

OPWDD Guidance Documents with Payment Standards

This guidance document contains payment standards, with all payment standards shaded in grey. Any requirement in this guidance document which is not shaded in grey is a program standard or an explanation, illumination or illustration to aid auditors in interpreting the documents. Please note that there may be instances where materials may be partially shaded in a sentence, paragraph or beneath a header. It is OPWDD's intent that only those words that are shaded shall be considered part of a payment standard and any other words within a sentence or paragraph or below a header that are not shaded should be construed to be a program standard or an explanation, illumination or illustration to aid auditors in interpreting the document.

CHAPTER 5: STANDARDS FOR ARTICLE 16 CLINICS (Effective for services delivered on or after July 1, 2011)

Title 18 NYCRR, Section 504.3(a) states that by enrolling in the Medicaid program, “the provider agrees...to prepare and to **maintain contemporaneous records** demonstrating its right to receive payment under the medical assistance program and to **keep for a period of six years from the date of care, services or supplies were furnished, all records** necessary to disclose the nature and extent of services furnished and such records and information, upon request, to...the Secretary of the United States Department of Health and Human Services, the Deputy Attorney General for Medicaid Fraud Control and the New York State Department of Health.” It should be noted that there are other entities with rights to audit Medicaid clinic claims, including OPWDD.

In addition, 18 NYCRR, Section 517.3(b)(2) states that “All information regarding claims for payment submitted by or on behalf of the provider is subject to audit for a period of six years from the date the care, services or supplies were furnished or billed, whichever is later.”

5.1 Clinic Visits

Article 16 Clinics may receive reimbursement for a clinic visit defined as a unit of service under APG reimbursement methodology (see Chapter 3 Section 4 for additional information).

- ❖ Reimbursement for approved services provided during an Article 16 Clinic visit is based on **face-to-face service, including observation associated with the face-to-face service** as defined by allowable CPT/HCPCS or CDT codes.
- ❖ Face-to-face service/encounter time does **NOT** include the time the person or party spends getting ready to begin, resting, toileting, waiting for equipment, or independently using equipment, or the authorized party's pre and post delivery services/encounter time as described below.
- ❖ Pre and post delivery services/encounter time is the time spent by the authorized party before and/or after a face-to-face service/encounter performing the following tasks:
 1. Reviewing records and tests
 2. Arranging for additional services
 3. **Communicating with other professionals or service providers in any manner**, such as in person, through written reports or telephone or electronic contact
 4. **Communicating with the person, the collateral, or others through written reports or telephone contact**
 5. **Documenting the face-to-face service/encounter in the clinical record**
- ❖ If an authorized party begins to provide a face-to-face service/encounter to an individual and the individual refuses to stay, becomes disruptive or a piece of equipment fails, etc., thus preventing the completion of the service delivery, the **ACTUAL** time spent providing the face-to-face service/encounter can be claimed for reimbursement as long as the service provided meets the definition of an Article 16 Clinic visit. These situations should be clearly documented in the clinical record to prevent claiming disallowances.
- ❖ An Article Clinic visit must be delivered by an appropriately licensed/certified NY SED practitioner, a person with a NY SED limited permit to practice the specific profession, an exempt person completing a NYS SED required supervised experience, an appropriately supervised student-in-training from an accredited and NY SED approved program, or an authorized qualified non-licensed staff as defined in 14 NYCRR Part 679.



5.2 Clinic Service Documentation:

Medicaid reimbursement rules require the inclusion of sufficient, supporting documentation in the person's clinical record to support the services delivered and claimed for reimbursement. Service documentation elements included in the person's clinical record are:

- ❖ The individual's name
- ❖ The individual's Medicaid number (CIN)
- ❖ Treatment notes (progress notes) that describe the face-to-face service/encounter, i.e. what happened during the treatment session; the tasks, activities and/or procedures performed that are associated with the person's clinic treatment plan, and the progress, result and/or the person's response to the clinic service, and includes:
 1. The service date. (month/date/year)
 2. The location of service delivery. (e.g. Maple Avenue IRA)
 3. The duration of the face-to-face service/encounter. (OPWDD best practice is to document the time the service started and the time the service ended.)
 4. The full signature and title of the clinic staff providing the clinic service. (Full countersignature and title must be provided if required by NY SED)
 5. The date the note was written or documented in the record/file. (Medicaid rules require that the note must be contemporaneous to the service provision.)

