

Lilia Teninty

Authorized Signature

Number: APD-PT-15-021

Issue date: 6/26/2015

date: **AMENDED**
2/12/2018

Topic: Developmental Disabilities

Transmitting (check the box that best applies):

- New policy
 Policy change
 Policy clarification
 Executive letter
 Administrative Rule
 Manual update
 Other: _____

Applies to (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> All DHS employees | <input checked="" type="checkbox"/> County Mental Health Directors |
| <input checked="" type="checkbox"/> Area Agencies on Aging | <input type="checkbox"/> Health Services |
| <input checked="" type="checkbox"/> Aging and People with Disabilities | <input checked="" type="checkbox"/> Office of Developmental Disabilities Services(ODDS) |
| <input type="checkbox"/> Self Sufficiency Programs | <input checked="" type="checkbox"/> ODDS Children’s Intensive In Home Services |
| <input checked="" type="checkbox"/> County DD Program Managers | <input type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input type="checkbox"/> ODDS Children’s Residential Services | <input checked="" type="checkbox"/> Other (please specify): Brokerage Directors |
| <input type="checkbox"/> Child Welfare Programs | |

Policy/rule title:	Limit on authorized hours a PSW may work per Individual Support Plan		
Policy/rule number(s):		Release no:	
Effective date:	Implementation period is September 1, 2015 through August 31, 2016	Expiration:	
References:			
Web address:			

OBSOLETE: Replaced by APD-PT-16-030

Discussion/interpretation:

Change to limitation of authorized hours Personal Support Workers may work for one individual and assigned in the Individual Support Plans

The Office of Developmental Disabilities Services (ODDS) will be implementing a new policy on September 1, 2015 on the authorization of hours worked by Personal Support Workers (PSWs). This policy is being implemented to position Oregon for anticipated regulation changes associated with the Fair Labor Standards Act.

Starting September 1, 2015, all PSWs new to an Individual Support Plan (ISP) are limited to working a maximum of 50 hours per week for each individual. PSWs currently working will be limited to working 50 hours per week for each individual as the ISP is renewed.

This does not include daily relief care.

Implementation Details:

This policy applies in all of the following circumstances:

- For new ISPs that have an effective date of September 1, 2015 or later
- For ISP renewals with effective dates September 1, 2015 or later
- When new PSWs are added to existing ISPs after September 1, 2015. PSWs added to a plan after September 1, 2015 cannot be authorized to work more than 50 hours per week per individual served. Current PSWs identified in the service plan will not be held to the 50 hours per week maximum until the renewal date of the ISP.
- When authorizing a new PSW to work with an individual September 1, 2015 or later, no PSW shall be authorized to work more than 50 hours per week, even if an ISP authorized a previous PSW to work beyond 50 hours per week (e.g. When a provider authorized to work 100 hours per week leaves, a minimum of two providers would need to be authorized to address the individual's service needs).
- All ISPs and supporting documents, including Plans of Care, job descriptions, and service agreements, for individuals served by ODDS must document the 50 hour limit for each PSW from whom an individual receives services no later than August 31, 2016 unless there is an approved exception on file for a specific PSW to work more than 50 hours in a work week.

A work week is defined as 12:00AM on Sunday through 11:59PM on Saturday.

All individuals receiving services under one of the following OARs must implement the 50 hour per work week, per individual PSW limit:

- 411-305 Family Support Services for Children with Developmental Disabilities
- 411-308 In-Home Support for Children with Intellectual or Developmental Disabilities
- 411-330 Comprehensive In-Home Support for Adults with Intellectual or Developmental Disabilities
- 411-340 Support Services for Adults with Intellectual or Developmental

Disabilities

Implementation/transition instructions:

ODDS anticipates that most individuals will utilize other qualified in-home providers including in-home agencies, more than one PSW, or natural supports to meet their assessed support needs. ODDS expects that through the person-centered planning process, back up providers and resources will be identified and documented in order for services to be provided within these requirements. Personal Agents and Service Coordinators are encouraged to proactively engage with individuals regarding these changes.

Exceptions to the hourly limit:

ODDS recognizes there will be situations requiring an exception to the 50 hour limit. The following are scenarios where an exception request may be granted by the CDDP, Brokerage, or ODDS in order to meet individual and unique support needs. In all exception cases, ODDS will require documentation that other resources were researched, referrals were made to appropriate resources, and that no alternatives are available that meet the limitation.

