

Limit on authorized hours a PSW may work per Individual Support Plan FAQs

ODDS will be holding conference calls to answer questions related to the implementation of

[APD-PT-15-021: Limit on authorized hours a PSW may work per Individual Support Plan](#) and the procedures for exceptions to this policy.

Starting September 1st, 2015 new Questions related to this policy will be answered on the same call as questions regarding Plan of Care. These calls will occur every other week, on Tuesdays, from 1 to 2 pm. Questions must be submitted by close of business the Monday prior to the call in to ODDS.Questions@state.or.us, include "POC/50 Hour Limit call-in" is the email subject line.

The PowerPoint training materials related to the implementation of this policy and exceptions are located at [SC/PA Training on "Limit on authorized hours a PSW may work per Individual Support Plan" Policy](#) on the [Provider and Partners Resources](#) page

UPDATE: Q: Will eXPRS be updated to assist with tracking?

A: ODDS is considering options for changes to eXPRS to assist with the new requirements. Any changes will not be immediate as there are continued policy discussions that may impact these requirements.

NEW: ODDS continues to consider options for enhancements to eXPRS to assist with this policy. However, ODDS does recommend that PSWs not be authorized in a plan line for more than 220 hours per month. While this will not enforce a weekly limit for the PSW, it will assist with monitoring services delivered on timesheets for the SC or PA

NEW: Q: If a PSW works more than 50 hours in a week: Do they get paid?

A: ODDS is not expecting that CDDPs or Brokerages deny hours worked within the assessed hours.

NEW: Q: If a PSW works more than 50 hours in a week: What actions should a SC/PA take?

A: The SC/PA role is in monitoring the services delivered and supporting the employer. The SC/PA should research what happened with the individual and take next steps that are appropriate

- Was it a situation that would have qualified for an exception (relief care for immediate loss of primary caregiver, emergent need related to risk of health and safety)?

If so, determine if this exception could be locally reviewed and approved or needs to be submitted to ODDS. Assess whether there are options to prevent the need for this exception the future. See Worker Guide for more information.

- Does the individual need support in identifying more providers for their planned care needs or as part of their back-up plan?

If so, assist the individual in accessing other resources to meet their needs.

- Does the Common Law Employer (EOR) need support to manage their employee better? Need support to understand the policy? Support to understand their responsibilities as an employer under OAR? Support to discipline an employee for exceeding the limits? Is the issue ongoing and an intervention to terminate the employer necessary?

If so, support and assistance from a PA or SC may be helpful or a referral to the STEPs program. If it is determined that the Employer is not able to fulfill their responsibilities assist the Employer in selecting a different Employer, delegating some of the Employer responsibilities to a representative, or follow the steps outlined in OAR to intervene and terminate the Employer.

NEW: Q: If a PSW works more than 50 hours in a week: How many times can they go over the limit?

A: Depends on the situation.

- If it is an employer training/support issue determine if the employer is able to fulfill their responsibilities, if not an intervention with the Employer, up to and including termination of the employer, may be necessary. Follow the process in OAR including required Notices.
- If it is an employee who is working more than the employer has scheduled against the employer's wishes on a repeated basis this may need to be reported for abuse. This may also need to have a Recommendation to Take Action Against a PSW sent to ODDS.

NEW: Q: What role should the EOR/Common Law Employer have?

A: Their role is to schedule work times for their employee, cover leave, review hours worked and verify that they were authorized, and attempt to correct perform issues.

NEW: Q: If a PSW works more than 50 hours in a week and the SC/PA is doing follow up, should payments be processed if accurate?

A: Yes, at this time.

NEW: Q: If a PSW works more than 50 hours in a week: Can the hours over 50 be held back and only 50 hours paid?

A: Not at this time, however the actions described above should be taken by the PA/SC to prevent recurrence

NEW: Q: Are SC/PAs expected to count up each week's hours during the pay period? Or random checks (acknowledging they are still reviewing for accuracy)

A: Each week does not need to be totaled by the PA/SC. While reviewing timesheets to monitor the provision of authorized services if it appears that there may be more than 50 hours claimed by a PSW in a week begin the follow up that is indicated above.

