

DEPARTMENT OF HUMAN SERVICES  
OFFICE OF CHILD WELFARE PROGRAMS

CHAPTER 413  
DIVISION 95

BEHAVIOR REHABILITATION SERVICES

*Updated 07/01/2020*

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# Behavior Rehabilitation Services Program

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## 413-095-0000

### Definitions

*(Temporary Amendment 07/01/2020)*

Unless the context dictates otherwise, the following definitions, and those in OAR 410-170-0020, apply to OAR chapter 413, division 095.

- (1) “Absent day” means a calendar day:
  - (a) Either the BRS client is:
    - (A) Enrolled but not physically present in the BRS provider’s program and is not on a transitional visit, or
    - (B) The BRS client is on a transitional visit and present at 11:59 p.m. at a hosting placement that is a BRS contractor or provider;
  - (b) The Department’s placement plan is to return the BRS client to the sending BRS provider; and
  - (c) Where the BRS contractor or BRS provider obtains authorization from the contract administrator to bill the calendar day as an absent day.
- (2) “Accreditation” means:
  - (a) An endorsement certifying that the BRS program meets all of the rigorous guidelines for service and quality established by any of the following entities:
    - (A) The Commission on Accreditation of Rehabilitation Facilities (CARF),
    - (B) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or
    - (C) The Council on Accreditation (COA), or
    - (D) An independent, not for profit accrediting organization approved by the U.S. Department of Health and Human Services.
  - (b) A provisional endorsement issued by one of the entities in paragraphs (a)(A)-(a)(D) of this rule and conditionally approved by the Department for a period not to exceed 270 days from the date the provisional endorsement is issued.

- (3) “Babysitting” means the provision of temporary, occasional care for a BRS client by an individual 18 years of age or older that is:
  - (a) Ten consecutive hours or less; and
  - (b) Not overnight care.
- (4) “Evidence Based” means an approach to medicine, education, and other disciplines that emphasizes the practical application of the findings of the best available current research.
- (5) “Fictive kin” has the same meaning as kith and means an individual who is not related to the BRS client by blood, adoption or marriage but has an emotionally significant relationship with the BRS client that has the characteristics of a family relationship.
- (6) “Hosting placement” means the BRS contractor, BRS provider or foster home where the transitional visit is taking place.
- (7) “QRTP Assessment” means an assessment of the strengths and needs of a BRS client or a child by a Qualified Individual using the Child and Adolescent Needs and Strengths tool in combination with a review of clinical documentation to determine the most effective and appropriate level of care for the BRS client or child.
- (8) "Proctor foster home" means a foster home certified by a child-caring agency under ORS 418.248 that is not subject to ORS 418.625 to 418.645.
- (9) “Qualified Individual” means an individual:
  - (a) Who is a trained professional or licensed clinician;
  - (b) Who is not an employee of the Department or of the Authority; and
  - (c) Who is not connected to, or affiliated with, any placement setting in which BRS clients are placed by the Department.
- (10) “Sending placement” means the BRS contractor or BRS provider where the BRS client is currently enrolled while the BRS client is on a transitional visit.
- (11) “Transitional visit” means an overnight visit by the BRS client to a hosting placement for the purpose of facilitating the BRS client’s transition during the last 90 days of placement.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.025, 409.027, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

## **413-095-0010**

### **Administration of the BRS Program**

*(Temporary Amendment 07/01/2020)*

BRS contractors and BRS providers that provide services to a child in the care or custody of the Department of Human Services or one of the federally recognized Oregon tribes must comply with the requirements in the BRS program general rules (OAR Chapter 410, Division 170 and OAR Chapter 413, Division 095).

