Member's Rights and Restrictive Interventions

December 18, 2024

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Retired IDD Provider Yet Still Working

Please consider completing this pre-test while we wait.
Link: https://www.surveymonkey.com/r/rightsrestrictions-pre

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Learning Objectives

- Acquire a better understanding of proper restraints, restrictions, and behavioral interventions.
- Learn about the role of the person-centered planning team in determining restraints, restrictions, and behavioral interventions.
- Learn how restraints, restrictions, and behavioral interventions should be documented in the person-centered plan.

References and Acknowledgements

- Iowa HHS HCBS Settings: Understanding the Rights of Those Served and Supported Training, September 28, 2023
- IAC 77.25(4) & IAC 78 General Service Standards for each Waiver
- Iowa HHS Recognizing and Reporting Critical Incidents Training October 25 and October 30, 2024
- Iowa HHS HCBS Philosophy and HCBS Settings Rule Training, A guide for HCBS Case Managers, November 14, 2023

References and Acknowledgements

- Iowa HHS HCBS Philosophy and HCBS Settings Rule Training, A guide for HCBS Case Managers, November 14, 2023
- Iowa HHS 2023 HCBS Provider Quality Self-Assessment
- 1915C CMS HCBSW Instructions, Technical Guide, and Review Criteria
- South Dakota DHS Rights Decision Making Tree
- Iowa HHS Person-Centered Practice: Aligning with the HCBS Philosophy and Rules Training, October 19, 2023

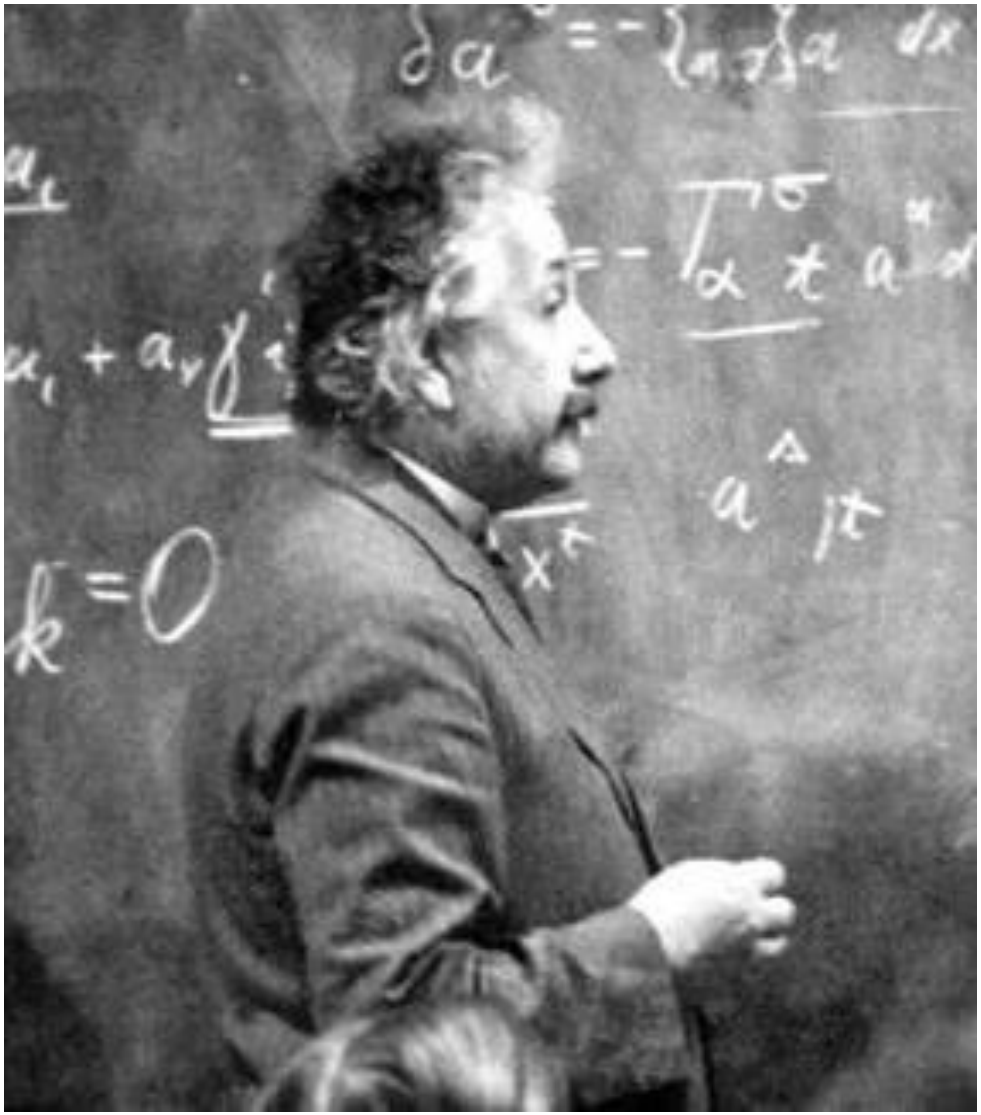
References and Acknowledgements

- Utah DHS HCBS Setting Rules: Restrictions and Modifications
- Alabama DMH HCBS Settings Compliance Checklists
- Minnesota DHS A Providers Guide to Putting the HCBS Rule into Practice
- Dr. Tom Pomeranz, Enhancing Quality of Life Strategies PowerPoint for Kern Regional Center
- Albert Einstein
- Minnesota DHS HCBS Rights Modifications Support Plan Attachment

