

## **Fact Sheet: Individually–Based Limitations to the Rules**

**Authority:** [42 CFR 441.301\(c\)\(2\)\(xiii\)](#), [42 CFR 441.710\(a\)\(1\)\(vi\)\(F\)](#) & [42 CFR 441.530\(a\)\(1\)\(vi\)\(F\)](#)

### **In a provider-owned, controlled or operated residential Setting:**

There are new Federal Medicaid rules. These rules are about Home and Community-Based Services (HCBS) and settings. Some of the new rules explain when individual limitations can be applied in residential settings. There may be times when the rule requirements can be limited due to health and safety risks. For most individuals, there will be no limitations put in place.

### **In Oregon This Means:**

When you receive services in a provider owned, controlled, or operated residential setting, individual limitations may be used based on specific assessed needs. Any limitations must be written in your person-centered service plan. These limitations will not be used without your (or your legal representative's) informed consent. Limitations may only be considered in the following areas:

- Protection to live under a legal landlord/tenant agreement, or its equivalent.
- Privacy in your bedroom or living unit.
- A lockable door in your bedroom or living unit.
- Choice of who your roommate will be, if you share a bedroom.
- Furnish and decorate your bedroom or living unit as you choose.
- Freedom and support to control your schedule and activities.
- Freedom and support to have access to food at any time.
- Visitors of your choosing at any time.

For any limitations, the documentation in your person-centered service plan, must include:

- The reason the limitation is needed.
- Different supports you received before the limitation was put in place.
- The types of things that were tried before and did not work.

- A clear description of how the limitation makes sense based on your assessed needs.
- A way to measure if the limitation is working.
- When the limitation will be reviewed or removed.
- Your (or your legal representative's) informed consent.
- An assurance that the limitation will not be harmful to you.

The federal rules allow for a transition period for states to fully comply with the new rules. For additional fact sheets or more information regarding the Oregon HCBS Transition plan, please visit the link below.

<http://www.oregon.gov/dhs/seniors-disabilities/HCBS/Pages/Transition-Plan.aspx>