

DHS APD Long-Term Services & Supports Handouts Used 11/19/19

OHCA

OREGON HEALTH
CARE ASSOCIATION

Annual Convention & Trade Show
November 19, 2019

Harvesting Your Gratitude

Afternoon Education Breakout Session, 3:45 – 4:45 PM

Topic:

Home and Community Based Care Services Rules: Individually Based Limitations

Presenter:

Bob Weir, Lead HCBS Policy Analyst, Medicaid Services and Supports, DHS Aging and People with Disabilities

Handouts:

1. HCBS Extended Timeline for APD's Transition Plan
2. Medicaid Consumer Satisfaction 2019 (from NCI-AD data; resident-level)
3. HCBS APD Visual Fact Sheet of Individually-Based Limitations (IBL)
4. Quick Reference Sheet for When IBLs are Not Needed (titled: No Need for IBLs)
5. Provider Resources (email addresses, location of forms and timeline)
6. Individual Consent to HCBS Limitation(s) Form (APD 0556)

HOME & COMMUNITY-BASED SERVICES (HCBS) AND SETTINGS EXTENDED TIMELINE FOR APD'S TRANSITION PLAN

July 1, 2017 – June 30, 2019

Final year of Technical Assistance tags for all areas except Limitations

- Medicaid Case Managers educate consumers about HCBS rights and freedoms.
- All providers and Medicaid Case Managers identify names of representative(s) who may make LTC decisions in the future, if consumer is unable to do so.
- Implementation of Individually-Based Limitations (“Limitations”) is delayed for **all providers** of HCBS, regardless of the date the provider was licensed, until July 1, 2019.
- **All residential settings licensed prior to Jan. 1, 2016, receive Technical Assistance tags from Licensors/Surveyors with all HCBS rules (except Limitations).**
- **All residential settings licensed on/after Jan. 1, 2016, must be in full compliance with all HCBS rules (except Limitations) or they can be cited.**

July 1, 2019 – June 30, 2020

Final year of HCBS Technical Assistance tags

- All providers and Medicaid Case Managers determine need for Limitations at Care Plan Review or annual Medicaid reassessment, and implement them over the course of the year, as Care Plan Reviews and Medicaid Reassessments are performed.
- **All residential settings receive Technical Assistance tags for Limitations-only; settings must be in full compliance with all other HCBS rules or they can be cited.**
- **Licensors/Surveyors utilize full range of corrective actions for all HCBS rules (except Limitations).**

July 1, 2020 – June 30, 2021

- All providers must be in full compliance with all HCBS rules, **including** Limitations.
- **Licensors/Surveyors utilize full range of corrective actions.**

July 1, 2021 – March 17, 2022

- Any final compliance activities occur, which may include Heightened Scrutiny or closure.
- **Non-compliant HCBS providers will be closed, Medicaid Contracts/Provider numbers will be ended, and residents will be assisted in moving to HCBS-compliant settings.**



