

ARTICLE 13. OBJECTIVE BASED ALLOCATION

Rule 1. Purpose

460 IAC 13-1-1 Purpose

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. The purpose of this article is to establish standards for determining OBAs for individuals receiving services administrated by DDRS through the home and community based services waiver approved by the Centers for Medicare and Medicaid Services under Section 1915(c) of the Social Security Act. (*Division of Disability and Rehabilitative Services; 460 IAC 13-1-1; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

Rule 2. Applicability

460 IAC 13-2-1 Applicability

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. All sections within this article apply to an individual receiving DDRS Medicaid waiver services through DDRS. (*Division of Disability and Rehabilitative Services; 460 IAC 13-2-1; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

460 IAC 13-2-2 Conflict with Medicaid provisions

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. If any provision of this article is determined to be in conflict with any federal or state statute, regulation, or rule that is specifically applicable to the Medicaid program, including a home and community based services waiver approved by the Centers for Medicare and Medicaid Services under Section 1915(c) of the Social Security Act, then such other statute, regulation, Medicare provision, or rule shall supersede that part of this document in which the conflict is found. (*Division of Disability and Rehabilitative Services; 460 IAC 13-2-2; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

Rule 3. Definitions

460 IAC 13-3-1 Applicability of definitions

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. The definitions in this rule apply throughout this article. (*Division of Disability and Rehabilitative Services; 460 IAC 13-3-1; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

460 IAC 13-3-2 "Algorithm" or "algo" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. "Algorithm" or "algo" means the overall algorithm level determined for an individual derived from a compilation of individual scores on broad independence, general maladaptive, health, and behavioral components assessed through the ICAP and ICAP addendum. (*Division of Disability and Rehabilitative Services; 460 IAC 13-3-2; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

460 IAC 13-3-3 "Behavioral needs" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. "Behavioral needs" means target behaviors have been identified through observation or assessment. The intensity and frequency to which they exist are reflected in the ICAP and ICAP addendum. (*Division of Disability and Rehabilitative Services; 460 IAC 13-3-3; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

460 IAC 13-3-4 "BMAN" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. "BMAN" means behavioral support services administrated by DDRS through the home and community based services waiver approved by the Centers for Medicare and Medicaid Services under Section 1915(c) of the Social Security Act. (*Division of Disability and Rehabilitative Services; 460 IAC 13-3-4; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

460 IAC 13-3-5 "Budget modification request" or "BMR" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5. "Budget modification request" or "BMR" means a temporary request for funds in addition to the approved allocation and NOA. (*Division of Disability and Rehabilitative Services; 460 IAC 13-3-5; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

460 IAC 13-3-6 "Budget review questionnaire" or "BRQ" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 6. "Budget review questionnaire" or "BRQ" means a set of qualifying questions to determine why a budget review is necessary that is submitted by the individual's case manager based on information provided by the IST. (*Division of Disability and Rehabilitative Services; 460 IAC 13-3-6; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

460 IAC 13-3-7 "Bureau of developmental disabilities" or "BDDS" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1-1; IC 12-11-2.1

Sec. 7. "Bureau of developmental disabilities" or "BDDS" means bureau of developmental disabilities services as created under IC 12-11-1.1-1. (*Division of Disability and Rehabilitative Services; 460 IAC 13-3-7; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

460 IAC 13-3-8 "Division" or "DDRS" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-9-1-1; IC 12-11-1.1; IC 12-11-2.1

Sec. 8. "Division" or "DDRS" means the division of disability and rehabilitative services created under IC 12-9-1-1. (*Division of Disability and Rehabilitative Services; 460 IAC 13-3-8; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

460 IAC 13-3-9 "ICAP addendum" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 9. "ICAP addendum" means the assessment used that determines an individual's level of functioning on behavioral and health factors. (*Division of Disability and Rehabilitative Services; 460 IAC 13-3-9; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

460 IAC 13-3-10 "Individual" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 10. "Individual" means a person with a developmental disability who has been determined eligible for waiver services by BDDS. If the term is used in the context indicating that the individual is to:

- (1) receive information; or
- (2) provide agreement to some activity;

the term also includes the individual's legal representative. (*Division of Disability and Rehabilitative Services; 460 IAC 13-3-10; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

460 IAC 13-3-11 "Individualized support plan" or "ISP" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 11. "Individualized support plan" or "ISP" means a plan that establishes supports and strategies, based upon the person centered planning process, intended to accomplish the individual's long-term and short-term outcomes by accommodating the financial and human resources offered to the individual through paid provider services or volunteer services, or both, as designed and agreed upon by the IST. (*Division of Disability and Rehabilitative Services; 460 IAC 13-3-11; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

460 IAC 13-3-12 "Individualized support team" or "IST" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 12. "Individualized support team" or "IST" means a team of persons, including the following:

- (1) An individual.
- (2) The individual's representative, if applicable.
- (3) The individual's providers.
- (4) The individual's case manager, if indicated.
- (5) A BDDS representative.
- (6) Other persons identified by the individual or the individual's legal representative, if applicable, who assist the individual in the development and implementation of the individual's ISP.

