

BEHAVIOR SERVICES – ROUTINE REVIEW PROTOCOL
Person-Centered Behavioral Intervention, 14 NYCRR PART 633.16

08/14/14

GENERAL GUIDELINES

The 633.16 Requirements apply only to Provider Agencies providing Behavior Intervention/Support Services as part of delivery of services. If characteristics of supports and services described in the regulation are not implemented, this review does not need to be conducted.

STANDARDS IN THIS PROTOCOL ARE TO BE EVALUATED FOR EACH PERSON IN THE SAMPLE WITH BEHAVIOR SERVICES.
FOR STANDARDS NOT MET IDENTIFY EACH INDIVIDUAL TO WHICH THE DETERMINATION APPLIES.

1. This review protocol applies only to behavior service provided in the following setting or service environments:
 - All residential facilities certified or operated by OPWDD, including family care homes; for this protocol, only staff are referenced.
 - All facilities certified by OPWDD, except: free standing respite; clinic treatment facilities; and diagnostic and research clinics
 - Day habilitation services (whether or not provided in a certified facility);
 - Prevocational services (whether or not provided in a certified facility); and
 - Community habilitation
2. The requirements concerning the **use of medication only apply to residential facilities which are certified or operated by OPWDD**, including family care homes.
3. **Effective May 31, 2013** the requirements are applicable for **new behavior support plans** (not revisions or renewals of previously existing plans). This includes provisions for obtaining informed consent for the plans, if required.
4. **Effective May 31, 2014** the requirements are applicable for **revisions or renewals of previously existing behavior support plans** on. This includes provisions for obtaining informed consent for the plans, if required.
5. Part 633.16 is available on the OPWDD website and on the QA drive. Surveyors are **required** to read it and refer to it if questions arise during a review of behavior support services. The protocol is not inclusive of each and every regulatory reference.
6. Prior to the visit a review of RIA will provide the surveyor information about physical and time out interventions that have been implemented with individuals.
7. At the entrance conference for applicable site/service reviews, Surveyors will need to ask, a few questions including but not limited to:
 - i. Does anyone have a behavior support plan or a monitoring plan?
 - ii. Does anyone take medication to alter his/her behavior or for a diagnosed psychiatric disorder (certified residences including family care)?
 - iii. Does anyone have a restrictive intervention written into his/her plan?
 - iv. Are anyone's rights being limited due to his/her behaviors or risk of harm?

NOTE: Please also review the person's individual service plan or individual plan of care, the comprehensive assessment and any notes or reports available. If a person in your individual sample displays challenging behaviors, there should be a means to provide staff instruction on how to prevent, minimize, and/or intervene to address the behaviors. .

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Challenging behavior may take many forms, including undesirable and/or socially unacceptable behavior that interferes with the acquisition or use of desired skills or knowledge, interferes with the performance of everyday activities, undermines the potential for increased self-determination and independence, interferes with the rights of others, disrupts social functioning, and/or causes injury to self or others. These may include psychiatric symptoms or overt reactions to symptoms that may be expressed as challenging behaviors (e.g., manic behavior, aggressive behavior, compulsive behavior or verbal threats based on paranoid beliefs or perceptions).

A written plan is the means to provide instruction in how to support the person to function most effectively and/or minimize challenging behaviors and/or symptoms.

- A **Behavior Support Plan** (BSP) is a written plan that outlines specific interventions designed to support, develop or increase replacement or alternative behaviors and/or modify or control a person’s challenging behavior. *The plan is a component of a person's overall plan of services. Agencies may use other equivalent unique and agency specific terms for such plans. The intent, content, strategies and characteristics of the plans determine whether it is a Behavior Support Plan, not the moniker.* A BSP can only be developed by a licensed psychologist, licensed clinical social worker, or a behavioral intervention specialist as outlined in the regulation.
- A **Monitoring Plan** is a plan that identifies the target symptoms of a diagnosed co-occurring psychiatric disorder which are to be prevented, reduced or eliminated. It is required in lieu of a BSP if a person is prescribed medication(s) to treat a co-occurring diagnosed psychiatric disorder in accordance with Part 633.16(j)(5)(vi), *and no other restrictive interventions or rights restrictions are needed.* The plan specifies interventions that will be used to address associated challenging behavior that may occur and methods by which symptom control and functional improvement will be measured, documented and reviewed. A monitoring plan can only be developed by parties identified for the BSP or a licensed psychiatric nurse practitioner.
 - The term “psychiatric disorder” means those psychiatric conditions which are recognized as such by the American Psychiatric Association or World Health Organization. For the purposes of this section, the term “co-occurring psychiatric disorder” does not refer to the following: mental retardation, learning disorders, motor skills disorders, communication disorders, pervasive developmental disorders, attention-deficit and disruptive behavior disorders, and impulse control.
 - The medication related to the psychiatric diagnosis should be identified in the "monitoring plan". It is expected that the psychiatric consult will also identify the reason for ordering the medication.

7. **Sample:** The surveyor should choose a sample of individuals who receive behavior support as follows:

- All Willowbrook class members residing in IRAs
- All individuals in the DOH sample who receive Behavior Support Services and to whom the requirements are applicable (see #1 above)
- A sub-sample of individuals in applicable certified facilities (see #1 above and Sample Size Guidance document)
- A sub-sample of individuals receiving non-site based Day Habilitation, Pre-Vocational and Community Habilitation HCBS Waiver services (see Sample Size Guidance document).