Q: Since weeks don't fit neatly into months, having monthly allocations of ANA hours but weekly caps makes it impossible to effectively allocate hours when the customer wants to authorize a PSW close to the weekly cap. If a customer wants a PSW for the full 50 hours/week how should we authorize this in POC?

A: ODDS is not requiring that POCs be entered in a manner that limits PSWs to 50 hours per week. However, like monthly authorizations the service delivered entries will check first against the Service Plan Authorization line, then the monthly ANA/CNA hours. Multiple weekly or monthly authorizations can be created up to the total ANA/CNA hours and the weekly limits and they should all draw down from the ANA/CNA hours.

Q: Are plan revision/Service Agreement revisions involving an existing provider working above 50 hours okay after 9/1, but before the individual's plan renews? The FAQ only specifies that new providers can't be added to work more than 50 hours. (e.g. Is it okay if Provider A is working 52 hours/wk., Provider B is working 62/wk. hours. Individuals plan renews 12/1, but due to a change in circumstances

wants to adjust hours on 10/1 between providers, so that both work 57 hours/wk. for remainder of plan year. Is this allowable?)

A: Yes, the example you give is allowable. As long as the provider was working more than 50 hours before the adjustment the provider can continue working more than 50 hours until the ISP renewal date. However, no PSW should be authorized for more than 50 hours who was not authorized for more than 50 hours per week. ODDS understands that most authorizations only limited to a monthly amount of hours that the employer directed between their providers. This would only apply when there was a specific authorization for a PSW to work less than 50 hours per week for an individual.

Q: [For the local review of exceptions is the] 24 hours [per quarter] based on calendar months or the ISP year?

A: The 24 hours per quarter is based on the ISP year.

Q. Why does the “Provider Capacity Exception” use 45 minutes in the criteria instead of using miles?

A: Some Agencies that provide In-Home services are limited to providing services to individuals within a one hour radius of their location. ODDS wanted to use the same methodology (time) for consistency when developing the criteria.

Q: Does this apply to PSWs working for individuals in CIIS?

A: No, the OARs that govern CIIS restrict PSWs from working more than 40 hours per week. This change does not impact those rules.

Q: If a new PSW is added, will the limitation apply only to the new PSW or to ALL PSWs working under that plan?

A: The restriction to 50 hour work weeks will only apply to the new PSW if the ISP has not reached the date when it must be renewed.

Q: [For the local review of exceptions is it] 24 hours [per quarter] over the ANA hours or over the 50 hours

A: It would be 24 hours per quarter approved to the PSW over the 50 hour/week per individual. None of the exceptions are intended to provide additional supports beyond what is authorized in the assessment. Individuals are expected to self-direct their care within the assessed and authorized support level.

Q: Will there be an opportunity for the state to meet with PSW's to explain these changes directly?

A: ODDS has provided letters that may be provided to both PSWs and their Employers regarding this new policy. They can be found at [PSW Letter](#) and [Employer Letter](#) on the Staff Tools pages.

Q: Will we be getting the information for the call in to provide to the PSW's and employers of record?

A: The call-ins are intended for Services Coordinators and Personal Agents for understanding and implementing the policy and exceptions process. ODDS has provided letters that may be provided to both PSWs and their Employers regarding this new policy. They can be found at [PSW Letter](#) and [Employer Letter](#) on the Staff Tools pages.

Q: Is the worker guide in which languages?

A: The [Worker Guide](#) is intended for use by Services Coordinators and Personal Agents, not Employers or PSWs therefore it is only available in English.

Q: Will there be training for employers regarding this new policy?

A: ODDS has provided letters that may be provided to both PSWs and their Employers regarding this new policy. They can be found at [PSW Letter](#) and [Employer Letter](#) on the Staff Tools pages.

Q: If we use a 50 hour week limit for a PSW in eXPRS providing attendant care and this PSW also provides relief care up to 14 days/year, will eXPRS stop any authorization that exceeds 50 hours in a particular week?

A: At this time the 50 hour work week limit does not apply to daily relief care. eXPRS will not enforce the limitation on the total hours claimed by the PSW. It can only prevent claims that exceed a single authorization line.

Q: Who is the best contact to follow up regarding POC logistics? We foresee many difficulties in actually entering in POC based on this information.