Stat. Auth.: ORS 183.355, 409.050, 418.005, 411.060, 411.070, 411.116

Stats. Implemented: ORS 418.005, 418.015, 418.027, 411.070, 411.116, 411.141, 418.285, 418.312, 418.315, 418.490, 418.495

## **413-095-0020**

### **Purpose**

*(Renumbered 1/2/2019)*

The purpose of the *Behavior Rehabilitation Services (BRS) Program* is to remediate the BRS client's debilitating psychosocial, emotional, and/or behavioral disorders by providing *services* such as behavioral intervention, counseling, and skills-training. *Services* must be delivered integrating a gender-responsive, culturally sensitive, trauma-informed, and developmentally appropriate approach. These rules supplement the *BRS program* general rules with additional requirements for *BRS programs* provided through contract with the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.170, 411.116, 418.005

Stats. Implemented: ORS 418.005, 418.015, 418.027, 411.070, 411.116, 411.141, 418.285, 418.312, 418.315, 418.490, 418.495

## **413-095-0030**

### **BRS Provider Requirements**

*(Temporary Amendment 07/01/2020)*

- (1) In addition to the requirements in OAR 410-170-0030, the BRS contractor and the BRS provider providing services and placement-related activities to a BRS client in the care or custody of the Department or one of the federally-recognized Oregon tribes must:
  - (a) Ensure completion of a background check, including a criminal records check and an abuse check, on each subject individual in compliance with OAR 407-007-0210 to 407-007-0370.

- (b) Ensure completion of a background check, including a criminal record check and an abuse check, on each subject individual before the individual is hired in compliance with OAR 407-007-0210 to 407-007-0370, when the BRS program uses a residential care model.
- (c) Maintain in their program records:
  - (A) Staff schedules for BRS programs utilizing a residential care model;
  - (B) Certification status for each proctor foster home for BRS programs utilizing a Proctor Care model;
  - (C) The approved DHS Authorization form for each absent day billed for a BRS client; and
  - (D) Accreditation status, if applicable.
- (d) Permit the caseworker and the Department to have immediate access to a BRS client and to any area of the premises upon which the BRS client receives services or is engaged in placement-related activities to ensure the health, safety and welfare of the BRS client and compliance with BRS program requirements. This includes a proctor foster home.
- (e) Supervise and provide support to the approved proctor foster parents by:
  - (A) Monitoring and ensuring that its approved proctor foster parents comply with all applicable rules, laws and regulations related to the BRS program;
  - (B) Recruiting, training, reimbursing, and supporting the approved proctor foster parents in providing services or placement-related activities to the BRS client;
  - (C) Visiting the approved proctor foster parents' home a minimum of once a month to provide support that includes, but is not limited to, monitoring, training, and supervising; and
  - (D) Providing, at a minimum, the following support services to the approved proctor foster parent:
    - (i) Ensure that the BRS contractor or BRS provider has staff available to provide the approved proctor foster parent with support services 24 hours per day, seven days a week, including on-call services, consultation, and direct crisis counseling;

- (ii) Provide to the approved proctor foster parents the contact information (names and phone numbers) of the program staff who are available to provide these support services; and
  - (iii) Provide to the approved proctor foster parents 48 hours per month of reprieve from approved proctor foster parent responsibilities. The BRS contractor or the BRS provider must arrange and provide daytime supervision and night-time monitoring equivalent to that provided by the approved proctor foster parents at that time.
- (2) If a residential care model is used, the BRS provider providing services and placement-related activities to a BRS client in the care or custody of the Department or one of the federally-recognized Oregon tribes must either:
  - (a) Operate a BRS program that is described in ORS 419B.354(3), or:
  - (b) Operate a BRS program that meets the definition of a QRTP in OAR 413-070-0000 (70), and:
    - (A) Comply with all other requirements of QRTPs in OAR Chapter 410, Division 170 and these rules; and
    - (B) Implement the treatment identified for the BRS client by the QRTP assessment, including identifying the treatment goals indicated by the QRTP assessment in the BRS client's MSP, if applicable.
- (3) The Department may conditionally approve accreditation for a BRS program that has a preliminary endorsement from an entity described in OAR 413-095-0000(2)(a)(A)-(D).
  - (a) The BRS provider must provide the Department with a copy of the provisional endorsement and written documentation of the steps that will be taken to receive a final endorsement and when the BRS provider anticipates receiving the endorsement.
  - (b) The Department's conditional approval of accreditation may not exceed 270 days from the date that the provisional endorsement was issued.
- (4) The Department may pursue any sanctions, remedies, or recoveries described in OAR 413-095-0050, against the BRS contractor and/or the BRS provider, for failing to monitor and ensure its approved proctor foster parents are in compliance with all applicable rules, laws and regulations related to the BRS program.