“Time after time, I have found that when people are taken seriously, when they are respected, when their behavior is interpreted, understood and responded to accurately, when they are engaged in mutual dialogue rather than subjected to unilateral schemes of ‘behavior management,’ somehow as if miraculously, they become more ordinary. I know a number of people who have had severe reputations who have shed them when those supporting them listened more carefully .”

Herb Lovett, Ph.D.
University of New Hampshire

If I had an hour to solve a problem, I'd spend 55 minutes thinking about the problem and 5 minutes thinking about solutions.” Albert Einstein



Interpretation: You can not solve what you do not understand. This is why many behavior intervention plans do not seem to make a difference.

Member Success Story

This member spent about three months in a psychiatric facility due to severe problem behaviors.

After, his father bought him his own home. He needed to live alone and was funded by CCO SCL to reside alone.

He has a supportive MCO, an excellent case manager, supportive and caring staff, and other supports. His father and mother are amazing people.

A PCP Team working closely together, understanding why he experiences problem behaviors, and implementing interventions based on the reasons for his problem behaviors, is why he is such a success story.

Note: photo and story shared with member permission

Member Success Story

For a few years, this member lived in a congregate group living arrangement. He was experiencing problem behaviors due to loud noises, too many housemates, and the inability to wait for something he wanted. When upset, he could hurt others, and loud noises were very aversive to him.

Therefore…

He moved into a duplex setting with his own living unit. He resides alone, as he prefers to be alone. He has decorated and made his living unit his own.

Living alone removed so many of his stressors.

He has an excellent case manager, supportive and caring staff, and other supports. His mother loves him dearly.

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Member Success Story

This member resided in a foster home for a few years and then was admitted to a mental health institution. She resided there for about four months, then moved to a children's residential program.

When 18, she moved to a facility-based program for adults. Now she is on the waiting list for an HCBS waiver setting and is scheduled to move in the spring of 2025.

Negative reputations can be damaging to members. Be careful what you believe, just because someone has problem behaviors in other settings does not mean they will in the new setting. A positive and affirming environment, with excellent employees who understand the member, can do wonders!

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Old Cherokee proverb:

Pay attention to the whispers, so you do not have to listen to the screams! Author Unknown

Interpretation:

All people convey nonverbal and verbal cues before really getting upset. Heed them and figure out what wrong so more severe problem behavior does not occur. We want to prevent problem behavior!

Restraint, restriction, and behavioral interventions

▶IAC 77.25(4) & IAC 78 General Service Standards for each Wavier: Each provider shall have in place a system for the review, approval, and implementation of ethical, safe, humane, and efficient behavioral intervention procedures. (Policies and Procedures)

▶All members receiving home- and community-based habilitation and waiver services shall be afforded the protections imposed by these rules when any restraint, restriction, or behavioral intervention is implemented.

▶The system shall include procedures to inform the member and the member's legal guardian of the restraint, restriction, and behavioral intervention policy and procedures at the time of service approval and as changes occur.

Restraint, restriction, and behavioral interventions

- Restraint, restriction, and behavioral intervention shall be used only for reducing or eliminating maladaptive target behaviors that are identified in the member's restraint, restriction, or behavioral intervention program.

- Restraint, restriction, and behavioral intervention procedures shall be designed and implemented only for the benefit of the member and shall never be used as punishment, for the convenience of the staff, or as a substitute for a nonaversive program.

- Restraint, restriction, and behavioral intervention programs shall be time-limited and shall be reviewed at least quarterly by the person-centered planning team.

- Corporal punishment and verbal or physical abuse are prohibited.

2023 Self-Assessment: Restrictive Interventions

- Does your organization have written policies and procedures related to the use of restrictive interventions, specifically restraints, rights restrictions, and behavioral intervention?
- Does your organization have written policies and procedures for the use of a specific behavior intervention program such as Mandt, Safety-Care, PBIS, CPI, or other?
- Does your organization ensure that members or their legal representatives receive information about the organization's policies of the use of restraints, rights restrictions, and behavioral intervention at admission and any time the policy changes?

2023 Self-Assessment: Restrictive Interventions

- Does your organization ensure that any planned restrictive interventions are used only for reducing or eliminating specific, maladaptive, targeted behaviors?
- Does your organization ensure that any planned restrictive interventions are not used as punishment, substitutes for non-aversive programs, or for the convenience of staff?
- Does the organization ensure that restrictive interventions do not constitute corporal punishment, verbal, or physical abuse?

