

**APD Home & Community-Based Services (HCBS)
Individually-Based Limitations (IBL) Rollout
Frequently Asked Questions (FAQ)
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**APD Home & Community-Based Services
Individually-Based Limitations (IBL) Rollout
Frequently Asked Questions**

Question	Question #	Answer
Topic: General		
What is an IBL?	G-1	03/02/20
Answer: An IBL is a limitation to a resident right proposed to protect an individual's health or safety or the health or safety of others. The process for IBLs can be found in Oregon Administrative Rule (OAR) 411-004-0040 .		
What is IBL Rollout?	G-2	03/02/20
Answer: The IBL rollout year is one part of Oregon's approved transition plan to come into compliance with HCBS rules. The rollout year is intended to provide time to adjust to, and learn, a new workload without having to meet the rules all at once.		
Why do we need to do this work?	G-3	03/02/20
Answer: In 2014 the federal government released new Home and Community-Based Services (HCBS) rules. The federal government allowed states a transition period to come into compliance with the new rules. Initially, a 5-year transition period was provided which was extended by 3 years, giving states until March of 2022 to be in full compliance with the HCBS rules. The IBL rollout is one part of Oregon's Federally approved transition plan to come into compliance with HCBS rules.		
Topic: Timeframes		
What is the rollout timeframe?	T-1	03/02/20
Answer: The rollout year is from July 1, 2019, to June 30, 2020.		
What do I need to do over the rollout year?	T-2	03/02/20
Answer: All providers were sent a letter outlining the basic instructions for the rollout year. A copy of the letter and form for documenting IBL's for private-pay residents can be found in APD-IM-19-039 .		

Question	Question #	Answer
How long do I have before I must allow the HCBS rights?	T-3	03/02/20
<p>Answer: The HCBS rights should be in place for everyone unless an IBL is justified and needed. Most folks in all facilities should be able to access their rights if wanted except for the ones limited due to health or safety reasons.</p>		
Topic: Rights		
What areas can be limited?	R-1	03/02/20
<p>Answer: As described in (OAR) 411-004-0040 and the letter to providers:</p> <p>...the following rights may have an individually based limitation if needed by the consumer to ensure their health and safety:</p> <ul style="list-style-type: none"> • Access to food at any time • Choice of roommate in shared units • Control own schedule and activities • Freedom from restraint • Furnish and decorate bedroom or living unit • Privacy - Lockable doors • Visitors at any time 		
What if someone does not want to exercise their rights?	R-2	03/02/20
<p>Answer: If a resident does not want, for example, to lock their door, purchase additional food to have access to their own food anytime, decorate their room, have visitors, or any other of the IBL rights they do not have to. No IBL is needed when it is the person's choice not to access their rights.</p>		
What if we have rules that protect everyone's health or safety, like not storing food in rooms?	R-3	03/02/20
<p>Answer: Blanket restrictions are particularly risky and not allowed for HCBS rights. While there is no right to store food in room there is the right to access food 24/7. If food is not allowed in rooms provisions need to be made to provide access to food when the resident wants it. The point is if one resident can handle food in their room safely why wouldn't it be allowed? That is the point of determining strengths and abilities on an individual basis.</p>		

Question	Question #	Answer
<p>When would an IBL be needed?</p> <p>Answer: An IBL should only be proposed to protect a resident or others health or safety. An IBL involves a proposal to limit rights and is intended as a last resort option. The APD 0556 has several questions that must be answered prior to proposing a limitation. The following are the only rights that can potentially be limited using the IBL process. The individual retains all other rights.</p> <ul style="list-style-type: none"> • Access to food at any time • Choice of roommate in shared units • Control own schedule and activities • Freedom from restraint • Furnish and decorate bedroom or living unit • Privacy - Lockable doors • Visitors at any time <p>An IBL is not needed if the person is competent.</p>	R-4	03/02/20
<p>You say an IBL is not needed if a person is competent, but what if they are a danger to self or others?</p> <p>Answer: Being a danger to others is never ok. Criminal activity is never ok. If someone is endangering others by allowing disruptive visitations, violent guests, providing food that is harmful to others, or otherwise harming others, the individual should be counseled on the inappropriateness of their behavior. Providers may use all tools up to and including move out for individuals choosing to harm others.</p> <p>Harm to self only is more variable and less likely to escalate to a move out notice if the person is competent. Providing information in a non-judgmental way to allow for informed decision-making is good practice.</p> <p>Regardless of whether an IBL is needed for these situations, providers should document discussions and interventions used in circumstances where a competent person is creating a risk to self or others. Early intervention steps may support later actions a provider might make (such as move out notice) to protect health and safety.</p>	R-5	03/02/20