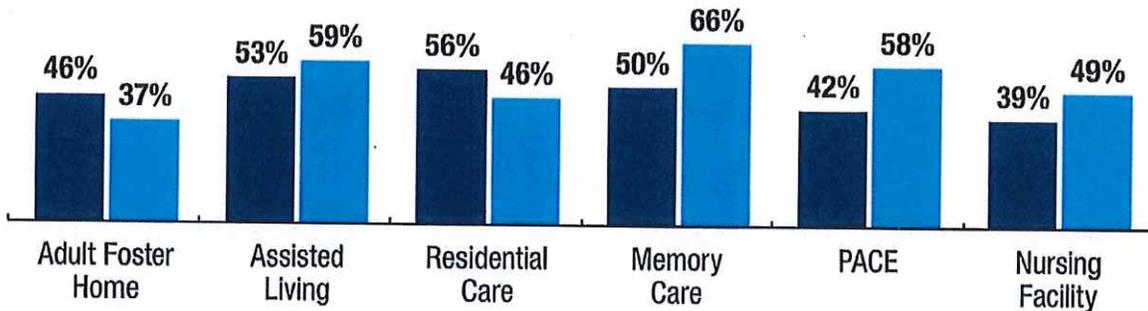
Medicaid Consumer Satisfaction 2019

Resident-Level

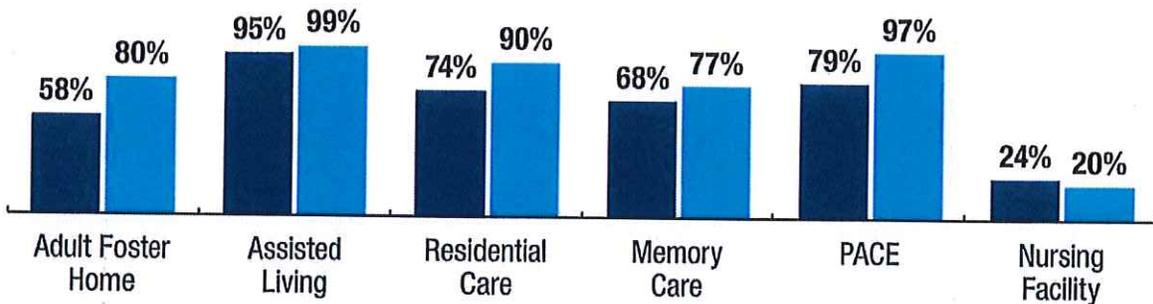
The National Core Indicators – Aging and Disability (NCI-AD) data represents results of face-to-face interviews with Oregonians who receive Medicaid-funded services in adult foster home, assisted living, residential care, memory care, Program for All-inclusive Care for the Elderly (PACE) or nursing facility settings.

Legend for the survey periods: ■ 2016–2017 (589 participants) ■ 2017–2018 (683 participants)

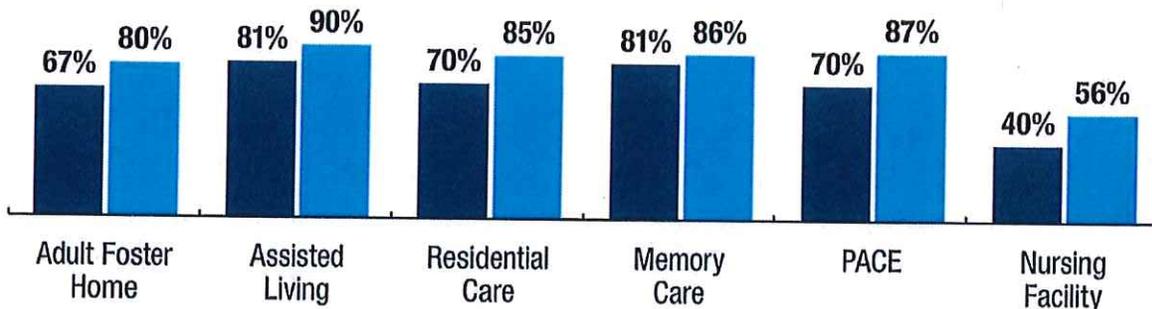
Proportion of people who are as active in their community as they would like to be



Proportion of people who are able to lock the door to their room if they want to



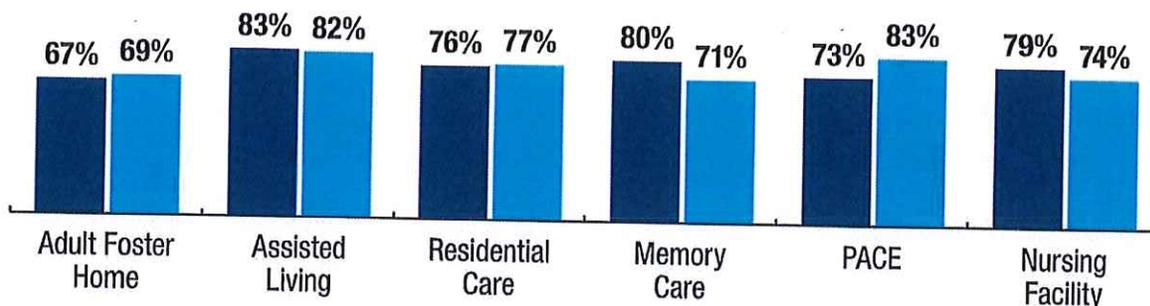
Proportion of people who are able to furnish and decorate their room however they want to



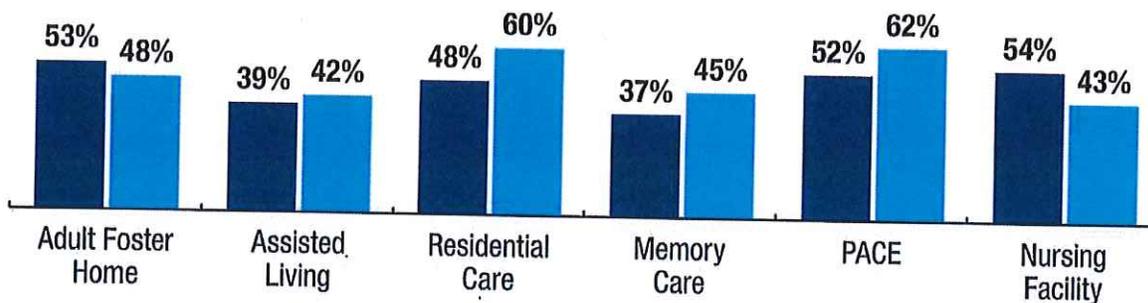
Legend for the survey periods:

■ 2016–2017 (589 participants) ■ 2017–2018 (683 participants)

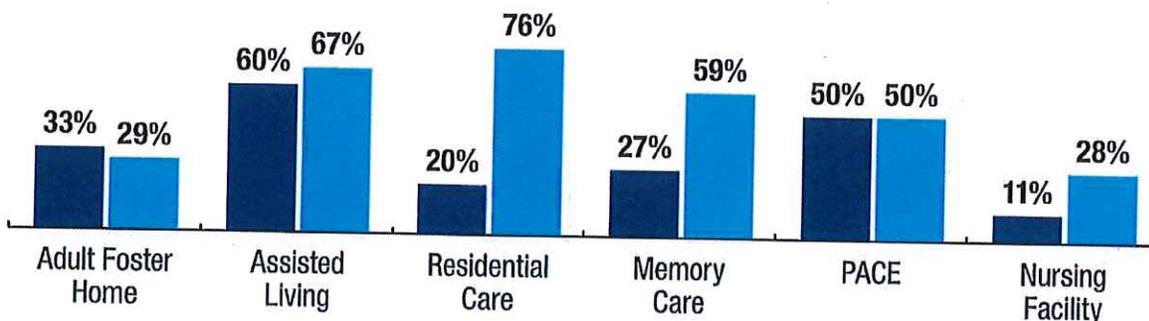
Proportion of people who are always able to see or talk to friends and family when they want



Proportion of people who can eat their meals when they want



Proportion of people who are able to choose their roommate



This fact sheet focuses on data related to the Home and Community Based Services (HCBS) rules that states have been required to implement by the Centers for Medicare and Medicaid (CMS). The NCI-AD contains a large array of data: for more information and to see the full NCI-AD Oregon reports for 2016-2017 and 2017-2018, please visit:

<https://www.oregon.gov/DHS/SENIORS-DISABILITIES/ADVISORY/Pages/NCI-AD.aspx>

You can get this document in other languages, large print, braille or a format you prefer. Contact Aging and People with Disabilities Program at 503-945-6410. We accept all relay calls or you can dial 711.



Individually-Based Freedoms and Protections

Provider Owned, Operated or Controlled
Residential Settings

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

Lease

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 tenant



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

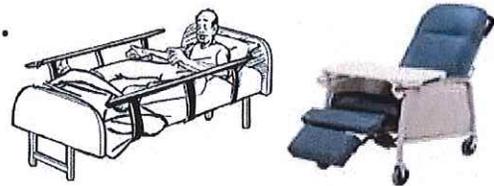
When you share a room, you have a choice of who your roommate is.

Freedom from Restraints



No matter where you get your care you have a right to be free from restraints.

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



Restraints can be chemical, like a pill or medication that restrict you against your will.



We used to think restraints were needed to keep people safe. We now know that we hardly ever have to use restraints.

If restraints are used it is only after all other methods of keeping the person safe have been tried.

You or your legal representative must agree to the use of restraints.

No Need for Individually-Based Limitation (IBL)

When:

- The individual has no cognitive issues
- There is no health risk to the individual or to others
- There is no safety risk to the individual or to others
- The individual understands the concerns/risks
- The individual is not trying to exercise the freedom/right*

*Examples:

1. Jack has a lock on his bedroom door for privacy, but he never uses it.

No limitation is necessary (to remove the lock). Jack makes the choice to not use the lock.

2. Betty lives in a secure, dementia facility. She has always loved visiting the park across the street. Betty's health has recently deteriorated to the point where she does not attempt to walk anywhere without prompting and staff assistance.

No limitation is necessary (for controlling her own schedule/ activities). Betty has never wandered or tried to leave the facility. Staff regularly take Betty to the park.