2023 Self-Assessment: Restrictive Interventions

- Are planned restrictive interventions time limited and reviewed at least quarterly to determine if the restrictive intervention can be reduced or eliminated?

- Do restrictive intervention plans demonstrate that due process was applied? Documentation of due process includes an explanation of the need for the restrictive intervention and a summary of less restrictive methods that were attempted, identification of circumstances by which the restriction may be reduced or eliminated, timelines for review, and consent to the restriction.

2023 Self-Assessment: Restrictive Interventions

- If your organization allows for the use of physical holds, restraints, or other physical intervention techniques, policies and procedures governing their use must include, in addition to standard requirements related to restrictive interventions:
  - the specific types of interventions allowed
  - specific circumstances when physical intervention may be used
  - qualifications and special training required for staff who administer restraints

Members with executive functioning and developmental limitations struggle with coping, stress management, understanding, and communicating accurately what may be causing them stress.

Problem behaviors are then exhibited due to the inability to cope with these limitations, which creates anxiety. The member does not understand what we want, how to tell us what is wrong, or how to communicate what is going on with them.

Provider Supports

Provider Prevention and Support Services (PPSS)

What is PPSS?

- A statewide initiative to help support long-term services support staff in working with challenging individuals. PPSS is based on the model driven from I-START.

- This is a team of professionals extensively trained in the mental health aspects of intellectual/ developmental disabilities.

- Provides community-based crisis prevention and intervention services to individuals with intellectual and/or developmental disability (IDD) and mental health needs and those providing support to best enhance their quality of living.

- Promotes systemic, person-centered approaches and provides outreach, training/education, clinical and systemic consultation, crisis plan development, 24/7 crisis support, and follow-up.

Who is appropriate for PPSS Clinical Services?

- Individuals with intellectual/developmental disabilities who are experiencing externalizing mental health symptoms such as aggression or self-injurious behavior. The individual may be a high utilizer of crisis services, challenging to support in the community, or have a recent or ongoing deterioration in skills and abilities.

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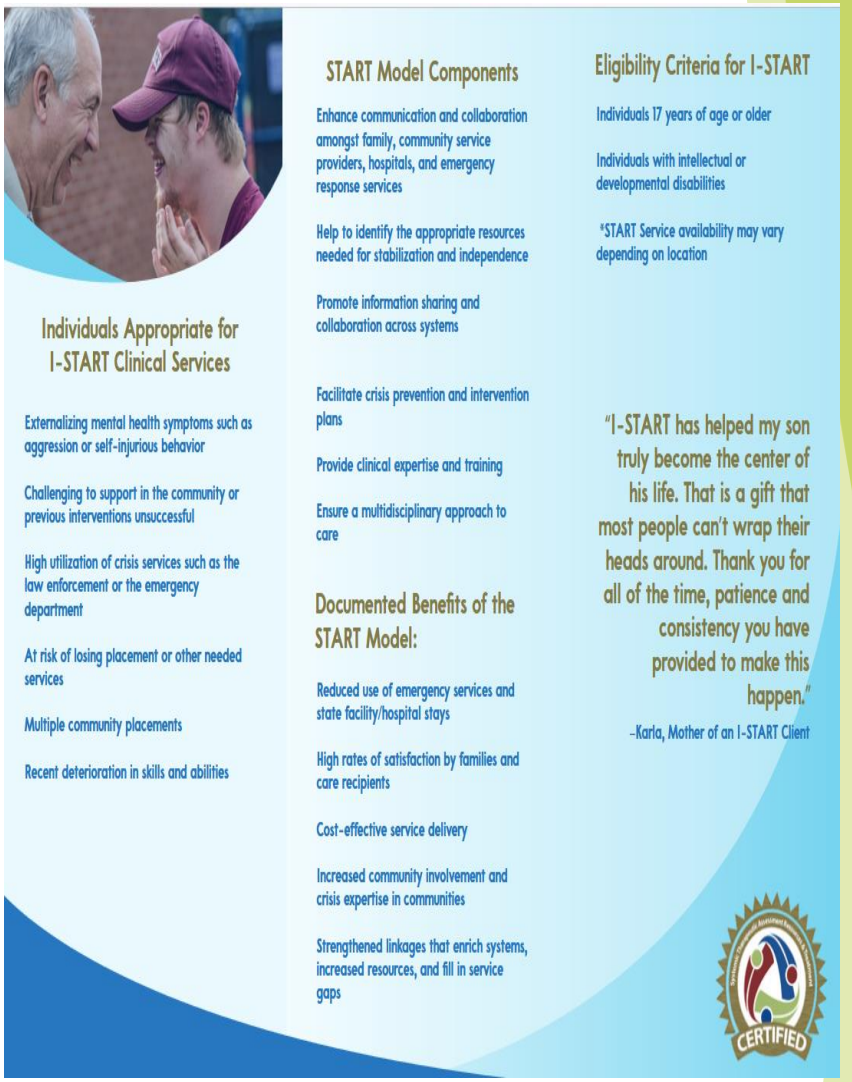
Additional information:
please call 641-525-0401
providersupports@elevateccbhc.org

Elevate Housing Foundation Provider Prevention and Support Services



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Types of Restraint - Physical

- Physical restraint
  - intervention, hold, or management technique
    - any direct contact used to control acute, episodic behavior that is intended to prevent, restrict, or subdue movement of the member's body, or part of the body

- Personal physical restraint
  - the limitation of free movement of the body, limbs, or hands for a time to prevent the member from hurting self or others.
  - Personal restraint means the application of physical force without the use of any device, to restrain the free movement of an individual's body.