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NOTE: A behavior history does not itself indicate the need for a formal written plan as described above and in regulation. *If adaptive behavior can be maintained with only consistent positive personal and environmental strategies and without prescribed medications the strategies may be identified/provided in another format, e.g. the Individualized Plan of Protective Oversight.*

8. **Restrictive/intrusive interventions** include the following:

- intermediate and/or restrictive physical intervention techniques (see 633.16 (j)(1));
- the use of time-out (exclusionary and non-exclusionary) (see 633.16 (j)(3));
- the use of any mechanical restraining device with the intent to modify or control challenging behavior (633.16 (j)(4));
- the use of medication for the purpose of preventing, modifying, or controlling challenging behavior that is not associated with a co-occurring diagnosed psychiatric disorder (633.16 (j)(5)); and
- other professionally accepted methods to modify or control behavior which are determined by agency/facility policy to be restrictive/intrusive interventions because they may present a risk to a person's protection or encroach unduly on a person's normal activities (e.g., response cost, overcorrection, negative practice, and satiation).

Exception: Physical intervention techniques and/or mechanical restraining devices used to facilitate emergency evacuations or medical/dental exams, procedures, and related healthcare activities (and to protect individuals, healthcare providers, and others during such exams, procedures, and activities) are not considered to be restrictive/intrusive interventions that require inclusion in a behavior support plan. Such interventions may be incorporated in other individualized plans to address these situations.

9. **Informed consent** means the effective knowing consent by a person (or his/her legally authorized surrogate) with sufficient capacity to consent and so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress or other form of constraint or coercion. Such consent shall be in writing, except in the case of the short-term or emergency use of medication. The basic elements of information necessary to such informed consent include:

- a fair explanation to the person or surrogate of the procedures to be followed, and their purposes;
 - a description of any potential discomforts and risks which may reasonably be expected;
 - a description of any benefits to the participant which may reasonably be expected;
 - a disclosure of appropriate alternative procedures, if any; and
 - instruction that the person or surrogate is free to withdraw his or her consent at any time without prejudice.
- Information about planned interventions must be presented in a manner that permits a knowledgeable evaluation and decision to be made. It must be presented in simple terms, in whatever language the party giving informed consent reads or understands most easily and clearly (e.g., English, Spanish, Mandarin), and in whatever manner he or she understands most easily and clearly (e.g., sign language, communications board, computer-assisted technology, Braille). Consent, when given by a surrogate, should only be given if, in doing so, this will be in the person's best interest and takes into consideration, to the extent possible, the person's opinions, beliefs and wishes.

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Agency Name:

Agency ID Code:

Address:

OC#:

Site/Service Type:

Date of Review:

Reviewer(s) Name(s):

Team #:

Complete the following information:

Family Member/Advocate Interviewed:	Relationship to Person

Employee	Title	Quals Reviewed	Training Reviewed	interviewed

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Employee	Title	Quals Reviewed	Training Reviewed	interviewed

	Individual in Review Sample	Interviewed Y/N	Willowbrook Class Member Y/N	Physical Interventions Y/N	Mechanical Device Interventions Y/N	Medication Interventions Y/N	PRN Medication Y/N	Emergency Medications Y/N	Medication with co-occurring Psychiatric diagnosis Y/N	Rights Limitations Y/N	Time Out Intervention Y/N
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Section 1
BEHAVIOR SUPPORT PLANS
General Requirements

This is a Review of the Behavior Support Plan for *each* Individual included in the sample.
 Verify that each individual's plan meets all required elements.

CODE	CITE	STANDARD	Y	N	N A	COMMENTS (Deficiency/Deficient Practice or Best Practice) (Enter Name of Individual associated with deficiency)
BI 101	633.16(d)(1)	1. A Functional Behavioral Assessment is completed for each Individual prior to the development of the Behavior Support Plan.	Y	N	N A	

Guideline:

- The Functional Behavioral Assessment (FBA) should be completed before the behavior support plan is written. It should provide the information needed to develop a sound plan. A good FBA assures individualization of a BSP. A FBA should provide individualized information about what the behaviors are, why and when the person exhibits the behaviors, what may make a behavior more likely to occur, what prevents its display, and what works best to stop the person from exhibiting the behavior
- The FBA must be completed by a clinician trained in FBA techniques. Training of personnel completing the FBAs will be evaluated in annually as part of the agency level review. *However, if you have reason to question the qualifications of the staff completing the FBA, pursue verification of appropriate training of staff completing the FBAs at that time if needed.*
- In exceptional circumstances (e.g., unexpected admission to a residential program) a behavior support plan may need to be developed or modified using historical information before the functional assessment is completed in order to assure staff or the family care provider have sufficient tools and safeguards to manage potentially dangerous behaviors of the person who is beginning to receive services. In these cases, a functional behavioral assessment must be completed within 60 days of admission or the commencement of services and the behavior support plan should be revised as needed to incorporate any new information.

BI102	633.16(d)(1)(i - v)	2. The Individual's Functional Behavioral Assessment identifies the challenging behaviors and all contextual factors as required.	Y	N	N A	
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Guideline:

This must be present for each challenging behavior targeted.

