



STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

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ALBANY, NEW YORK 12229-0001
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www.omr.state.ny.us

**The May 19, 2006 letter and attachments have been modified to reflect
“Psychologist Services” rather than “Psychological Services.”**

June 13, 2006

Dear ICF Agency Executive:

This is to inform you that starting on January 1, 2007, each OMRDD certified ICF/DD will be fiscally responsible for the long term therapies identified below. A new Schedule of Services specifying this responsibility is included as Attachment A to this letter. With this change, separate Medicaid billing will be prohibited for the following long term services provided to an ICF resident: occupational therapy, physical therapy, **psychologist services**, speech and language pathology, social work, dietetics and nutrition, rehabilitation counseling, and nursing services (excluding medical services provided by a nurse practitioner). This prohibition on separate billing to Medicaid extends to practitioner provided services, clinics, and any other Medicaid funded service provider and applies to all service delivery locations (e.g., Article 16 clinic services provided at the main clinic site or ICF, Article 28 clinic services provided at the main clinic site or a day treatment site).

In assuming the cost of long term therapies, the ICF must continue to meet all resident treatment needs in a quality manner as required in ICF regulations. These resident needs can be met in a variety of ways, including direct service provision by the ICF's own clinicians or through contracts the ICF executes. The ICF must be aware that where changes in services occur, federal regulations require that the resident's Individual Program Plan be reviewed and revised as needed. Also, if the ICF changes a resident's program plan, OMRDD regulations, at 14 NYCRR 633.12, require the ICF to advise the resident and his or her representative of the right to object under the 633.12 process to the plan change.

Prospective ICF Rate Appeal Mechanism

Providers may utilize OMRDD's prospective rate appeal mechanism if additional funding is needed to meet ICF residents' long term therapy needs. Prospective rate appeals will be accepted and the process and timetable for timely filing of such an appeal to meet the January 1, 2007 implementation date is specified in Attachment B. To insure timely processing, prospective appeals must be filed by July 10, 2006. Providers also have the option of filing retroactive rate appeals for long term therapy needs. In accordance with regulations, retroactive rate appeals must be filed within one year of the close of the rate period. Regardless of what type of appeal is filed, all current policies and procedures will be followed in reviewing requests.



Separate Time-limited Billing In Response to Acute Illness, Accident or Post-Hospitalization Health Need

To address an acute illness, an accident, or post-hospitalization health need, the Medicaid program will allow up to three consecutive months of separate practitioner/clinic billing for short term rehabilitation within a calendar year. This time-limited separate billing pertains only to: occupational therapy, physical therapy, psychologist services, speech and language pathology, dietetics and nutrition, and nursing. Please note that time-limited separate billing is not allowed for social work or rehabilitation counseling.

The allowed time-limited rehabilitation/therapy services referenced above must be directly related to the ICF resident's acute illness, an accident, or post-hospitalization health need. (For example: John has cerebral palsy and receives PT services each week; this is a long term clinical service. Mary has autism and had a behavioral episode in which she injured her wrist, which requires PT; this is an acute situation.) Up to three consecutive months of separate billing for short term rehabilitation/therapy will be allowed in a calendar year; therefore, the ICF will be fiscally responsible for any needed practitioner/clinic service that extends beyond this time frame. While the short term rehabilitation service separately billed to Medicaid is occurring, it is the ICF's responsibility to arrange for and plan to pay for any longer term therapy that is needed by a resident. The ICF rate appeal mechanism is available to accommodate such an extended need.

Review of Resident Long Term Therapy Needs

To assist you in planning for the January 1, 2007 changes, we have included in Attachment C, utilization data for residents of your ICF(s). This data shows all long term therapy services separately billed by practitioners, Article 16, and Article 28 clinics and any other providers for the period December 1, 2004 to November 30, 2005. You should review this utilization data against the resident's current needs and their Individual Program Plan to develop a way to ensure appropriate service to each ICF resident. Based upon that review the agency can develop a prospective ICF rate appeal, if necessary.

OMRDD Monitoring of Practitioner/Clinic Medicaid Claims

OMRDD will routinely monitor separate practitioner/clinic Medicaid billing for therapies provided to ICF residents. When claims appear to be inappropriate, the ICF will be given the opportunity to respond regarding OMRDD's finding. Where OMRDD makes a determination that the separate practitioner/clinic claim is in fact inappropriate, the ICF will be required to make a payment to the Medicaid system equal to the value of the separately billed practitioner/clinic claim(s). This ICF liability will extend to practitioner/clinic claims made regardless of the therapy service location (e.g. at the ICF, at the ICF resident's day program). In monitoring short term rehabilitative service claims for therapies provided to address acute illness, an accident, or post-hospitalization health need, OMRDD will review a sample of associated medical documentation. Where this short term therapy billing is determined to be unrelated to an acute illness, an accident, or a post-hospitalization health need, the ICF will also be responsible for repayment to Medicaid.