This type of physical restraint is not acceptable. Innocent people with disabilities who have experienced severe problem behaviors have died because of being physically restrained on the floor or bed!

This is abusive in nature.

Criminal charges have been brought against staff who have utilized this type of physical restraint.

Is this a physical prompt, hand-over-hand assistance to complete a task or a physical restraint?

Asking a member if it is okay to assist them hand over hand to complete a task, and they say yes, is not physical restraint. This is a choice and a support.

This looks like a physical restraint.

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Types of Restraint - Mechanical

- Mechanical restraint
  - mechanical intervention that is used to control acute, episodic behavior and is a device to prevent, restrict or subdue movement or function of the member's body, or part of the body.

- Mechanical restraint
  - the limitation of free movement by a mechanical device for any time to prevent the person from hurting self or others. Any device attached or adjacent to an individual's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body.

This is an excellent example of a mechanical arm restraint used for the purpose of positioning and as a medical protective device.

This member, because of cerebral palsy, engages in severe extension and flailing arms.

This movement has resulted in injury to their arms by hitting door frames and walls.

This mechanical restraint keeps them safe.

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This Plexiglass restraint was designed for a young person who engages in extreme self-injurious behavior.

He has blinded himself in one eye, knocked out several teeth, and caused serious damage to their ears.

Many alternatives were attempted to address their needs and thus eliminate the SIB. Unfortunately, none were successful.

This mechanical restraint allows them to see their hands, move them freely within the Plexiglass area, and manipulate items.

Five-point mechanical restraint, used in Psychiatric Hospitals and Institutions in emergencies.

Used only in extreme situations, where the person is highly combative and a danger to self and others.

Not recommended type of mechanical restraint in community-based programs

In this case, the member needs evaluation and admission to a higher level of service.

Is this person secure or behaviorally restrained?

**Neither explanation is acceptable.

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Types of Restraint - Isolation/Seclusion

- Isolation or seclusion
  - involuntary confinement to any room or area where the member is physically prevented from having contact with others, is not free to leave the room or area, or believes they are not free to leave.

- Seclusion
  - the involuntary confinement of an individual alone in a room or an area from which the individual is physically prevented from having contact with others or leaving.

Seclusion and isolation means the involuntary confinement of an individual alone in a room or an area from which the individual is physically prevented from having contact with others or leaving.

Seclusion and isolation are used in Psychiatric Hospitals and Institutions in emergency situations. Used only in extreme situations, where the person is highly combative and a danger to self and others.

Not Recommended in community-based programs.

Rather, for the member to leave a stressful situation and go to another part of the environment or outside could be a voluntary choice for them to calm or cope if upset. This is a healthy response to a stressful situation.

Types of Restraint - Chemical

- Chemical restraint
  - a medication administered to control behavior, restrict freedom of movement, or sedate the member that is not a standard treatment for the member's medical or psychiatric condition. This does not include as needed medications that the member requests or self-administers as part of their symptom management plan.

- Chemical Restraint is any drug that:
  - is administered to manage an individual's behavior in a way that reduces the safety risk to the individual or others
  - has the temporary effect of restricting the individual's freedom of movement
  - is not a standard treatment for the individual's medical or psychiatric condition. This does not include PRN medications ordered for symptom management.

Chemical restraint is used in Psychiatric Hospitals and Institutions in emergencies.

Used only in extreme situations, where the person is highly combative and a danger to self and others.

Not recommended in community-based programs.

In this case, the member needs evaluation and admission to a higher level of service.

The right drug does not fix the wrong environment.

Drugs treat disorders, not problem behaviors.

Drugs reduce symptoms of depression, anxiety, and other disorders.

These medications should only be prescribed to help promote improvement in the client's quality of life and to manage/reduce the symptoms of the diagnosed condition or disorder.

This is not chemical restraint in this case.

Proper Use of Restraint

- If restraints are utilized, the provider needs to develop clear and specific policy and procedures for the types of restraint utilized.
- Ideally, it is a best practice to not utilize restraint. Yet, depending on the needs of the member, some type of restraint may be necessary on an individual basis.
- If physical restraint is utilized, written policies and procedures should be developed for the use of the specific behavior intervention program such as Mandt, Safety-Care, PBIS, CPI, or other.

