Type B AAA staff shall monitor the progress of the client. When a change occurs in the client's care needs that may warrant a change in the service payment rate, staff shall update the case plan.

(3) Payment Limitations

(a) The total continuing cost of room and board, waived services and RN professional services contracted for a client in a community-based care setting shall not exceed the cost of the comparable nursing facility category of payment for that client. The total cost does not include payment for miscellaneous medical services authorized by the Office of Medical Assistance Programs.

(b) Notwithstanding subsection (3)(a) of this rule, SDSD Central Office may authorize service payment rates that exceed the cost of the comparable nursing facility care when:

(A) There is a specific rehabilitation plan approved by the Division, with goals and a definite time frame for delivery, that will improve the client's self-sufficiency;

(B) Intensive convalescent care is required for a limited period of time; or

(C) Intensive long term care or special technology is required, but is otherwise available locally only in an acute care facility (hospital).

(c) If service payment is authorized under subsection (3) (b) of this rule:

(A) The case plan shall reflect specific provider responsibilities, the time period for the delivery of services and corresponding payment rate adjustments;

(B) The Division shall give the provider written authorization for the services provided and the time period for delivery; and

(C) SDSD/Type B AAA staff shall monitor the progress of the client. When a change occurs in the client's care needs that may warrant a change in the service payment rate, staff shall update the case plan and recommend an adjustment in the service payment rate to SDSD Central Office.

(4) All service payments shall be prior authorized by the SDSD/Type B AAA local unit or by SDSD Central Office.

(5) The Division shall publish the established provider payment rate schedule. When the Division has established a rate schedule, SDSD/Type B AAA case managers may prior authorize service payments according to the payment rate for the client's living situation and based on the client's assessed need for care documented by the Division on the SDS 360.

(6) The Division shall not make payment to a spouse for providing community-based care services except for In-Home Care Services as provided in OAR Chapter 411, Division 030 (state funded spousal pay program).

(7) Exceptions

(a) Special Contracts: The Division may authorize a service payment rate not included in the established rate schedule for facilities providing special services to a targeted population, pursuant to a written contract with the Division, if the facility can demonstrate to the Division that:

(A) There is documented need for specialized services to the target population;

(B) The administrative and care staff have sufficient program knowledge and skills to achieve program goals and to provide the special services;

(C) The facility provides substantial additional services; i.e., services beyond those covered under the established rate

schedule;

(D) There is a comprehensive ongoing staff training program;
and

(E) The facility has made any modifications necessary to
provide the special services.

(b) A contract may be renewed at an appropriate payment rate on an annual basis for a facility that continues to meet the criteria stated in subsection (7)(a) of this rule.

(c) Contracts executed prior to March 1, 1998, will be honored for the duration of the contract. After expiration, the facility must meet the criteria listed in subsection (7)(a) of this rule for the Division to consider granting a special contract under subsection (7)(a) of this rule.

(d) SDS/Type B AAA local unites may authorize exception payments greater than the established rate schedule as stated in OAR 411-027-0050 for services provided on or after March 1, 1998.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-027-0010 *(Repealed 5/1/1991)*

411-027-0015 Repayment of Premium Deposits for Workers' Compensation
(Amended 5/1/1991)

Those providers on whose behalf the Senior and Disabled Services Division made a Workers' Compensation premium deposit in accordance with OAR 411-027-0010 (repealed February 8, 1991) shall repay the deposit amount to the Division at such time that the need for the deposit no longer exists. The Division shall consider the need for the deposit no longer exists when certain conditions occur. Such conditions include, but are not limited to:

- (1) The provider sells, transfers, or otherwise goes out of business; or
- (2) The provider enters into bankruptcy; or
- (3) The provider's Workers' Compensation insurer no longer requires the deposit; or
- (4) The Division owes monies to a nursing facility at the time of each annual settlement. Such monies shall be applied against the premium deposit amount until such time the total deposit is recovered.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.070

411-027-0050 Exceptions to Payment Limitations in Community-Based Care

(Adopted 3/1/1998)

(1) General Provisions

(a) Exceptions may only be granted if SDSD determines:

(A) The client has care needs, documented in the case plan, that warrant a service payment exception; and

(B) The provider actually provides the exceptional service;

(b) For licensed facilities, service payment exceptions shall be based on demonstrated program costs that exceed basic service costs for direct care, administration, training and in-service education for staff and do not include consideration of costs for building, utilities or food.

