

Home and Community-Based Services and Individually-Based Limitations

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Office of Aging and People with Disabilities

Safety, Oversight and Quality

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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 Privatepay

Residential and Non-Residential



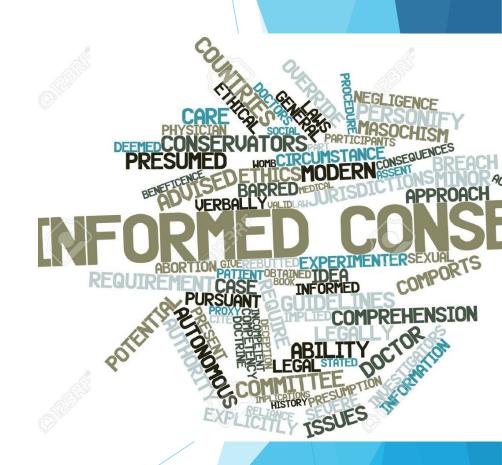
Rights That May *Potentially*Be Limited

- 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 <u>informed consent</u> 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.

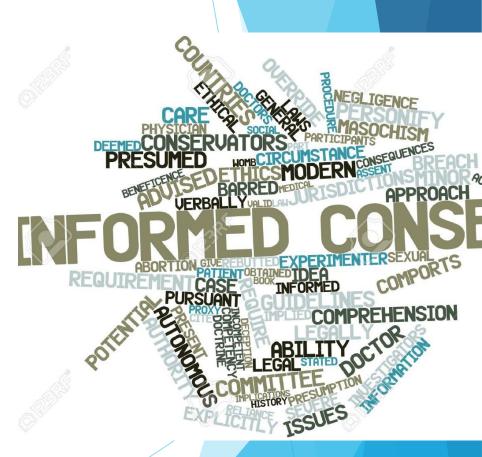
- Note "Unable to Consent" on IBL request form (APD 0556)
- Update care plan and
- ► Implement IBL



"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

Oregon Department of Human Services: APD/SOQ



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 <u>cannot</u> 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



Timeline

Licensor & Surveyor Training

AAA/APD
Case
Manager &
Supervisor
Training

Provider Training

Statewide Compliance

All HCBS providers must be in full compliance with <u>all</u> HCBS regulations... <u>by December 31, 2023</u>

HCBS-Related Questions?



General

hcbs.oregon@odhsoha.oregon.gov



CBC-specific

cbc.team@odhsoha.oregon.gov



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



https://www.oregon.gov/odhs/providerspartners/pages/hcbs.aspx