Contextual factors are factors that contribute to and facilitate the behavior. They may include:

- Antecedents, triggers, social, physical, medical, environmental, social, and/or psychiatric conditions that create and/or contribute to the behaviors
- The reason for and/or purpose of the behavior
- Factors and conditions that may maintain the behavior

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BI103	633.16(d)(1)(vi-vii)	3. The Individual's Functional Behavioral Assessment includes an evaluation of possible social and environmental alterations, any additional factors and reinforcers that may serve to reduce or eliminate behaviors.	Y	N	N A	
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Guideline:

This aspect of the FBA is to evaluate and identify those conditions and contexts that may contribute positively to the reduction, prevention, or elimination of behaviors. These elements assist in reducing the likelihood that challenging behaviors will be displayed or sustained.

BI104	633.16(d)(1)(viii)	4. The Individual's Functional Behavioral Assessment considers multiple sources of data.	Y	N	N A	
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Guideline:

The Functional Behavioral Assessment must consider data from multiple sources, including, but not limited to:

- Interview and Discussion with the Individual, parent, caregiver, and other service providers
- Review of clinical, medical, behavioral and/or other routine documentation or data available in the Individuals record or other available sources

BI105	633.16(d)(1)(x)	5. The Individual's Functional Behavioral Assessment provides a baseline description of their challenging behaviors.	Y	N	N A	
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Guideline:

A baseline description of the behavior includes but is not limited to:

- Frequency of challenging behavior
- Duration of challenging behavior
- Intensity and/or latency across settings
- Activities that might influence challenging behavior
- People that might influence challenging behavior
- Times of day that might influence challenging behavior

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BI106	633.16(e)(2)(i)	6. The Individual's Behavior Support Plan was developed and supervised by a BIS, a licensed psychologist or a licensed clinical social worker with training in behavioral intervention techniques.	Y	N	N A	
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Guideline:

All behavior support plans must be developed and supervised by a **BIS, or a licensed psychologist or a licensed clinical social worker with training in behavioral intervention techniques under the following conditions:**

- Level 1 Behavioral Intervention Specialists (BIS) may develop and/or provide supervision for behavioral support plans or services that do not include restrictive/intrusive interventions.
- Level 2 BIS may develop behavioral support plans or services that do not include restrictive/intrusive interventions under the supervision of Level 1 BIS.
- Behavior support plans or services which include restrictive/intrusive interventions may be developed by a Level 1 or a Level 2 BIS under the supervision of a licensed psychologist or licensed clinical social worker (LCSW)

The review that BIS staff meet the educational and experiential requirements and receive oversight by a licensed psychologist or licensed clinical social worker if behavior support plans or services include restrictive/intrusive interventions. will occur annually at the agency review However, if you have serious concerns due to the quality or content of the behavior services plan, you may verify during this visit.

BI107	633.16(e)(2)(ii)	7. The Individual's Behavior Support Plan was developed in consultation, as clinically appropriate, with the person receiving services and/or other parties involved with implementation of the plan.	Y	N	N A	
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Guideline:

Through interview with the individual, the clinician and other vested parties and documentation review, verify that the individual, their advocates and natural supports, staff and other appropriate people provided input into the plan as appropriate.

BI108	633.16(e)(2)(iii)	8. The Individual's Behavior Support Plan was developed from their Functional Behavioral Assessment.	Y	N	N A	
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Guideline:

The BSP methods and strategies identified are developed using the information and criteria presented in the Individual's FBA. There should be a direct correlation between the assessment information and the plan developed.

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BI109	633.16(e)(2)(iv)	9. The Individual's Behavior Support Plan includes a concrete, specific description of the challenging behavior(s) targeted for intervention.	Y	N	N A	
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Guideline:
This specific description should be present for each behavior addressed in the BSP.

BI110	633.16(e)(2)(v)	10. The Individual's Behavior Support Plan includes a hierarchy of evidence-based behavioral approaches, strategies and supports to address the target behavior(s).	Y	N	N A	
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Guideline:
Preferred methods are positive approaches, strategies and supports designed to teach and reward replacement behaviors. An established hierarchy may be appropriate for positive/teaching strategies, preventive and diffusive strategies, as well as reactive interventions. The plan should clearly describe strategies to implement routinely as proactive prevention, teaching and reward strategies; initially when a target behavior presents; and the conditions that signal advancement to other strategies. In all cases, a hierarchy of approaches, strategies and supports should begin with the least restrictive, limiting or intrusive and progress to more restrictive, limiting or intrusive approaches, strategies and supports only when lesser interventions prove ineffective. OPWDD stresses that the least restrictive intervention or least intrusive methods be used at all times. Interventions or Intrusive methods must be escalated only when the lesser interventions or methods prove ineffective and the BSP allows for more restrictive or intrusive methods be used.

BI111	633.16(e)(2)(vi)	11. The Individual's Behavior Support Plan includes a personalized plan for teaching and reinforcing the person alternative skills and adaptive behaviors.	Y	N	N A	
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Guideline:
The BSP must identify strategies and activities designed to increase and facilitate skills necessary to demonstrate adaptive behaviors. Examples may include teaching new skills, practice scenarios, coaching, and incentive and reinforcement strategies. As with all services/supports the approaches to foster adaptive and alternative behaviors should be individualized. Therefore, identification of the strategies should be guided by the information in the Functional Behavioral Assessment.
The goal of this personalized plan is to enhance or increase the individual’s personal satisfaction, degree of independence, or sense of success.

