

# Policy Transmittal Aging and People with Disabilities



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**Number: APD-PT-20-090**

**Issue date: 7/29/2020**

**Topic:** Long Term Care

**Due date:**

**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 type="checkbox"/> County Mental Health Directors                       |
| <input checked="" type="checkbox"/> Area Agencies on Aging: Type B     | <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"/> Support Service Brokerage Directors           | <input type="checkbox"/> Other ( <i>please specify</i> ):                     |
| <input type="checkbox"/> ODDS Children's Residential Services          |   |
| <input type="checkbox"/> Child Welfare Programs                        |   |

<b>Policy/rule title:</b>	Home and Community-Based Services Rules (HCBS) Individually-Based Limitations (IBL)		
<b>Policy/rule number(s):</b>	411-004-0040	<b>Release number:</b>	
<b>Effective date:</b>	Upon issuance	<b>Expiration date:</b>	
<b>References:</b>			
<b>Web address:</b>			

**Discussion/interpretation:**

The Oregon HCBS rules allow for the proposal of limitations (individually-based limitations, or IBLs) of the following rights to protect the health or safety of the individual or others when less restrictive alternatives are not adequate in keeping the person or others safe.

- Access to food at any time
- Locked door for privacy

- Choice of roommates
- Ability to decorate and furnish room
- Ability to control one's schedule
- Access to visitors at any time
- Freedom from restraints

The rule also requires the individual or their representative consent to the proposed limitations.

When it is believed that an individual may be at further risk because they do not understand the consequences of the proposed limitation and a Doctor or other health professional (who does not work for the individual's care facility) agrees in writing that the person cannot make the decisions under consideration, use any responsible adult that has a history of positively relating to the individual to support the person and act as a representative for the IBL decision, unless objected to by the individual. Use anyone already designated in writing first, such as anyone designated on the APD 0737 or advanced health care directive. Use the following priority order to determine who is willing and available for use if no one is designated in writing or when choosing from multiple options.

- Guardian or other legal representative
- Spouse
- Majority of adult children
- Parent
- Majority of adult siblings
- Any adult relative or friend
- Team as defined in this policy

When no one is available to support or assist the individual who cannot make decisions, reflected in a written statement from a doctor or other health professional, a team of two or more may make the decision about whether to implement the proposed limitation. The team must include, at minimum, the provider, doctor or other health professional, and Medicaid Case Manager, if applicable. All team members must agree that the proposed limitation is the least restrictive method available for protecting the individual. If anyone on the team disagrees, the proposed limitation may not be implemented; the individual will retain their HCBS rights.

This policy is consistent with APD's broad protective services responsibility to protect individuals from harm, including self-neglect, while also protecting the basic rights of individuals to make their own decisions and choices whenever possible.

Attached are decision charts to assist in guiding the actions needed to implement this policy.

COVID-19 emergency restrictions, such as face-to-face visiting, do not need to be documented as an IBL. Please note that rights to visit still exist but may take more precautionary measures and methods such as telephone, video or other technology supported visits or with physical barriers like windows to protect the individual and others.