Stat. Auth.: ORS, 409.050, 411.060, 411.070, 411.116, 418.005

Stat. Implemented: ORS, 409.010, 409.025, 409.027, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, , 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

**413-095-0040**

**Prior Authorization for the BRS program; Appeal Rights**

*(Temporary Amended 07/01/2020)*

- (1) BRS program eligibility.
  - (a) The Department may provide prior authorization for the BRS program for a child who:
    - (A) Meets the requirements in OAR 410-170-0040(2)(a)(A) to (C); and
    - (B) Is in the care or custody of the Department or one of the federally recognized Oregon tribes.
  - (b) Notwithstanding subsection (1)(a) of this rule, the Department may provide prior authorization for the BRS program for a child who:
    - (A) Meets the requirements in OAR 410-170-0040(2)(a)(B) through (E);
    - (B) Is eligible for state-funded medical assistance under Title XIX and General Assistance Medical Eligibility, OAR 413-100-0400 through 413-100-0530; and
    - (C) Is in the care or custody of the Department or one of the federally recognized Oregon tribes.
- (2) Appeal rights.
  - (a) When a child is in the care or custody of the Department or a federally recognized Oregon tribe and is denied prior authorization for the BRS program under subsection (1)(a) of this rule, the child is entitled to notice and contested case hearing rights under OAR 410-120-1860 to 410-120-1865. The contested case hearing will be provided by the Authority (see OAR 410-120-1860(1)) and conducted by the Office of Administrative Hearings (see ORS 183.635).
  - (b) When a child in the care or custody of the Department and enrolled in the Oregon Health Plan is denied prior authorization for the BRS program under subsection (1)(b) of this rule, the child is entitled to notice and contested case hearing rights under OAR 413-010-0500 to 413-010-0535. The contested case hearing will be

provided by the Department and conducted by the Office of Administrative Hearings (see ORS 183.635).

- (3) Qualified Residential Treatment Program eligibility.
  - (a) A BRS client or child must have a QRTP assessment, conducted in compliance with OAR 413-070-1090, recommending placement in a QRTP. The assessment must be completed prior to or within 30 days of the child's or BRS client's placement in a QRTP
  - (b) When a BRS client or child does not receive a recommendation by the Qualified Individual for a QRTP placement, the BRS client or child must transition out of the BRS contractor's program within 30 days if placed prior to the completion of the QRTP Assessment.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005

Stat. Implemented: ORS 409.010, 411.060, 411.070, 411.095, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

## **413-095-0050**

### **BRS Placement Related Activities for a Department BRS Contractor and BRS Provider**

*(Renumbered 1/2/2019)*

- (1) A BRS contractor and BRS provider must provide facilities, personnel, materials, equipment, supplies and services, and transportation related to placement-related activities.
  - (a) Clothing. It is the responsibility of the Department to ensure the BRS client has sufficient clothing at the time of placement with a BRS contractor and BRS provider. It is the responsibility of the BRS contractor and BRS provider to maintain the BRS client's clothing at an adequate and appropriate level. A caseworker may request approval from a child welfare supervisor or program manager for payment for additional clothing when necessary.
  - (b) Transportation and travel.
    - (A) A BRS contractor and BRS provider are responsible for arranging or providing transportation for the BRS client for the following:
      - (i) School, to the extent not provided by the school district;
      - (ii) Medical, dental, and therapeutic appointments;
      - (iii) Recreational and community activities;

