

## Instructions— ODDS Individual Consent to HCBS Limitations

### **Demographics:**

Complete the demographic questions at the top of the document.

**Individual's name.** *Provide the individual's legal name.*

**Medicaid - Prime ID #.** *Enter the individual's Medicaid ID number- this number is the same as the number used to identify the individual in the eXPRS system.*

**Setting: In-home or Provider's name.** *Check the box to indicate if the individual is supported through an in-home plan or enter the name of the license or certificate holder if the individual receives support in a licensed or certified setting. (For individuals receiving in-home services and services in a licensed setting, both may be indicated).*

**Individual's address.** *Enter the physical address of the individual's home. (Do NOT use alternate mailing address or PO Box). The address must reflect the physical location where the residential setting supports are delivered.*

### **Identification of the limitation:**

*There are two tables in this section:*

- *IBLs for individuals requiring restraints in any setting.*
- *IBLs for HCBS residential setting requirements for individuals residing in provider-owned, controlled or operated residential settings*

Select one limitation from the tables below. The selection is indicated by providing a start date and end date for the limitation:

- The start date may not be prior to the signature dates authorizing the IBL.
- The end date may not reflect a time period that extends past the next ISP date or one year, whichever is earliest.

Use a separate form for each proposed individually based limitation. *IBLs falling under the same category may be grouped together on the same form. IBLs reflecting different categories must be identified on separate forms with all sections completed for each limitation.*

*For example: An individual who is identified as needing an IBL in regard to "Access to personal foods at any time" may have several conditions or limits to their access to food such as modified food texture, a requirement for supervision due to aspiration risk, a limitation on*

*quantity of food items, and have foods secured to address medical and behavioral conditions of the individual. These limitations are all a part of the individual's "Access to personal foods at any time" and may be combined on the same "Individual Consent to HCBS Limitations" form.*

*An individual requiring multiple limitations across categories would require multiple forms. If the individual had restrictions related to "Access to personal food at any time" but also requires a limitation on "Furnish and decorate bedroom or living unit," then two separate limitation forms are required to address the different categories of limitations.*

All questions must be answered and the selected limitation must be consented to by the individual (or the individual's guardian) and authorized by the services coordinator or personal agent for the limitation to be applied.

**IBLs for individuals requiring restraints in any setting:**

In this table, indicate if the individual's plan includes the use of "Safeguarding Interventions" or "Safeguarding Equipment that meets the threshold of restraint". An IBL must document and authorize the use of Safeguarding Interventions or Safeguarding Equipment that meets the threshold of restraint regardless of the setting where the individual resides or receives services.

*Use a separate form to address Safeguarding Interventions and Safeguarding Equipment that meets the threshold of restraint, if the individual requires both.*

"Safeguarding Techniques" mean Safeguarding Interventions, Safeguarding Equipment that meets the threshold of restraint, and the emergency of use of physical interventions. Safeguarding Interventions and Safeguarding Equipment that meets the threshold of restraint require the Individually-Based Limitations process.

"Safeguarding Interventions" mean a set of physical safety techniques that restrict the movement of an individual in which the caregiver comes into physical contact with the individual to assist in keeping an individual from harming themselves or others through supportive measures defined by an ODDS-approved curriculum. *Often, Safeguarding Interventions have been referred to as Protective Physical Interventions, or PPI's.*

All Safeguarding interventions must be based on a Functional Behavior Assessment (FBA) and documented in an approved Positive Behavior Support Plan (PBSP). Any hands-on intervention that is not written into an approved PBSP by an enrolled Behavior Professional is considered an unauthorized restraint. An individual's plan must not include unauthorized restraints.

"Safeguarding Equipment" means a device applied or adjacent to the individual's body used to provide support to 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.

Safeguarding Equipment meets the threshold of restraint when:

- The item or device is applied to the individual's body; and
- The individual demonstrates resistance following the application of the item or device; and
- The individual cannot easily remove the item or device.

Whenever the use of Safeguarding Equipment meets the threshold of restraint, the Individually-Based Limitation (IBL) process must be applied.

