



ADMINISTRATIVE DIRECTIVE - #2015-07

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To:	Executive Directors of Voluntary Provider Agencies Developmental Disabilities Regional Office Directors Developmental Disabilities State Operations Office Directors Executive Directors of Care Managers and Care Coordination Organizations
Issuing OPWDD Office:	Division of Service Access, Program Implementation, Stakeholder Supports – Employment and Meaningful Community Activities Unit
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Subject:	Pathway to Employment Services
Suggested Distribution:	Administrators and Managers of Pathway to Employment Services Quality Improvement Staff Fiscal/Billing Staff Care Managers Regional Office Front Door Staff Central Office Leadership Team
Contact:	Employment and Meaningful Community Activities Division of Service Delivery – Regional Offices employment.technical.assistance.questions@opwdd.ny.gov
Attachments:	

Related ADMs	Releases Cancelled	Regulatory Authority	MHL & Other Statutory Authority	Records Retention
ADM 2012-01 ADM 2018-06R2 ADM 2018-09R	ADM 2015-07	14 NYCRR Part 635	MHL §§ 13.07, 13.09, and 16.00	<u>18 NYCRR §504.3(a)</u> <u>18 NYCRR §517.3</u> <u>14 NYCRR §635-4.5</u> <u>New York False Claims Act – State Finance Law §192</u>

Purpose:

This Administrative Memorandum (ADM) issued by the Office for People With Developmental Disabilities (OPWDD) describes the Pathway to Employment service documentation requirements that support a provider's claim for payment. This service is available only to individuals who are enrolled in the Home and Community Based Services (HCBS) Waiver; have expressed an interest in competitive employment or self-employment; and have competitive employment or self-employment identified as a goal in their Individualized Service Plans (ISPs).

In addition to the claim documentation requirements specified in this ADM, Pathway to Employment providers must continue to comply with quality service standards set forth in OPWDD regulation and any other standards published by OPWDD in regulation or guidance.

Background:

New York State regulations require each Medicaid provider to prepare records to demonstrate its right to receive Medicaid payment for a service. These records must be "contemporaneous" and kept for six years from the date a service was provided. [Sec 18 NYCRR section 504.3(a)].

The regulations containing program and payment rules specific to HCBS Waiver Pathway to Employment are at 14 NYCRR Subdivisions 635-10.4(h) and 635-10.5(ad).

On May 12, 2015, OPWDD issued Administrative Memorandum #2015-07, entitled "Service Documentation for Pathway to Employment Services," describing Pathway to Employment Service program and billing requirements. This ADM, ADM #2015-07R, updates records retention requirements and includes requirements about remote service delivery. These changes appear in red and are underlined.

Pathway to Employment Services:

Pathway to Employment is a person-centered career/vocational employment planning and support service that provides assistance for individuals to obtain, maintain, or advance in competitive employment and/or self-employment. The service combines an individualized career/vocational planning process that identifies an individual's support needs, with the provision of services that will strengthen the skills needed to obtain, maintain, or advance in competitive employment. It engages individuals in identifying a career/vocational direction, provides instruction and training in pre-employment skills, and develops a path for achieving competitive, integrated employment at or above the New York State minimum wage or commensurate wage for the job sought. The Pathway to Employment service involves both the provision of direct and indirect services.

1. *Direct service provision* consists of activities involving interaction with the individual, and includes any of the following allowable activities:
 - a. job readiness training, including individualized and appropriate work-related behaviors (e.g., resume building, mock job interviews, goal setting, work ethics and behaviors, basic computer skills, workplace communication, dressing for success);