- (iv) Employment; and
    - (v) Shopping for incidental items.
  - (B) The cost of transportation for the BRS client for the purposes of visits to foster homes, relatives or fictive kin will be equally shared by the Department, the BRS contractor and BRS provider.
  - (C) Transportation costs. It is the responsibility of the Department, not the BRS contractor or BRS provider, to ensure the cost of transportation is paid for when that transportation is for the purpose of a court-ordered visitation. The BRS contractor, BRS provider, and the caseworker must jointly plan the transportation method as far in advance as possible.
  - (D) Written authorization from the Department must be received by the BRS contractor and BRS provider prior to transporting, or authorizing transport, of a child or young adult in the care or custody of the Department outside the state of Oregon or outside the United States.
  - (E) A BRS contractor and BRS provider must request approval from the Department no less than 90 days prior to any international travel with a child or young adult in the care or custody of the Department placed with a BRS provider or BRS contractor.
- (2) Non-BRS-related medical and mental health care.
- (a) The BRS contractor or BRS provider shall comply with OAR 410-170-0100(2)(a) if there is no record the BRS client has received a physical examination within the six months immediately prior to the BRS client's placement with its program.
  - (b) The BRS contractor and BRS provider must coordinate with each BRS client's caseworker to ensure the BRS client's mental health, physical health (including alcohol and drug treatment services), dental, and vision needs are met. This does not include paying the cost of medical or mental health services or medications that are covered by the Oregon Health Plan (OHP) or by the BRS client's third party private insurance coverage. The BRS contractor and BRS provider must work with the BRS client's Department or Tribal caseworker to secure payment for medical or mental health services or medications not covered by OHP or the BRS client's third party private insurance coverage.
  - (c) The BRS contractor and BRS provider must administer and monitor medications consistent with all applicable Department rules in OAR 413-070-0400 through 413-070-0490, and the BRS provider's medication management policy must comply with Department rules.

- (d) The BRS contractor and BRS provider must facilitate the BRS client's access to other medical and mental health providers whenever identified needs cannot be met within the scope of services offered by the BRS provider.
- (3) Educational and vocational activities. A BRS contractor and BRS provider must have a system in place for a BRS client to attend school in order to meet the educational needs of a BRS client in its program either on site or at an off-site location that complies with OAR chapter 413, division 105.
- (4) Other placement-related activities:
  - (a) Recreational, social and cultural activities:
    - (A) A BRS contractor and BRS provider must provide recreation time for the BRS client daily. A BRS contractor and BRS provider must offer activities that are varied in type to allow the BRS client to obtain new experiences.
    - (B) A BRS contractor and BRS provider must provide each BRS client a minimum of one opportunity per week to participate in recreational activities in the community, unless the BRS client is clearly unable to participate in off-site activities due to safety issues.
    - (C) The BRS contractor and BRS provider must provide access to or make available social and cultural activities for the BRS client. These activities are to promote the BRS client's normal development and help broaden the BRS client's understanding and appreciation of the community, arts, environment and other cultural groups.
    - (D) The BRS contractor and BRS provider must not permit a BRS client to participate in recreational activities that present a higher level of risk to a BRS client without the approval of the Department. This applies to activities that require a moderate to high level of technical expertise to perform safely, present environmental hazards or where special certification or training is recommended or required, such as: whitewater rafting, rock climbing, ropes courses, activities on or in any body of water where a certified lifeguard is not present and on duty, camping, backpacking, mountain climbing, using motorized yard equipment and horseback riding.
    - (E) Language and culture. The BRS contractor and BRS provider must allow a BRS client to speak his or her primary language and must honor his or her culture.
  - (b) Academic assistance: If needed, the BRS contractor and BRS provider must provide adequate opportunities for the BRS client to complete homework assignments with assistance from staff, or a proctor foster home, if applicable.