Proper Use of Restraint

- If an organization allows for the use of physical holds, restraints, or other physical intervention techniques, policies and procedures governing their use must include, in addition to standard requirements related to restrictive interventions, the specific types of interventions allowed and specific circumstances when physical intervention may be used, and qualifications and special training required for staff who administer restraints.

Proper Use of Restraint

- In isolated cases emergency physical restraint may be needed to protect the member and others from actual harm. In this case physical restraint should be utilized only for the shortest time possible.

- A behavior intervention plan should be developed by the PCP team whenever restraint is to be utilized with any regularity. It must include less restrictive interventions tried first before use of restraint. The plan should include all measures to prevent use of restraint. At the first sign of a potential problem behavior, interventions to prevent the problem behavior should be implemented.

Proper Use of Restraint

- A critical incident report should be completed for any restraint usage.
  - See the Critical Incident Report training and FAQ for more information
- A best practice would be for the agency leadership to follow up on each restraint incident with the involved employees, including the member, as appropriate. This a great opportunity to debrief, provide training, ensure restraint policies and procedures were followed, learn from the involved employees and member, brainstorm ideas to avoid restraint use, and make revisions in interventions, as appropriate. Follow up should be documented on the incident report form. Close monitoring is critical to protect the agency and member.

Proper Use of Restraint

- Employee training records must be maintained for all employees who are authorized and trained to utilize any type of physical, mechanical, seclusion and isolation, or chemical restraint. Employees should not utilize restraint unless trained and authorized to do so. If the specific training requires updated training, it is imperative the agency ensure the employee receives the updated training. Close monitoring is critical to protect the agency and member.

Role of the Person-Centered Planning Team in Determining Limitations and Restrictions

- A rights restriction is a limitation to a member's autonomy due to a specific assessed need to ensure the health, safety, and well-being of the member or the community.
- Any limitation, modification, or restriction to a member's rights or HCBS settings standards must be tied to that individual's assessed need and justified in the person-centered plan.
- Justification can be defined by:
  - Naming the right or standard being limited, modified, or restricted
  - Explaining what the limitation, modification, or restriction is
  - Good documentation about what less aversive methods have been tried and failed
    - Plans and a minimum quarterly review of the plans for eliminating or reducing the limitation, modification, or restrictions (including explanations as to what circumstances must change or what training can be provided to the member or staff to eliminate or reduce to lead to progress in eliminating or reducing the restriction).
  - Member/guardian consent for the limitation, modification, or restriction and IDT agreement.

Role of the Person-Centered Planning Team in Determining Limitations and Restrictions

- The person-centered planning (PSP) team needs to ensure a rights restriction should only be used to address a real and imminent risk to the health and safety of the member or others and should not be used for the convenience of those who provide services and supports to the member.

- In such cases where there are no imminent risks to a member's health or safety, the freedom of choice afforded to a member should not be diminished or denied by the PCP team. This is about reasonable dignity of risk, with a balancing of risk versus choice.

When a member residing in a shared living arrangement with housemates needs the kitchen cabinets locked due to a safety risk, the provider could give keys to other members in the setting so they may freely access the cabinets.

Note: photo shared with member permission

Role of the Person-Centered Planning Team in Determining Limitations and Restrictions

- The need for a rights restriction should be based on written assessments, evaluations, or other documentation (ex: incident reports) written by the member's case manager to then be agreed upon and carried out by the member's IDT.

- If there are concerns for a member's health or well-being, the PCP team must consider the severity and likelihood of potential negative outcomes against the rights of the member and limit those rights only when truly necessary.

Role of the Person-Centered Planning Team in Determining Limitations and Restrictions

