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Number: APD-AR-17-021

Issue date: 4/21/2017

Topic: Developmental Disabilities

Due date: Implement 7/1/17;
Full Compliance by
6/30/18

Subject: HCBS Individually-Based Limitations (IBLs) Required for the Use of
Restraints in All Settings

Applies to (check all that apply):

- | | |
|-----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> All DHS employees | <input checked="" type="checkbox"/> County Mental Health Directors |
| <input type="checkbox"/> Area Agencies on Aging | <input type="checkbox"/> Health Services |
| <input 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 checked="" type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input checked="" type="checkbox"/> ODDS Children's
Residential Services | <input checked="" type="checkbox"/> Other (<i>please specify</i>): Brokerages,
Provider Service Organizations, SEIU |
| <input checked="" type="checkbox"/> Child Welfare Programs | |

Action required:

Beginning July 1, 2017, as ISPs are authorized effective July 1, 2017 or later, all plans that include the use of Safeguarding Interventions or Safeguarding Equipment that meet the threshold of restraint, must have an Individually-Based Limitations in place that comply with OAR 411-004-0040.

Individually-Based Limitations (IBLs) will be required for individuals in any setting when the use of a restraint is indicated in an individual's plan.

The implementation of this requirement will be a phase-in that coincides with ISPs effective July 1, 2017 or later.

To address the new requirement of IBLs for the use of restraints (safeguarding interventions or safeguarding equipment that meets the threshold of restraint) in all settings, ISPs effective July 1, 2017 or later must include a formal IBL if safeguarding interventions or safeguarding equipment are necessary strategies for an individual. All

support plans that include the use of safeguarding interventions or safeguarding equipment must have an IBL addressing the restraint usage by June 30, 2018. This directive applies to any situation where the use of restraints are applied, regardless of the setting where the individual resides or receives services. This means that the IBL requirement when the use of restraints are indicated applies to residential, non-residential, in-home and other community settings.

The very limited situations where the use of a restraint may be a part of an individual's ISP include the use safeguarding interventions (often referred to as protective physical interventions, or PPIs) or safeguarding equipment that meets the threshold for restraint.

Reason for action:

Oregon has received additional guidance from the Centers for Medicare and Medicaid Services (CMS) related to situations when individuals need specific interventions to address safety as a part of community living.

HCBS regulations include the protection that individuals are free from coercion and restraint (42 CFR 441.530(a) (1) (iii); OAR 411-004-0020(1) (c)). CMS has acknowledged that there are limited circumstances where the use of restraint may be necessary to ensure the health and safety of an individual in order for the individual to experience community living. If the use of restraints are included as part of an individual's support plan (ISP), CMS has directed that an Individually-Based Limitation (IBL) must be applied.

"Restraints" are any manual method or physical or mechanical device, material, or equipment attached to or adjacent to the individual's body that the individual cannot remove easily which restricts freedom of movement and normal access to one's body. Any manual method includes physically restraining someone by manually holding someone in place.

Oregon has established expectations around the use of restraints. Restraints may only be applied in specific circumstances and in accordance with applicable Oregon Administrative Rules (OARs).

ODDS only allows limited types of restraints to be applied to individuals. This includes:

- Safeguarding Interventions;
- Safeguarding Equipment that meets the threshold of restraint; AND
- Emergency Physical Interventions

Safeguarding Interventions are physical safety procedures that assist in keeping an

individual from harming themselves or others through supportive measures defined by an ODDS-approved curriculum. Often, safeguarding interventions are referred to as Protective Physical Interventions (PPIs). Safeguarding interventions may only be applied in a crisis situation and only for as long as necessary to alleviate the imminent risk of serious injury to the individual or others.

Safeguarding Equipment that meets the threshold of restraint includes the use of equipment used to support an individual for the purpose of achieving and maintaining functional body position, proper balance, or protecting the individual from injury or symptoms of existing medical conditions; and

- The individual demonstrates resistance following the application of the equipment; AND
- The individual cannot easily remove the equipment.

Emergency Use of Physical Interventions include emergency situations where all of the following apply:

- There is imminent risk of serious bodily harm
- There is no alternate, less restrictive means to alleviate the imminent danger
- The individual has not previously consented to the use of physical interventions as an emergency strategy for providing supports. (This could be due to a variety of reasons, including lack of previous need for formal behavior supports or the individual choosing not to consent to an IBL.)

Currently, ODDS is in the process of collaborating with Medicaid partner programs and stakeholders to address Oregon Administrative Rule (OAR) changes to better address this new application of HCBS expectations.

Additional details and expectations related to the implementation of IBLs when the use of safeguarding interventions and safeguarding equipment are indicated in an individual's service plan will be addressed in future communications.

ODDS is in the process of developing a training and implementation plan for the use of IBLs to address safeguarding interventions and safeguarding equipment in all settings. Training efforts will include regionally delivered in-person training, webinars, call-ins, technical assistance, the development of a "Train the Trainer" network, and additional resource materials.

More details will be communicated about the training and implementation of the IBLs for the use of safeguarding interventions and safeguarding equipment as details are finalized

Field/stakeholder review: Yes No

If yes, reviewed by: CDDPs, Brokerages, Provider Organizations

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

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