A: ODDS is not requiring that POCs be entered in a manner that limits PSWs to 50 hours per week. If you have specific scenarios that we can look at please send them to DOL.Questions@state.or.us prior to the next call in and we will try to address them.

Q: Any exceptions for live-in providers?

A: Not specifically, if the individual has needs that would qualify him or her for the exception criteria provided in the [SC/PA Training on "Limit on authorized hours a PSW may work per Individual Support Plan" Policy](#) and [PSW Hours Limits Exceptions Worker Guide](#). There is not an exception specifically for PSWs that live with the individual that they provide supports to. Any exception must meet the definition of a [Social Benefit](#) found in OAR and the [Worker Guide](#).

Q: Where would you expect to see this limit on the ISP?

A: This could take various forms on the ISP. This could be recorded in the Personal Preferences section for PSW services that are being delivered identifying the amount of supports to be provided by this provider type and indicating the number of PSWs that the preferred supports are split among. This could also be in the Risk Management Plan documenting the back-up plan for when a PSW is not available due to the hourly limit. This could be in the Desired Outcomes section documenting when additional providers need to be secured to provide needed supports or to inform the Employer of the limitations or provide supports to the Employer around the limits.

Q: This change really seems more like Employer responsibilities which we are trying to stay away from. If a person is sick and call their case manager for additional hours and the case manager is out and doesn't get this message, how will that look?

A: ODDS intends for the role of the CDDP or Brokerage to be focused on authorization of services that are within this policy.

This would include assisting the individual in developing a back up plan that includes adequate resources for the individual to utilize in the event that a PSW is not available to provide supports.

This may also include interventions with the Employer if the Employer is requiring work by the PSW outside of the authorization or is failing to correct the performance of a PSW that violates the policy. [OAR 411-340-0135](#); [OAR 411-330-0065](#); [OAR 411-308-0135](#)

If it is suspected that the PSW is committing fiscal improprieties or is not able to work within the limitations it may be appropriate to refer the case to Medicaid Fraud Unit or send a Recommendation to Take Action Against a PSW.

Q: So, if there's a reason to temporarily increase the number of hours a PSW works (brokerage approval) - we would have to end a POC line for SD, do a new one that would be temporary, then re-enter a new line?

A: Yes that is correct, if the POC is entered with a weekly limitation. ODDS is not requiring that POCs be entered in a manner that limits PSWs to 50 hours per week.

Q: Will eXPRS be updated to assist us in managing this?

- a. We need a database that can assist with the translation from weekly to monthly allocations. In our former databases we would be able to do this. We are reliant on eXPRS to assist us with this.
- b. We are very concerned that the amount of data people are expected to manage is overwhelming. This policy calls for the possibility of tracking two potential exception amounts over a quarter. We need the database (eXPRS) to assist us in managing these hours. Humans will not be able to track.

A: ODDS is considering options for changes to eXPRS to assist with the new requirements. Any changes will not be immediate as there are continued policy discussions that may impact these requirements.

Q: What do we do if providers bill more than 50 hours? Do we deny their hours? It would be helpful to have a specific policy/direction around this.

A: ODDS is not expecting that CDDPs or Brokerages deny hours worked within the assessed hours.

ODDS would expect that the SC/PA follow up with the Employer regarding the excess hours worked to determine the reasons the PSW worked beyond the limitation and follow up accordingly including possible interventions with the Employer if the Employer is requiring work by the PSW outside of the authorization or is failing to correct the performance of a PSW that violates the policy. [OAR 411-340-0135](#); [OAR 411-330-0065](#); [OAR 411-308-0135](#)

If it is suspected that the PSW is committing fiscal improprieties or is not able to work within the limitations it may be appropriate to refer the case to Medicaid Fraud Unit or send a Recommendation to Take Action Against a PSW.

Q: If an exception is needed will it also need to be authorized in the ISP and Service Agreements? How will this happen when the need is immediate or on short notice?

A: The ability to have CDDP/Brokerage approval of exceptions was intended to provide the flexibility to respond to immediate needs of individuals. In general, it is expected that most exceptions will be prior approved however, ODDS is aware that emergent needs of individuals may require retroactive approval.

Q: Is 120 days, 120 working days or calendar days [for CDDP/Brokerage exception timelines]?

A: 120 Calendar days