OREGON

This summary of state regulations and policy represents only a snapshot at a point in time, is not comprehensive, and should not be taken to constitute legal advice or guidance. State Medicaid requirements are included at the end of this summary.

Types of Facilities

Mental Health (MH): Oregon regulates two types of outpatient adult residential behavioral health services:

- A *residential treatment home* (RTH) is "a program that is licensed by the Division and operated to provide services on a 24-hour basis for up to five individuals."

- A *residential treatment facility* (RTF) is "a program licensed by the Division to provide services on a 24-hour basis for six to 16 individuals."

Substance Use Disorder (SUD): Oregon regulates providers that operate a residential service element, specifically including:

- A *residential facility*, "a program or facility that provides an organized full-day or part-day program."

- A *detoxification center*, a facility "that provides emergency care or treatment for alcoholics or drug-dependent persons."

Unregulated Facilities: Unregulated facilities were not located.

Approach

Mental Health (MH) and Substance Use Disorder (SUD): The Oregon Health Authority (OHA) regulates both MH and SUD residential treatment programs.

- For MH, this is regardless of funding source.

- For SUD, the OHA regulates all providers of a residential service element that are under contract with the Health Systems Division (HSD) of OHA or subcontract with a local entity or public body or receive public funds for providing SUD prevention, intervention, or treatment services (this includes a provider that is or seeks to be contractually affiliated with HSD, a Coordinated Care Organization, or a local mental health authority for

providing residential SUD treatment and recovery services). The OHA also regulates any facility that meets the definition of a residential facility, whether licensed, approved, established, maintained, contracted with or operated by the OHA, or a detoxification center, whether a publicly or privately-operated for profit or nonprofit facility.

Processes of Licensure or Certification and Accreditation

Mental Health (MH): Licensure by the OHA is required for any residential MH treatment facility. Additional regulations provide for certification of noninpatient mental health facilities, including residential facilities, and are solely "for the purpose of qualifying for insurance reimbursement," presumably private insurance as Medicaid providers contract or subcontract with the OHA. Agencies that contract or subcontract with the OHA, or that contract with a Community Mental Health Program, are not eligible for the "non-inpatient" certification.

- Accreditation is not required.
- An inspection is required for licensure and renewal.
- A Certificate of Need is not required for operation.
- Licensure duration is two years. Certification for reimbursement purposes is dependent on a showing of compliance with relevant regulations.

Substance Use Disorder (SUD): Licensure by the OHA is required for all residential facilities or detoxification centers, as well as those operating a residential service element as described above.

- Accreditation is not required, although facilities are required to use standards endorsed by national accrediting bodies as a mechanism for provider credentialing.
- An inspection is required for licensure and renewal.
- A Certificate of Need is not required for operation.
- Licensure duration is two years. A provisional license may be issued for one year or less pending completion of specified requirements because of substantial failure to comply with applicable administrative rules.

Cause-Based Monitoring

Mental Health (MH) and Substance Use Disorder (SUD): OHA may conduct announced or unannounced inspections for on-going monitoring in addition to regularly scheduled inspections. The OHA may find a program to be in noncompliance with the regulations, require a plan of correction, and deny, suspend, advise of intent to revoke, or revoke licensure or certification.

Access Requirements

Mental Health (MH): Residential MH treatment facilities cannot discriminate based on several specific personal characteristics when accepting individuals for treatment. Wait time requirements are specified and cover the length and management of the waitlist, requirements for follow-up with the waitlisted individual, guidelines for prioritizing admissions from the waitlist, and processes and procedures for admission from the waitlist.

Substance Use Disorder (SUD): Residential SUD treatment facilities cannot discriminate based on several specific personal characteristics when accepting individuals for treatment and may not solely deny entry to individuals who are prescribed medication to treat opioid dependence. Individuals must receive services in the timeliest manner feasible consistent with presenting circumstances. Block grant recipients must prioritize clients as follows:

A. Women who are pregnant and using substances intravenously.

B. Women who are pregnant.

C. Individuals who are using substances intravenously.

D. Individuals with dependent children.

Entry of pregnant women must occur no later than 48 hours from the date of first contact and entry of individuals using substances intravenously must occur no later than 14 days after the date of first contact. If services are not available within the required timeframes, the provider must document the reason and provide interim referral and informational services within 48 hours. Interim referrals and information must be provided prior to entry to all individuals using substances intravenously to reduce the adverse health effects of substance use, promote the health of the individual, and reduce the risk of transmission of disease.

