

DEPARTMENT OF HEALTH

Repeal of Chapter 11-172 and  
Adoption of Chapter 11-172.1  
Hawaii Administrative Rules

( )

SUMMARY

1. Chapter 11-172, Hawaii Administrative Rules, entitled "Certification and Reimbursement of Mental Health Rehabilitation Services Providers", is repealed.

2. Chapter 11-172.1, Hawaii Administrative Rules, entitled "Certification and Reimbursement of Mental Health Rehabilitation Services Providers", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 172

CERTIFICATION AND REIMBURSEMENT OF MENTAL HEALTH  
REHABILITATION SERVICES PROVIDERS

REPEALED

§§11-172-1 to 11-172-35 Repealed. [R ]

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 172.1

CERTIFICATION AND REIMBURSEMENT OF MENTAL HEALTH  
REHABILITATION SERVICES PROVIDERS

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Historical Note: Chapter 11-172.1 is based  
substantially upon chapter 11-172. [Eff 11/29/02;  
8/6/05; R ]

SUBCHAPTER 1

GENERAL PROVISIONS

**§11-172.1-1 Scope.** The rules in this chapter govern procedures before the department of health for the certification and reimbursement of mental health rehabilitation services providers. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-2 Definitions.** As used in this chapter:

"Adult mental health division" or "AMHD" means the division of the department that provides psychiatric facilities and community-based mental health services, treatment, and recovery services pursuant to section 334-3, HRS.

"Agency" means a public, or private for profit or not-for-profit organization that provides mental health rehabilitation services as defined herein.

"Applicant" means an agency that is applying for initial certification or re-certification under this chapter.

"Assertive community treatment services" means assertive community treatment service as defined in section 17-1737-44.1.

"Certification" means a process for the department to assure that mental health rehabilitation services providers are in compliance with Hawaii state laws and this chapter.

"Clubhouse" means a psychosocial rehabilitation program that provides a local community center that offers people who have mental illness the opportunities to achieve their full potential by forming a community of people who are working together to achieve a common goal.

"Community mental health rehabilitation services" means services that are intended for the maximum reduction of mental disability and restoration of an individual to the individual's best possible functional level. They include the services listed in section 11-172.1-6. The services shall be:

- (1) Recommended by a psychiatrist, psychologist, advance practice registered nurse (APRN) in behavioral health, or licensed clinical social worker in behavioral health;
- (2) Rendered by licensed practitioners and qualified mental health professionals, or agency staff, under the supervision of a qualified mental health professional; and
- (3) Rendered by mental health rehabilitation services agencies certified under this chapter.

"Crisis management services" means crisis management service as defined in section 17-1737-44.1.

"Crisis residential services" means crisis residential service as defined in section 17-1737-44.1.

"Department" means the department of health, State of Hawaii.

"Director" means the director of health, or the director's designee.

"Financial management services" or "representative payee services" means services provided by an individual or organization, for a beneficiary who cannot manage the individual's money and who cannot access the social security representative payee program.

"Individual" means a person who receives any of the services defined in this chapter.

"Intensive case management services or community-based case management recovery services" means services provided by a multi-professional team to individuals with serious mental illness to promote recovery through case management, treatment, clinical, and support services.

"Intensive outpatient hospital services" means intensive outpatient hospital services as defined in section 17-1737-44.1.

"License" means a license issued by the State certifying the compliance with all existing state laws and rules relative to the operation of a facility, service, or profession.

"Licensed clinical social worker" means a person who is a licensed clinical social worker pursuant to chapter 467E, HRS.

"Peer support services" means services provided by a peer specialist who works in collaboration with interdisciplinary team members to assist consumers to:

- (1) Understand recovery and the value of every consumer's recovery experience;
- (2) Identify strengths and needs of recovery;
- (3) Understand and set goals for recovery;
- (4) Determine the objectives needed to reach beneficiary-centered recovery goals; and
- (5) Create, maintain, and utilize their own recovery plan.

"Provider" means an agency or licensed mental health professional certified under this chapter to provide mental health rehabilitation services.

"Psychosocial rehabilitation services" or "biopsychosocial rehabilitation programs" means biopsychosocial rehabilitation programs as defined in section 17-1737-44.1.