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BI112	633.16(e)(2)(vii) 633.16(e)(3)(ii)(c)	12. The Individual's Behavior Support Plan includes the least restrictive or least intrusive methods possible in the behavioral approaches, strategies and supports designed to address the challenging behavior.	Y	N	N A	
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Guideline:

The BSP must describe supports, strategies and interventions to address the challenging behavior(s). The BSP must identify strategies in a hierarchical manner, guided by the information in the Functional Behavioral Analysis (FBA). As a typical approach the least restrictive or least intrusive method possible must be used to address the behavior and mitigate associated risk, if any.

A hierarchy of approaches, strategies and supports will begin with the least restrictive, limiting or intrusive and progress to more restrictive, limiting or intrusive approaches only when lesser interventions prove ineffective and the BSP allows for more restrictive or intrusive methods. Note: There may be circumstances when the BSP instructs to implement a strategy that is not introductory in an assumed hierarchy of restrictiveness/intrusion. So long as this approach is congruent with analysis of the individual and their behaviors captured in the FBA, this is acceptable.

BI113	633.16(e)(2)(viii)	13. The Individual's Behavior Support Plan provides a method for collection of behavioral data to evaluate treatment progress.	Y	N	N A	
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Guideline:

The BSP should describe the specific information to be documented for each behavior and methodology for data collection. The collection of both positive and negative behavioral data may be needed so treatment progress may be evaluated.

BI114	633.16(e)(2)(ix)	14. The Individual's Behavior Support Plan includes a schedule to review the effectiveness of the interventions included in the behavior support plan.	Y	N	N A	
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Guideline:

The review of effectiveness of interventions must occur no less frequently than on a semi-annual basis. It may occur more frequently if required by the Individuals Behavioral Support Plan.

END OF SECTION 1 FOR BSP General Requirements

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Section 2
Behavior Support Plans with RESTRICTIVE/INTRUSIVE INTERVENTIONS
and/or LIMITATIONS ON THE PERSON'S RIGHTS
 Review only if the Individual's BSP includes a restrictive/intrusive intervention and/or a limitation on a person's rights

CODE	CITE	STANDARD				COMMENTS (Deficiency/Deficient Practice or Best Practice) (Enter Name of Individual associated with deficiency)
			Y	N	N A	
BI115	633.16(e)(3)(i)	15. When a BIS develops and/or provides behavior support services to implement the individual's plan, the BIS is supervised by a licensed psychologist or licensed clinical social worker.	Y	N	N A	

Guideline: This applies to BSPs with restrictive, intrusive or right limiting interventions.

Verify through interview, that oversight is provided by the licensed professional to the BIS (Level 1 or 2), their BSP development, and behavior services implementation, and monitoring. Ask the BIS to describe the supervision they receive and how it occurs. If available verify with the licensed professional. Documentation may also indicate the supervision.

The regulation does not describe requirements to evidence the supervision. There is no specific number of hours that the licensed professional must be available. The important point is that he/she must provide adequate supervision and guidance. This will best be assessed based on the quality of behavior services (i.e. behavior plans, their implementation and related monitoring).

If the provision of behavior services by the BIS appears appropriate and there is no indication that that supervision is not provide or the agency does not have a licensed psychologist or clinical social worker to provide supervision, consider this requirement acceptably met. .

BI116	633.16(e)(3)(ii)(a)	16. The Individual's Behavior Support Plan includes a description of the person's behavior that justifies the inclusion of the restrictive/intrusive intervention(s) and/or limitation on right.	Y	N	N A	
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Guideline:

Verify that the behavior is described so that the necessity for the restriction/intrusion/limitation for that behavior is clear. The FBA information should inform this description in the BSP.

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BI117	633.16(e)(3)(ii)(b)	17. The Individual's Behavior Support Plan includes a description of all approaches that have been tried but have been unsuccessful, leading to inclusion of the current interventions.	Y	N	N A	
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Guideline: This applies to BSPs with restrictive, intrusive or right limiting interventions. This should include a description of all positive, less intrusive and/or other restrictive or intrusive approaches that have been tried but have not been successful prior to the inclusion of the current restrictive/intrusive intervention(s) and/or limitation on a person's rights. An explanation of why the less intrusive alternatives are insufficient to maintain or ensure the health or safety or personal rights of the Individual (or others) should be included.

BI118	633.16(e)(3)(ii)(d)	18. The Individual's Behavior Support Plan includes the criteria to be followed regarding postponement of other activities or services, if applicable.	Y	N	N A	
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Guideline: This applies to BSPs with restrictive, intrusive or right limiting interventions. The individual's activities or services might need to be postponed to prevent the occurrence or recurrence of dangerous or unsafe behavior during such activities. Criteria for such contingencies, based on individualized FBA and risk factors must be included in the Behavior Support Plan.

BI119	633.16(e)(3)(ii)(e)	19. The Individual's Behavior Support Plan includes a specific plan to minimize, fade, eliminate or transition restrictions and limitations to more positive interventions.	Y	N	N A	
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Guideline: This applies to BSPs with restrictive, intrusive or right limiting interventions. The BSP must include a plan to fade, minimize eliminate or transition restrictions and limitations is required for EVERY TYPE of restriction or limitation included in the plan to modify or control behavior. This aspect of the BSP should identify reasonable criteria and circumstances and approaches to reducing, transitioning or eliminating each restriction/limitation. These criteria must be based on documentation expected per the plan. Fading should also take into account prudent monitoring and safeguarding in this process.