(2) Adult Foster Care and Residential Care Facility Payment Exceptions

(a) Service payment exceptions may be authorized for individual clients in adult foster care or in residential care facilities by SDSD/Type B AAA unit managers according to the following criteria:

(A) The service payment rate including any exception payment shall not exceed the cost of comparable nursing facility care;

(B) Service payment exceptions may be considered only if the provider can demonstrate that frequency and intensity of services and/or staffing must be increased because of one or more of the following factors:

(i) Care of the terminally ill;

(ii) Multiple occurrences of specific, difficult behaviors on a daily basis;

(iii) Behavior that negatively affects other residents necessitating a private room;

(iv) Special technology used to meet essential life needs requiring additional training and/or supervision;

(v) Additional care needed to meet the needs of a functional quadriplegic; or

(vi) Lifts and/or transfers require more than one person; and

(C) If a service payment exception is prior authorized for a client, reassessment of the needs that require the exception payment shall occur not less frequently than once every six months.

(b) Documentation of the needs that warranted establishment of the exception payment and its continuance shall be provided to the Division by SDDS/Type B AAA local offices in a manner and at a time directed by the Division.

(3) Assisted Living Facility Payment Exceptions. No service rate exceptions are allowed in assisted living facilities.

(4) Exceptions above the established rate schedule for in-home services and relative adult foster homes may only be granted when it is determined

the placement is the most appropriate place for the resident, special services are necessary to meet client needs and the provider has the capability to meet those needs. Documentation of the client needs that warrant an exception payment must be in the client's file. Exception payments to the basic rate cannot be made if the provider does not perform the services.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-027-0100 Payment for Residential Care Facility and Adult Foster Home Services

(Adopted 3/1/1998)

The Division will reimburse for services provided to clients residing in a residential care facility or an adult foster home according to the following:

(1) The provider shall agree to accept as full payment for all services rendered to a client an amount determined pursuant to OAR 461-006-0106 for room and board, and a service payment determined by the Division pursuant to OAR 411-027-0000 or 411-027-0050.

(2) Service rates are based on the client's level of impairment and assessed need for care as documented by the Division on the SDS 360. Payment levels are assigned based on the degree of assistance a client requires with activities of daily living (mobility, eating/nutrition, continence, grooming/dressing, bathing and behavior) and certain procedures that must be performed by the provider. Service levels will be:

(a) Level 5 - The client has impairments which rate 100 or more points;

(b) Level 4 - The client has impairments which rate between 76 and 99 points;

(c) Level 3 - The client has impairments which rate between 61 and 75 points;

(d) Level 2 - The client has impairments which rate between 36 and

60 points; and

(e) Level 1 - The client has impairments which rate fewer than 36 points.

(3) Funds that would have been available for provider payments on February 28, 1998, will be converted to payments using a point system on March 1, 1998.

(4) Payment Responsibilities

(a) Clients are entitled to retain a personal allowance plus any income disregards pursuant to applicable Adult and Family Services Division rules;

(b) Clients are responsible for payment of the room and board amount;

(c) Clients shall contribute any income in excess of the personal allowance, income disregards and room and board payments to the provider toward the service payment; and

(d) The Division shall issue payment to the provider for the difference between the service payment and the available income of the client.

(5) The provider may not charge the client, or a relative or representative of the client, for items included in the room and board or service payments or any items for which the Division or the Office of Medical Assistance Programs (OMAP) makes payment.

(6) The Division is not responsible for damages to the provider's home, facility or property or obligations entered into with the client.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070