(*Division of Disability and Rehabilitative Services; 460 IAC 13-3-12; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA*)

460 IAC 13-3-13 "Inventory for client and agency planning" or "ICAP"

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 13. "Inventory for client and agency planning" or "ICAP" means an assessment that determines an individual's level of functioning for broad independence and general maladaptive factors. (*Division of Disability and Rehabilitative Services; 460*

IAC 13-3-13; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)

460 IAC 13-3-14 "Notice of action" or "NOA" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 14. "Notice of action" or "NOA" means the document that outlines the approved service hours an individual may receive from providers. *(Division of Disability and Rehabilitative Services; 460 IAC 13-3-14; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)*

460 IAC 13-3-15 "Objective based allocation" or "OBA" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 15. "Objective based allocation" or "OBA" means the method used by the state to determine an individual's budget based on the level of supports an individual needs in order to live in a community setting. *(Division of Disability and Rehabilitative Services; 460 IAC 13-3-15; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)*

460 IAC 13-3-16 "PAR unit" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 16. "PAR unit" means the group of individuals knowledgeable in the field of physical and intellectual disabilities who review all submitted pertinent information about an individual's life. *(Division of Disability and Rehabilitative Services; 460 IAC 13-3-16; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)*

460 IAC 13-3-17 "Personal allocation review" or "PAR" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 17. "Personal allocation review" or "PAR" means a review of key documents, assessments, and events in an individual's life to substantiate an individual's algo level or recommend a change in algo level. *(Division of Disability and Rehabilitative Services; 460 IAC 13-3-17; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)*

460 IAC 13-3-18 "RHS" defined

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 18. "RHS" means residential habilitation and support services administrated by DDRS through the home and community based services waiver approved by the Centers for Medicare and Medicaid Services under Section 1915(c) of the Social Security Act. *(Division of Disability and Rehabilitative Services; 460 IAC 13-3-18; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)*

Rule 4. Determining the Objective Based Allocation

460 IAC 13-4-1 Determining the objective based allocation

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. (a) The OBA is determined by combining the following elements:

(1) The overall algo score, which is determined by the following:

(A) The ICAP.

(B) The ICAP addendum.

(2) Age.

(3) Employment.

(4) Living arrangement.

(b) When factoring in the living arrangement element, an individual's OBA will not be determined beyond living with three (3) additional housemates.

(c) OBA budgets will remain in place from year to year, unless one (1) of the four (4) determining elements changes. However, each budget shall be reviewed annually, subject to the following requirements:

(1) If a long-term change in one (1) of the four (4) determining elements occurs, a BRQ shall be submitted.

(2) If a short-term change in one (1) of the four (4) determining elements occurs, a BMR shall be submitted.

(Division of Disability and Rehabilitative Services; 460 IAC 13-4-1; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)

Rule 5. Algo Levels

460 IAC 13-5-1 Algo levels

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. The algo levels are as follows:

(1) Algo level zero (0):

(A) high level of independence with few supports needed;

(B) no significant behavioral issues; and

(C) requires minimal residential habilitation services.

(2) Algo level one (1):

(A) moderately high level of independence with few supports needed;

(B) behavioral needs, if any, can be met with medication or informal director by caregivers through the Medicaid state plan services; and

(C) likely a need for day programming and light residential habilitation services to assist with certain tasks, but the individual can be unsupervised for much of the day and night.

(3) Algo level two (2):

(A) moderate level of independence with frequent supports needed;

(B) behavioral needs, if any, can be met with medication or light therapy, or both, every one (1) to two (2) weeks;

(C) does not require twenty-four (24) hours a day supervision; and

(D) generally able to sleep unsupervised, but needs structure and routine throughout the day.

(4) Algo level three (3):

(A) requires access to full-time supervision for medical or behavioral, or both, needs;

(B) twenty-four (24) hours a day, seven (7) days a week staff availability;

(C) behavioral and medical supports are not generally intense; and

(D) behavioral and medical supports can be provided in a shared staff setting.

(5) Algo level four (4):

(A) requires access to full-time supervision for medical or behavioral, or both, needs:

(i) twenty-four (24) hours a day, seven (7) days a week frequent staff interaction; and

(ii) requires line of sight support; and

(B) has moderately intense needs that can generally be provided in a shared staff setting.

(6) Algo level five (5):

(A) requires access to full-time supervision with twenty-four (24) hours a day, seven (7) days a week absolute line of

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sight support;

(B) needs are intense;

(C) needs require the full attention of a caregiver with a one-to-one staff to individual ratio; and

(D) typically only needed by those with intense behavioral needs, not medical needs alone.

(7) Algo level six (6):

(A) requires access to full-time supervision:

(i) twenty-four (24) hours a day, seven (7) days a week; and

(ii) more than a one-to-one staff to individual ratio;

(B) needs are exceptional;

(C) needs require more than one (1) caregiver exclusively devoted to the individual for at least part of each day; and

(D) imminent risk of individual harming self or others, or both, without vigilant supervision.