Interventions to which this applies include: physical interventions, medication, mechanical restraints, the use of time out and any other professionally accepted methods (e.g. response cost, overcorrection, negative practice and satiation) that have been determined by the agency/facility to be restrictive/intrusive because they may present a risk to a person's protection or encroach unduly on a person's normal activities.

Note: There are also expectations for fading specific intrusive interventions elsewhere in this protocol.

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BI120	633.16(e)(3)(ii)(f)	20. The Individual's Behavior Support Plan describes how the use of each intervention or limitation is to be documented.	Y	N	N A	
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Guideline: This applies to BSPs with restrictive, intrusive or right limiting interventions.

The BSP should clearly describe what needs to be documented for each intervention and limitation, the format for this documentation and the frequency of the documentation. The BSP must also include description of any requirements for mandated reporting such as RIA entry.

BI121	633.16(e)(3)(ii)(g)	21. The Individual's Behavior Support Plan includes a schedule to review and analyze the frequency, duration and/or intensity of use of the intervention(s) and/or limitation(s).	Y	N	N A	
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Guideline: This applies to BSPs with restrictive, intrusive or right limiting interventions.

This review and analysis of implementation of behavior related restrictive/intrusive interventions and/or limitation must occur at least semi-annually. It can be done more frequently, if required by the Behavioral Support Plan. The results of this review must be documented. The information should be sufficient to determine if and when the Behavioral Support Plan should be revised. Assess this standard both for inclusion of review schedule in the BSP as well as completion of the review.

BI122	633.16(e)(4)(i) 633.16(f)(5)(i)	22. The Behavior Support Plan was approved by the Behavior Plan/Human Rights Committee prior to implementation and approval is current.	Y	N	N A	
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Guideline:

A behavior support plan which incorporates a limitation on a person's rights and/or a restrictive/intrusive intervention must be approved by the behavior plan/human rights committee.

- Verify that the committee has reviewed the plan prior to implementation and annually.
- The approval process must ensure that the plan has all required components per 633.16(e) (i.e. Developed by qualified person, includes required information).
- Written informed consent must be obtained prior to approval. [For guidance regarding verbal consent acceptable to the committee see 633.16(f)(5)(ii)]
- Committee approval must be provided prior to implementation or renewal of the BSP.

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BI123	633.16(e)(4)(ii)	23. Written informed consent was obtained from an appropriate consent giver prior to implementation of a Behavior Support Plan that includes restrictive/intrusive interventions.	Y	N	N A	
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Guideline:

There should be documentation that written informed consent was obtained prior to implementing a restrictive plan. (See B156 re: informed consent for plans including medications). Written informed consent must be documented with the consenting party's signature and their relationship to the person and a date. Guidance regarding parties who may provide informed consent is found in regulatory references below, but when appropriate should first be sought from the individual.

- 633.16(g)(6) - Hierarchy of parties appropriate to provide consent
- 633.16(g)(7) – Determination of an individual's capacity to give informed consent
- 633.16(g)(8) – Informed Consent Committee

Time Limited Verbal Consent: Per 633.16(f)(5)(ii) If written informed consent cannot be obtained within a reasonable period of time prior to the initiation or continuance of a plan, *verbal consent* may be accepted only for the period of time before written informed consent can be reasonably obtained. Verbal consent must be witnessed by two members of the staff, and documented in the person's record. This verbal consent is valid for a period of up to 45 days and may not be renewed.

The specific requirements that must be followed to obtain appropriate written informed consent can be found in section 633.16(g), including involved parties that can provide the consent, starting with the individual receiving supports, when appropriate.

BI124	633.16(g)(3)	24. Written informed consent is obtained <u>annually</u> for a plan that includes a limitation on a person's rights and/or a restrictive/intrusive intervention.	Y	N	N A	
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Guideline:

For established plans, including continuance and revision of plans the written informed consent from an appropriate consent giver must be current within the 12 months of the date of the survey visit. Review the dates of 2 consecutive consents in order to determine that the second was obtained within 12 months of the first.

End of Section 2

BSPS WITH RESTRICTIVE AND INTRUSIVE TECHNIQUES AND RIGHTS RESTRICTIONS

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Section 3
ADDITIONAL REQUIREMENTS
PLANS including MECHANICAL RESTRAINING DEVICES
 Review only if the Individual's BSP includes use of a Mechanical Restraining Device

CODE	CITE	STANDARD				COMMENTS (Deficiency/Deficient Practice or Best Practice) (Enter Name of Individual associated with deficiency)
			Y	N	N A	
BI125	633.16(j)(4)(ii) (e)(1)	25. The Individual's Behavior Support Plan that includes a Mechanical Restraining device specifies the facts justifying the use of the device.	Y	N	N A	

Guideline:

The BSP must clearly describe why use of mechanical restraints is necessary.

A mechanical restraining device is any physical apparatus or equipment used to limit or control challenging behavior. The apparatus or equipment cannot be easily removed by the person and may restrict the free movement, or normal functioning, or normal access to a portion or portions of a person's body, or may totally immobilize a person.

The following types of mechanical restraining devices (in the specified circumstances) may be used without specific OPWDD approval:

- (1) mittens, helmets, face masks, goggles, sleeve boards (by whatever name known), clothing (e.g., jumpsuit, leotard, or custom-designed clothing such as shirts or pants made of non-shredable HW cloth), bolsters, and mats used to safely contain a person;
- (2) lap trays, seatbelts, and harnesses; only when used to maintain an ambulatory person in a fixed location for the purpose of enhancing services; and
- (3) the use of a seatbelt, harness, or mechanical brake to maintain a non-ambulatory person in a fixed location for the purpose of preventing risk to health or safety resulting from challenging behavior.