June 13, 2006

Notifications

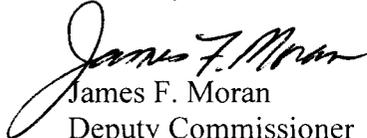
The State Department of Health will notify all private practitioners and Article 16 and Article 28 clinics of this payment change in an upcoming issue of the Medicaid Update. OMRDD will also send correspondence to Article 16 clinic providers.

Technical Assistance

The OMRDD coordinator for this billing change is Karen Desso in our Field Operations Bureau. Ms. Desso, who is available to assist you, can be reached by phone at (518) 402-4339 or by e-mail at karen.desso@omr.state.ny.us. Questions about ICF rate appeals should be directed to Steve Ellrott in the Bureau of Rate Setting. Mr. Ellrott can be reached by phone at (518) 486-4289 or by e-mail at steve.ellrott@omr.state.ny.us.

Thank you for your cooperation in planning for the January 1, 2007 change. With your cooperation, we can appropriately meet all ICF resident needs.

Sincerely,



James F. Moran
Deputy Commissioner
Division of Administration and
Revenue Support

Attachments

cc: Commissioner Maul
H. DeSanto
P. Kietzman
K. Broderick
M. Gatens
G. Lind
L. Kagan
J. Howard
S. Ellrott
S. Mahar
K. Desso
R. Nussbaum
L. Kelly
DDSO Directors
Provider Associations
Multi-CulturalProviderNetwork

NEW YORK STATE
CONSOLIDATED FISCAL REPORT
 For the Period: January 1, 2007 to June 30, 2007 = New York City Agencies

SCHEDULE OMRDD-1
SCHEDULE OF SERVICES -
ICF/DDs Only

Attachment A-1

Page _____

AGENCY NAME: _____ AGENCY CODE: _____	SITE ADDRESS: _____ _____ OPERATING CERTIFICATE NUMBER: _____
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Complete a separate schedule for each site. For each service type or supply, check Cols. 1, 2 or 3. If Col. 2 or 3 is checked, show the dollar amount associated with Col. 2 or 3 in Column 4.

Line No.	SERVICE TYPE	Col. 1 Exclusively Purchased w/ Medicaid Card	Col. 2 Exclusively Purchased by ICF	Col. 3 ICF Purchases Made Only Where MA Card Did Not Cover Items	Col. 4 ICF Purchase Amount Associated w/ Col. 2 or 3	Line No.	SERVICE TYPE	Col. 1 Exclusively Purchased w/ Medicaid Card	Col. 2 Exclusively Purchased by ICF	Col. 3 ICF Purchases Made Only Where MA Card Did Not Cover Items	Col. 4 ICF Purchase Amount Associated w/ Col. 2 or 3
Pharmacy Services						Aide Services					
1	Prescription Drugs					25	Home Health Aide				
2	Non-Prescription Drugs					26	Personal Care Aide				
3	Medical Supplies *					Medical Services					
4	Enteral Formulae					27	General Medical - Direct Service				
5	Diapers					28	General Medical - Consultation				
Equipment						29	Physician - Direct Service				
6	Durable Medical					30	Physician - Consultation				
7	Prosthetic & Orthotic					31	Psychiatrist - Direct Service				
Service Coordination						32	Psychiatrist - Consultation				
8	Service Coordination					33	All Dental Services				
Transportation Services						34	Clinical Laboratory				
9	To Medical Office/Clinic					35	X-Ray Diagnostic				
Therapy Services (See definition)						36	Specialized (Specify)				
10	Long Term - Occupational Therapy					Complete this section only if this site is funded for Day Services within the ICF/DD Rate					
11	Long Term - Physical Therapy					37	Day Programming * *				
12	Long Term - Psychologist Services					38	Day Training				
13	Long Term - Speech and Language Pathology					39	Sheltered Workshop				
14	Long Term - Dietetics and Nutrition					40	Education				
15	Long Term - Rehabilitation Counseling					Definitions and Notes: Consultation - Practitioner provides training, oversight and direction to direct care staff. Direct Service - Practitioner directly treats the consumers. Nursing - Excludes medical services provided by a nurse practitioner. * Medical Supplies: If Column 2 or 3 is checked, complete Schedule OMRDD-2 for each site as well. ** If Day Programming is completed, attach a list of consumers whose day service costs are included in the ICF/DD rate. Include each consumer's Medicaid Identification number. The list of consumers should only be sent to OMRDD. ***Service must be directly related to an acute illness, accident or post-hospitalization health need. If purchased with a Medicaid card, this acute care/rehabilitation service is limited to 3 consecutive months in a calendar year.					
16	Long Term - Social Work										
17	Long Term - Nursing										
18	Acute Care - Occupational Therapy ***										
19	Acute Care - Physical Therapy ***										
20	Acute Care - Psychologist Services ***										
21	Acute Care - Speech and Language Pathology ***										
22	Acute Care - Dietetics and Nutrition ***										
23	Acute Care - Nursing ***										
24	Other (Specify)										