Safeguarding Equipment must be documented by a medical professional in a medical plan or in a PBSP by an enrolled behavior professional. All other uses of equipment to restrict the free movement of an individual's body is consider an unauthorized mechanical restraint. An individual's plan must not include unauthorized mechanical restraints.

**IBLs for HCBS residential setting requirements for individuals residing in a provider-owned, controlled or operated residential settings:**

In this table, indicate if the individual's plan includes strategies or limitations applied in residential service settings that result in a barrier to the following individual freedoms:

- Access to personal food at any time
- Choice of bedroom roommate
- Control of own schedule and activities
- Furnish and decorate bedroom or living unit
- Lockable bedroom doors
- Visitors at any time

The immediately above listed six categories of limitations only apply for individuals residing in provider-owned, controlled or operated residential service settings who require a restriction in the above areas to address an assessed health and safety risk. Residential settings include foster care, 24-hour program, and some supported living settings.

**Completing the narrative questions:**

Answer each question on the form.

The narrative answer may reference another document in the individual's file, such as the FBA (Functional Behavior Assessment) or PBSP (Positive Behavior Support Plan) to answer the question or provide additional supportive information. When the answer on the form depends upon the information included in a referenced document, the referenced document must be accessible at any time by being current and present in the individual's case file. If the referenced information is critical to meeting the documentation requirements of the IBL or is necessary information for the implementation of the IBL, the referenced document must be attached to copies of the IBL form provided to the individual and appropriate care providers.

**Question 1:**

In answering this question, the following must be identified:

- What specific safeguarding technique or residential setting limitation is anticipated?
- In what setting is the safeguarding technique or residential setting limitation to be used?
- Who may apply the safeguarding technique or residential setting limitation\*?
- Who directed the use of the safeguarding technique\*\*? Or if applicable, who ordered the proposed residential setting limitation?
- How is the technique proportional to the risk and pose the least risk of harm to the individual?

*\*If the appropriate application of an Individually-Based Limitation requires specific training or qualifications for any care provider, this must be identified in this section of the form. For example, for a Safeguarding Intervention to be used, the designated person applying the restraint must have the required training to apply the intervention. If an individual's plan and IBL indicate the use of Safeguarding Equipment that meets the threshold of restraint, and the*

*use of such equipment requires specific training or delegation, this must be identified in this section of the IBL form.*

*\*\* In order to ensure the identified restraint poses the least risk of harm to the individual, Safeguarding Techniques may only be directed by a physician or qualified practitioner through a medical order, medical plan, or Positive Behavior Support Plan (PBSP).*

*Safeguarding Interventions should only be directed by a qualified Behavior Professional through a PBSP.*

*Safeguarding Equipment that meets the threshold of restraint intended as a medical support should only be directed by a physician or qualified medical professional. Safeguarding Equipment that meets the threshold of restraint used to address behavioral challenges should be directed by a qualified Behavior Professional.*

#### Question 2:

Identify what assessment activities occurred in determining the need for the Individually-Based Limitation. This narrative can include a description of the assessment tool or process used, as well as who conducted or participated in the assessment.

Include information to support what makes the need for the limitation a current issue.

For the use of Safeguarding Techniques, provide a brief history of the use of the technique and explanation on why it is anticipated that the technique will be needed in the next plan year. *(The next plan year timeframe is a guiding concept. It may be that the technique is anticipated in the somewhat near future, but beyond the next plan year, such as in the next 18 months or 2 years).*

#### Question 3:

The answer to this question should include a description of past attempts to address the behavior challenge or risk that did not work. Interventions that were considered but ruled out should also be identified.

This portion of the IBL form should also describe the positive, proactive strategies to be applied prior to the use of the Safeguarding Technique or residential setting limitation whenever possible.

#### Question 4:

This question focuses on the goal of the Individually-Based Limitation. This concept should drive the IBL process. A safeguarding technique or residential setting limitation should function to support the goals of the individual and promote positive outcomes. Interventions should be framed as a plan to support the individual in meeting their goals.