Other mechanical devices or modifications of the above require specific review and approval by OPWDD. Verify this has been received by the agency. If approved, the provider agency will have documentation via email or letter from OPWDD Statewide Services Division. For state operated services, the Area Director will verify through the Statewide Services Division.

NOTE: Mechanical restraining devices used as a support to achieve proper body position, balance, or alignment, as part of a medical or dental procedure or as a medical or dental safeguard are not subject to the requirements of this section.

Nothing in this section shall preclude the use of a mechanical restraining device(s) while a person is an inpatient or resident under the auspices of a non-OPWDD operated or certified facility, program or service (e.g., mental health provider, medical hospital, or jail). The use of a mechanical restraining device in these types of settings is not subject to the provisions of this section and is subject instead to the applicable policies and rules of that provider.

The use of devices to limit movement for the safe transport of the individual in vehicles, wheelchairs, etc., is not considered to be the use of a mechanical restraining device, and is not subject to the requirements of this section.

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BI126	633.16(j)(4)(ii) (e)(2)	26. The Individual's Behavior Support Plan that includes a Mechanical Restraining device specifies staff actions required when the device is used.	Y	N	N A	
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Guideline:
The BSP must describe actions necessary for the safe and appropriate application of devices and other actions staff to take in association with the use of devices such as monitoring actions, supervision levels during device use, environmental considerations, etc.

BI127	633.16(j)(4)(ii) (e)(3)	27. The Individual's Behavior Support Plan that includes a Mechanical Restraining device specifies criteria for the application, removal and duration of device use.	Y	N	N A	
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Guideline:
The BSP should include clear instruction as follows :

- a description of the individual’s behavior and/or behavior progression that indicates the need to use the mechanical restraining device
- all alternative strategies or actions to be implemented by staff prior to using the device
- Clear criteria and conditions for application of device
- Clear individualized behavioral criteria for when device should be removed
- Instruction regarding maximum duration of device application.

Note: Regarding maximum duration of device application: Per 633.16(j)(4)(ii)(i) In the absence of a physician's order for a shorter time period for release, the individual **must** be released from the device at least once every hour and fifty minutes for not less than ten (10) minutes. They must be provided opportunities for movement, eating, drinking and toileting. In the absence of a physician's order specifying otherwise, this is not applicable if the person is asleep, however the opportunities describe above must be offered immediately upon waking. If an individual requests release for movement or toileting prior to specified time period per plan, the opportunity should be provided asap.

BI128	633.16(j)(4)(ii) (e)(4)	28. The Individual's Behavior Support Plan that includes a Mechanical Restraining device specifies the maximum intervals of time for monitoring the person’s needs, comfort, and safety.	Y	N	N A	
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Guideline:
The BSP should specify the maximum time interval between monitoring the person while mechanical restraints are used (e.g. “every 10 minutes”).

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Person-Centered Behavioral Intervention, 14 NYCRR PART 633.16

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BI129	633.16(j)(4)(ii)(e)(5)	29. The Individual's Behavior Support Plan that includes a Mechanical Restraining device includes a description of how the use of the device is expected to be reduced and eventually eliminated.	Y	N	N A	
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Guideline:

- A plan to eliminate or fade the use of a mechanical restraining device must be included in the person's BSP.
- The plan should identify clear criteria to fade or eliminate use of restraint. These criteria should be based on information documented per the plan.
- Any plan to reduce use should also take into account prudent monitoring to ensure the person's safety.
- The rationale for continued use should be stated concretely & based on documented evidence.

BI130	633.16(j)(4)(ii)(g)(1-3)	30. The Individual's clinical record contains a current physician's order for the use of the Mechanical Restraining device.	Y	N	N A	
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Guideline:

The BSP guidance should be consistent with the physician's order. The order must be in the person's clinical record.

The physician's order must specify:

- the type of device to be used,
- an expiration date for the order,
- any special considerations related to the use of the device based on the person's medical condition, including the monitoring which is required during and after use of the device. This must incorporate specific components such as checking of vital signs and circulation if needed.
- The order must be renewed with the frequency specified in the plan but no less frequently than every 6 months.

Note: If the device is used solely to maintain an ambulatory person in a fixed location or position for the purpose of enhancing the delivery of care or services (e.g. medical interventions), a physician's order is not required. This use must conform to all other requirements regarding use of mechanical restraints.

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BI131	633.16(j)(4)(ii)(g)(4)	31. The Individual’s clinical record contains a full record of the use of the Mechanical Restraining device.	Y	N	N A	
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Guideline:

This "full record" must be present for each use of mechanical restraining devices.