- b. instruction and teaching of tasks necessary to obtain employment;
- c. individualized and ongoing job coaching (e.g., training tailored to the needs of the individual including job analysis to identify job duties, assistance in learning work-related tasks and routines, providing support to the individual and business such as advocacy, disability awareness-building, job adaptations, social support, problem-solving, development of natural supports);
- d. travel training (i.e., training designed to teach individuals how to travel safely and independently on public transportation);
- e. stress management (i.e., training on methods to identify stressors and develop effective coping mechanisms to respond to stressors, such as assertive communication, guided imagery, breathing techniques, and active problem solving);
- f. social skill development and interpersonal skill building (e.g., instruction related to communication skills, requesting assistance, developing and maintaining relationships, problem solving, manners in the workplace, listening, understanding the work culture);
- g. vocational observation and assessment (e.g., interviewing an individual to obtain information about his or her vocational skills, goals and support needs; observing an individual in both vocational and non-vocational settings to assess potential employment skills and interests and support needs; reviewing records and information regarding prior volunteer or vocational experiences that can be used to identify possible employment interests and support needs; administering test or performance reviews that provide information on employment skills);
- h. situational observation and assessment (e.g., observation and assessment of an individual to determine his or her basic work behaviors and skills through practical hands-on community-based volunteer and work experiences, determining the core job competencies and duties required of a skilled worker and then comparing the actual performance of the individual being assessed);
- i. job-related discovery (e.g., observation of the individual performing work skills and career research with the individual in order to determine the person's career interests, talents, skills, and support needs);
- j. experiential learning in career exploration and vocational discovery (e.g., assisting an individual with visits to job sites in the community to learn more about various careers, interaction with employees on those job sites to learn about the various types of skills needed to be hired in those fields);
- k. experiential learning to achieve specific career/vocational outcomes (e.g., identifying specific career goals with an individual and the skills that will be needed in order to successfully achieve such goals; assisting an individual with

job shadowing, work tryouts, volunteering, internships, mentorships, and other opportunities that enable an individual to try different experiences in the community that develop the skills needed to successfully achieve career goals);

- l. assessment for use of assistive technology to increase independence in the workplace;
 - m. assisting an individual with obtaining community experiences and assisting an individual during community experiences, which include volunteer opportunities, paid or unpaid internships, mentorships, apprenticeships, worksite visits, temporary job placement, or other job exploration modalities (Note: individuals participating in paid internships or paid short-term work experiences must be paid at least the minimum wage established in New York State laws and regulations for the type of employment or self-employment sought through the internship opportunity). The purpose of the community experiences is to identify the various environmental factors, task skills, interpersonal skills, training, physical skills, etc., needed to be successful in employment;
 - n. transportation to and from such community experiences (i.e., time that the service provider spends transporting individuals to community experiences);
 - o. education and counseling around benefits management and employment (e.g., counseling an individual and his or her family about the impact of wages on Social Security, Medicaid, food stamps, and other benefits and providing information to an individual and his or her family on Work Incentive Programs and the Ticket to Work Program);
 - p. career/vocational planning (Once an individual has chosen an employment goal, a plan should be made to assist the individual in achieving his or her goals. The plan should clearly outline all the steps to be taken in order for the individual to gain the skills, experience, and knowledge needed to be successful in their identified career);
 - q. customized paid or unpaid experience development (a process designed to personalize the relationship between an individual and business/potential employer to develop opportunities that facilitate matches among the person's strengths and interests and work conditions and the identified needs of the business); and
 - r. planning for self-employment, including identifying skills that could be used to start a business, and identifying business training and technical assistance that could be used in achieving self-employment goals.
2. *Indirect service provision* consists of activities that take place on behalf of the individual, but do not involve interaction with the individual, and includes any of the following allowable activities:

- a. observation and assessment of an individual's interactions and routines at home, in the community, and within other services or programs that could translate into employable skills (e.g., visiting an individual's residence to interview family members, housemates, or residential staff to learn about the individual's possible employment skills and interests; observing an individual at a day habilitation program or at home to assess his or her communication and social skills);
- b. development of community experiences through volunteer opportunities, paid or unpaid internships, mentorships, apprenticeships, worksite visits, or other job exploration modalities (e.g., meeting or communicating with community businesses to develop possible volunteer or internship opportunities);
- c. preparing a Pathway to Employment Service Delivery Plan (also known as the Habilitation Plan); and
- d. preparing a Pathway to Employment Career/Vocational Plan.

Billing Standard:

The unit of service for Pathway to Employment is one hour. Services are billed in 15-minute increments, with a full 15 minutes of service required to bill a single increment (i.e., there is no "rounding up"). When there is a break in the service delivery during a single day, the service provider may combine, for billing purposes, the duration of continuous periods/sessions of direct service provision and/or duration of continuous periods/sessions of indirect service provision if the number of individuals being served simultaneously (individual or group) is maintained for each session.

For example, a provider wants to bill for one individual who received Pathway to Employment services for a 30-minute session in the morning from 10:00am to 10:30am and again for a 45-minute session in the afternoon from 1:00pm to 1:45pm. The service provider would be able to bill for a combined time increment of 75 minutes at the individual fee.