5.3 Clinic Treatment Plans:

All clinic treatment plans are based on a current and written individualized, clinical examination, assessment and/or evaluation and are individually tailored to the person's needs. The duration of the clinic treatment plan is one year unless otherwise indicted or changed by the clinic medical director. The clinic medical director or designee reviews and approves (signs) all treatment plans at least annually, by the end of the calendar month in which the clinic treatment plan is effective, or when there are changes to the elements of the treatment plan. The clinic treatment plan contains the following elements:

- ❖ The treatment diagnosis as related to the primary reason the service is provided.
- ❖ The person's developmental disability and other documented diagnoses (medical and/or psychiatric) that may relate to or demonstrate the person's need for the service.
- ❖ Identification of the therapy, therapies or specific type or modality of therapeutic intervention (e.g. physical therapy – gait training) that will be used to address the person's need(s).
- ❖ The treatment goals; functional and time framed.
- ❖ The frequency of service delivery. If frequency is stated as a range, the range must **only** be written to include a **plus 1 type order**, i.e., 1-2 or 2-3 times per week or per month.
- ❖ The location of the service delivery if the service delivery is in an OPWDD-certified residence. The treatment plan must identify the specific clinic service and provide justification for the delivery of the clinic service in the residence.



5.4 Clinic Treatment Reviews:

Clinic treatment reviews incorporate a review of the frequency of the clinic service(s) the goals the treatment plan is intended to achieve; whether treatment goals have been met, and/or whether new goals need to be established. Clinic treatment goals should be established that incorporate expected achievements within specified time periods.

- ❖ The clinic treatment outcomes and/or the course of clinic treatment are reviewed according to the following schedule:
 1. as specified by the treating physician or dentist for medical, including medical specialties, or dental treatment; and
 2. at least every six months by the end of the calendar month in which the clinic treatment review occurs by the treating clinic practitioner or the clinic treatment coordinator, in consultation with the person receiving services and/or as appropriate, his/her collateral for all other Article 16 Clinic treatment plan services
- ❖ The review of clinic treatment outcomes and/or the course of clinic treatment should be specific rather than general; quantifiable, if appropriate; and directly related to the person's clinic treatment plan.
- ❖ Documentation must indicate that the clinic treatment outcomes and/or the course of clinic treatment have been reviewed, and whether clinic treatment is to continue, be changed (next steps) or be discontinued.

5.5 Annual Physician (Re) assessment:

The clinic medical director or designee (physician) assesses all individuals annually as to the continuing need to be served by the clinic.

- ❖ The annual physician (re) assessment includes the review of the individual's treatment and evaluative and clinical/medical information.
- ❖ The review should take account of the clinic service provided, the frequency at which it is provided, the length of time it has been provided, the therapies or modalities employed in treatment, the intended treatment goals, and the clinical appropriateness of the treatment goals in relation to the individual's diagnosis (es), cognitive functioning, physical abilities and the provision of other clinical services to the person.
- ❖ The clinic medical director or designee (physician) may choose to include a face-to-face encounter to obtain needed additional and/or substantive information about the person.
- ❖ Documentation must indicate the date of the (re) assessment, the signature of the physician, the physician's recommendations regarding continuing treatment and briefly, the rationale involved in the determination.
- ❖ The annual physician reassessment must be completed and dated no later than 31 days after a full calendar year has elapsed since the date of the last completed physician reassessment. For example: If the physician's reassessment is dated June 15, 2011, the date of the reassessment in 2012 must be on or before July 16, 2012.

5.6 Clinic Nursing Services

Article 16 Clinic nursing services consist of professional services that require the skill or direction of a registered nurse (RN) to perform.

- ❖ An RN and a licensed practical nurse (LPN) may only provide services within his/her respective **scope of practice & competence** as defined by NY SED.
- ❖ An LPN may only provide Article 16 Clinic nursing services under the direction of an RN, licensed physician, dentist, physician assistant and/or nurse practitioner directly employed by the Article 16 Clinic.
- ❖ Any treatment generally considered first aid; collection of a laboratory specimen (including phlebotomy), or routine medication administration is **not** a reimbursable Article 16 Clinic nursing service.
- ❖ Nursing services required by Administrative Memorandum #2003-01, *Registered Nursing Supervision of Unlicensed Direct Care Staff in Residential Facilities Certified by the Office of Mental Retardation and Developmental Disabilities*, are **not** reimbursable Article 16 Clinic nursing services.



5.7 Clinic Quality Assurance Plan:

The clinic quality assurance plan includes a planned and systematic process for monitoring and assessing the quality and appropriateness of treatment, the clinical performance of staff, a means to resolve identified problems to improve treatment, and the opportunity to incorporate input of consumers, collateral, referral sources and other pertinent parties. The quality assurance process should:

- ❖ Specify written operational procedures and the staff responsible for quality assurance activities that include both program and individual service evaluation.
- ❖ Include individual service evaluation that is representative of the population being served by the clinic and the type of services being provided to that population.
- ❖ Define methods for the identification and selection of clinical and administrative problems to be reviewed.
- ❖ Establish review criteria in accordance with current standards of professional community practice.
- ❖ Document findings, trends, recommendations, and actions taken to resolve problem areas.
- ❖ Demonstrate timely implementation of necessary corrective actions.
- ❖ Provide for periodic assessment or re-assessment of the corrective actions taken.

