

Topic:	Exceptions to Individual Support Plan Hourly Cap for PSWs	
	Date Issued/Updated:	Updated 1/3/2023

Overview

Description: [PT APD-PT-16-030: PSW Weekly Hours Limitations](#) states, "Effective September 1, 2016 Personal Support Workers (PSWs) will have limitations to hours authorized to work." However, ODDS recognizes there will be situations requiring an exception to the weekly limit the PSW has been assigned.

Purpose/Rationale: When a Service Coordinator or Personal Agent identifies a need to have a PSW work more than their assigned weekly limit for a specific individual, this Worker Guide will assist in understanding how to:

1. Establish criteria to determine the circumstances that must be present in order for a PSW to work more than their assigned weekly limit and receive payment from ODDS.
2. Outline the process and documentation requirements for approving exceptions to the PSW's assigned weekly limit for situations that meet the established criteria.

Applicability: Service Coordinators and Personal Agents who authorize services provided by a Personal Support Worker.

Procedure(s) that apply:

- 1. Criteria to determine the circumstances that must be present for a PSW to work more than their assigned weekly limit and receive payment from ODDS.**

ODDS defines the work week for PSWs as 12:00AM on Sunday through 11:59PM on Saturday.

There are multiple situations where an individual may need support from one PSW more than the PSW's assigned weekly limit. All the requests for exception must meet the definition of being a "social benefit." Exception requests that are not for the benefit of the individual will not be approved.

[411-317-0000\(176\)](#) "Social benefit" means the service or financial

assistance solely intended to assist an individual with an intellectual or developmental disability to function in society on a level comparable to that of a person who does not have an intellectual or developmental disability.

The following are scenarios where an exception request may be granted by the CDDP, Brokerage, or ODDS in order to meet individual and unique support needs:

- Provider Capacity Exception: No qualified In Home provider agency or PSW (both on the registry or other local resources) within 45 minutes of the individual's service location is able to provide needed services.
- Provider Unable to Work: A provider quits, is terminated, no longer meets qualifications, or credentials have expired
- Out-of-Town Situations: An individual requires care to ensure their health and safety, and it is not feasible to bring additional providers
- Relief or Substitute Care: When another provider or caregiver who has been scheduled to provide services becomes unavailable to provide services critical to the health and safety of the individual.
- Emergent Need: An urgent need for care arises and exceeding the limit is unavoidable without risking the health and safety of the individual
- Unique/Complex Needs: The individual's health and safety would be compromised by adding additional providers to the service plan.

Notification of Planned Action (NOPA) is not required when requests to exceed the PSW's assigned weekly limit are denied. If the individual, their representative, or provider is not satisfied with the result of an exception request they may file a complaint.

2. Process and documentation requirements for approving exceptions to the PSW's assigned weekly hours limit

In all exception situations ODDS will require documentation that other resources were researched, referrals were made to appropriate resources, and that no alternatives are available that would allow the individual to receive services while any PSWs included in the ISP remain within their assigned weekly limits.

- In situations where the CME can approve the exception this documentation will need to be kept in the individual's file.
- When ODDS approval is required (see the Exceptions to Individual Support Plan Hourly Cap for PSWs table below) the documentation will need to be submitted to ODDS through the [Funding Review Request \(instructions\)](#) and kept in the individual's file.

The following table provides examples of documentation that could be provided to support the exception request:

Documentation	Examples
Referrals made to qualified In Home provider agencies or other local resources	<ul style="list-style-type: none"> • Evidence of referral and denials from providers • A Map showing that no In Home agencies are within 45 minutes of the individual's service location.
An effort made by the individual/employer to recruit additional providers	<ul style="list-style-type: none"> • Advertisement on Oregon Home Care Commission Registry and Referral System • Advertisement within local community including bulletin boards and online
Reassessment	<ul style="list-style-type: none"> • Updated assessment and description of change in needs since previous assessment
Referral to or development of additional resources	<ul style="list-style-type: none"> • See examples in "Referrals made to contract agencies or other local resources" • See examples in "An effort made by the individual/employer to recruit additional providers"
Counseling with employer as needed	<ul style="list-style-type: none"> • Referral to Employer Resource Center program for teaching related to managing responsibilities as an employer. Progress notes of discussion around responsibilities of an employer or limitations related to the individual's ISP, service OARs, or Medicaid rules • Referral by the employer to Oregon Home Care Commission Trainings for PSWs related to appropriate billing
Complex care needs that cannot be met by additional providers	<ul style="list-style-type: none"> • Description of individual's specific complex needs that could not be safely met by the addition of another provider. Could be included in ISP or supporting documents (Nursing Care Plan for specific medical needs, Behavior Support Plan for specific behavioral needs, etc)
Back-up plan	<ul style="list-style-type: none"> • Documentation of plan for support needs to be met if the individual's caregiver is unavailable
An effort to develop an ISP that does not exceed the limitations.	<ul style="list-style-type: none"> • See examples in "Referrals made to contract agencies or other local resources" • See examples in "An effort made by the individual/employer to recruit additional providers" • Description of specific needs that could not be taught to be provided safely by qualified providers that are available

In all exception cases, ongoing efforts should be made to secure resources that will meet the individual's needs without a single PSW exceeding their weekly assigned limit.

