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Number: APD-AR-17-041

Issue date: 7/12/2017

Topic: Long Term Care

Due date:

Identifying Client Representative for Long-Term Care decision-making and educating consumers regarding Home and Community-Based Services

Subject: rights and freedoms

Applies to (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> All DHS employees | <input 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 type="checkbox"/> Office of Developmental Disabilities Services(ODDS) |
| <input type="checkbox"/> Self Sufficiency Programs | <input type="checkbox"/> ODDS Children's Intensive In Home Services |
| <input 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 (<i>please specify</i>): OPI |
| <input type="checkbox"/> Child Welfare Programs | |

Action required: Effective July 1, 2017, Medicaid/OPI Case Managers are responsible for:

1. Requesting contact information for people related to or close to the individual and documenting the information in Oregon ACCESS under the Contacts tab and assigning the role as **Natural Supports**. The following contacts should be documented in Oregon ACCESS, if available and provided by the consumer:

Spouse, Adult Children, Parents, Siblings, Other Relatives or Friends.

2. Requesting information about whom the individual would want to make decisions for them in the future, if they should lose the ability to make decisions for themselves.

The individual documents their choice on the revised SDS 0737 (Draft form [linked here](#) and also attached). This revised version will need to be printed locally until the previous version can be obsoleted and replaced by the attached version.

This information is to be entered in Oregon ACCESS under the Contacts tab and the role assigned as **Client Representative**.

These actions should occur at initial assessment or reassessment and be confirmed as accurate at each subsequent reassessment.

Individuals are being asked to provide this information voluntarily and may not be required to provide this information as a condition of eligibility.

3. Educating consumers living in or moving to APD licensed residential settings about HCBS rights in a person-centered manner, from July 1, 2017, through June 30, 2018. The use of HCBS fact sheets are encouraged, when appropriate and understandable to the consumer. Attached is the recommended fact sheet that has the primary HCBS topics. Additional hard copies of this fact sheet (APD 0556V) can be obtained through the forms distributions system (FBOS). These actions should occur at initial assessment or reassessment.

Case Managers should advocate for those individuals who are not experiencing the rights and freedoms outlined in the fact sheet and who wish to exercise their rights or freedoms.

As instructed in the recent mandatory Case Manager Webinars on “Person-Centered Consumer HCBS Education” Case Managers should note any Direct and Indirect contacts they make related to the HCBS education. To assist with capturing these contacts, Oregon ACCESS now has a “Rights and Freedoms” option in the Service(s) Activity section on the CM Service(s) Tab.

Note: Providers should already be aware of the HCBS expectations, have plans in place to allow for the rights, and be making measurable progress towards allowing the rights.

The above actions are consistent with the mandatory Case Manager Training provided in June 2017. To view and listen to a recorded version of this training go to:

http://www.dhs.state.or.us/spd/tools/cm/mandatory_inservice_webinars/mandatory_cm_webinars_index.htm

Reason for action:

The purpose of this change is:

- To prepare for compliance with Federal Home and Community-Based Services expectations. Should we need to pursue the limiting of an individual’s rights or freedoms for the safety of the individual or others, having contact information and designated individuals for decision making better enables us to propose and implement protective measures when they might be necessary.

- To assure Medicaid individuals and others are aware of, understand, and experience their new and emerging rights to the maximum extent they are able to when receiving Home and Community-Based Services.

Attached are the Revised SDS 737, DHS 0556V Visual Fact Sheet and APD Representative Types with definitions. The Representatives Types document will be further refined with additional definitions added to it in a future release.

Field/stakeholder review: Yes No

If yes, reviewed by: APD Policy & Operations

If you have any questions about this action request, contact:

Contact(s):	Bob Weir		
Phone:	971-600-7876	Fax:	
Email:	Bob.Weir@state.or.us		

REPRESENTATIVE CHOICE FORM

By using this form, I may choose the following types of Representatives: Client Representative and Consumer's Employer Representative.

CLIENT REPRESENTATIVE

I understand that I can appoint someone to help make Long-Term Care decisions for me. For example, they may help me decide where to live, who to choose as my provider, and make decisions that will help keep me safe. This person would be used when I want support with making decisions or am no longer able to make decisions for myself.

I **do not** have to name someone. If I do not choose anyone and it is determined I can no longer make decisions for myself, a decision-maker will be appointed for me. If needed, APD will appoint a decision-maker for me in this priority order:

- Guardian or other Legal Representative
- Spouse
- Majority of adult children
- Parent
- Majority of adult siblings
- Any adult relative or friend
- Advocacy Agency or Individual

Unless I give other instructions, APD will use the person I choose only if a doctor or other health professional determines that I am no longer able to make decisions.

No matter who I choose and how much I want them involved:

- If I disagree with my chosen decision-maker, APD will listen to me first.
- I have the right to contest decisions made on my behalf that I disagree with.
- APD will encourage and support me to be included whenever decisions are being made about me. I understand APD wants me in the driver's seat when it comes to planning my services.

I may revoke or change my chosen Client Representative(s) at any time.

Aging and People with Disabilities (APD)

Client
[text]

Date comp.
[text]

Case number
[text]

Prime number
[text]

Date of birth
[text]

SSN (last 4)
[text]

Branch code
[text]

Worker
[text]

Worker phone
[text]

It has been explained to me that:

I **do not** have to choose a Client Representative. If I do not choose a Client Representative and my health or safety are at risk, one may be appointed for me.

The use of a Client Representative:

- Does not mean I am incompetent.
- Does not take away my legal and civil rights.

I do not want to choose a Client Representative.

I wish to have a Client Representative, but cannot identify anyone at this time.

I will choose a Client Representative; see pages 3.

