

Home and Community Based Services and Settings (HCBS) & Individually-Based Limitations (IBL) Staff-Submitted Frequently Asked Questions (FAQ)

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NOTE: The date the question/answer was added to this FAQ, or amended, is found at the end of each answer. (e.g., New 01/09/24)

Question #	General Questions	General Answers
G1	Why are we making changes to the HCBS and IBL process?	CMS performed an onsite review of Oregon’s HCBS implementation and determined we were out of compliance with HCBS requirements. The online training, CM webinars and other changes are to bring APD, and APD-licensed HCBS providers, into compliance by 06/30/24. [New 01/09/24]
G2	What areas of HCBS compliance did CMS cite as being out of compliance?	Please refer to the document called “ CMS Heightened Scrutiny Site Visit Report with Oregon Responses – July 2023 ” on the Oregon HCBS website , under Oregon’s transition plan, in the Compliance section. [New 01/11/24]
G3	What is the timeframe for Case Managers to respond when notified that an IBL is needed? It will be an in-depth process that could require a reassessment and IBL meeting. How quickly do we need to get this done once an IBL is requested by the provider?	
G4	What should the Case Manager do if an IBL is needed but the provider will not request one?	
G5		
Question #	Access to Food Questions	Access to Food Answers
AF1		
Question #	Consent Questions	Consent Answers
C1		
Question #	Decorate/Furnish Questions	Decorate/Furnish Answers
DF1		
Question #	Forms Questions	Forms Answers
F1		
Question #	IBL Questions	IBL Answers
I1	When do provider start using the simplified IBL eligibility criteria?	Starting 4/1/24, providers no longer need to use criteria around cognition/behaviors when determining whether to request an IBL. Moderate health or safety risk to the individual or others will now be the only eligibility criteria providers will use. [New 01/09/24]
I2	When we talk about IBLs, do we mean limitations to the individual (client/consumer), or limitations to assist levels?	IBLs are individually-based limitations to an individual’s HCBS rights, freedoms and/or protections, applied by a provider, when the individual consents to the IBL. [New 01/11/24]
I3	In the past, if an individual was not trying to access an HCBS right, the IBL was not needed. (E.g., individual lives in locked facility)	Yes. If an individual is not attempting to use a right (as in the example – individual lives in a locked Memory Care unit and is not exit seeking/never tries to leave), an IBL limiting the individual’s HCBS right to make their

	and never tries to leave without staff) Is this still the case?	own schedule/activities would not be needed. [New 01/26/24]
14	Can an AFH provider obtain a Qualified Health Professional (QHP) statement acknowledging the individual is not capable of consenting to or signing the IBL request due to cognition deficits (dementia), and attach it to the completed 0556, to send to the CM?	If the individual is unable to consent to the proposed IBL due to cognition deficits <u>and</u> they have no one who can assist with this function (legal representative, other designee), the provider is responsible for obtaining the QHP statement that the individual is unable to consent to the IBL. The provider must then send the completed IBL request with the QHP statement to the CM, who will review the request to determine if it is appropriate and complete. Refer to APD HCBS IBL Process Flowchart Chart 2 and Terminology pages [New 03/05/24]
15	Who falls under the definition of QHP?	A QHP is a physician, physician’s assistant, nurse practitioner, qualified mental health professional, or psychiatrist <i>who knows the individual</i> and who makes a determination on whether the individual can consent to the IBL (i.e., make this long-term care decision). <i>This is not a determination of the individual’s cognitive ability.</i> [New 03/05/24]
16	What is the criterion for an “appropriate” IBL request [0556]?	Starting 4/1/24, to be considered “appropriate,” the proposed IBL must clearly show that there is a moderate health or safety risk to the individual or others. [New 03/05/24]
17	How does the CM determine if the IBL request [0556] is “complete”?	To be considered “complete,” the proposed IBL [APD 0556] must: <ul style="list-style-type: none"> - Identify a defined and specific, individualized need - Include less restrictive methods tried that failed - Be directly proportionate to the specific, assessed need (and not be for the convenience of the provider) - Describe how the effectiveness will be measured, and who will monitor the effectiveness - Have a time limit (no more than 1 year) Basically, each of the (sub)questions on pages 1-2 must be fully answered. [New 03/05/24]
18		
Question #	Oregon ACCESS/SPA Questions	Oregon ACCESS/SPA Answers
OAS1	On the SPA, why do CMs now need to select “Other” and enter the name of the provider (e.g., ABC Assisted Living)? (<i>see also OAS4 and OAS6</i>)	CMS wants the name of the provider selected by the individual to be included on their person-centered service plan. The easiest way to meet this requirement is to add it to the SPA in the “Other” field. [New 01/09/24]
OAS2	Should CMs still use the “IBL Screening” button in OA Service Planning?	No, this function is obsolete. We have requested the button be removed. [New 01/09/24]
OAS3	How can we tell if an individual has an IBL in place?	Currently, the only way to tell is by reviewing OA Narratives. IBLs cannot be in place for more than one