**Implementation/transition instructions:** Follow procedures as listed in this transmittal.

**Training/communication plan:** The listed contacts or LTSS team is available to answer questions.

**Local/branch action required:** Follow policy as outlined

**Central office action required:** Provide technical support to field offices

**Field/stakeholder review:**  Yes  No

**If yes, reviewed by:** APD Policy Ops

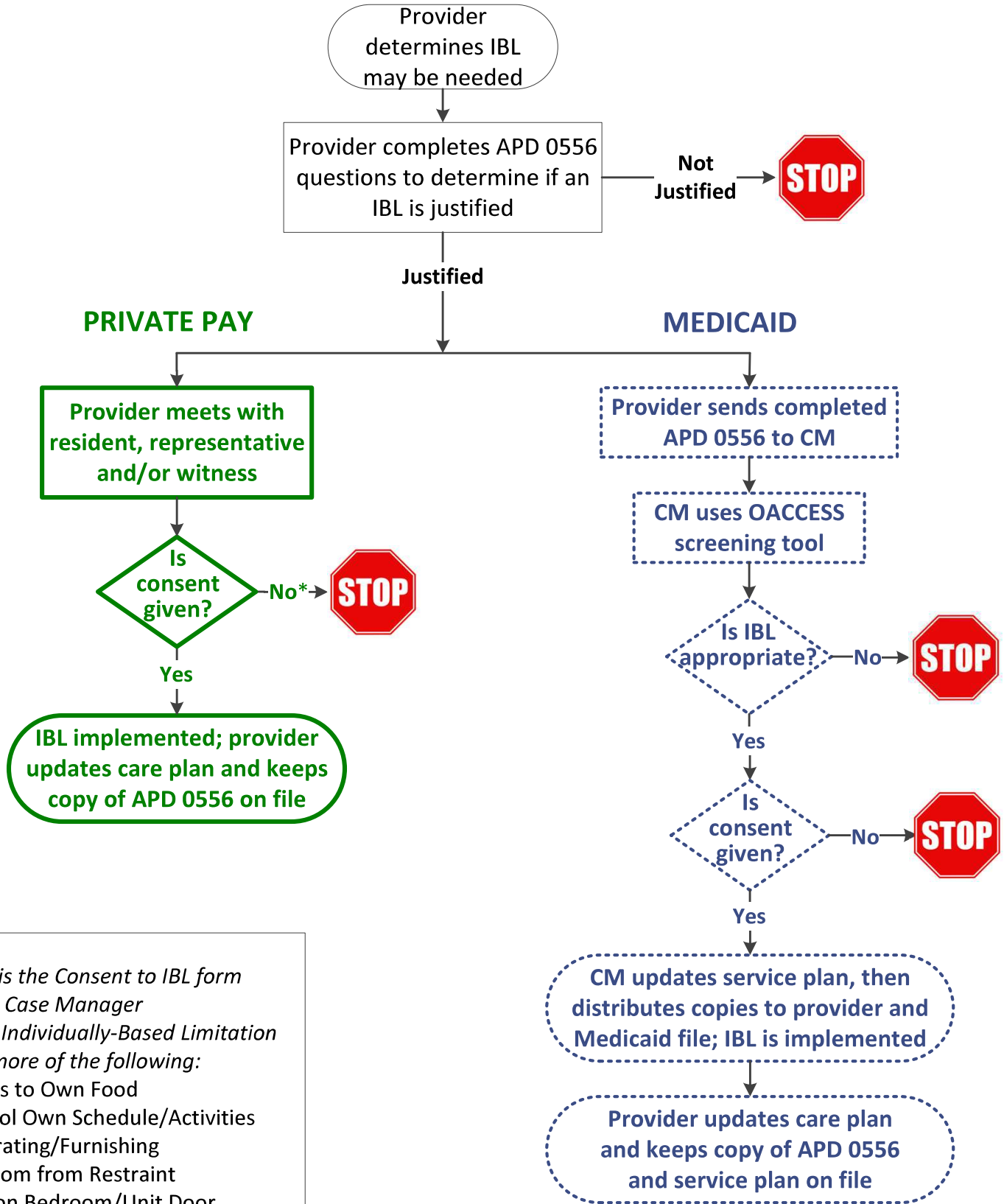
**Filing instructions:**

*If you have any questions about this policy, contact:*

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

# APD HCBS IBL Process Chart 1

## Individual (Legal Representative/Other Designee) is able to consent



**KEY**

**APD 0556** is the Consent to IBL form

**CM** means Case Manager

**IBL** means Individually-Based Limitation to one or more of the following:

- Access to Own Food
- Control Own Schedule/Activities
- Decorating/Furnishing
- Freedom from Restraint
- Lock on Bedroom/Unit Door
- Roommate Choice
- Visitors