Staffing

Mental Health (MH): Residential MH facility regulations include standards for a program administrator, direct care staff qualifications, staffing ratios for direct care staff, and pre-service orientation and in-service training relevant to the needs of the population served. No requirement for a medical director or medical staff was located, although the term "licensed medical professional" is defined.

The requirements for certification incorporate staffing requirements specific to outpatient treatment staff qualifications, including regarding program directors, clinical and peer delivered services, supervisors, interns, and peer support and peer wellness specialists. Outpatient training requirements also are incorporated. In addition to these general requirements for certification, requirements specific to residential facilities include requirements related to staff coverage, ratios, and requirements for overnight and on-call staffing.

Substance Use Disorder (SUD): Residential SUD facility staffing standards include requirements regarding competencies of program administrators, competencies and credentials of clinical and peer delivered services supervisors, SUD treatment staff, and peer support and peer wellness specialists. The general staffing requirements for SUD residential treatment facilities include credentials for medical personnel as well as others and require that there be a medical director under contract with the program or that there be a written reciprocal agreement with a medical practitioner under managed care. Program staff, contractors, volunteers, and interns recovering from an SUD, providing treatment or peer support services in SUD treatment programs, must be able to document continuous abstinence under independent living conditions or recovery housing for the immediate past two years. Detailed minimum requirements are included for orientation training, which must be applicable to the population served. No information on education or training on trauma informed care or suicide prevention was found. However, treatment programs are required to develop and implement written policies and procedures on trauma-informed service delivery.

Specific to detoxification facilities, in addition to a medical director, there are specific requirements for an LMP and skilled nursing care; staffing compliance with ASAM Patient Placement Criteria 2R; and staffing ratios. There also are more specific credentials and experience requirements for the program director, the clinical supervisor, treatment staff, and other medical staff, as well as requirements regarding use of volunteers.

Placement

Mental Health (MH): An assessment by a Qualified Mental Health Professional is required to determine an individual's need for MH services. Criteria for admission are stipulated and include requirements for screening, including written documentation of a suspected mental health disorder, information on general and psychiatric health and social needs, and required

legal documents such as those relating to guardianship, conservatorship, commitment status, advance directives, or any other legal restrictions. The screening/assessment includes the individual's mental health history and current mental health status with a determination of a DSM diagnosis or other justification of priority for mental health services or a written statement that the person is not in need of community mental health services. The program shall complete an assessment for each individual within 14 days after admission to the program unless admitted for crisis-respite services.

Substance Use Disorder (SUD): For residential SUD treatment, assessment must include: (a) Sufficient information and documentation to justify the presence of a diagnosis that is the medically appropriate reason for services; (b) Screening for the presence of substance use, problem gambling, mental health conditions, and chronic medical conditions; (c) Screening for the presence of symptoms related to psychological and physical trauma; (d) Suicide potential shall be assessed, and individual service records shall contain follow-up actions and referrals when an individual reports symptoms indicating risk of suicide. In addition, each assessment shall be consistent with the dimensions described in the ASAM Patient Placement Criteria (PPC) and shall document a diagnosis and level of care determination consistent with the DSM and ASAM PPC.

Specific to detoxification facilities, the program must have written criteria for admission and for rejecting admission requests which includes observation for symptoms of withdrawal. At intake, there must be, among other things: (a) A determination of appropriateness; (b) Steps for making referrals of individuals not admitted; (c) A time limit within which the initial client assessment must be completed on each individual; and (d) Steps for coordinating care with payers and entities responsible for care coordination. The program also must develop and implement a written procedure for assessing medical and psychosocial factors and evaluating each individual's stabilization needs as soon as the individual is able.

