FAQ's regarding the new policies around the 50 hour cap and live-in/shift services

50 Hour Cap Questions

Q: So how or who will monitor to determine how many hours PER WEEK each HCW is working for a client??

It is the Case Managers responsibility to ensure the authorization at the monthly level does not exceed 220 hours. It is the consumer's responsibility to ensure the HCW is not scheduled to work more than 50 hours a week. The case manager should be discussing the schedule with the consumer when applying the new policy.

Q: When is the overtime expected to start?

On August 21st, 2015, the Circuit Court has ruled in favor of the U.S. Department of Labor. This means that overtime will need to be paid for all HCW's. Implementation of this change will be forthcoming.

Q: Will the system stop you from assigning more hours if there is no exception?

The system will have an edit in place, in Oregon Access, to limit the total hours assigned to a HCW at 220 at the plan level.

Q: What if a HCW works for more than one client and the total hours are more than 50?

The limit on HCWs applies only to an individual consumer / HCW relationship. The HCW may work for multiple consumers.

Q: We would like to know how long it will take for CO to approve these exceptions?

The turnaround time is expected to be 2 business days. This is assuming that the exception has been submitted with all expected documentation and narration clearly documents that other resources have been checked.

Q: Salem will approve retro?

Central Office is not approving retro benefits. Requests will be reviewed on a case by case basis when emergent situations have been identified.

Q: time frame for narration exception transmittal?

Updated 8/21/15

The transmittal that explains exceptions and the process is expected to be distributed prior to implementation. It is currently in the final review process by Central Office staff.

Q: "Local Approval" - CM or Supervisor?

This question is in reference to the 220 hour per month cap. If Central Office approves hours for, let's say, 250 hours for one HCW, the local office will have the ability to approve any ongoing plans so long the hours do not exceed 250 for a HCW. The local office may make a decision on whether or not a manager/lead worker needs to review an updated service plan or not. Please note that exceptions must come back to Central Office if a new hours segment (or assessment) is created.

Q: For other types of exceptions we've been given a specific format for the subject line. What is if for these?

This will be addressed in an upcoming PT.

Q: Can we use the relief and emergent exceptions one after the other?

If there is an actual relief situation followed by and emergent need situation that the case manager as accurately documented the local office may approve them consecutively.

Q: Will notifications be sent to clients to explain DHR rule change or is entirely left up to the Case Manager?

Notifications will not be sent to consumers. Based on the data collected the impacted population is fairly small. Case managers will be expected to review and discuss the impacted cases with applicable consumers and HCWs when there is a change in a HCW that is exceeding the cap or the plan is due for annual review.

Q: what about people with current exception plans that are approved, will we need to request another exception for the over 50 hours a week??

If the plan stays the same at renewal the case manager will need to submit a request for the weekly hourly cap exception.

1. If the exception has an increase in hours or the plan has at least 496 hours per month, the case manager will need to submit an exception request for both the total hours and the weekly hourly cap.

Live-in/Shift Care Questions

Updated 8/21/15

Q: Now that we no longer have Relative AFH's what about client's living with a relative that are now "live in HCW's" Does this still apply?

The new rules will be applied in the same way to individuals that previously had RAFH plans. If they do not meet the criteria or the exception criteria for a live-in, they must be converted to an hourly plan.

Q: This criteria is for Live-in and Shift care?

Yes, that is correct.

Q: Question for Live-in presentation: If someone is hospitalized and/or goes into SKILLED care at NH and then goes home without going ICF - that would not be considered "moving" and would not require a new assessment - right??

There is no requirement to do a new assessment for an individual who goes to skilled NH care. If there is a change in condition or baseline needs there should be a new assessment.

Q: Does the rule about HCW not charging for more than 1 client for the same date and time only apply to Live In and Shift?

This applies to any HCW that is providing services. This is considered rate stacking and constitutes Medicaid fraud.

Q: Since the LI/Shift needs is part of the assessment, will that drive the Plus 1, 2, 3 if the client goes to a facility instead?

There is no correlation between the two.

Q: Can you please define "debilitating condition" ... the reality is that for our clients most of their diagnosis is debilitating

The needs that are listed in the transmittal are not all inclusive. The term debilitating condition is used to catch other conditions that may not be listed that are severe and result in exceptional needs.