A “full record” means:

- a description of the event that caused the device to be applied
- the time it was applied
- the times when monitoring occurred
- the findings of monitoring activities and any actions taken
- the time of release
- Any other information required by the BSP

BI132	633.16(j)(4)(ii)(l)	32. The Individual's clinical record includes a written physicians order for the use of immobilization of the extremities or total immobilization.	Y	N	N A	
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Guideline:

- A written physicians order for use of devices resulting in immobilization of the extremities or total body immobilization can be written only after the physician’s personal examination of the person.
- The physician must review the order and determine if it is still appropriate each time he or she examines the person, but at least every 90 days.
- The review must be documented.
- The planned use of stabilizing or immobilizing holds or devices during medical or dental examinations, procedures, or care routines, or emergency evacuations, must be documented in a separate plan/order and must be reviewed by the program planning team on at least an annual basis

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BI133	633.16(j)(4)(ii) (a)(2)	33. The Behavior Plan/Human Rights Committee and OPWDD approved the use of any Mechanical Restraining device that was not commercially available or designed for human use.	Y	N	N A	
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Guideline:

Review the type of device(s) described in the BSP to determine type of device used. Modification of commercial devices or use of devices specially created for use by the individual but not available commercially, must have additional review and approval by the Behavior Plan/Human Rights Committee and OPWDD via the Commissioner's Review Committee.

- The documentation of Human Rights Committee review and approval should indicate active review of the modified device, circumstances for the need for a fabricated or atypical to address the behavior, and justification for same.
- Verify OPWDD approval has been received by the agency. If approved, the provider agency will have documentation via email or letter from OPWDD Statewide Services Division. For state operated services, the Area Director will verify through the Statewide Services Division.

BI134	633.16(j)(4)(ii) (a)(3)	34. Each person's clinical record includes documentation of a consultation (i.e. OT or PT) if the Mechanical Restraining device has modified.	Y	N	N A	
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Guideline:

Review the type of device(s) described in the BSP. Modification of commercial devices must include the consultation of an Occupational or Physical Therapist. This consultation and input by the clinician must be documented in the person's record.

**End of Section 3
 MECHANICAL RESTRAINING DEVICES**

**BEHAVIOR SERVICES – ROUTINE REVIEW PROTOCOL
 Person-Centered Behavioral Intervention, 14 NYCRR PART 633.16**

08/14/14

Section 4a

**Additional Requirements
 MEDICATIONS - General**

Individual requires use of a Medication
 AND

Individual lives **in a certified residence.**

Medication use is to be included in a BSP or Monitoring Plan.

CODE	CITE	STANDARD	Y	N	N A	COMMENTS (Deficiency/Deficient Practice or Best Practice) (Enter Name of Individual associated with deficiency)
BI135	633.16(j)(5)(ii)(a)	35. Medication to address the individual's challenging behavior or a symptom of a diagnosed co-occurring psychiatric disorder is administered only as a part of a BSP or Monitoring Plan which includes additional interventions.	Y	N	N A	

Guideline:

- If medication is prescribed to address challenging behavior a Behavior Support Plan must be in place.
- If medication is prescribed to address symptoms associated with a diagnosed co-occurring psychiatric disorder but, no other challenging behavior, and no restrictive/intrusive interventions or rights limitations are necessary, a Monitoring Plan may be in place in lieu of a BSP. See 633.16(j)(5)(iv)(7).
- Medication can only be one part of the BSP or Monitoring Plan. The Plans must also include other interventions intended to reduce/eliminate the challenging behaviors or target symptoms. Supportive, redirective and alternative interventions to address, alter or prevent the behaviors and/or symptoms should be included in the plan in addition to medication use. See also 633.16(j)(7)
- The plans must identify the medications and the behavior or symptom addressed.

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BI136	633.16(j)(5)(ii)(b)	36. Written Informed Consent for use of medication by the individuals has been obtained and is current.	Y	N	N A	
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Guideline:

There should be documentation that written informed consent was obtained prior to administering medication to address behavior. Written informed consent must be documented with the consenting party's signature and their relationship to the person and a date and available in the person's record.

If it is necessary for the medication to be administered before written informed consent can reasonably be obtained, verbal consent may be accepted for only the period of time before written informed consent can be reasonably obtained. Verbal consent must be witnessed by two members of the staff and documented in the person's record. This verbal consent may be considered valid for a period of up to 45 days and may not be renewed.

Please also note that Part 633.16(j)(5)(iv) allows the administration of medication in an **emergency** situation if the following conditions are met:

- (a) Medication may be administered in an emergency, without informed consent, with the express intent of controlling a person's challenging behavior or acute symptoms of a diagnosed co-occurring psychiatric condition when:
 - (1) the person's behavior constitutes an immediate risk to the health or safety of the person or others; or
 - (2) in a physician's judgment, an emergency exists that creates an immediate need for the administration of such medication, and an attempt to secure informed consent would result in a delay which would increase the risk to the health or safety of the person or others.
- (b) The administration of such medication may only continue for as long as one of the conditions in clause (a) of this subparagraph exists.
- (c) The use of the medication, along with the prescription/order and a note on its effectiveness, shall be documented in the person's record.
- (d) The emergency use of medication to manage challenging behavior or acute symptoms of a diagnosed co-occurring psychiatric condition in more than four (4) instances in a 14-day period shall require a comprehensive review by the program planning team in consultation with the licensed psychologist, a licensed clinical social worker or Behavioral Intervention Specialist within three business days of the fifth medication administration;
 - (1) The team shall determine if there is a need for a behavior support plan to address the behavior or symptom that necessitated the emergency use of medication, or a need to modify an existing plan, or to establish the criteria for a future decision that a plan will be needed. Such a determination shall be documented.
 - (2) The emergency administration of the medication may continue until the program planning team meets.
- (e) Whenever it is or has been necessary to utilize any medication to control challenging behavior or acute symptoms of a diagnosed co-occurring psychiatric condition in an emergency, the duly authorized surrogate consent giver in accordance with paragraph (g)(6) of this section, the service coordinator or party designated as responsible for coordinating a person's plan of services, and the appropriate clinician (e.g., licensed psychologist, licensed clinical social worker, Behavioral Intervention Specialist, physician), if applicable, shall be notified within the next two business days.