Treatment and Discharge Planning and Aftercare Services

Mental Health (MH): Treatment/service planning requirements are indicated for residential MH treatment facilities. Review of residential service plans is required at least annually. On an ongoing basis, the provider shall update the residential service plan as necessary based upon changing circumstances or upon the individual’s request for reconsideration. No discharge, aftercare or follow-up planning requirements were identified although there are detailed requirements for residency termination.

Substance Use Disorder (SUD): Individualized treatment or service planning requirements are indicated for residential SUD treatment facilities. The service plan must include a projected schedule for re-evaluation of the plan. Discharge/aftercare planning is required. When services are transferred due to the individual’s absence, the provider must document outreach efforts made to re-engage the individual or document the reason why such efforts were not made.

Specific to residential detoxification programs, an individualized stabilization plan is required and, among other things, must address care transition. The program must complete and document a transition plan in collaboration with the individual being discharged that includes information about referrals to other services or agencies, and the plan for follow-up, aftercare, or other post-stabilization services.

Treatment Services

Mental Health (MH): Residential MH treatment facilities required services and activities include ones related to daily living, health-related services, and assistance in accessing other services as needed in accordance with the person's service plan and in accordance with a requirement that treatment be "a planned, individualized program of medical, psychological or rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emotional, physical or other symptoms or social, educational or vocational disabilities resulting from or related to the mental or emotional disturbance, physical disability or alcohol or drug problem" (ORS 443.300). The certification requirements include requirements for eight hours of structured services out of every 12 hours from 8 a.m. to 8 p.m. which, each week, includes: (a) Daily group therapy which addresses the mental health or nervous condition; (b) Individual counseling which addresses the mental health or nervous condition with a primary therapist two times per week; (c) Family therapy, as appropriate to the individual needs of the client; (d) Psychotropic medication management or monitoring, as appropriate to the individual needs of the client; (e) One hour per day of structured recreational/physical fitness activities; and (f) Structured skills training, vocational training, or socialization activities.

Substance Use Disorder (SUD): Residential SUD treatment facilities are required to provide culturally specific and trauma-informed care and to provide services for co-occurring mental health disorders. As appropriate, they must provide or coordinate gender-specific services, family services, community and social skills training, peer supports, transportation, housing, and smoking cessation, among other things. Recipients of block grant funding must provide specific care for pregnant women and individuals with dependent children. Medical protocols must be in place that meet certain standards.

There are medical services requirements specific to residential detoxification programs, as well as stabilization services that include but are not limited to individual or group motivational counseling sessions and individual advocacy and case management services, which must be identified in the individual's stabilization plan.

Patient Rights and Safety Standards

Mental Health (MH): The regulations governing residential MH treatment facilities identify many patient rights. Among those are the right to be free from seclusion and restraint unless in

a secure RTF; to be able to file grievances with the program administrator; and to be informed of these and other rights.

Substance Use Disorder (SUD): The regulations governing residential SUD treatment facilities identify many patient rights. Among those are the right to receive medication specific to the individual's diagnosed clinical needs, including medications used to treat opioid dependence; to be free from seclusion and restraint; to be able to file grievances with the provider, the individual's managed care plan, or DHS; and to be informed of these and other rights.

Quality Assurance or Improvement

Mental Health (MH): Requirements related to quality assurance/improvement for adult residential MH facilities were not located.

Substance Use Disorder (SUD): Providers must develop and implement a structured and ongoing process to assess, monitor, and improve the quality and effectiveness of services provided to individuals and their families.

Governance

Mental Health (MH) and Substance Use Disorder (SUD): No information related to requirements for governance of adult residential MH or SUD treatment were identified although facilities must provide basic information regarding the organization at license application.

Special Populations

Mental Health (MH): Requirements related to special populations for adult residential MH treatment facilities were not located.

Substance Use Disorder (SUD): For block grant recipients, priority populations include pregnant/parenting women, individuals with dependent children, and injection drug users. Additional information on requirements may be found above. For all residential SUD treatment facilities, those with co-occurring mental health conditions also must be identified and provided appropriate services. The regulations also contain specific requirements for programs approved and designated as culturally specific substance use disorder programs.

Location of Regulatory and Licensing Requirements

Oregon Health Authority, Health Systems Division, SU Licensure and Detoxification Standards[1] (OAR 415-012-0000 through 415-012-0090, OAR 415-050-0000 through 415-050-0095); (OAR 309-018-0100 through 309-018-0215); BH Services and MH Licensure[2]. Regulatory requirements reviewed May 8, 2019.