- There is not sufficient provider capacity of PSWs to provide the needed care to the service recipient and no other resources, including agency providers, are available.
- Individual has no alternative PSW available to provide needed care.
 - This scenario could include situations where an individual who has multiple PSWs and one or more quits, is terminated by the individual, or no longer meets provider requirements for ODDS, now needs to secure additional providers to meet his or her needs
 - This scenario could also include situations where an individual has specialized support needs to require a specially trained provider. E.g. Individual needs an OIS trained provider but the new provider is unable to take OIS training for 30 days. Another example includes waiting for a PSW to be delegated tasks by a nurse in order to provide care.
- A PSW, as part of a back-up plan within an ISP, provides Relief Care or substitute caregiving when the primary or scheduled caregiver is unavailable. Efforts to secure care that will not require an exception in this situation should be documented. Substitute caregiving that would authorize the PSW to exceed the 50 hour per week limitation should only be for needs that are time sensitive and would jeopardize health and safety if not provided during the time when the limit would be exceeded.
- There is a documented effort to remain within the authorized hours; however, emergent needs of the individual required the PSW to exceed the prior

authorized amount.

- Individual is traveling for vacation or other reasons; has need for care during the travel; PSWs schedules cannot be arranged to avoid exceeding the 50 limit; and it is not feasible for more than one provider to travel to provide the needed care.
- Individual has specific care needs related to his or her disability that are complex in nature where multiple caregivers would diminish the safety of the individual or compromise their health.

ODDS has developed criteria for these exceptions including those that can be approved at the local level and those that will need to be approved by ODDS through the Funding Review process that will be shared through transmittal and training.

The changes described above are not intended to limit the number of hours a PSW may work across multiple individuals. A PSW may work more than a total of 50 hours per week across multiple individuals at this time.

The changes are not intended to limit the number of hours of support individuals are able to access, as identified through the assessment and planning process.

Training/communication plan:

Training will be offered through a series of webinars and conference calls beginning in July 2015. This will include additional details on exceptions process.

The department is also providing letters to CDDPs and Brokerages in order to facilitate communicating these changes directly to affected PSWs and Employers of Record.

Local/branch action required:

Central office action required:

Field/stakeholder review: Yes No

If yes, reviewed by:

Filing instructions:

If you have any questions about this policy, contact:

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Oregon

Kate Brown, Governor

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Dear Employer of a Personal Support Worker:

On September 1, 2015, Office of Developmental Disabilities Services (ODDS) will make a change we would like to share with you. This change may affect how services are provided to people served by a Personal Support Worker (PSW). You are receiving this letter because you are the Employer of Record for a PSW.

PSW Hours Limit

ODDS will begin a new policy to limit the number of hours a PSW will be able to work for one individual. This policy does not affect the services provided by in-home agency providers.

Individual Support Plans (ISPs) written or renewed after September 1, 2015, will not allow any PSW to work more than 50 hours per week for one individual. This policy will be applied to PSWs working more than 50 hours per week when the individual's ISP is renewed.

This policy change will not affect individuals that receive less than 50 hours per week of support; Or, PSWs that work less than 50 hours per week, per individual.

This policy will not change the hours authorized in the ISP for the person served. If your PSW is working more than 50 hours per week, you may need to hire more PSWs or use an in-home agency provider to meet your needs. Your Service Coordinator (SC) or Personal Agent (PA) can help you explore all options when your ISP is being completed, renewed, or revised.

To assure needs are appropriately met, ODDS has established exception criteria for situations where a PSW may need to work more than 50 hours per week. Please continue to work with your SC or PA to address any questions or concerns you may have.



Oregon

Kate Brown, Governor

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Dear Personal Support Worker (PSW):

On September 1, 2015, Office of Developmental Disabilities Services (ODDS) will make a change that we would like to share with you

PSW Hour Limits

ODDS will begin a new policy to limit the number of hours a Personal Support Worker (PSW) will be able to work for one individual.

Individual Support Plans (ISPs) written, renewed, or changed after September 1, 2015, will not allow any PSW to work more than 50 hours per week for one individual. This policy will be applied to PSWs working more than 50 hours per week when the individual's ISP is renewed.

This does not apply to PSWs that work less than 50 hours a week per individual. Or, to PSWs that work more than 50 hours for more than one individual.

ODDS understands that some cases might need additional hours. Individuals will work with their Service Coordinator or Personal Agent and their support teams. Together they can identify ways to ensure their needs continue to be met if a change is needed under this policy.