

CHAPTER 47
OWI PROGRAMS

[Prior to 3/20/91, Corrections Department[291]]

201—47.1(904) OWI facilities.

47.1(1) Offenders convicted of an offense under Iowa Code chapter 321J, sentenced to the custody of the director of corrections, and assigned to a continuum of programming, including treatment providers, residential facilities and institutions, for the supervision and treatment of offenders shall be subject to the provisions of these rules and policies developed by the department of corrections.

47.1(2) The district department shall select appropriate facilities and treatment providers subject to the approval of the department of corrections, for the risk management and programming of offenders defined in this chapter.

47.1(3) Any facility operated by a district department directly or through a contract shall comply with the provisions of 201—Chapters 40 and 43 and policies developed by the department of corrections.

47.1(4) All facilities and programs operated pursuant to this chapter shall be reviewed for approval by the department of corrections initially and biennially thereafter. A district department which fails to maintain compliance with this chapter shall be subject to the provisions of Iowa Code section 905.9.

47.1(5) Any program operated pursuant to this chapter shall comply with licensure standards for correctional facilities of the division of substance abuse, department of public health, 643—Chapter 6.

47.1(6) Any facility operated in whole or in part under the provisions of this chapter shall review and consider the American Corrections Association Standards for Adult Community Residential Facilities.

47.1(7) The district director is responsible for all programs and offenders that are subject to these rules. Any change in the custody status of offenders shall be approved by the department of corrections in consultation with a district department official.

201—47.2(904) Movement of offenders.

47.2(1) The judicial district departments of correctional services and the department of corrections shall utilize standardized placement criteria founded on the presumption that assignment will be made to the least restrictive and most cost-effective component of the continuum for the purposes of risk management, substance abuse treatment, education, and employment. The continuum is defined as consisting of three basic components, namely (1) incarceration until released by the board of parole or expiration of sentence, (2) short-term incarceration for approximately 21 days with subsequent transfer to a community corrections OWI residential program with differential levels of treatment and intervention, and (3) direct placement to a community corrections OWI residential program with differential levels of treatment and intervention. The criteria established to determine continuum assignment consists of the offender's previous criminal record, present charges and attitude toward treatment.

47.2(2) When there is insufficient bed space in the community-based correctional program to accommodate the offender, the court may order the offender to be released on personal recognizance or bond, released to the supervision of the judicial district department of correctional services, or held in jail.

47.2(3) Priority for placement in the treatment program will be based on the date of sentence unless an exception is made by the department of corrections or district department for special circumstances.

47.2(4) When the offender is sentenced to the director of the department of corrections and ordered to the supervision of the judicial district and space is not available in a community program, or supervision concerns arise, the district director or designee may request temporary placement at the Iowa Medical and Classification Center for classification and assignment. Final approval is granted by the regional deputy director or designee until space is available in the community program.

47.2(5) If medical conditions prohibit program participation and community resources, including University Hospitals, are not available to sufficiently meet offender needs, the offender may be assigned with the approval of the deputy director of offender services or designee to the Iowa Medical and Classification Center at Oakdale for treatment until the offender's health status permits placement into a community-based correctional program.

47.2(6) The transfer of offenders placed with the department of corrections to community facilities may be delayed by the department of corrections for security or medical reasons. Offenders with active detainers or offenders refusing to participate in the program may be transferred to an institution.

47.2(7) Offenders placed with the department of corrections shall be transferred in custody to their assigned facility unless an exception is approved by the department of corrections.

47.2(8) The district department shall comply with established policies and develop procedures for the temporary confinement of offenders who present a threat to the safety or security of the public, facility staff, or residents.

47.2(9) Offenders housed in community facilities may be transferred to the Iowa Medical and Classification Center on the recommendation of the district director or designee and with the approval of the regional deputy director or designee for reclassification and assignment to an institution. Transfer recommendations may be made for security, disciplinary, treatment, medical, or legal reasons.

47.2(10) The district department shall maintain a current contingency plan to ensure the continuation of programs or custody of offenders in the event of an emergency such as fire, tornado, chemical spill, or work stoppage.

47.2(11) Offenders who have been housed in a community facility for substance abuse treatment, subsequently granted parole or work release, and said parole or work release is revoked, may be returned to the OWI Continuum or returned to the classification center for reclassification and placement in an institution.

201—47.3(904) Fiscal.

47.3(1) The district department shall submit an annual budget on the forms required by the department of corrections which includes a budget for all subcontractors participating in the program.

