

CHAPTER 47
OWI PROGRAMS

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

201—47.1(904) OWI facilities.

47.1(1) Clients 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 clients 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 clients 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 to include all federal PREA standards.

47.1(4) All facilities and programs operated pursuant to this chapter shall be reviewed for approval by the department of corrections initially and every five years 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 set forth in 641—Chapter 156 of the department of public health's rules.

47.1(6) The district director is responsible for all programs and clients that are subject to these rules and will develop consistent policies and procedures. Any change in the custody status of clients shall be approved by the department of corrections in consultation with a district department official.

[ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter; ARC 5247C, IAB 11/4/20, effective 12/9/20]

201—47.2(904) Movement of clients.

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 60 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 client'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 client, the court may order the client 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 shall be based on the date of institution admission or as soon as practical unless an exception is made by the department of corrections or district department for special circumstances.

47.2(4) When the client 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 (IMCC)/Iowa correctional institution for women (ICIW) for classification and assignment. Final approval is granted by the deputy director of community-based corrections 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 client needs, the client may be assigned with the approval of the deputy director of community-based corrections or designee to the Iowa medical

and classification center (IMCC)/Iowa correctional institution for women (ICIW) for treatment until the client's health status permits placement into a community-based correctional program.

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

47.2(7) Clients placed with the department of corrections shall typically transfer out of custody to their assigned facility unless an exception is required by the department of corrections.

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

47.2(9) Clients housed in community facilities may be transferred to the Iowa medical and classification center (IMCC) or the Iowa correctional institution for women (ICIW) on the recommendation of the district director or designee and with the approval of the deputy director of institutions 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 clients in the event of an emergency such as fire, tornado, chemical spill, or work stoppage.

47.2(11) Clients 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, if eligible, or returned to the designated classification center for reclassification and placement in an institution.

[ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter; ARC 5247C, IAB 11/4/20, effective 12/9/20]

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 clients without the written approval of the deputy director of community-based corrections.

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 clients.

47.3(5) Clients 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 clients 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 client 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 clients 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 clients.

47.3(8) A county holding clients 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 a client escapes or participates in an act of absconding from the facility to which the client is assigned, the client shall reimburse the department of corrections for the cost of transportation. [ARC 9097B, IAB 9/22/10, effective 10/27/10; ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter]

201—47.4(904) Program structure.

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

47.4(2) Each client 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 client to an institution.

47.4(3) The district department shall ensure that all clients 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 capable clients are employed a minimum of 30 hours per week.

47.4(6) The district department shall comply with established policies and procedures to allow clients to leave the facility for treatment, employment, and food service when those activities are not provided at the facility. In all other circumstances, clients 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 client discipline.

47.4(8) Each district department shall have policies and procedures for a restitution plan of payment for each client entering the program. Said policies and procedures shall comply with the Code of Iowa and local judicial procedure. Restitution payments shall be an integral part of each client's financial management.

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

47.4(10) The district department shall have written policies and procedures which govern the medical care of OWI clients 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 report of violations and a transfer classification decision are completed timely on all clients who fail to satisfactorily complete the program and who are being recommended for placement at the Iowa medical and classification center/Iowa correctional institution for women.

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.

47.4(13) Each client 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 clients. 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 addressing an escape when a client is absent from the facility without authorization or there is probable cause to believe the client is taking flight or involved in criminal activity.

[ARC 9097B, IAB 9/22/10, effective 10/27/10; ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter]

These rules are intended to implement Iowa Code section 904.513.

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[Filed ARC 5247C (Notice ARC 5145C, IAB 8/26/20), IAB 11/4/20, effective 12/9/20]

¹ September 5, 2018, effective date of ARC 3929C [amendments to chs 1, 5, 10, 11, 20, 38, 40, 41, 42, 43, 44, 45, 47, 50, 51] delayed 70 days by the Administrative Rules Review Committee at its meeting held August 14, 2018.