Q: Do the spousal pay changes affect their vacation time?

The topic of PTO / Vacation is still being discussed in collective bargaining

Q: what sort of notices will be sending to the clients to reduce the live-in hours? Will you

provide notice wording for us?

A 540 reduction notice will be used for reductions. The APD LTC policy team will be drafting language to be added to Worker Guide G 9 (Decision Notice Preparation)

Q: Do we use the existing exception form for all these new requirements?

APD LTC is currently drafting a revised exception form. The plan is to have it released prior to the implementation date. However, it may be initially located on CM tools until it can be posted onto the forms server.

Q: do the clients have hearings rights on any of these changes?

Individuals have hearing rights when there are a reduction of hours. However, individuals do not have hearing rights for not being permitted to have a HCW go over 220 hours a month (since there is no reduction in the actual service plan).

Q: On slide 18, if a HCW quits and a new one starts, you have to do a new exception even if they already have an exception?

This question is in regards to an exception that is granted for an individual that does not meet the live-in requirements but does meet the exception requirements. In this circumstance, the exception will end with the current HCW leaving, requiring a plan reduction at that time. You can ask to continue to an exception to keep live-in services intact, however the reasoning for it needs to be well justified.

Q: does this require a 4105 to reduce hours?

The 4105 is a required document for HCWs when hours are being reduced

Q: How many live in plans currently exist in the state?

There are currently about 2,000 Live-In plans statewide.

Q: Why does CO want to approve plans for fewer hours than are in the hours segment approved hours?

We need to ensure that plans in the future are in compliance with the DOL laws. This means that we need to pay for “all hours worked”. For example, if a live-in segment has 496 hours approved to meet the DOL requirement, we have to ensure that the plan has the same amount.

Q: why is the plan following the HCW and NOT the consumer if the exception is already approved? We have to send a new exception request each time or just for the initial change?

This question is also in regards to the exception that may be granted to individuals that do not meet the new live-in requirements. The decision was made that we didn't want to reduce all of the plans that did not meet the new exception requirements right away as it will disrupt a lot of the existing consumer and HCW relationships that have been established. However, we also need to eventually reduce these plans if they do not meet eligibility requirements.

The second part of the question in regards to sending in a new exceptions request each time: Any live-in plan must be submitted to Central Office each time a new assessment and service plan is developed.

Q: when a HCW disputes. Should we refer them to DOL?

A HCW is probably better off by reviewing the upcoming bargaining agreement, as that will be in compliance with the updated DOL laws. However, if they are interested in reviewing the DOL law changes for themselves, they may visit the website www.dol.gov/whd/homecare.

Q: Must a consumer have at least 1 four day live-in or can it be a combo of four days minimum, for example two providers working 2 days a week?

The minimum 4 days a week for a live-in provider only applies to cases that are requesting an exception they do not meet the new criteria (also, the 2-2 split is ok). There are no specific criteria required for a live-in provider to work if the individual meets the requirements.

Q: How are plans authorized when there are two individuals in the same home with live-in services with care being provided by one HCW?

The new rule will apply in that the individual service plans can't be set up in a way that pays one HCW for more than 19 hours in a day (589 hours a month). What this also means is that the HCW can't claim hours for two individuals at the same date and time, which means that the HCW may need to claim for only one individual at a time even if they are providing care for more than one individual during that same time period. Currently, HCW's do not claim hours in this way with the current voucher system, but this will change in the future. There is a chance that under the new voucher system, it may be difficult to designate a live-in HCW for more than one individual on the same date, which may end up requiring one individual to be established as an hourly plan.

Q: How does service planning occur for individuals that had assessments prior to 8/31/15?

Any assessment that is created prior to 8/31/15 may utilize service planning under the previous rules for live-in HCW's.

Q: What if a plan is hourly (or moving from a facility) and then wishes to receive a live-in plan but has not had an assessment since 8/31/15? Same question with ICP or Spousal Pay?

If an individual wishes to receive live-in services after 8/31/15, they will need an assessment to determine eligibility for it. If they want ICP and want to be considered for the live-in services hours, they will also need an assessment. Since Spousal Pay providers are moving to hourly plans, an assessment may or may not be needed.
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Updated 8/21/15