The included matrix provides an example of the exceptions that can be approved by the Case Management Entity, and the exceptions that must be approved at ODDS for each scenario where an exception request may be granted.

Case Management Entities (CMEs) must have a policy that describes the process for reviewing and granting exceptions per [OAR 411-320-0030\(14\)](#) or [OAR 411-340-0150\(11\)](#) and follow their adopted policy when considering exceptions to the PSW's assigned weekly limit.

PSWs who are granted an exception to work more than their assigned weekly limit are limited to the number of hours indicated in the exception approval.

CMEs must record approved exceptions in eXPRS on the PSW's provider record.

eXPRS limits an overtime exception time period to 90 days, CMEs can approve connecting exceptions exceeding 90 days in alignment with the table below.

Approvals for exceeding a PSW's weekly hours limit are for an individual's specific needs. The individual's PRIME number must be included on the PSW's provider record when an exception is approved by a CME. The approval does not apply when working for other individuals.

No CME can approve a PSW to work more than 112 hours per week. All requests for more than 112 hours per week must be submitted to ODDS.

Exceptions to Individual Support Plan Hourly Cap for PSWs			
Exception Reason	Example	CME Approval	ODDS Central Office Approval
<p><u>Provider Capacity Exception:</u> No qualified In Home agency or PSW (both on the registry or other local resources) within 45 minutes of the individual's service location is able to provide needed services.</p>	<p>Sue lives in a rural area and there are no agencies or PSWs that are willing to provide the attendant care other than her current PSW. Sue is asking for an exception to allow her current PSW to work more than the assigned 50 hours per week limit.</p>	<p>Will review requests and may approve up to 90 days while referrals are made to local resources and may be extended by 30 days</p>	<p>Any request for more than 112 hours per week.</p> <p>Will review requests greater than 120 days up to the end of the current ISP. All requests must have documentation of:</p> <ol style="list-style-type: none"> 1. Referrals made to qualified In Home agencies or other local resources 2. An effort made by the individual/ employer to recruit additional providers <p>Once ODDS has decided to approve or deny a request a CME may not make an additional approval, even if a new plan year begins Only ODDS may approve future exceptions related to this reason.</p>
<p><u>Provider Unable to Work:</u> A provider quits, is terminated, no longer meets qualifications, or credentials have expired</p>	<p>Tom has two PSWs. PSW1 is working 30 hours per week; PSW2 is working 25 hours per week. PSW1 is terminated by ODDS. Tom is asking for an exception to allow the PSW2 to work all of the hours until another PSW or</p>	<p>Will review requests and may approve up to 90 days while referrals are made to local resources or while a new PSW is hired.</p> <p>*This period may be</p>	<p>Any request for more than 112 hours per week.</p> <p>Will review requests when there is no qualified In Home agency or provider available after 180 days. All requests must have documentation of:</p> <ol style="list-style-type: none"> 1. Referrals made to

	provider can be located.	extended up to an additional 90 days if the provider is awaiting credentials or necessary training	<p>qualified In Home agencies or other local resources</p> <p>2. An effort made by the individual/ employer to recruit additional providers</p> <p>Once ODDS has decided to approve or deny a request a CME may not make an additional approval, even if a new plan year begins. Only ODDS may approve future exceptions related to this reason.</p>
<p><u>Out-of-Town Situations:</u></p> <p>An individual requires care to ensure their health and safety, and it is not feasible to bring additional providers</p>	<p>Tyler is going on a trip starting Monday through Saturday. He has an assessed need of support 16 hours per day. It is only feasible for Tyler to bring one of his PSWs on his trip. Tyler is asking for an exception to allow the PSW that he is bringing on his trip to work 30 hours more than the PSW's limit during the trip.</p>	<p>Will review requests and may approve up to 14 days per year at the full assessed daily hours only if the individual goes out-of-town for one PSW and there is no way to structure the providers work weeks to prevent going over the limit.</p>	<p>Any request for more than 112 hours per week.</p> <p>Will review requests for additional days beyond the initial 14</p> <p>Will also review requests for more than the daily assessed hours for the approved 14 days</p>
<p><u>Relief or Substitute Care:</u></p> <p>When another provider or caregiver is unavailable to provide services critical to the</p>	<p>PSW1 called in sick for her shift. Tiffany needs assistance with taking her medications. PSW2 has already worked up to the limit of hours this week;</p>	<p>Will review requests and may approve up to 24 additional hours per quarter*</p> <p>*The</p>	<p>Any request for more than 112 hours per week.</p> <p>Will review requests when there is more than 24 hours per quarter. Requests must have</p>