NEW YORK STATE
CONSOLIDATED FISCAL REPORT
 For the Period: January 1, 2007 to December 31, 2007 = Upstate Agencies

SCHEDULE OMRDD-1
SCHEDULE OF SERVICES -
ICF/DDs Only

Attachment A-2

Page _____

AGENCY NAME: _____ AGENCY CODE: _____	SITE ADDRESS: _____ OPERATING CERTIFICATE NUMBER: _____
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Complete a separate schedule for each site. For each service type or supply, check Cols. 1, 2 or 3. If Col. 2 or 3 is checked, show the dollar amount associated with Col. 2 or 3 in Column 4.

Line No.	SERVICE TYPE	Col. 1	Col. 2	Col. 3	Col. 4	Line No.	SERVICE TYPE	Col. 1	Col. 2	Col. 3	Col. 4
		Exclusively Purchased w/ Medicaid Card	Exclusively Purchased by ICF	ICF Purchases Made Only Where MA Card Did Not Cover Items	ICF Purchase Amount Associated w/ Col. 2 or 3			Exclusively Purchased w/ Medicaid Card	Exclusively Purchased by ICF	ICF Purchases Made Only Where MA Card Did Not Cover Items	ICF Purchase Amount Associated w/ Col. 2 or 3
Pharmacy Services						Aide Services					
1	Prescription Drugs					25	Home Health Aide				
2	Non-Prescription Drugs					26	Personal Care Aide				
3	Medical Supplies *					Medical Services					
4	Enteral Formulae					27	General Medical - Direct Service				
5	Diapers					28	General Medical - Consultation				
Equipment						29	Physician - Direct Service				
6	Durable Medical					30	Physician - Consultation				
7	Prosthetic & Orthotic					31	Psychiatrist - Direct Service				
Service Coordination						32	Psychiatrist - Consultation				
8	Service Coordination					33	All Dental Services				
Transportation Services						34	Clinical Laboratory				
9	To Medical Office/Clinic					35	X-Ray Diagnostic				
Therapy Services (See definition)						36	Specialized (Specify)				
10	Long Term - Occupational Therapy					Complete this section only if this site is funded for Day Services within the ICF/DD Rate					
11	Long Term - Physical Therapy					37	Day Programming * *				
12	Long Term - Psychologist Services					38	Day Training				
13	Long Term - Speech and Language Pathology					39	Sheltered Workshop				
14	Long Term - Dietetics and Nutrition					40	Education				
15	Long Term - Rehabilitation Counseling					Definitions and Notes: Consultation - Practitioner provides training, oversight and direction to direct care staff. Direct Service - Practitioner directly treats the consumers. Nursing - Excludes medical services provided by a nurse practitioner. * Medical Supplies: If Column 2 or 3 is checked, complete Schedule OMRDD-2 for each site as well. ** If Day Programming is completed, attach a list of consumers whose day service costs are included in the ICF/DD rate. Include each consumer's Medicaid Identification number. The list of consumers should only be sent to OMRDD. ***Service must be directly related to an acute illness, accident or post-hospitalization health need. If purchased with a Medicaid card, this acute care/rehabilitation service is limited to 3 consecutive months in a calendar year.					
16	Long Term - Social Work										
17	Long Term - Nursing										
18	Acute Care - Occupational Therapy ***										
19	Acute Care - Physical Therapy ***										
20	Acute Care - Psychologist Services ***										
21	Acute Care - Speech and Language Pathology ***										
22	Acute Care - Dietetics and Nutrition ***										
23	Acute Care - Nursing ***										
24	Other (Specify)										