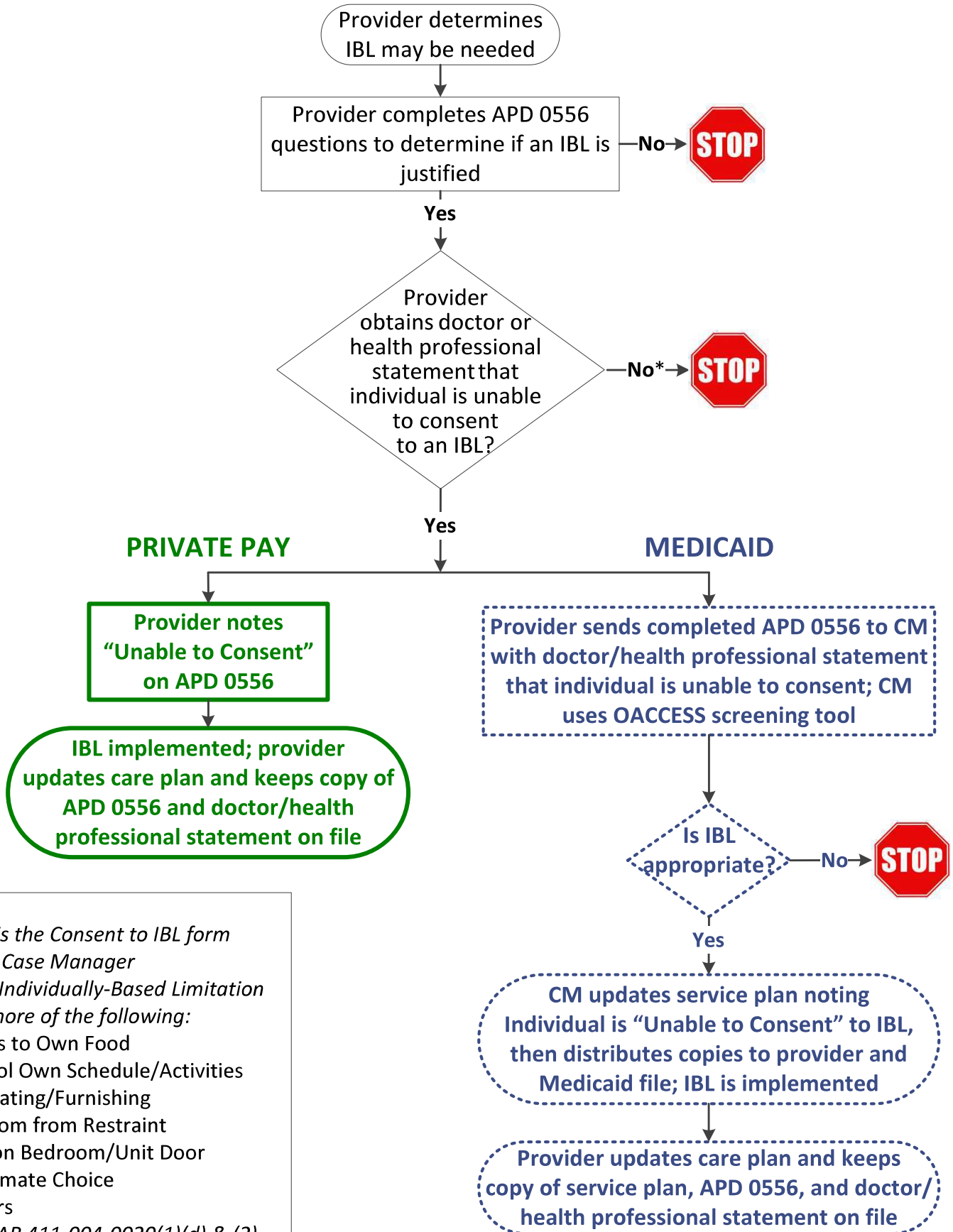
\*See OAR 411-004-0020(1)(d) & (2)

**Rep** means Representative

\*If individual is unable to consent to IBL, use Chart 2

## APD HCBS IBL Process Chart 2

### Individual is not able to consent and has no one who can assist



**KEY**

**APD 0556** is the Consent to IBL form

**CM** means Case Manager

**IBL** means Individually-Based Limitation to one or more of the following:

- Access to Own Food
- Control Own Schedule/Activities
- Decorating/Furnishing
- Freedom from Restraint
- Lock on Bedroom/Unit Door
- Roommate Choice
- Visitors

\*See OAR 411-004-0020(1)(d) & (2)

**Rep** means Representative

\*If individual is able to consent to IBL, use Chart 1