health and safety of the individual.	however, PSW2 is the identified back-up provider for Tiffany if PSW1 is unavailable. Tiffany is asking for an exception to allow PSW2 to exceed the limit to provide services critical to her health and safety.	individual's critical need must be documented. Exceptions should not be approved for non-critical needs.	documentation of: 1. Reassessment (if need is due to a change in support needs) OR 2. Referral to or development of additional resources (if need was due to not having sufficient back up providers that do not exceed the limits or increased support needs) OR 3. Counseling with employer & provider as needed (if the employer needs more training to manage their employer duties or the provider needs support to provide only the authorized amount of service)
<u>Emergent Need:</u> An urgent need for care arises and exceeding the limit is unavoidable without risking the health and safety of the individual	Charles broke his leg on Friday evening; he usually does not need paid supports on the weekends. His PSW has already worked up to the limit of hours this week. Part of Charles's back-up plan is to call his PSW in an emergency. Charles is asking for an exception to allow his PSW to work more than the PSW's limit to provide supports for an emergent need.	Will review requests and may approve up to 24 additional hours per quarter* *The individual's emergent need must be documented.	Any request for more than 112 hours per week. Will review requests when there is more than 24 hours per quarter. Requests must have documentation of: 1. Reassessment (if need was due to a change in support needs) OR 2. Referral to or development of additional resources (if need was due to not having sufficient back up providers that do not exceed the limits or increased support

			needs) OR 3. Counseling with employer as needed (if the employer needs more training to manage their employer duties or the provider needs support to provide only the authorized amount of service)
<p><u>Unique / Complex Needs:</u></p> <p>The individual's health and safety would be compromised by adding additional providers to the service plan</p>	<p>Danielle has a fragile immune system and a complex medical regimen that requires a specially trained provider to receive services in her home. Danielle has tried to use multiple providers in the past which resulted in her contracting a serious infection and hospitalization. Danielle is asking for an exception to allow her specially trained PSW to provide all of her supports to mitigate her risks of contracting life-threatening infections and maintain her medical regimen.</p>	<p>Will review requests and may approve up to 90 days while alternatives are explored & an attempt is made to craft a plan that can meet the health and safety needs of the individual.</p> <p>*This period may be extended up to an additional 90 days if additional evaluations/ plans need to be developed.</p>	<p>Any request for more than 112 hours per week.</p> <p>Will review requests greater than 180 days up to the end of the current ISP All requests must have documentation of:</p> <ol style="list-style-type: none"> 1. Complex care needs that cannot be met by additional providers AND 2. Back-up plan AND 3. An effort to develop an ISP that does not exceed the limitations. <p>Once ODDS has decided to approve or deny a request a CME may not make an additional approval, even if a new plan year begins. Only ODDS may approve future exceptions related to this reason</p>

Form(s) that apply:

Request for Funding Review or Exception: SDS 0514DD

Definition(s):

Work week: 12:00AM on Sunday through 11:59PM on Saturday.

Back-up Plan: part of the person-centered-planning process that documents how an individual will get their support needs met in the event that the primary or scheduled support providers are unavailable.

Reference(s):

[APD-PT-16-030 PSW Weekly Hours Limitations](#)

[Oregon Needs Assessment Manual](#)

[Oregon Home Care Commission Registry and Referral System](#)

[Oregon Home Care Commission Trainings for PSWs](#)

Frequently Asked Questions:

Q: If an exception is needed will it also need to be authorized in the ISP and Service Agreements? How will this happen when the need is immediate or on short notice?

A: The ability to have CDDP/Brokerage approval of exceptions was intended to provide the flexibility to respond to immediate needs of individuals. In general, it is expected that most exceptions will be prior approved and included in the ISP and Service Agreements however, ODDS is aware that emergent needs of individuals may require retroactive approval.

Q: For the local review of exceptions is the 24 hours per quarter based on calendar months or the ISP year?

A: The 24 hours per quarter is based on the ISP year.

Q. Why does the “Provider Capacity Exception” use 45 minutes in the criteria instead of using miles?

A: Some Agencies that provide In-Home services are limited to providing services to individuals within a one-hour radius of their location. ODDS wanted to use the same methodology (time) for consistency when developing the criteria.

Q: For the local review of exceptions is it 24 hours per quarter over the assessed hours or over the weekly limits?

A: It would be 24 hours per quarter approved to the PSW over the weekly limit

per individual. None of the exceptions are intended to provide additional supports beyond what is authorized in the assessment. Individuals are expected to self-direct their care within the assessed and authorized support level.

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