5.8 Coordination of Clinic Treatment Plans:

The clinic treatment coordinator has primary coordination responsibility for all services, therapies and/or treatment provided to a person by the Article 16 Clinic. The clinic treatment coordinator forwards written treatment plan recommendations to the person's Medicaid Service Coordinator or other coordinator outside of the clinic program, and as appropriate, to other caregivers and referral sources. **Written recommendations must be forwarded when the treatment plan is first developed; at least semi-annually when the review of clinic treatment outcomes and/or the course of treatment are completed; and whenever the clinic treatment plan is significantly changed.**

- ❖ To avoid the duplication of clinical services, treatment plans must attempt to incorporate all of the person's other individualized written plans of services required by law or regulation. All plans should be generally consistent (i.e. not in conflict) and not duplicate the same clinical service or modality (e.g. gait training) from multiple sources. Other plans can include: the Individualized Services Plan (ISP), the Individualized Education Program (IEP), the Individual Program Plan (IPP), and clinic treatment plans for services delivered by other clinics. Identification of an Article 16 Clinic service on other individualized plans of service is not a billing requirement for the Article 16 Clinic provider.
 1. If the person is enrolled in the OPWDD Home and Community Based Services (HCBS) waiver or is receiving only Medicaid Service Coordination (MSC), the clinic treatment coordinator should request that the Medicaid Service Coordinator provide a copy of the person's current ISP, so that this information can be considered when a clinic treatment plan is developed and can be included in the person's clinical record.
 2. If the person is a resident of an OPWDD Intermediate Care Facility (ICF), the clinic treatment coordinator should request that the ICF administrator provide a copy of the person's IPP, so that this information can be considered when a clinic treatment plan is developed and can be included in the person's clinical record.
 - Each OPWDD certified ICF/DD is fiscally responsible for the costs of certain long term therapies provided to a person who resides at the ICF/DD regardless of the location where the service is received (e.g., Article 16 Clinic services provided at the main site, certified satellite site, or ICF; Article 28 Clinic services provided at the main clinic site, certified extension or part-time clinic site). This provision applies to various long term therapies: dietetics and nutrition, nursing services (excluding medical services provided by a nurse practitioner), occupational therapy, physical therapy, psychologist services, rehabilitation counseling, social work, and speech and language pathology services.



- This provision does **NOT** apply to medical services (including medical services provided by a nurse practitioner and medical specialty services such as psychiatry). Separate time-limited billing of up to three consecutive months per calendar year is allowed for certain services (i.e., dietetics and nutrition, nursing, occupational therapy, physical therapy, speech and language pathology and psychologist services) in response to an acute illness, accident, or post-hospitalization health need.
3. If an OPWDD provider operates both a clinic certified pursuant to Article 16 of Mental Hygiene Law, and a clinic certified pursuant to Article 28 of Public Health Law, the clinic treatment plans for any person who is being served by both clinics are expected to be coordinated.
 4. If a person is enrolled in an OPWDD day treatment program, the clinic treatment coordinator must ensure compliance with regulation 690.3(a)(5)(v) that prohibits reimbursement of Article 16 Clinic services other than in the four specified clinical service areas of audiology, special medical, routine medical and dentistry when an individual also receives an OPWDD certified collocated day treatment service (a.k.a., partial day treatment) on the same day. A certified day treatment program that is located on the same site as an OPWDD certified day training or sheltered program is considered to be a collocated day treatment service.
- ❖ Treatment plans should be coordinated with clinical services delivered by other providers, including other clinics.
 1. If different clinic services are being provided to a person by two or more Article 16 Clinics (e.g. clinic "A" is providing psychology services to the person while clinic "B" is providing occupational therapy to the same person), the clinical record and the clinic treatment plan for each clinic must include documentation that clearly indicates what service is being provided by each Article 16 Clinic.
 2. If a particular clinic service (e.g. psychology) is being provided to a person by one Article 16 Clinic, that service must not also be provided to the same person by another Article 16 Clinic, unless there is a compelling clinical justification to do so (e.g. the person needs a specific treatment service that is only offered by a therapist from another clinic). The clinical record and the clinic treatment plan for each clinic must include documentation that the service is being provided by another Article 16 Clinic, and include the clinical justification for the provision of the same service by two different clinics.
 3. If a person residing in an ICF receives Article 16 Clinic services (because the specific clinical service is not included in the reimbursement rate for the ICF or because the agency operating the ICF purchases the clinical service directly from the Article 16 Clinic), the clinic treatment coordinator should provide a copy of the person's clinic treatment plan to the ICF administrator when the clinic treatment plan is first developed; at least semi-annually when the review of clinic treatment outcomes and/or the course of clinic treatment are completed; and whenever the clinic treatment plan is significantly changed.

5.9 Clinic Administration:

- ❖ The clinic administrator of an Article 16 Clinic must be directly employed by the agency that holds the Article 16 Clinic operating certificate.
- ❖ The clinic administrator, the medical director, and/or the medical director designee of an Article 16 Clinic must not have interests that could materially affect his/her objective judgment when making decisions about the provision of Article 16 Clinic services.