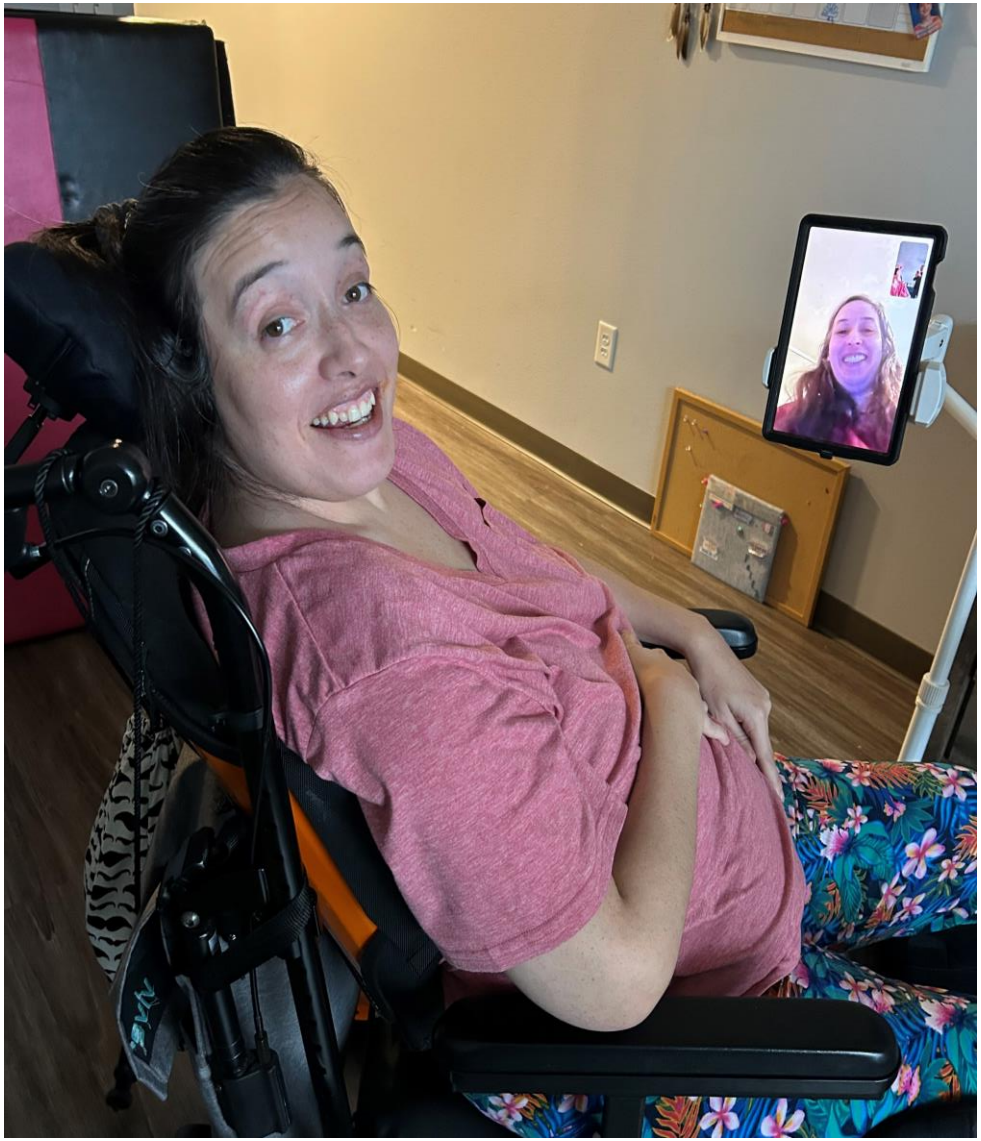
- The PCP team must ensure that rights restrictions are only implemented for the member who needs the restriction
  - Should not be implemented for a group of members or for an entire setting.
  - Rights restrictions should not be used as “house rules” in any setting or for any population; they also cannot be used for the convenience of staff.
- As described in the HCBS Settings Guide to Expectations and Compliance, HHS considers any modification made to a member’s PCP in the seven key concept areas of the HCBS Settings Final Rule to be a rights restriction.
- Seven key concept areas

Location	Dignity & Respect	Autonomy
Living arrangements	Physical accessibility	
Privacy	Community integration	

Using a landline or cell phone does not work well for this member. This accommodation was implemented by the PCP team in lieu of having to use a phone.

By doing this, the PCP team did not need to put in place a limitation or rights restriction because the member could not use the phone. This way she could have privacy in discussions with her sister.

We need to think outside the box as limitations and restrictions are considered.



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Role of the Person-Centered Planning Team in Determining Limitations and Restrictions

- Emergency rights restrictions
  - (ex: physical restraint) can be utilized if the member displays behavior that endangers self or others.
  - If after the implementation of an emergency rights restriction, the PCP team determines that the restriction will be utilized on an ongoing basis,
  - the restriction must be documented in the PCP, and due process afforded to the member.

- A Critical Incident Report must be completed and submitted

Role of the Person-Centered Planning Team in Determining Limitations and Restrictions

- The PCP team should ensure the member and legally responsible person (if one is appointed by the court) have provided written informed consent for the rights restriction.
- Informed consent should be in writing, given voluntarily, knowingly, and competently without any element of force, fraud, deceit, duress, threat, or other form of coercion.
- Informed consent should provide information that a reasonable person would consider significant to the informed consent decision, in a manner that a lay person would understand.

How Restrictions and Limitations Should be Documented in the Person-Centered Plan

IAC 78 General service standards

- All rights restrictions must be implemented in accordance with 441—subrule 77.25(4). The member service plan or treatment plan shall include documentation of:
  - (1) Any restrictions on the member's rights, including the rights of privacy, dignity, respect, and freedom from coercion and restraint.
  - (2) The need for the restriction. Restrictions should be based on an assessment, with health and safety the focus.

How Restrictions and Limitations Should be Documented in the Person-Centered Plan

IAC 78 General service standards

- All rights restrictions must be implemented in accordance with 441—subrule 77.25(4). The member service plan or treatment plan shall include documentation of:
  - (3) The less intrusive methods of meeting the need that have been tried but did not work.
  - (4) Either a plan to restore those rights or written documentation that a plan is not necessary or appropriate.