RESOURCES

Questions

CBC-Specific CBC.Team@state.or.us

HCBS-Specific HCBS.Oregon@dhsosha.state.or.us

Forms

APD 0556 Form, Individual Consent to HCBS Limitation(s)

https://aix-xweb1p.state.or.us/es_xweb/FORMS/

Available in the following languages: Arabic, Chinese Simplified, English, Korean, Romanian, Russian, Somali, Spanish, Vietnamese

APD 0556V Form, Visual Fact Sheet

<https://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/APD/APD%200556V.pdf>

Timeline

<https://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/APD/Final%20Provider-friendly%20APD%20Timeline%20111618.pdf>

Individual Consent to HCBS Limitation(s)



Date printed: _____ Individual's birthdate: _____

Individual's name: _____

Provider's name: _____ Private pay? Yes

Provider address: _____

Individually-Based Limitations to the Rules for individuals receiving Home and Community-Based Services (HCBS) in a provider-owned, controlled or operated residential setting:

This form is to be completed when there is an Individually-Based Limitation(s) to the HCBS rule requirements proposed in a provider-owned, controlled or operated residential setting.

Select the appropriate limitation(s) from the list below by providing the requested start and end dates for the limitation(s). These dates cannot exceed one (1) year.

Rights that may be limited	Requested start date	Requested end date
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		

1. Describe the Individually-Based Limitation to the Rule. (*Who proposed this limitation? What is it? When is it implemented? How often? By whom? How is the limitation proportional to the risk?, etc.*)

2. Describe the reason/need for the Individually-Based Limitation, including assessment activities conducted to determine the need. (*What health or safety risk is being addressed? Assessment tool, outreach, consultation, etc.*)

3. Describe what positive supports and strategies were tried prior to the decision to implement the Individually-Based Limitation. (*Include documentation of positive interventions used prior to the limitation; documentation of less intrusive methods tried, but which did not work, etc.*)

4. Describe how this Individually-Based Limitation is the most appropriate option and benefits the individual. (*Why/how does implementing the limitation make sense for the individual's personal situation?*)

5. Describe how the effectiveness of the Individually-Based Limitation will be measured. (*Including ongoing assessment and/or data collection and frequency of measurement.*)

6. Describe the plan for monitoring the safety, effectiveness, and continued need for the limitation. (*Who is responsible to monitor? How frequently? How is the ongoing need for continued use of the limitation to be determined? Etc.*)

Decision summary and signature section

Select appropriate limitation(s) below by including start and end dates, as applicable. Indicate whether the individual consents, or does not consent, to the limitation(s). Please request the individual, or legal representative/guardian (*if applicable*), initial each limitation to ensure the individual's wishes are accurately reflected.

I understand I am not required to consent to any proposed limitation(s).

Rights that may be limited	Start date	End date	Consent?	Individual's initials
Access to food at any time			<input type="radio"/> Yes <input type="radio"/> No	
Choice of roommate in shared units			<input type="radio"/> Yes <input type="radio"/> No	
Control own schedule and activities			<input type="radio"/> Yes <input type="radio"/> No	
Freedom from restraint			<input type="radio"/> Yes <input type="radio"/> No	
Furnish and decorate bedroom or living unit			<input type="radio"/> Yes <input type="radio"/> No	
Privacy — Lockable doors			<input type="radio"/> Yes <input type="radio"/> No	
Visitors at any time			<input type="radio"/> Yes <input type="radio"/> No	

If the individual does not agree or consent to a limitation, it will not be put in place.

A copy of this document will be provided to the individual.

Individual statement

I have read the above information, or it has been provided to me in a format I can understand. I have had the opportunity to ask questions about it and any questions that I have asked have been answered to my satisfaction. Where Individually-Based Limitations were discussed, I was given additional options. It was made clear to me that I do not have to agree or consent to any limitations. I agree to the sharing of this information with my care team, when applicable.

Individual, or legal representative/guardian (*if applicable*), please review that your wishes to consent or **not to** consent are accurately captured in the box you have initialed, above. Then print your name, sign and date below.

Print name

Signature

Date signed

Feedback from the individual:

**Statement by the person centered service
plan coordinator or witness**

I have accurately read the information to the above named individual, and to the best of my ability made sure that the individual understands the documented Individually-Based Limitation(s).

I confirm that the individual was given an opportunity to ask questions about the Individually-Based Limitation(s), and all the questions have been answered accurately and to the best of my ability. I confirm that the individual has not been coerced into giving consent, and when consent has been given, it is done freely and voluntarily.

APD/AAA case manager or private-pay witness, please sign and date below:

Print name

Phone number

Signature

Date signed

Check the appropriate box for your role:

APD/AAA case manager Private-pay witness

You can get this document in other languages, large print, braille or a format you prefer. Contact APD Medicaid Services and Supports Team at 503-945-6412 or email hcbs.oregon@dhsosha.state.or.us. We accept all relay calls or you can dial 711.