If three (3) individuals received a Pathway to Employment service (e.g., travel training) in a group from 9:00am to 9:30am and then from 11:00am to 12:00pm each individual separately received a Pathway to Employment service (e.g., job coaching at a volunteer site) the provider would bill as follows:

For the 30-minute session, the provider would bill for each person at the group fee. For the 1-hour session, the provider would bill for each person at the individual fee. The provider cannot combine the 30-minute session and 1-hour session as the staff to individual ratio differed.

1. Pathway to Employment services may be provided to an individual or to a group of individuals.
 - a. When services are provided to one individual the service provider can only bill at the individual fee.

- b. When services are provided to a group of 2-3 individuals the service provider can only bill for each individual at the group fee.
 - c. On any given day, a Pathway to Employment provider may have more than one group involved in a community experience. For each group, the maximum number of individuals is limited to three (3) individuals and the services must be billed at the group fee.
- 2. If, on a given day, Pathway to Employment services are provided to an individual both in a group and individually, the service provider may bill at both rates, with separate claims, reflecting the service time associated with the group session and the service time associated with the individual session.
 - 3. Time spent receiving another Medicaid service cannot be counted toward Pathway to Employment billable service time in instances when the Medicaid service is received simultaneously with one or more Pathway to Employment allowable activities that involve **direct service** provision. The exception to this limitation is Medicaid Service Coordination (MSC), which may be provided simultaneously with allowable activities that involve direct service provision to an individual.

For example, an individual receives Pathway to Employment services from 9:00am to 10:00am on a particular day. If any of the services include allowable activities that involve direct service to the individual (e.g., job readiness training, travel training, vocational/situational assessment, community experiences such as volunteer and internships, etc.) then another Medicaid service cannot be billed for the time period of 9:00am to 10:00am. Except if Medicaid Service Coordination is provided during the time period of 9:00am to 10:00am, then both Pathway to Employment and Medicaid Service Coordination can be billed.

- 4. In the case of indirect service provision, time spent receiving a Pathway to Employment indirect service while receiving another Medicaid service can be counted toward Pathway to Employment billable service time. Indirect services are limited to 60 hours per month.

For example, an individual volunteers at a nursing home as part of his or her day habilitation program from 10:00am to 12:00pm. From 10:30am to 11:00am the Pathway to Employment staff visits the volunteer site to observe the individual in order to: assess how the individual interacts with other volunteers and nursing home residents, and interview staff at the nursing home to obtain information about how the individual completes assignments and follows instructions. The Pathway to Employment provider would bill the 30-minute session as an indirect service.

Pathway to Employment Career/Vocational Plan:

The service provider must develop a Pathway to Employment Career/Vocational plan for each individual receiving the service. The career/vocational plan must identify and focus on the individual's career/vocational and employment goals, employment needs, talents and natural supports.

1. At the completion of the service the individual must receive a copy of his or her career/vocational plan.
2. As part of developing the career/vocational plan, a report must be completed that contains a summary of interviews, action steps, career development activities, community-based volunteer experiences, work experiences, and recommendations for other employment related services.

Timeframe for Completion of Service:

1. If the service provider considers that an individual needs more than 12 months and/or additional hours of Pathway to Employment services, the service provider may submit a written request to OPWDD, in the form and format specified by OPWDD, for an extension(s) of a period of time and/or numbers of hours.
2. OPWDD's decision to approve an extension request will be based on the following:
 - a. whether the individual engaged (or will engage) in an internship or volunteer opportunity, and has the potential to be hired within six (6) months of the scheduled completion of the Pathway to Employment service;
 - b. whether there is (or will be) a break in the provision of the Pathway to Employment service due to an individual's extended medical absence or personal hardship;
 - c. whether unforeseen circumstances prevent (or will prevent) the service provider from maintaining continuous delivery of the Pathway to Employment service;
 - d. the best interests of the individual; and/or
 - e. the timeliness of the service provider's request for an extension.
3. In the event that an extension(s) is authorized by OPWDD, the extension(s) must not exceed an additional 12 months and an additional 278 hours of service.

4. If OPWDD has authorized an extension of the 12 month/ 278 hours limit on Pathway to Employment services for an individual served by the provider, the provider must maintain documentation of OPWDD's authorization of the extension and make note of the extension in the individual's ISP.
5. There is a lifetime limit of a maximum of 556 hours of service delivery per individual receiving the Pathway to Employment service.