How Restrictions and Limitations Should be Documented in the Person-Centered Plan

IAC 78 General service standards

- All rights restrictions must be implemented in accordance with 441—subrule 77.25(4). The member service plan or treatment plan shall include documentation of:
  - (5) Established time limits for periodic reviews to determine if the restriction is still necessary or can be terminated. At least quarterly.
  - (6) The informed consent of the member. Written informed consent should include any restrictions, reasons (need) for any restrictions, benefits, and risks.

How Restrictions and Limitations Should be Documented in the Person-Centered Plan

IAC 78 General service standards

- All rights restrictions must be implemented in accordance with 441—subrule 77.25(4). The member service plan or treatment plan shall include documentation of:
  - (7) An assurance that the interventions and supports will cause no harm to the member.
  - (8) A regular collection and review of data to measure the ongoing effectiveness of the restriction.

This tool is intended to promote a person-centered planning team discussion regarding member rights and to assure due process for any limitations, modifications, and restrictions.

Is this limitation being imposed beyond what a peer without disabilities would experience in this situation?

Yes
If Yes, answer the questions below.
Proceed to the subsequent question ONLY if the previous question has been answered "Yes".

No

Not a restriction

Is there a specific and assessed individualized need?

Were positive interventions and supports tried?

Were less intrusive methods tried, but did not work?

Is there a clear description of the condition that directly relates to the assessed need?

Will data be regularly collected and reviewed to measure effectiveness?

Will the intervention be regularly reassessed to determine continued need?

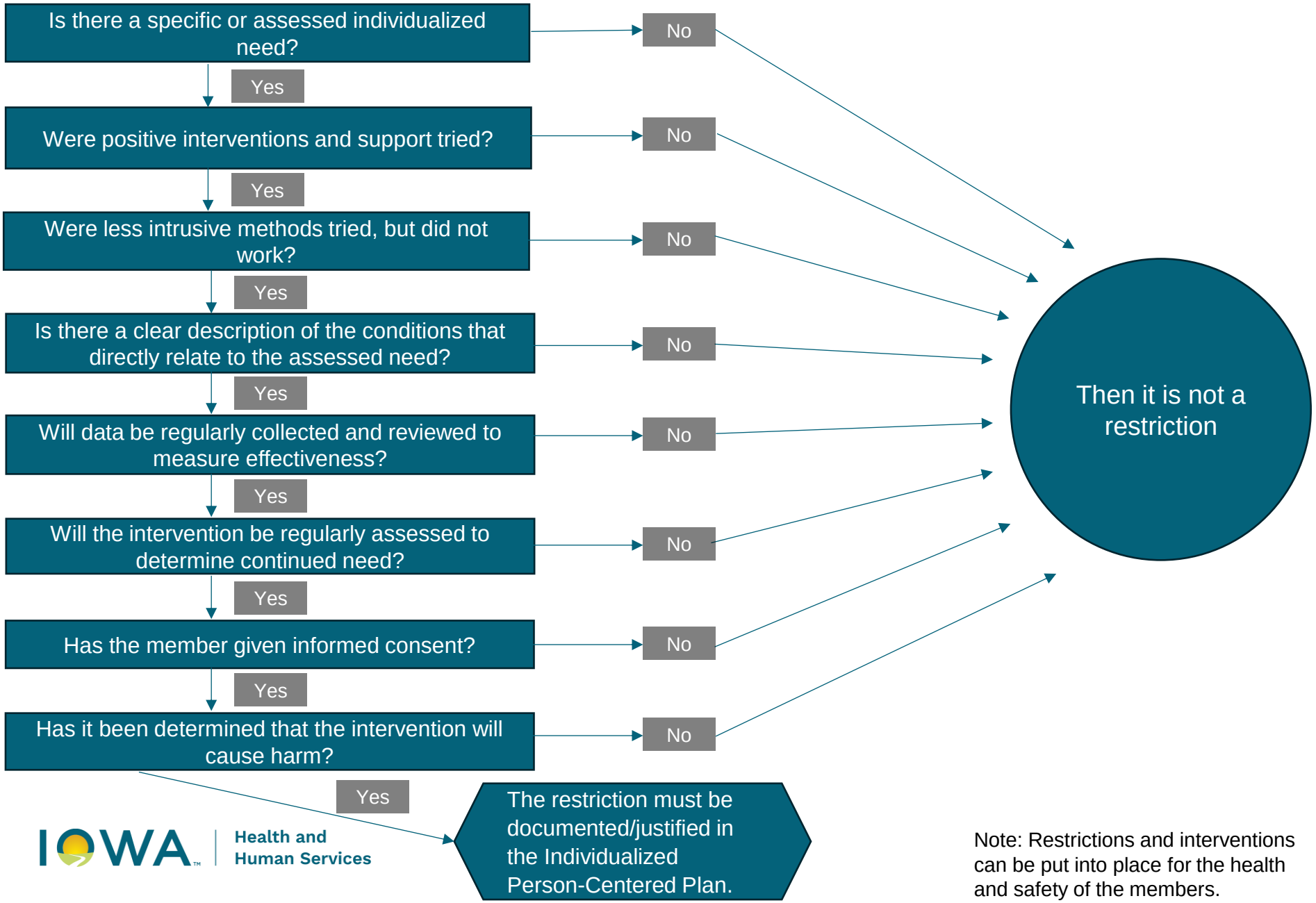
Has the member given Informed consent?