Question	Question #	Answer
Topic: Form (APD 0556, Individual Consent to HCBS Limitation(s) form)		
Where do I get a copy of the APD 0556, Individual Consent to HCBS Limitation(s) form?	F-1	03/02/20
<p>Answer: An initial form was mailed to all Community-Based Residential providers. Forms are available to download at the following sites:</p> <p>https://www.oregon.gov/DHS/PROVIDERS-PARTNERS/LICENSING/CBC/Pages/forms.aspx</p> <p>Or, at DHS forms server by searching by form # 0556</p> <p>https://aix-xweb1p.state.or.us/es_xweb/FORMS/</p>		
Who signs the APD 0556 if the person is not competent?	F-2	03/02/20
<p>Answer: The form allows for the signature of the person’s legal representative/guardian. Please use this order to determine who signs:</p> <ul style="list-style-type: none"> • Guardian • Person the individual has designated in writing to make decisions • Person that has been acting in the best interest of the person and is knowledgeable of the person’s beliefs and preferences • Spouse • Majority of adult children • Parent • Majority of adult siblings • Any adult, relative, or friend • Advocacy Agency or Individual – To be Determined 		
What if none of the people on the list are available and there is no one to sign?	F-3	03/02/20
<p>Answer: A solution is still being worked on to that scenario. During the rollout year, providers may indicate on the completed form that there is no one available to consent and continue limits to protect the person’s or others health or safety.</p>		

Question	Question #	Answer
<p>The APD 0556, Individual Consent to HCBS Limitation(s) form asks for a witness signature? Why and who can I use?</p>	F-4	03/02/20
<p>Answer: The rules that allow for limitations also prevent coercion or threatening in order to obtain consent to a proposed limitation. Advocates were concerned that the power differential between provider and resident may create situations where a resident’s agreement is not totally voluntary.</p> <p>You can use anyone that does not work for the residential care setting willing to act voluntarily in the role of a witness. We envision this commonly will be family members, friends, or others involved with the individual.</p>		
<p>Topic: Help</p>		
<p>I am worried that Licensors/Surveyors, APS, and Case Managers will give me different advice.</p>	H-1	03/02/20
<p>Response: We are working very hard to make sure all APD staff and programs share information and have the same expectations. All staff have received training and we hold meetings or otherwise will be communicating as we gain experience through-out the rollout period and beyond. If you feel like you are getting conflicting information, use the contact information listed to ask questions. You may alert us to an issue that we need to work on during the transition period.</p>		
<p>Won’t asking questions show I am not implementing IBL’s correctly and get me in trouble?</p>	H-2	03/02/20
<p>Response: It’s always ok to ask questions to learn how to do your job correctly. Under the rollout period it is even more important. This period is designed for you to learn now so you don’t make mistakes later. We are only providing technical assistance to providers not fines or punishment over the rollout period for IBL implementation.</p>		

Question	Question #	Answer
What if I have questions not listed here?	H-3	03/02/20
<p>Answer:</p> <p>For Adult Foster Home questions, please contact: APD.AFHteam@state.or.us</p> <p>For Community-Based Care questions, please contact: CBC.team@state.or.us</p> <p>For general HCBS questions, please contact: HCBS.Oregon@state.or.us</p>		