"Qualified mental health professional" or "QMHP" means:

- (1) A psychiatrist licensed to practice medicine in the State in accordance with chapter 453, HRS, and who is certified or is eligible to be certified in psychiatry by the American Board of Psychiatry or Neurology;
- (2) A psychologist licensed in accordance with chapter 465, HRS;
- (3) A licensed clinical social worker in behavioral health or licensed in accordance with chapter 467E, HRS;
- (4) An advanced practice registered nurse (APRN) in behavioral health licensed in accordance with chapter 457, HRS, and qualified as provided under section 17-1737-12(3); and

(5) Any other person as determined by the department of human services.

"State" means the State of Hawaii.

"State operated specialized residential program" means comprehensive residential services operated by the State to aid individuals in developing daily living skills that enable individuals to manage symptoms and regain functioning lost due to mental illness and substance abuse, through therapeutic living support services.

"Supported employment services" means activities needed by individuals to obtain and sustain paid work within the general workforce, and include assisting the individual in locating and acquiring a job, or working with an employer to develop or customize a job on behalf of the individual, or both.

"Supported housing services" means services provided by an individual or agency to assist consumers with identifying and securing affordable housing, obtaining federal, state or county rental subsidies, and meeting obligations of tenancy. The individual or agency shall actively collaborate and or advocate with landlords, federal, state or county agencies and case managers on behalf of consumers.

"Therapeutic living supports services" means therapeutic living supports services as defined in section 17-1737-44.1. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§§11-172.1-3 to 11-172.1-5 (Reserved) .**



SUBCHAPTER 2

PROVIDER CERTIFICATION PROCESS

**§11-172.1-6 Certification required.** Each applicant who seeks to provide one or more of the following services: assertive community treatment services; psychosocial rehabilitation services; clubhouse services; crisis management services; crisis residential services; intensive outpatient hospital services; intensive case management services; peer support services; financial management services; supported employment services; supported housing services; specialized residential programs; or other therapeutic living support services, shall obtain certification pursuant to this chapter. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-7 Filing of a provider application.** Each applicant seeking initial certification or provider seeking re-certification under this chapter shall file an application with the department. The application shall be filed on the form prescribed and furnished by the department. The department shall not accept for filing any application that is not submitted on the correct form. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-8 Application forms.** The application form prescribed by the department is a standard application form used for all services. The department may revise or amend the application forms from time to time. An application form may require the applicant to provide any information that is reasonably necessary for an informed review of the application, and the applicant

shall provide the information in the form and manner that the department may prescribe. The department may require the applicant to provide documents to support information submitted in the application. [Eff  
] (Auth: HRS §§321-11, 334-9; 42  
C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-9 Number of copies filed.** Unless the department directs otherwise, the applicant shall file with the department the original and one copy of the application and supporting documentation. [Eff  
] (Auth: HRS §§321-11, 334-9; 42  
C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-10 When to file an application: new provider.** An applicant who is not yet certified by the department may file an application at any time, or as directed by the department. [Eff  
] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §321-1, 334-9)

**§11-172.1-11 When to file an application for renewal: existing provider.** A provider who is already certified by the department, and who is seeking renewal of a certification shall file an application at least ninety days prior to the expiration of its existing certification. [Eff  
] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-12 Complete application required.** The department requires a complete application for review. The filing of an application with the department does not by itself mean that the application is complete.

§11-172.1-12

Eff ] (Auth: HRS §§321-11, 334-9; 42  
C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-13 Determination of completeness.** (a) An application is complete when the department determines that the application is properly filled out and includes all necessary information.

(b) The department shall determine if the application is complete within ten business days after the application is filed. If the application is incomplete, the department shall notify the applicant of the actions or additional information required to complete the application. The applicant shall have fourteen calendar days in which to complete the application. Fourteen calendar days shall be computed from the date when the department provides notification to the applicant.