Describe how the limitation benefits the individual. This narrative may include documentation that the team considered what would happen if the proposed Safeguarding Technique or residential setting limitation were not applied.

#### Question 5:

The answer provided to this question must identify what the plan is for collecting data. The plan for measuring the effectiveness of the IBL should be as simple as possible. The data collection plan may be tailored to the specific individual situation. Teams may be very creative in developing a system for measuring if the technique is working or needed.

#### Question 6:

Describe what the plan is for monitoring. The details of this plan are completely reliant upon the discretion and professional judgment of the team. The plan needs to be sufficient to adequately monitor the use of the IBL considering the nature, frequency, and intensiveness of the support. IBLs must be monitored at a minimum on an annual basis.

Monitoring may be incorporated into existing activities such as service or site monitoring by a Services Coordinator or Brokerage Personal Agent or routine behavior plan reviews with a behavior professional. Monitoring should incorporate the data being collected as described in Question 5.

Identify the frequency of monitoring, what activities are a part of the monitoring, and who is responsible for which parts of the monitoring plan.

**Individual statement:**

Only the individual or the individual's guardian may sign the "Individual Consent to HCBS Limitations" form in this section. A signature indicates consent.

Indicate which party has signed the document and consented to the limitation: The individual or the individual's guardian.

Do NOT have the individual (or the individual's guardian) sign the form if they do not consent to the limitation.

Use the "Feedback from the individual" section to include any information the individual would like to have reflected in the IBL. For example, this section can be used to document the individual's opinion of or feelings about the proposed IBL or process. This section may also be used to document any conditions the individual may wish to apply to the IBL such as "the individual consents to this limitation, except on the following holidays..."

The feedback from individual section should also be used to document when the individual does not consent to the limitation. The documentation should include any information the team feels is relevant to the situation. Information may include documentation of:

- When and how the limitation was presented to the individual
- Who was present and participated in the discussion
- A description of how the individual communicated their opposition to the limitation
- How it was presented to the individual that they may elect to have the support proposed in the limitation at any time if the individual chooses to consent to the IBL in the future
- A plan for re-approaching the limitation proposal in the future
- A discussion of risks and possible outcomes if the individual does not accept the support

Any other information the team or individual determines relevant to the IBL proposal

### **Statement by the services coordinator or personal agent:**

In this section the services coordinator or personal agent must sign the “Individual Consent to HCBS Limitations” form for the limitation to be authorized and applied.

By providing a signature, the services coordinator or personal agent is affirming that the individually based limitation:

- Meets the requirements of the HCBS 411-004-0040 Oregon Administrative Rule (OAR)
- Form is completed in full
- Is consented to by the individual (or their guardian)  
Is intended to be non-aversive and pose the least risk of harm to the individual

**Provide a copy of the completed “Individual Consent to HCBS Limitations” to the individual (or their guardian) and the providers responsible to implement the IBL.** Use the section at the end of the form to document when the completed IBL form has been provided to the individual, guardian (if applicable), and service provider responsible to implement the IBL. Identify who was given a copy of the form by providing the name of the person who received the form.

**Maintain a copy of the completed form and referenced documents. Attach the “Individual Consent to HCBS Limitations” to the back of the individual’s ISP.**

### **References:**

- CFR 441.530

Oregon Administrative Rules:

- Home and Community-Based Services and Settings and Person-Centered Service Planning – 411-004
- Case Management Services for Individuals with Intellectual or Developmental Disabilities—411-415
- Professional Behavior Services- 411-304
- 24-Hour Residential Programs and Settings for Children and Adults with Intellectual and Developmental Disabilities- 411-325
- Adult Foster Homes for Individuals with Intellectual and Developmental Disabilities- 411-360



- Foster Homes for Children with Intellectual or Developmental Disabilities—411-346
- Supported Living Programs for Adults with Intellectual or Developmental Disabilities—411-328
- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings—411-323
- Independent Providers Delivering Developmental Disabilities Services—411-375
- Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services—411-318
- General Definitions and Acronyms for Developmental Disabilities Services—411-317