Has it been determined that the intervention will cause no harm?

If a rights restriction exists and if all questions under the "Yes" column have been answered in the affirmative, then interventions can be put into place by the person-centered planning team for the health and safety of the member. Each restriction must be documented in the members person-centered service plan.

Rights Restriction Decision Tree

Is this limitation/restriction being imposed beyond what a peer without disabilities would experience in this same situation?



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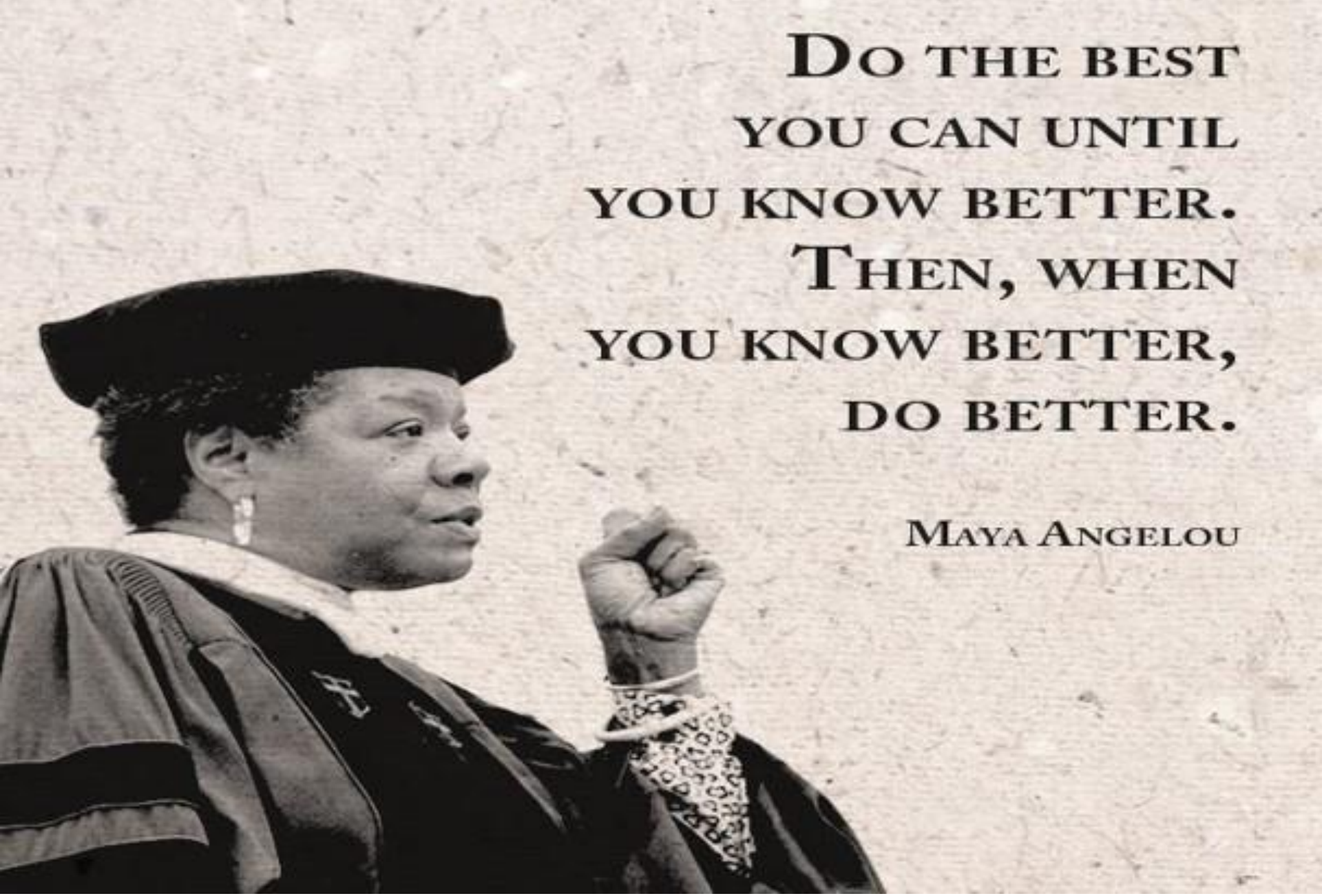
Note: Restrictions and interventions can be put into place for the health and safety of the members.

How Restrictions and Limitations Should be Documented in the Person-Centered Plan

- Some states provide rights restriction formats to utilize in the HCBS-funded person-centered plan.
- A nice way to ensure meeting IAC rules is to expand the person-centered plan format to include the eight requirements from IAC 78.41 & 42(16) in the section on Rights Restrictions and Limitations. This can help ensure that any rights restriction and limitation is documented/ justified in compliance with IAC.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THEN, WHEN
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