(c) If the applicant fails to complete the application within the fourteen calendar days, the department shall dismiss the application without prejudice. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-14 Notification of completeness.** When the department determines that the application is complete, it shall provide written notification to the applicant of the beginning of the review period. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-15 Review period.** To the extent practicable, the period for department review of the application shall not exceed thirty calendar days from the date of notification of completeness to the date when the department issues its decision on the application. [Eff ] (Auth: HRS §§321-

11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-16 Service standards.** The applicant shall submit documentation demonstrating that it complies with the department service standards established in the application form. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-17 On-site survey.** The department shall conduct on-site surveys of a provider in the form of annual provider monitoring. The provider shall provide access to all records necessary to verify compliance with certification standards, and the department may conduct interviews with staff and any other individual with the provider's permission. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-18 Decision on certification application.** (a) Unless the application for a certification has been withdrawn or dismissed, the department shall make its decision on the application within the required time. The decision may be:

- (1) An approval;
- (2) A disapproval; or
- (3) A determination of noncompliance pursuant to section 11-172.1-20.

(b) On the date that the department makes its decision, it shall send the decision to the applicant by certified mail, return receipt requested, and delivered to addressee only, and also by facsimile, or by electronic mail if those means are available to the applicant.

§11-172.1-18

(c) If the department approves the certification application, a letter of approval shall be sent to the applicant and shall include the certification effective date. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-19 Failure to act within the required time.** A certification shall not be approved or disapproved solely because the department failed to issue a decision within the required time. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-20 Determination of noncompliance.** If the department determines that an existing provider applying for re-certification fails to comply with the certification requirements, it may, within thirty days after the conclusion of the on-site survey, provide a written statement of noncompliance. The statement of noncompliance shall describe the areas of noncompliance, suggest action needed to bring the applicant's operation into compliance with the requirements of this chapter, and set forth a timetable for the applicant to submit a written plan of correction. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-21 Plan of correction.** The provider shall submit a written plan of correction that shall describe the actions to be taken and specify a timetable for correcting the areas of noncompliance with the certification requirements. The provider shall submit the written plan to the department within thirty days after receipt of the written statement of noncompliance from the department. [Eff ] (Auth: HRS

§§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-22 Acceptance of plan of correction.**

The department shall notify the provider if the plan of correction is acceptable within thirty days after receipt of the plan of correction. [Eff

] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-23 Granting or continuation of certification following implementation of plan of correction.**

The department shall grant or continue the certification after it verifies that the applicant has complied with its written plan of correction and meets all the certification requirements. [Eff

] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-24 Denial of certification.** The department may deny any application for initial certification or re-certification for any of the following reasons:

- (1) The applicant or provider is not licensed to do business in the State of Hawaii;
- (2) The applicant or provider does not meet the service-specific standards detailed in the application form and instructions;
- (3) Previous felonies committed by any of the applicant's or provider's management personnel;
- (4) Previous revocation of medicaid or medicare certification or professional license of the applicant, provider, or their respective staff;

- (5) The applicant or provider lacks sufficient organizational and fiscal infrastructure;
- (6) The applicant or provider has received a written statement of noncompliance pursuant to section 11-172.1-20 and has failed to submit a written plan of correction within the time specified in section 11-172.1-21;
- (7) The provider is in violation of the terms of the department's contract and has not corrected the violation within the time specified by the AMHD; or
- (8) The applicant or provider has been terminated as an AMHD provider. [Eff \_\_\_\_\_ ]  
(Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-25 Appeal of denial.** Any applicant or provider denied certification under this chapter may appeal to the AMHD in accordance with its policies and procedures. If not satisfied with the final AMHD decision, the applicant or provider may appeal in writing to the director pursuant to the department's rules of practice and procedure, chapter 11-1. If no request for an appeal is received by the director within forty-five days of the mailing of the written final AMHD decision to the respondent, the decision shall become final. [Eff \_\_\_\_\_ ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-26 Term of certification.** Certification shall be granted for three years from the date of the department's decision under section 11-172.1-15, subject to the applicant's or provider's continuous compliance with certification requirements. Certification shall remain in effect unless it expires or is revoked. [Eff \_\_\_\_\_ ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-27 Unannounced on-site surveys.** The department may conduct on-site surveys of an applicant or provider at any time without prior notice. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-28 Certification not transferable.** Certification shall be issued only to the applicant named in the application. Certification may not be sold, assigned, leased, donated, or otherwise transferred to any other applicant or provider. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-29 Notification of changes by provider.** The provider shall notify the department immediately of any changes in its operation and staffing that affect the provider's continued compliance with the certification requirements, including changes in ownership, control, service, affiliation, or referral arrangements. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-30 Revocation of certification.** The department may revoke certification at any time if it determines that the provider has failed to comply with any certification requirement. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-31 Appeal of revocation.** Any provider whose certification is revoked under this chapter may appeal in accordance with the AMHD policies and