Other Information Sources

M. Nevarez, G. Bledsoe, N. Corbin, and L. Meulink (OHA); National Conference of State Legislatures CON Program Overview, http://www.ncsl.org/research/health/con-certificate-of-need-state-laws.aspx

[1] See https://secure.sos.state.or.us/oard/displayChapterRules.action?selectedChapter=84.

[2] See https://secure.sos.state.or.us/oard/displayChapterRules.action;JSESSIONID_OARD=5lH9JKouQqBquULnID45wUVjcG3ioFrVdjv_arAvU2eLqZ7PMmnK!1318524005?selectedChapter=88.

OREGON MEDICAID

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Approach

The Oregon Health Authority (OHA) Health Services Division (HSD) oversees the state Medicaid program, much of which is administered by managed care entities (MCEs), some of which are Coordinated Care Organizations (CCOs). Additionally, pursuant to its Oregon Health Plan Section 1115 demonstration, Federal Financial Participation may be claimed for certain residential treatment provided at Designated State Health Programs (DSHPs) to individuals not eligible for Medicaid. It historically also has relied on Disproportionate Share Hospital (DSH) payments and the in lieu of provision to reimburse certain services in IMDs.

Types of Facilities

Mental Health (MH) or Substance Use Disorder (SUD): Pursuant to the Section 1115 waiver, DSHPs include:

- MH Residential Treatment for Youth: Young adults through age 25 who are eligible, under ongoing review of the jurisdiction of the Juvenile Psychiatric Review Board or in the Youth and Young Adult in Transition Program, with mental or emotional disorders who have been hospitalized or are at immediate risk of hospitalization, who need continuing services to avoid hospitalization or who are a danger to themselves or others or who otherwise require long-term care to remain in the community. These individuals are not eligible for Medicaid. The treatment services are provided on a 24-hour basis.

- MH Residential Treatment for Adults: Adults 18 years or older who are determined unable to live independently without supervised intervention, training or support, and who do not qualify for Medicaid. Services are delivered on a 24-hour basis to individuals who need continuing services to remain in the community and to avoid higher levels of services or hospitalization or who are a danger to themselves or others or who otherwise require continuing care to remain in the community.

- A & D Residential Treatment, Adults: Individuals 18 years of age or older who are unable to live independently in the community and cannot maintain even a short period of abstinence and need 24-hour supervision, treatment and care. These individuals are non-OHP eligible and must be indigent status with income at 100 percent or lower of the

federal Poverty Level (FPL). These individuals are not eligible for Medicaid. This service is to support, stabilize and rehabilitate individuals and to permit them to return to independent community living. Services provide a structured environment for an individual on a 24-hour basis consistent with chemical dependency placement, continued stay and discharge criteria Level III-services (twenty-four hour supervision is needed using a structured 7-day-a-week therapeutic environment to achieve rehabilitation). The services within this program address the needs of diverse population groups within the community. This program helps people stabilize physically and mentally so they can transition to a lower level of care including self-directed recovery management.

Mental Health (MH): The OHA HSD Medicaid regulations encompass "Residential Treatment Programs," which include a RTH and RTF (both defined above), as well as a Secure Residential Treatment Facility (SRTF), and a Young Adult in Transition Facility (YAT) facility that is licensed to provide mental health services, but does not include adult foster homes.

- A SRTF provides services for an individual who: (a) does not require 24-hour hospital care and treatment; (b) requires highly structured environmental supports and supervision seven days a week and 24 hours a day in order to participate successfully in a program of habilitative and rehabilitative activities; and (c) due to a mental illness and as evidenced by clinical documentation from the last 90 days or from an Authority-approved and standardized risk assessment conducted within the past year, presents a risk in one of the following areas: (A) Clear intention or specific acts of bodily harm to others. (B) Suicidal ideation with intent, or self-harm posing significant risk of serious injury. (C) Inability to care for basic needs that results in exacerbation or development of a significant health condition, or the individual's mental health symptoms impact judgment and awareness to the degree that the individual may place themselves at risk of imminent harm. (D) Due to the symptoms of a mental illness, there is significant risk that the individual will not remain in a place of service for the time needed to receive the services and supports necessary to stabilize the symptoms of a mental illness that pose a threat to the individual's safety and well-being.