Service Documentation:

Medicaid rules require that service documentation is contemporaneous with the service provision. Required service documentation elements for this service are:

1. **Individual's name and Medicaid number (CIN).**
2. **Name of the agency providing the Pathway to Employment service.**
3. **Identification of the category of waiver service provided.** (Pathway to Employment Service).
4. **Documentation of start and stop times.** Document the service start time and service stop time for each continuous period of service provision.
5. **The ratio of individual(s) to staff.** (e.g., 1:1, 1:2, or 1:3). In the case of a job readiness class the service documentation should indicate the total number of participants.
6. **Description of direct services.** If direct services are provided, each documented session must list **at least one allowable direct service** delivered in accordance with the individual's Pathway to Employment Service Delivery Plan.
7. **Description of indirect services.** If indirect services are provided, each documented session must list **all allowable indirect services** delivered during the session in accordance with the individual's Pathway to Employment Service Delivery Plan.
8. **The date the service was provided.**
9. **Verification of service provision by the staff person delivering the service.** Initials are permitted if a "key" is provided which identifies the title, signature, and full name associated with the staff initials.
10. **The individual's response to the service.**
11. **Signature of the Pathway to Employment staff person documenting the service and date the service was documented (or initials as referenced in item #9).**

The acceptable format for the service documentation supporting a provider's billing submittal includes a checklist with a monthly summary note documenting the Pathway to Employment service delivery.

Checklist and Monthly Summary

For each service session, a provider must document the direct and indirect Pathway to Employment services delivered by using a checklist prescribed or approved by OPWDD. A monthly summary is also required. The monthly summary must summarize the implementation of the individual's Pathway to Employment Service Delivery Plan during that month and address the individual's response to services provided along with any issues or concerns. **The combination of the checklist and summary note must include all the service documentation elements listed above.**

Other Documentation Requirements:

In addition to the chart and monthly summary supporting the Pathway to Employment billing claim, the agency providing Pathway to Employment services must maintain the following documentation:

- A copy of the individual's **ISP**, developed by the individual's Medicaid Service Coordinator (MSC) or Plan of Care Support Services (PCSS) Service Coordinator. For Pathway to Employment, the following elements must be included in the ISP:
 - identification of the Pathway to Employment category of waiver service.
 - identification of the agency providing Pathway to Employment services.
 - specification of an effective date for Pathway to Employment that is on or before the first date of service for which the agency bills Pathway to Employment for the individual.
 - specification of the frequency for Pathway to Employment as "hour" or "hourly."
 - specification of the duration for Pathway to Employment as time-limited 12 months or 278 hours, whichever comes first. If there is an extension of Pathway to Employment beyond 12 months or 278 hours, the extension must be noted in the ISP.
- The **Pathway to Employment Service Delivery Plan** developed by the agency providing Pathway to Employment services must conform to the Habilitation Plan requirements found in Administrative Memorandum #2012-01. For Pathway to Employment, the habilitation plan should clearly identify that the habilitation plan is for

Pathway to Employment (i.e., titled “Pathway to Employment Plan”). The Pathway to Employment Habilitation Plan must “cover” the time period of the Pathway to Employment claim.

- The **Pathway to Employment Career/Vocational Plan** which is also given to the individual at the completion of the service and to OPWDD in a method prescribed by OPWDD.

Additional information for Pathway to Employment Services Delivered Remotely:

Pathway to Employment (PTE) may be delivered remotely. However, providers must ensure remote PTE service delivery complies with OPWDD ADM #2021-03R *Ability to use Technology to Remotely Deliver Home and Community-Based Services*.

PTE provided via remote technology directly to the person (i.e., direct services) must be listed in the Life Plan and reflected in the Staff Action Plan. However, providers can call individuals over the phone as an incidental component of service delivery to check-in with participants as allowed in the service definition or in emergency circumstances. This is different from phone calls that involve teaching/training with the staff that are considered telehealth.

In PTE, examples of incidental calls to individuals include:

- reminding the individual about a volunteer or job interview;
- reminding the individual to wash their uniform;
- informing the individual of volunteer/job schedule changes;
- learning about the individual's volunteer/work schedule so the staff know when to visit sites;
- checking in to see if there are any unforeseen challenges; and
- scheduling upcoming service activities.

Emergency phone calls include helping the individual trouble shoot an unexpected, non-regular problem at volunteer or work site.

PTE services provided via remote technology on behalf of the person (i.e., indirect services) do not need to be listed in the Life Plan but must be reflected in the Staff Action Plan.

Documentation Retention:

All documentation specified above, including the ISP, Pathway to Employment Service Delivery Plan, the Pathway to Employment Career/Vocational Plan and service documentation, must be retained for a period of at least 10 years from the date the service was delivered or when the service was billed, whichever is later.