§11-172.1-31

procedures. If the provider is not satisfied with the final decision of the AMHD, the provider may appeal the final AMHD decision in writing to the director pursuant to the department of health's rules of practice and procedure, chapter 11-1. If no request for an appeal is received by the director within forty-five days of the mailing of the written decision to the respondent, the decision shall become final. [Eff ]  
(Auth: HRS §321-196) (Imp: HRS §321-193)

**§11-172.1-32 Termination of certification.**

Certification shall be considered terminated and invalid after its expiration date if the provider fails to apply for renewal of certification prior to the expiration date of the certification, voluntarily relinquishes certification, or if the provider goes out of business. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§§11-172.1-33 to 11-172.1-36 (Reserved).**

SUBCHAPTER 3

REIMBURSEMENT OF PROVIDERS

**§11-172.1-37 Contract for services.** The department may enter into contracts with providers certified under this chapter. [Eff ]  
(Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-38 Reimbursement for providers.** Providers submitting claims shall be reimbursed for

services as provided in section 17-1737-44.1(f).  
Providers shall submit their claims to the department.  
[Eff \_\_\_\_\_ ] (Auth: HRS §§321-11, 334-9; 42  
C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-39 Medical assistance reimbursement.**

Medical assistance reimbursement shall only be made for services provided to individuals who are eligible for medical assistance, and who are medically determined to need community mental health rehabilitation services. These services must be recommended by a physician or other licensed provider to improve the health and wellness of individuals living with serious mental illness, and to restore the individuals to the individuals' best possible functional level relevant to the individuals' illness or abuse of substances, or both. [Eff \_\_\_\_\_ ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-40 Utilization management information and data.** Providers shall submit information and data regarding appropriateness of community mental health rehabilitation services provided, lengths of stay, and quality of community mental health rehabilitation services provided to the department. Upon the department's request, the applicant or provider shall deliver within thirty days to the department the requested information. The department shall develop and give to the applicant or provider forms for providing this information and shall review the information to determine compliance with department policies and requirements. The department may establish policies and procedures for conducting reviews under this section. [Eff \_\_\_\_\_ ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

§11-172.1-41

**§§11-172.1-41 to 11-172.1-44 (Reserved).**

SUBCHAPTER 4

MISCELLANEOUS PROVISIONS

**§11-172.1-45 Free choice of provider.** All individuals receiving mental health rehabilitation services under this chapter shall be entitled to choose their providers, subject to availability, from among those certified under this chapter. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§11-172.1-46 Severability.** If any provision of this chapter or application thereof to any agency or circumstance is held invalid, the application of the remainder of the chapter to other agencies or circumstances shall not be affected. [Eff ] (Auth: HRS §§321-11, 334-9; 42 C.F.R. §431.10) (Imp: HRS §§321-11, 334-9)

**§§11-172.1-47 to 11-172.1-49 (Reserved).**

DEPARTMENT OF HEALTH

The repeal of chapter 11-172, Hawaii Administrative Rules and the adoption of chapter 11-172.1, on the Summary Page dated \_\_\_\_\_, following public hearings held on September \_\_\_\_\_, 2019, via video conferencing at (1) Department of Health Building, Honolulu, Hawaii; (2) Hilo State Office Building, Hilo, Hawaii; (3) Kona Health Center, Kona, Hawaii; (4) Lihue State Office Building, Lihue, Hawaii; and (5) Wailuku Judiciary Building, Wailuku, Hawaii, after a public notice was published on \_\_\_\_\_, in the Honolulu Star-Advertiser, Hawaii Tribune-Herald, West Hawaii Today, The Maui News, and The Garden Island.

The foregoing rulemaking action shall take effect ten days after filing with the Office of the Lieutenant Governor.

\_\_\_\_\_  
BRUCE S. ANDERSON, Ph.D.  
Director of Health

APPROVED:

\_\_\_\_\_  
DAVID Y. IGE  
Governor of Hawaii

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

\_\_\_\_\_  
Filed