- A YAT is a facility that is providing services to an individual who is developmentally transitioning into independence and is of an age not less than 17 years and six months, and not more than 25 years.

Substance Use Disorder (SUD): The OHA HSD covers medically monitored detoxification and clinically managed detoxification provided in a free standing detoxification center or an appropriately licensed SUD residential treatment facility when considered medically appropriate. HSD covers non-hospital SUD treatment and recovery services on a residential … basis. HSD does not cover residential level of care provided in an inpatient hospital setting for SUD treatment and recovery. For MCEs, including CCOs, the provision of SUD services must comply with regulations governing CCO behavioral health provider treatment and facility certification and licensure.

Processes of Medicaid Enrollment

Mental Health (MH) and Substance Use Disorder (SUD): State licensure (or certification), as well as compliance with applicable rules, are required for provider Medicaid enrollment. The Division may terminate or suspend providers and may impose mandatory or discretionary sanctions. Researchers did not locate regulatory requirements mandating accreditation.

Staffing

Mental Health (MH): A residential treatment program must have sufficient staff to meet active engagement and supervision hours required by the Medicaid regulations based on acuity level. The licensure standards also must be satisfied.

Substance Use Disorder (SUD): Separate state Medicaid regulations were not located regarding staffing for adult residential SUD treatment.

Placement

Mental Health (MH) and Substance Use Disorder (SUD): The Division authorizes admission and continued stay in residential programs based on the medical appropriateness of the request and supporting clinical documentation. Prior authorization requests for admission and continued stay may be reviewed to determine: (a) The medical appropriateness of the admission for residential services provided; (b) The appropriateness of the recommended length of stay; (c) The appropriateness of the recommended plan of care; (d) The appropriateness of the licensed setting selected for service delivery; (e) A level of care determination was appropriately documented. The Division determines re-authorization and authorization of continued stays based upon one of the following: (a) The recipient continues to meet all basic elements of medical appropriateness; and (b) One of the following criteria shall be met: (A) Documentation that the treatment provided is resulting in measurable clinical outcomes but that the recipient is not sufficiently stabilized or yet developed the skills necessary to support transition to a less restrictive level of care. (B) The recipient develops new or worsening symptoms or behaviors that require continued stay in the current level of care. Requests for continued stay based on these criteria shall include documentation of ongoing reassessment and necessary modification to the current treatment plan or residential plan of care.

Substance Use Disorder (SUD): The Division requires use of the American Society of Addiction Medicine (ASAM) Patient Placement Criteria second edition revised (PPC-2R) to determine the appropriate level of SUD treatment of care.

Treatment and Discharge Planning and Aftercare Services

Mental Health (MH) and Substance Use Disorder (SUD): MCEs/CCOs must ensure there is a treatment plan, which means a documented plan that describes the patient's condition and procedures that will be needed, detailing the treatment to be provided and expected outcome and expected duration of the treatment prescribed by the health care professional. This therapeutic strategy shall be designed in collaboration with the member, the member's family, or the member's representative.

Treatment Services

Mental Health (MH) and Substance Use Disorder (SUD): Under the Oregon Medicaid regulations, behavioral health services must be medically appropriate, based on the standards of evidence-based practice, and appropriate and consistent with the diagnosis identified in the behavioral health assessment.

Mental Health (MH): Pursuant to the Section 1115 demonstration:

- DSHP MH Residential Treatment for Youth must provide the following treatment services: medication and medication monitoring supervision; vocational and social services; individual and family group counseling; counseling emotional support; and coordination of care services.

- DSHP MH Residential Treatment for Adults must provide: crisis stabilization and intervention services, including: behavior management; daily living activity coordination; crisis stabilization services; crisis intervention services; residential treatment services determined upon individualized assessment of treatment needs and development of plan of care; management of personal money and expenses; supervision of daily living activities; life skills training; administration and supervision of medication; provision or arrangement of transportation; and management of behavior; diet management.