- (5) Family Involvement. The BRS contractor shall, and require its BRS provider:
- (a) Facilitate participation of the BRS client's family members in the BRS client's treatment program;
  - (b) Facilitate outreach to the family members of the BRS client, including siblings, document how the outreach is made, and maintain contact information for any known biological family and fictive kin of the BRS client; and
  - (c) Document how family members are integrated into the treatment process for the BRS client, including post-discharge, and how sibling connections are maintained.
- (6) The BRS contractor and BRS provider must comply with OAR 413-010-0170 through 413-010-0185.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

## **413-095-0060**

### **Billing and Payment for Services and Placement-Related Activities**

*(Temporary Amended 07/01/2020)*

- (1) Billable care day:
- (a) The BRS contractor is compensated for billable care day services and placement-related activities rates on a fee-for-service basis in accordance with OAR 410-170-0110.
  - (b) The BRS contractor may include overnight home visits and transitional visits by the BRS client to a hosting placement in its billable care days. The BRS contractor must:
    - (A) Receive prior approval for the home visit or transitional visit to a hosting placement from the Department;
    - (B) Ensure that the home visit or transitional visit is in support of the goals related to transition in the BRS client's most current service plan; and
    - (C) Not exceed eight calendar days of any combination of home visits or transitional visits in a month as billable care days. Transitional visits have the same restrictions and requirements as home visits as indicated in OAR 410-170-0110.

- (c) The Department will reimburse the sending placement or BRS provider at the BRS rate for the BRS type of care listed in the contract. Hosting placement will be reimbursed at the absent rate for the BRS level of care in the contract or the equivalent foster care rate.
- (2) Absent day:
- (a) The BRS contractor is compensated for an absent day at the absent day rate in order to hold a BRS program placement for a BRS client with the prior approval of the BRS client's caseworker and with authorization from the contract administrator.
  - (b) The BRS contractor is compensated at an absent day rate when the BRS contractor is a hosting placement for a transitional visit, unless the hosting placement is a foster home.
  - (c) Notwithstanding OAR 410-170-0110(4), the BRS contractor may request prior approval from the BRS client's caseworker and contract administrator to be reimbursed for more than eight but no more than 14 calendar days of home visits and transitional visits in a month for a BRS client. However, any additional days of home visits approved under this rule will be paid at the absent day rate.
  - (d) To claim reimbursement for an absent day, the BRS contractor is required to submit the DHS absent day authorization form to the contract administrator within 30 days from the dates for which the BRS contractor is requesting absent day payment.
- (3) The BRS contractor may only be reimbursed for the BRS type of care authorized in the contract with the Department.
- (4) Invoice form:
- (a) The BRS contractor must submit to the Department a monthly invoice in a format acceptable to the Department, on or after the first day of the month following the month in which services and placement-related activities were provided to the BRS client. The monthly invoice must specify the number of billable care days and absent days for each BRS client in that month.
  - (b) The BRS contractor must provide upon request, in a format approved by the Department, written documentation of each BRS client's location for each day claimed as a billable care day and an absent day.
- (5) Billable care day and absent day rates for BRS services provided on or after July 1, 2019, are in the "BRS Rates Table," dated July 1, 2019, which is adopted as Exhibit 1

and incorporated by reference into this rule. A printed copy may be obtained from the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

#### **413-095-0070**

### **When a Child or Young Adult Placed with a BRS Program is Missing**

*(Renumbered 1/2/2019)*

- (1) When a *BRS client* is missing, the *BRS contractor* or *BRS provider* must immediately report information about the missing *BRS client* to the following:
  - (a) Law enforcement;
  - (b) The National Center for Missing and Exploited Children; and
  - (c) The Department.
- (2) The *BRS contractor* or *BRS provider* must complete an incident report, as described in OAR 410-170-0030(9) whenever a *BRS client* is missing. The incident report must include documentation that the report required in section (1) was made.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.490, 418.495, P.L. 113-38 (2013)

#### **413-095-0080**

### **Compliance Reviews and Remedies**

*(Renumbered 1/2/2019)*

- (1) The *BRS contractor* must cooperate, and ensure its *BRS providers* cooperate, with program compliance reviews or audits conducted by any federal, state or local governmental agency or entity related to the *BRS program* including, but not limited to, the reviews and audits described in OAR 407-120-0170, 407-120-0180, 407-120-0310, 407-120-1505 and 410-170-0120.
- (2) The Department or its designee will conduct compliance reviews periodically including, but not limited to, review of documentation and on-site inspections.
- (3) Upon receiving any notices or reports related to compliance with a BRS contract, the Department will investigate the report to determine whether there is any material breach of the terms of the contract and take appropriate contract action.