CONSUMER'S EMPLOYER REPRESENTATIVE

I understand that if I choose to receive in-home services provided by a homecare worker:

- I must be able to manage the Consumer's Employer Responsibilities explained below; or
- I must choose someone to manage them for me.

Anyone who is paid to provide me services cannot be my Employer Representative. If it is determined that my chosen Employer Representative cannot perform the Employer Responsibilities, a new one must be chosen.

Consumer's Employer Representatives duties include:

- Locate, screen, and hire a qualified homecare worker;
- Supervise and train the homecare worker;
- Schedule the homecare worker's work, leave, and coverage;
- Track the hours worked and verify the authorized hours completed by the homecare worker;
- Recognize, discuss, and attempt to correct any performance deficiencies with the homecare worker; and
- Terminate an unsatisfactory homecare worker.

I understand that if I select an Employer Representative, that individual should discuss any decisions made with me.

I choose to manage my own Employer Responsibilities.

I choose to have a Consumer's Employer Representative; see page 4.

REPRESENTATIVE CHOICE FORM

CLIENT REPRESENTATIVE INFORMATION

For Future Decision-Making, I choose the following person(s) to make long-term care decisions for me if I am unable:

MY 1st CHOICE IS:

Name: _____ (first, middle, last)

Date of Birth: _____ Relationship to Consumer: _____

Street Address: _____

City, State, Zip Code: _____

Phone Number(s): _____ (specify type: cell, work, home)

MY 2nd CHOICE IS:

Name: _____ (first, middle, last)

Date of Birth: _____ Relationship to Consumer: _____

Street Address: _____

City, State, Zip Code: _____

Phone Number(s): _____ (specify type: cell, work, home)

MY 3rd CHOICE IS:

Name: _____ (first, middle, last)

Date of Birth: _____ Relationship to Consumer: _____

Street Address: _____

City, State, Zip Code: _____

Phone Number(s): _____ (specify type: cell, work, home)

Signature _____ Date _____

FOR APD OFFICE USE ONLY

The individual is unable to identify a Client Representative. APD will appoint one.

CONSUMER'S EMPLOYER REPRESENTATIVE INFORMATION

Name: _____ (first, middle, last)

Date of Birth: _____ Relationship to Consumer: _____

Street Address: _____

City, State, Zip Code: _____

Phone Number(s): _____ (specify type: cell, work, home)

CONSUMER'S EMPLOYER REPRESENTATIVE

By signing below, I am confirming that I accept responsibility, on behalf of the Participant named above, for the Employment Responsibilities listed above under Employer Representative. If I am unable or chose to discontinue these responsibilities, I will notify the individual I have been assisting and the case manager so that someone else can be designated.

Signature of Consumer's Employer Representative, if any

Date

You can get this document in other languages, large print, braille or a format you prefer. Contact the APD Forms Coordinator at 503-945-6484 or email dhs.forms@state.or.us. We accepts all relay calls or you can dial 711.

**Individually-Based
Freedoms and Protections**
Provider Owned, Controlled or Operated
Residential Settings

The freedoms and protections below can only be limited if there is a risk to you or someone else.

Written Agreement

There is a lease or written agreement in place for where you live. This agreement has protections against being evicted or having to move out as well as responsibilities for you as a resident.



Schedule/Activities

You have the freedom and support to control your schedule and activities.



Locks

You can lock your room or apartment door.



Access to Food

You have the freedom and support to have access to food at any time.



Decorations

You can furnish and decorate your room or apartment within your rental or lease agreement.



Visitors

You can choose who visits you and when they visit.



Roommates

When you share a room, you have a choice of who your roommate is.

Freedom from Restraints



You have a right to be free from restraints.

Physical restraints can be something or somebody that restricts your body and is usually against your will.



Restraints can be **chemical**, like a pill or medication that restricts you and is usually against your will.



Even if a person wants or requests a restraint, a restraint should only be used after all other methods of keeping the person safe have been tried.

Restraints may be used only when there is a threat to the health or safety of you or others, and only when you or your legal representative agree to the use of restraints.

For more information on Home and Community-Based Services (HCBS), please visit <http://www.oregon.gov/dhs/seniors-disabilities/HCBS/Pages/index.aspx>.

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APD Representative Types in Oregon ACCESS (OACCESS)

Types/Roles

Appointed Representative: The representative appointed by APD in the event no Client Representative has been designated. Appointed in the following priority order: guardian, spouse, a majority of the adult children, either parent, a majority of the adult siblings, any adult relative or friend. Only one person should be assigned this role. (Do not use this role used until July 1, 2018)

Authorized Representative: The representative for completing the initial Application and/or renewal applications for services and benefits. Only one person should be assigned this role. (Must be documented on the DHS 0231)

Client Representative: The representative chosen by the individual to act on their behalf in the event they can no longer make long-term care decisions. Only one person should be assigned this role. (Must be documented on SDS 0737)

Consumer Employer Representative: The representative responsible for assisting in developing the least costly service plan, including hiring, firing, scheduling time and overall management of Home Care Workers. Only one person should be assigned this role. (Must be documented on SDS 0737)

Other Types/Roles that are available to assign in OACCESS

Emergency Contact: The representative chosen by the individual and most likely to be available in an emergency. This role can be assigned multiple times as needed to create a list of emergency contacts.

Guardian/Conservator: Legal Representative appointed by the court for decision making or financial protection. This role can be assigned twice, once for Guardian and once for Conservator.

Natural Support: The representatives and/or contacts that may provide support of any type that may be rendered by, family, domestic partner, friend, or other close individual. This role can be assigned multiple times as needed.

The following Types/Roles in OACCESS will be defined in a future Transmittal:

Alternate Payee, Money Management, Non-Applicant Household Member, Non-Applicant Owner, Other Payer, Tied to previous assessment