47.3(2) The district department shall maintain accounting records required by the department of corrections which account for revenues and expenditures of daily fees, interest, insurance reimbursement, and any other miscellaneous funds collected separately from appropriated funds.

47.3(3) The district department shall not enter into a subcontract for custody or treatment of offenders without the written approval of the regional deputy director.

a. Subcontractors shall be paid only for services provided on a reimbursement basis.

b. The district department shall not pay for substance abuse treatment otherwise available and funded from other sources.

c. The district department and any subcontractor shall, whenever possible, offset the cost of providing substance abuse treatment with third-party reimbursements.

d. The district department shall include, in any contract for housing or treatment, provisions to protect the district department and the department of corrections from liability arising from the actions of any subcontractor.

47.3(4) The district department shall maintain a schedule of daily fees to be assessed to offenders.

47.3(5) Offenders may not be denied services due to an inability to pay the daily fee.

47.3(6) The district department shall comply with established policies and develop procedures which require that all offenders surrender their earnings to facility staff for the purpose of financial management and savings. Those policies and procedures shall provide for the proper accounting and disbursement of all offender funds including, but not limited to, deduction of a daily fee where appropriate.

47.3(7) Upon request by the district director or designee, the county shall provide temporary confinement of offenders allegedly violating the conditions of the assignment to a treatment program. The department of corrections shall negotiate a reimbursement rate with each county for the temporary confinement of offenders.

47.3(8) A county holding offenders ordered to jail due to insufficient space in a community-based corrections program will be reimbursed by the department of corrections.

47.3(9) If an offender escapes or participates in an act of absconding from the facility to which the offender is assigned, the offender shall reimburse the department of corrections for the cost of transportation.

[ARC 9097B, IAB 9/22/10, effective 10/27/10]

201—47.4(904) Program structure.

47.4(1) The district department shall provide 24-hour housing and supervision of offenders either directly or through a contract with other agencies or individuals.

47.4(2) Each offender shall sign a supervision agreement approved by the department of corrections. Failure to sign said agreement or abide by the requirements therein shall constitute reason to recommend returning the offender to an institution.

47.4(3) The district department shall ensure that all offenders are involved in an appropriate continuum of programming which has been approved by the department of corrections.

47.4(4) Reserved.

47.4(5) The district department shall ensure, to the extent possible, that all offenders are employed a minimum of 30 hours per week.

47.4(6) The district department shall comply with established policies and procedures to allow offenders to leave the facility for treatment, employment, and food service when those activities are not provided at the facility. In all other circumstances, offenders may only leave the facility without supervision in accordance with department of corrections furlough procedures.

47.4(7) The district department, or subcontractor, shall utilize the department of corrections policies and procedures concerning offender discipline.

47.4(8) The district department shall comply with established policies and develop procedures to ensure development and modification of a restitution plan of payment for each offender entering the program. Said plan shall comply with Iowa Code chapter 910. Restitution payments shall be an integral part of each offender's financial management.

47.4(9) The district department shall comply with established policies and develop procedures to ensure that the offenders who are identified as needing continuing care receive follow-up treatment according to their identified needs. An offender will receive correctional supervision following release from the facility unless the offender's sentence has legally expired.

47.4(10) The district department shall have written policies and procedures which govern the medical care of OWI offenders in case of emergencies, sudden illnesses, accidents, or death.

47.4(11) The district department shall comply with established policies and develop procedures to ensure that a written summary of the offender's progress in the program is completed on all offenders who fail to satisfactorily complete the program and are placed at the Iowa Medical and Classification Center. Said report shall be forwarded to the Iowa Medical and Classification Center immediately following termination from the program.

47.4(12) The district department shall comply with established policies and develop procedures and criteria for recommending parole from the facility which shall include the completion of a department of corrections approved continuum of programming. The recommendation for parole shall specify the treatment hours completed and document that maximum benefits have been received. When physically able, the offender must demonstrate a satisfactory work record for at least 90 days. This requirement may be reduced by the department of corrections when justification exists.

47.4(13) Each offender shall be awarded earned time in accordance with department of corrections policies and procedures. The district director or designee may recommend the loss of earned time pursuant to the same policy.

47.4(14) The district department shall comply with established policies and develop procedures which provide for visitation of offenders. However, visiting privileges may be limited to the extent necessary for treatment, security, or management reasons.

47.4(15) Reserved.

47.4(16) The district department shall maintain and make available to the department of corrections requested data for the purpose of evaluating the facility and program.

47.4(17) The district department shall comply with established policies and develop procedures for escape when an offender is absent from the facility without authorization or there is probable cause to believe the offender is taking flight or involved in criminal activity.

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