(Division of Disability and Rehabilitative Services; 460 IAC 13-5-1; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)

460 IAC 13-5-2 OBA service hours

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. OBA service hours are as follows:

| | ALGO Level | | | | | |
|--|--------------|--------------|--------------|--------------|--------------|------------------------------|
| Individual RHS Daily Hours | 0 | 1 | 2 | 3 | 4 | 5 and 6 |
| | Low | Basic | Regular | Moderate | High | Intensive and High Intensive |
| Living with Family | 0.2 | 2 | 3 | 5 | 7 | 8 |
| Living with One Housemate or Sharing Staff with One Individual | 0.2 | 2.6 | 5.3 | 7.8 | 11 | 12 |
| Living with Two Housemates or Sharing Staffing with Two Individuals | 0.2 | 2.6 | 4.6 | 7.8 | 10.1 | 11 |
| Living with Three Housemates or Sharing Staff with Three Individuals | 0.2 | 2.4 | 4.3 | 7.3 | 9.4 | 10 |
| BMAN Reserve (Annual hours) | 0 | 0 | 36 | 72 | 108 | 144 |
| Day Service Reserve (\$/Year) | | | | | | |
| Not Attending School | \$ 10,500.00 | \$ 10,500.00 | \$ 10,500.00 | \$ 10,500.00 | \$ 10,500.00 | \$ 18,000.00 |
| Attending School or under 19 Years of Age | \$ 5,500.00 | \$ 5,500.00 | \$ 5,500.00 | \$ 5,500.00 | \$ 5,500.00 | \$ 5,500.00 |

(Division of Disability and Rehabilitative Services; 460 IAC 13-5-2; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)

Rule 6. Shared Staffing

460 IAC 13-6-1 Shared staffing

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. (a) For individuals deemed appropriate to share staffing, it is expected that they will have housemates or another BDDS approved staffing model.

(b) Only individuals determined by BDDS to be incapable of utilizing shared staffing may receive a budget for living alone. *(Division of Disability and Rehabilitative Services; 460 IAC 13-6-1; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)*

Rule 7. Behavioral Support Services

460 IAC 13-7-1 Behavioral support services for individuals with behavioral needs

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. An individual with behavioral needs is expected to utilize behavioral support services. *(Division of Disability and Rehabilitative Services; 460 IAC 13-7-1; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)*

Rule 8. Personal Allocation Review

460 IAC 13-8-1 Personal allocation review

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. (a) An IST may request a PAR through the case manager via a BRQ.

(b) The BRQ is submitted to the BDDS office and then to the PAR unit for review.

(c) If an individual has not received the BRQ results prior to the new plan start date, the case manager may request a BMR monthly until the BRQ results are completed by the PAR unit.

(d) The PAR unit will notify the case manager of any change in algo or allocation based on the review by the PAR unit. *(Division of Disability and Rehabilitative Services; 460 IAC 13-8-1; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)*

Rule 9. Appeal Process

460 IAC 13-9-1 Appeal process

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. (a) If the IST is dissatisfied with a PAR, or wishes to appeal without a PAR, the IST may appeal one (1) or more of the OBA components after the NOA has been generated.

(b) A description of the appeal process shall be placed on the back page of the NOA. *(Division of Disability and Rehabilitative Services; 460 IAC 13-9-1; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)*

460 IAC 13-9-2 Right to appeal and have a fair hearing

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. (a) If an individual's application or service is denied, the individual may file an appeal within thirty (30) days of the decision date shown on the NOA.

(b) The time limit for filing an appeal is extended by three (3) days if the NOA is sent by U.S. mail.

(c) Home and community based services benefits will continue if an appeal is filed within the required time frame. If individual appeals and the individual's benefits are continued, and if the individual subsequently loses the appeal, the individual may be required to repay assistance paid on the individual's behalf, pending the release of the appeal hearing decision. *(Division of Disability and Rehabilitative Services; 460 IAC 13-9-2; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)*

460 IAC 13-9-3 How to request an appeal

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. (a) To file an appeal, an individual or the individual's representative must sign, date, and return the hearings and appeals copy of the NOA to the office of hearings and appeals.

(b) The office of hearings and appeals will contact the appellant or the appellant's representative in writing and provide notice of the time, date, and location for the hearing.

(c) Prior to, or at the hearing, the appellant or the appellant's representative shall have the right to examine the entire contents of the case record maintained by the case manager.

(d) The appellant may:

(1) represent himself or herself at the hearing; or

(2) authorize a representative to do so.

(e) At the hearing, the appellant shall have an opportunity to:

(1) present witnesses;

(2) establish all pertinent facts and circumstances;

(3) advance any arguments without interference or question; and

(4) refute any testimony or evidence presented.

(Division of Disability and Rehabilitative Services; 460 IAC 13-9-3; filed Apr 22, 2013, 9:48 a.m.: 20130522-IR-460120463FRA)

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