Substance Use Disorder (SUD): Under the Section 1115 demonstration, SUD treatment services are to be evidence-based.

Care Coordination

Mental Health (MH) and Substance Use Disorder (SUD): MCEs must ensure that coordinated care services are provided within the scope of license or certification of the participating provider and within the scope of the participating provider's contracted services. CCOs must ensure continuous care management for all members. Care coordinators shall promote

continuity of care and recovery management. CCOs must facilitate transition planning for members. Among other things, care coordinators must facilitate transitions and ensure applicable services and appropriate settings continue after discharge, including: For discharges from … residential care, the care coordinator shall do all of the following: (A) Have contact with the member no less than two times per month prior to discharge and two times within the week of discharge; (B) Assist in the facilitation of a warm handoff to relevant care providers during transition of care and discharge planning; and (C) Engage with the member, face to face, within two days post discharge.

Prior to discharge from any residential facility, care coordinators must conduct a transition meeting to facilitate development of a transition plan for both applicable services and appropriate settings. This meeting must be held 30 days prior to the member's return to the CCO's service area or, if applicable, to another facility or program or as soon as possible if the CCO is notified of impending discharge or transition with less than 30 days' advance notice. The discharge plan must include a description of how treatment and supports for the member will continue.

In addition to standard care coordination requirements, the section below regarding intensive care coordination for priority populations.

Quality Assurance or Improvement

Mental Health (MH) and Substance Use Disorder (SUD): MCEs must develop policies and procedures for credentialing providers to include quality standards and a process to remove providers from their provider network if they fail to meet the objective quality standards. MCEs must report to the OHA its health promotion and disease prevention activities, national accreditation organization results, and Healthcare Effectiveness Data and Information Set (HEDIS) measures. MCEs shall be accountable for performance on outcomes, quality, and efficiency measures incorporated into the MCE's contract with the Authority. MCEs shall implement an ongoing comprehensive quality assessment and performance improvement program (QAPI) for monitoring, evaluating, and improving the access, quality, and appropriateness of services provided to members consistent with the needs and priorities identified in the MCE's community health assessment, community health improvement plan, and the standards in the MCE's contract.

Special Populations

Mental Health (MH) and Substance Use Disorder (SUD): MCEs/CCOs are responsible for Intensive Care Coordination (ICC) services for prioritized populations, including those who: (a) Are older adults, individuals who are hard of hearing, deaf, blind, or have other disabilities; (b) Have complex or high health care needs, or multiple or chronic conditions, or SPMI, or are

receiving Medicaid-funded long-term services and supports (LTSS); … (d) Are in medication assisted treatment for SUD; (e) Are women who have been diagnosed with a high-risk pregnancy; … (g) Are IV drug users, have SUD in need of withdrawal management; (h) Have HIV/AIDS or have tuberculosis; (i) Are veterans and their families; and (j) Are at risk of first episode psychosis, and individuals within the Intellectual and developmental disability (IDD) populations.

Location of Medicaid Requirements

Oregon Health Authority Rules: Behavioral Health[3], General Rules (non-MCE/CCO)[4], MCE/CCO Non-Financial Rules[5], January 12, 2017 CMS approval letter for Oregon Health Plan Section 1115 waiver[6]. Regulatory requirements reviewed January 2020.

Other Information Sources

Kaiser Family Foundation. State Options for Medicaid Coverage of Inpatient Behavioral Health Services. KFF: San Francisco. November 2019 http://files.kff.org/attachment/Report-Brief-State-Options-for-Medicaid-Coverage-of-Inpatient-Behavioral-Health-Services

This state summary is part of the report **"State Residential Treatment for Behavioral Health Conditions: Regulation and Policy"**. The full report and other state summaries are available at https://aspe.hhs.gov/state-bh-residential-treatment.

[3] See https://www.oregon.gov/oha/HSD/OHP/Policies/172rb112619.pdf.

[4] See https://www.oregon.gov/oha/HSD/OHP/Policies/120rb010120.pdf.

[5] See https://www.oregon.gov/oha/HSD/OHP/Policies/141rb010220-nf.pdf.

[6] See https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/or/or-health-plan2-ca.pdf.