- (4) If the Department determines the *BRS contractor* is not in compliance with its contract to provide BRS services or *placement-related activities*, or is not in compliance with rule, state or federal law or regulation, then the Department may:
- (a) Provide technical assistance;
  - (b) Require the *BRS contractor* or *BRS provider* to develop and implement a corrective action plan;
  - (c) Pursue any or all remedies authorized under the contract;
  - (d) Pursue any other remedy authorized by state or federal law; or
  - (e) Pursue any combination of (a) to (d) of this section.
- (5) If the Department determines that the *BRS contractor* or the *BRS provider* is not in compliance with state or federal law or regulation, then in addition to pursuing any contract remedy, the Department may:
- (a) Provide technical assistance;
  - (b) Require the *BRS contractor* or *BRS provider* to develop and implement a corrective action plan;
  - (c) Refer the case to an appropriate licensing or other oversight federal or state or local governmental agency or entity;
  - (d) Pursue any other remedy authorized by state or federal law; or
  - (e) Pursue any combination of (a) to (d) of this section.

Stat. Auth.: 409.050, 411.060, 411.070, 411.116, 418.005, 418.240, 418.250

Stat. Implemented: 409.010, 411.060, 411.070, 411.116, 418.005, 418.027, 418.495, 418.240, 418.250, 418.260

## **Exhibits**

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### Exhibit 1-BRS Rate Table (Effective July 1, 2020)

BRS Type of Care	Placement Model	Accredited Status	Service Rate per Billable Care Day	Placement Related Activities Rate per Billable Care Day	Total Daily Rate per Billable Care Day	Absent Day Rate
<b>Shelter</b>	Proctor Care / Therapeutic Foster Care	Non-QRTP	\$125.45	\$69.42	\$194.87	\$97.44
	Residential Care Model	Non-QRTP	\$141.96	\$63.90	\$205.86	\$102.93
<b>Community Step-Down; Independent Living Program</b>	Proctor Care / Therapeutic Foster Care	Non-QRTP	\$128.91	\$71.34	\$200.25	\$100.13
	Residential Care Model	Non-QRTP	\$145.68	\$65.57	\$211.25	\$105.63
QRTP		\$145.68	\$69.78	\$215.46	\$107.73	
<b>Proctor Care; Assessment and Evaluation Proctor</b>	Proctor Care / Therapeutic Foster Care	Non-QRTP	\$145.83	\$72.03	\$217.86	\$108.93
<b>Proctor Enhanced Services</b>	Proctor Care / Therapeutic Foster Care	Non-QRTP	\$159.45	\$73.35	\$232.80	\$116.40
<b>Enhanced Structure Independent Living Program</b>	Residential Care Model	Non-QRTP	\$175.15	\$75.27	\$250.42	\$125.21
		QRTP	\$175.15	\$79.48	\$254.63	\$127.32
<b>Basic Residential; Rehabilitation Services; and Assessment and Evaluation Residential</b>	Residential Care Model	Non-QRTP	\$175.36	\$75.26	\$250.62	\$125.31
		QRTP	\$175.36	\$79.48	\$254.84	\$127.42
<b>Intensive Rehabilitation Services; Intensive Residential; and Short- Term Stabilization Program</b>	Residential Care Model	Non-QRTP	\$210.27	\$75.48	\$285.75	\$142.88
		QRTP	\$210.27	\$79.70	\$289.97	\$144.99
<b>Intensive Behavioral Support</b>	Residential Care Model	Non-QRTP	\$304.64	\$104.27	\$408.91	\$204.46
		QRTP	\$304.64	\$110.83	\$415.47	\$207.74