

Individual Responsibility Agreement (IRA)

OVERVIEW

An Individual Responsibility Agreement (IRA) is used when a participant expresses a desire to take responsibility for certain risks that could pose a threat to his/her health and welfare.

The use of an IRA is an acknowledgment of the dignity of risk assumed by a participant. An IRA documents that the participant freely chooses to assume the responsibility and understands the consequences if the risk goes unaddressed. IRAs should be rarely used.

IRAs do not guarantee providers immunity from civil or criminal liability arising from failure to perform duties specified in the standards for participation rules. If an IRA is to be developed, the SC must use the OAAS IRA form. The participant can choose to seek assistance from family and/or friends in the negotiation of an IRA. All parties should consult with their legal representation regarding the use and limitations of the IRA form.

NOTE: No OAAS Waiver, by itself or in combination with other OAAS programs, provides supports 24 hours a day.

Examples of situations when an IRA is used include:

- A participant who cannot transfer independently and chooses to be alone overnight with a PERS or other technology to use in case of an emergency.
- A participant who self operates a ventilator at times to assist with breathing and does not have friends or family in the home at all times.
- A participant who has had a recurrent history of falls but chooses not to accept/wear a PERS.

CRITERIA FOR AN IRA

The following criteria must be met:

- The participant must have the cognitive capacity to make informed decisions and understand what he/she is signing;

OR

- If the participant does not have cognitive capacity, he/she must have a legal representative (i.e., legal guardian, medical power of attorney) to participate in negotiating and signing the IRA.

NOTE: No one may sign on behalf of a participant unless they are legally authorized to do so (i.e. legal guardian or medical power of attorney). This applies to all family members including spouse, children, and/or siblings. Simply being related, by marriage or birth, does not constitute the legal authority necessary to participate in negotiating and signing the IRA.

The responsible representative is *not* allowed to authorize an IRA but may participate in the negotiation process at the discretion of the participant.

- The participant must have a clear understanding of the tasks, functions, and supports that the service provider will not perform.
- When the participant takes responsibility for a risk, he/she must demonstrate how the identified risk will be addressed.

NOTE: If the participant cannot address the risk, he/she must express understanding of the consequences of leaving the risk unaddressed.

DETERMINATION OF POTENTIAL NEED FOR AN IRA

Support Coordinators (SCs) assess and care plan for participants on an initial and annual basis and whenever a significant change in status occurs. During this time, all identified risks should be discussed with the participant/responsible representative and planned for according to the person centered planning philosophy. Defined outcomes will be identified in the Plan of Care (POC).

- The Plan of Care (POC) will:
 - Document how each identified risk chosen to be addressed is going to be managed and by whom, including all areas addressed by formal and informal supports. Any unaddressed risk should be closely scrutinized and

deliberated by the participant, legal representative (if applicable) and the SC in consideration for development of an IRA.

➤ **When an unaddressed risk is identified that poses a serious threat to the participant's health and welfare, the SC will:**

- **Look for additional resources to possibly address the risk.**

If no additional resources are found and the participant chooses to take responsibility for an unaddressed risk, the SC will send the POC and all supporting documentation to RO for consideration as to whether an IRA is needed.

IMPLEMENTATION OF AN IRA

For cases determined to meet the **potential** need for an IRA:

- RO reviews the documents and collaborates with the SC to determine whether health and welfare can be assured without the need of an IRA.
- If RO cannot assure health and welfare, an IRA referral is made to the Service Review Panel (SRP).
 - RO sends IRA referral with all supporting documents to SRP.
 - If the SRP determines that an IRA is needed, the request for an IRA is sent to RO.
 - RO informs the SC to develop an IRA following the IRA guidelines.
 - SC develops an IRA and submits it to RO for approval.

NOTE: POC Pages cannot be submitted to Data Management Contractor (DMC) until RO approves the IRA.

- SC sends a copy of the IRA to the provider along with the POC.

NOTE: IRAs need to be updated at least annually.

SIGNIFICANT CHANGE IN THE PARTICIPANT'S CONDITION

If there is a significant change in the participant's condition since the IRA was implemented, SC may need to revise/update the current IRA and POC or discontinue use of the current IRA. SC will contact RO and follow the IRA procedures identified in this document.

PROBLEMS WITH AN IRA

If the SC determines that a situation has evolved to be too high of a risk, the SC must take appropriate action such as consulting with the SC RN Consultant, the provider, RO and the participant/legal representative to:

- Revise the POC
- Identify additional community services
- Revise or discontinue the IRA and/or
- Request discharge from waiver services

CHANGES TO AN IRA

- Service providers may discontinue their participation in an IRA upon consultation with the participant and SC.
- Participants and/or legal representatives may discontinue the IRA at any time, but must consult with the SC.

NOTE: If the condition or situation under an IRA no longer applies, the IRA must be re-evaluated.

TERMINATION OF AN IRA

OAAS retains the discretion to terminate the IRA agreement at any time.

NOTE: If any change to or termination of the IRA is proposed that would also change the POC, the participant's POC must be revised and other actions taken as appropriate.

Anytime an IRA is terminated, the participant's health and welfare must also be re-evaluated at that time.