		year, so there is no need to look past that timeframe. <i>Note: We requested a checkbox (yes/no) indicator for OA, to assist CMs in determining this for caseload changes, branch changes, etc. However, there is no ETA for if/when this functionality will be added.</i> [New 01/09/24]
OAS4	On the SPA, when we are adding the name of the provider in the “Other” field for a person on a PACE service plan, do we need to add the name of the specific facility? (see also OAS1 and OAS6)	Yes. [New 01/11/24]
OAS5	When an AFH or CBC has more than one name, which is preferable to use on the SPA “Other” field?	Either Legal or Preferred name is acceptable. It may be easiest to use the residential provider’s name on the individual’s service plan. [E.g., AFH may have a Legal Name of ‘John Doe AFH’ and a Preferred Name ‘Caring Hands AFH’] [New 01/11/24]
OAS6	Do we need to send a new SPA with the name of the new provider in the “Other” field every time the individual moves to a new facility (e.g., still PACE-Res, but moves from one CBC facility to another)? (see also OAS1 and OAS4)	Yes. [New 01/11/24]
OAS7	Do we need to send a new SPA for the IBL every time the individual moves to a new facility/AFH?	IBLs are tied directly to a specific facility/AFH. If an individual moves from one facility/AFH to another, a new SPA would be needed – but not immediately . IBLs cannot be transferred from one facility/AFH to another. Each provider has to try (new) less restrictive options to an IBL (which should be a ‘last resort’) before they can request the IBL be put in place. A new SPA for this purpose is not needed unless an IBL is put in place at the new facility/AFH. [New 01/11/24]
OAS8	Do we need to do a new SPA for all new assessments and/or new IBLs?	Specific to HCBS, a new SPA is needed when an individual moves to a new facility/AFH, when a new IBL is put in place, and when an individual revokes their consent to an IBL. [New 01/11/24]
OAS9	Will APD-PT-18-042 When to use SPAN (Service Plan and Notice) be updated?	<i>We will flag this for further consideration.</i> [New 01/11/24]
OAS10	When we say SPA, are we talking about the whole ODHS 2780N (SPAN), or just the SPA (Service Plan Agreement) page?	As used when talking about HCBS and IBLs, SPA refers to the Service Plan Agreement (SPA), not the whole ODHS 2780N (SPAN). [New 01/11/24]
OAS11	Where are IBLs on the SPA page?	To indicate there is an IBL, select the “Limitation(s) to your HCBS Rights” box, found in the top section of the

		SPA, underneath “Community Based Care” and to the right of “Specialized Living”. Once that box is selected, a section called “Individually-Based Limitation(s)” will open up where the CM can document the appropriate IBL(s). [New 01/11/24]
OAS12		
Question #	Privacy (Lock on Door) Questions	Privacy (Lock on Door) Answers
PL1		
Question #	Representatives/Guardians Questions	Representatives/Guardians Answers
RG1		
Question #	Restraints/Coercion Questions	Restraints/Coercion Answers
RC1	Can we get a clear definition of chemical restraint? Is this any sedative that clients take or medications that are given PRN for agitation and behaviors?	In Adult Protective Services OAR 411-020-0002(39), chemical restraint is defined as “any substance or drug used for the purpose of discipline or convenience that has the effect of restricting the individual’s freedom of movement or behavior and is not used to treat the individual’s medical or psychiatric condition.” OAR 411-020-0002(1)(h)) defines wrongful use of a chemical restraint of an adult to include situations where: (1) A licensed health professional has not conducted a thorough assessment before implementing a license physician’s prescription for restraint; (2) Less restrictive alternatives have not been evaluated before the use of the restraint; or (3) The restraint is used for convenience or discipline.
Question #	Roommate Questions	Roommate Answers
R1		
Question #	Schedule/Activities Questions	Schedule/Activities Answers
SA1		
Question #	Training Questions	Training Answers
T1	What is the deadline for CMs and their supervisors to take the HCBS-IBL online training?	CMs and their supervisors (and HCBS residential providers licensed by APD) must take the mandatory HCBS-IBL online training (by OCP) between 01/15/24 and 03/31/24. [New 01/09/24]
T2	Where do I get answers about how to attend the HCBS-IBL online training?	Refer to the FAQ for HCBS-IBL Online Training document, located on the CM Tools – HCBS website. [New 01/09/24]
T3	When are the HCBS-IBL CM Webinars going to be held?	There will be two in March 2024 (dates to be determined). If necessary, additional webinars may be scheduled for April 2024. [New 01/09/24]
T4	Will these trainings (HCBS-IBL online training and CM Webinar) be in Workday, so management can track compliance?	The mandatory, HCBS-IBL Online Training will not be in Workday. Refer to the FAQ for HCBS-IBL Online Training document, located on the CM Tools – HCBS website, to see how Local Offices can document which staff have

		taken the training. While the CM Webinar will be added to Workday, there are no compliance requirements at this time. [New 01/11/24]
T5	Is the HCBS-IBL online training mandatory for all CMs and their supervisors?	Yes. [New 01/11/24]
T6		
Question #	Visitors Questions	Visitors Answers
V1		

Glossary of Terms

- AFH – Adult Foster Home
- ALF – Assisted Living Facility
- APD – Aging and People with Disabilities
- APS – Adult Protective Services
- AR – Action Request (Policy Transmittal requiring action from staff)
- CBC – Community Based Care
- CFR – Code of Federal Regulations
- CM(s) – Case Manager
- CMS – Centers for Medicare & Medicaid Services
- HCBS – Home and Community-Based Services and Settings
- HCW – Homecare Worker
- IBL – Individually-Based Limitation
- ICAA – Oregon’s Indoor Clean Air Act
- LTC – Long Term Care
- MCC – Memory Care Community
- OA – Oregon ACCESS (Medicaid Case Management System)
- OAR – Oregon Administrative Rule
- OCP – Oregon Care Partners
- ODHS – Oregon Department of Human Services
- OFC – Oregon Fire Code
- PT – Policy Transmittal
- QHP – Qualified Healthcare Professional
- RA – Residency Agreement
- RCF – Residential Care Facility
- SDS – Senior and Disabled Services (used as part of a form number)
- SPA – Service Plan Agreement (within Service Plan and Notice, ODHS 2780N)