

# Home and Community-Based Services and Individually-Based Limitations

Chris Angel, Jack Honey and  
Sudha Landman

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Office of Aging and People with Disabilities  
Safety, Oversight and Quality

*OHCA Convention | September 20, 2023*

# Training Objectives

**After this training, you should be able to:**

- Describe Home and Community Based Services (HCBS) requirements
- Distinguish between what an Individually Based Limitation (IBL) is and what it is not
- Prepare an IBL

# HCBS History

**Jan. 2014:** Federal HCBS regulations established

**Sep. 2018:** Oregon HCBS providers had to be in full compliance with HCBS Rules

**Mar. 2023:** CMS approved Oregon's request for an extension (i.e., Corrective Action Plan)

**Dec. 2023:** Oregon HCBS providers must be in full compliance

# HCBS Rules: OAR 411-004

## Across Programs

### Requirements

- ▶ Must have same degree of access to the greater community as those that do not receive HCBS
- ▶ Seek employment
- ▶ Engage in greater community life
- ▶ Control personal resources
- ▶ Receive services in the greater community

# HCBS Rules: OAR 411-054

## CBC Program

### Purpose

- ▶ Establish standards that...
- ▶ Promote a wide range of services in a homelike environment
- ▶ Enhance the dignity, individuality and decision-making ability of the resident
- ▶ Address the needs of the resident to maximize abilities so they can function at the highest level possible.



# Applicable Settings

ODHS APD

ODHS ODDS

OHA Health Systems Division  
*(formerly Addictions and  
Mental Health)*

Medicaid-funded and Private-pay

Residential and Non-Residential



# Rights That *Potentially* Be Limited

- Privacy (i.e., lock on entrance door to the resident's living unit/bedroom)
- Choice of roommate in shared room models
- Decorate and furnish
- Food at any time
- Visitors at any time
- Control of own schedule/activities
- Freedom from restraint

# IBL Explained

An IBL is a defined process for proposing a limit to one or more of the HCBS Freedoms, Rights, and Protections of an individual for the health and safety of themselves or others. (See OAR 411-004-0040)

When an IBL is applied, it may only be done so with the informed consent of the individual (legal representative/designee).





# “Unable to Consent”: Private Pay

Obtain a statement from doctor or health professional that individual is unable to consent to IBL.

- ▶ Note “Unable to Consent” on IBL request form (APD 0556)
- ▶ Update care plan and
- ▶ Implement IBL



# “Unable to Consent”: Medicaid

Obtain a statement from doctor or health professional that individual is unable to consent to IBL.

- ▶ Fill out IBL request form and send to Case Manager (CM)
  - ▶ If request is appropriate, CM will update Person-Centered Service Plan and send back to Provider
- ▶ Update care plan and
- ▶ Implement IBL



# IBLs Are Not...

- ▶ For the convenience of the provider
- ▶ Portable or transferrable
- ▶ Used when a person is safe and healthy (i.e., there must be a risk to the health or safety of themselves or others)
- ▶ The first option; they should be the last resort, after all other alternatives have been tried



## Prior to Applying IBL

- ▶ Defined, specific, and individualized need
- ▶ Proof of having tried:
  - Positive interventions and supports; and
  - Less intrusive methods of meeting the need
  - Methods that did not work
- ▶ Directly proportionate to the specific, assessed need



## Prior to Applying IBL (Contd.)

- ▶ Regular collection and review of data to measure effectiveness
- ▶ Established time limits for periodic reviews to determine if the IBL(s) is effective/necessary
- ▶ Informed consent of the individual
- ▶ Assurance that interventions and supports will cause no harm to the individual

# IBL Request Review: Medicaid



▶ Cognition/Behavior causing the need for IBL



▶ Significant health or safety risk to self or others



▶ Does not understand the risks

If **yes** to all three, an IBL may be considered

## IBL Request Review: Medicaid (Contd.)

- ▶ Medicaid CM will update the Person-Centered Service Plan Agreement (SPA) with the proposed IBL(s)
- ▶ If individual (legal representative or other designee) consents, a copy of the signed SPA is given to the Provider
- ▶ IBL is put into effect for agreed upon time (no longer than a year)
- ▶ If there is no consent, IBL cannot go into effect.



## IBL Provider Actions: Private Pay Process

- ▶ Try all alternatives and document the need for an IBL;
- ▶ Complete the Individual Consent to HCBS Limitations form (APD 0556);
- ▶ Meet with resident and significant others (at a minimum, the individual and a witness) to discuss proposed IBL(s)
- ▶ If individual (or legal representative/other designee) consents, put IBL into effect for agreed upon time (no longer than a year).
- ▶ If there is no consent, do not implement IBL.





# Rights That May NOT Be Limited

- Access to the broader/greater community
- Services in an integrated setting
- Accessible setting
- Control of personal resources
- Privacy, dignity, respect
- Residency agreement
- Services in a private room, if desired
- Services in a non-disability setting, if desired
- Work, if desired
- Person-Centered Planning and Plans



**NO  
LIMITS**

# Timeline



***All HCBS providers must be in full compliance with all HCBS regulations... by December 31, 2023***

# HCBS- Related Questions?



## General

[hcbs.oregon@odhsoha.oregon.gov](mailto:hcbs.oregon@odhsoha.oregon.gov)



## CBC-specific

[cbc.team@odhsoha.oregon.gov](mailto:cbc.team@odhsoha.oregon.gov)



Oregon's HCBS website (scroll to Programs, then to APD)



<https://www.oregon.gov/odhs/providers-partners/pages/hcbs.aspx>