**NYS OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES
BUREAU OF RATE SETTING**

**Application for Prospective ICF/DD Rate Appeal for Clinical Services
Effective January 1, 2007**

Effective January 1, 2007, ICF/DDs are fiscally responsible for the long-term therapies listed below:

- occupational therapy
- physical therapy
- psychologist services
- speech and language pathology
- social work
- dietetics and nutrition
- rehabilitation counseling
- nursing services (excluding medical services provided by a nurse practitioner)

This application is to be utilized by agencies to request prospective funding to cover the costs of the identified therapies previously provided by practitioners/clinics to ICF/DD residents. The application should only be submitted by those providers who expect their ICF/DD funding to be insufficient to cover the cost of the therapy services. All existing OMRDD policies and procedures pertaining to prospective ICF/DD appeals will be utilized in the review/approval of applications submitted through this process.

To apply for this funding, an agency must:

1) Have a current Consolidated Fiscal Report (CFR) on file with OMRDD. For agencies in Region 1, OMRDD will review the CFR for the period July 1, 2004 through June 30, 2005. For agencies in Regions 2 and 3, OMRDD will review the CFR for the period January 1, 2005 through December 31, 2005.

2) Complete the attached forms (Part 1- Staffing Request and Part 2- Staffing Justification) for each site for which additional funding is sought. In Part 1, the agency must identify the ICF/DD site which will be fiscally responsible for the clinical services and the associated consumers. In Part 2, the agency must provide written justification for the additional staffing/contracted services. A Part 1 and a Part 2 must be completed for each ICF/DD site for which any monies for long-term therapy services are being requested.

Page 2

Providers should report the services expected to be delivered during the 12 month period of January 1, 2007 to December 31, 2007 on the attached prospective rate appeal application. The Bureau of Rate Setting will adjust the information contained in the application to correspond with the appropriate rate periods for New York City agencies.

Completed appeal applications should be mailed to:

Susan Ivie Mahar
Bureau of Rate Setting
New York State OMRDD
44 Holland Ave., 5th floor
Albany, New York 12229-0001

Contact Persons

General Questions on this Policy Change:

Karen Desso

(518) 402-4339

karen.desso@omr.state.ny.us

Questions on the Prospective Rate Appeal Application:

Susan Ivie Mahar

(518) 474-8819

susan.iviemahar@omr.state.ny.us

**Part 1 - Staffing Request
Application for Prospective ICF/DD Rate Appeal**

1/1/07 - 12/31/07

Agency Name: _____

Contact Name: _____

Site Name: _____

Operating Certificate: _____

Site Address: _____

Requested Services Previously Acquired through the Medicaid Card

	Visits	Cost of Services
	1/1/07-12/31/07	01/01/07-12/31/07
Occupational Therapy (OT)		
Physical Therapy (PT)		
Psychologist Services (Phy)		
Speech and Language Pathology (SP)		
Social Work (SW)		
Dietetics and Nutrition (Diet)		
Rehabilitation Counseling (Rehab)		
Nursing Services (Nursing)		

Replacement Staff Requested

	FTEs	Costs	Associated Fringe Benefit Costs
Clinical Staff OT			
Clinical Contractual Staff OT			
Clinical Staff PT			
Clinical Contractual Staff PT			
Clinical Staff Phy			
Clinical Contractual Phy			
Clinical Staff SP			
Clinical Contractual Staff SP			
Clinical Staff SW			
Clinical Contractual Staff SW			
Clinical Staff Diet			
Clinical Contractual Staff Diet			
Clinical Staff Rehab			
Clinical Contractual Staff Rehab			
Clinical Staff Nursing			
Clinical Contractual Staff Nursing			

Please list the consumers impacted and accompanying ISPM scores.

Consumer
 1. _____
 2. _____
 3. _____
 4. _____
 5. _____
 6. _____

ISPM Score
 1. _____
 2. _____
 3. _____
 4. _____
 5. _____
 6. _____

Consumer
 7. _____
 8. _____
 9. _____
 10. _____
 11. _____
 12. _____

ISPM Score
 7. _____
 8. _____
 9. _____
 10. _____
 11. _____
 12. _____

Part 2 – Staffing Justification

Application for Prospective ICF/DD Rate Appeal

Agency Name: _____

Site Name: _____

Operating Certificate: _____

Site Address: _____

Please provide written justification for the additional staffing. (employees and contracted services requested in Part 1)