Additional information on informed consent can be found in 633.16(g).

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BI137	633.16(j)(5)(i)(d)	37. When the plan includes the medication the Individual's clinical record includes a semi-annual medication regimen review that is used to evaluate the benefits/risk of continuation.	Y	N	N A	
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Guideline:

The semi-annual medication regimen review **must include all medications prescribed to address behaviors or psychiatric symptoms.** The medication regimen review must be completed in accordance with the requirements in Part 633.17

Part 633.17(a)(17)(iii) requires the following:

- The review shall be made by a registered nurse, physician, physician's assistant, or pharmacist.
- The medication regimen review shall include, at a minimum:
 - (a) A review of the person's medication record for potential adverse reactions, allergies, interactions, contraindications, or irregularities; related laboratory work shall be included in this review.
 - (b) An assessment of the person's response to medication therapy to determine if the medication is achieving the stated objectives established by the prescribing practitioner.
 - (c) Recommendations to the primary and/or consulting practitioner of any indicated changes in the person's medication regimen.

BI138	633.16(j)(5)(i)(e)	38. The Individual's clinical record includes evidence that the prescriber was consulted regarding administration and continued effectiveness of the medication.	Y	N	N A	
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Guideline:

- The prescriber of medication should be involved in the review of medication use and its effectiveness.
- The results of the medication regimen reviews should be provided to assist healthcare providers to evaluate the benefits of continuing the medication(s), with consideration of the risk inherent in potential side effects.

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BI139	633.16(j)(5)(ii)(c)	39. The Individual's clinical record includes evidence that the use of medication is having a positive effect on the person's behavior or target symptoms.	Y	N	N A	
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Guideline:

In order to justify the ongoing use of medication(s) to control challenging behavior or address psychiatric symptoms, the positive effect of the medication(s) in use must be demonstrated and documented. The evidence of positive effect should be based upon objective information documented as data and observation be related to the behavior(s) for which the medication is prescribed.

BI140	633.16(j)(5)(ii)(d)	40. The Individual's clinical record includes evidence that the effectiveness of the medication has been re-evaluated at least semi-annually at the program plan review with required clinical attendees.	Y	N	N A	
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Guideline:

Semi-annually in conjunction with the service plan reviews, involved parties, e.g. the individuals, family/guardian/advocates and the clinical team should review the effectiveness of behavior medication(s) in addressing the person's behaviors or symptoms of co-occurring psychiatric disorders. This review should be done by the program planning team in consultation with a licensed psychologist, licensed clinical social worker, or Behavior Intervention Specialist, and a health care professional. The review must be documented.

This review should include:

- ensuring that medication is at the minimum and most effective dose;
- identifying a potential need for a medication with fewer or less intrusive side effects as appropriate;
- evaluating the evidence presented to support continuation of the medication at a maintenance level, or recommending reduction or discontinuation of medication use if clinically indicated and authorized by the prescriber

BEHAVIOR SERVICES – ROUTINE REVIEW PROTOCOL
Person-Centered Behavioral Intervention, 14 NYCRR PART 633.16

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Section 4b
Additional Requirements
PRN MEDICATIONS

Review only if the Individual **uses PRN Medication** for behavior or co-occurring symptoms.

CODE	CITE	STANDARD	Y	N	N A	COMMENTS (Deficiency/Deficient Practice or Best Practice) (Enter Name of Individual associated with deficiency)
BI141	633.16(j)(5)(iii) (a)	41. When prn medication is prescribed to address behavior or symptoms of a psychiatric disorder, this strategy is included in the Individual's Behavioral Support or Monitoring Plan.	Y	N	N A	

Guideline:

Behavior Support Plans or Monitoring Plans must identify the prn medication prescribed and the specific behavior(s) and/or symptom(s) addressed.

BI142	633.16(j)(5)(iii) (b)	42. The Individual's clinical record includes a documented history of the behavior(s) or symptom(s) for which the PRN medication is being prescribed for the past 12 months.	Y	N	N A	
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Guideline:

- There must be documentation indicating the exhibited symptoms and/or challenging behaviors displayed which warranted the administration of the prn medication.
- The information must be available for behaviors resulting in PRN medication administration for the past twelve (12) months or since inclusion in the plan if prescribed for less than 12 months.

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BI143	633.16(j)(5)(iii) (c)(1-3)	43. The Individual's Behavioral Support or Monitoring Plan describes conditions for use of the PRN medication, consistent with the prescriber's order.	Y	N	N A	
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Guideline:

The BSP or Monitoring plan should state the following. This information in the plan should be consistent with the medication order.

- the conditions under which the “as-needed” medication is to be administered
- the nature and degree of the individual’s behavior or symptoms
- the prescriber’s recommendations regarding proximity to any scheduled medication administration
- The expected therapeutic effects
- Conditions under which re-administration is allowable including frequency of re-administration

Review the physician’s orders, the behavior support plan and the medication administration record. The information in each should be consistent.

BI144	633.16(j)(5)(iii) (d)	44. The Individual's clinical record must include a summary, in behavioral terms, of the results of the PRN medication administration.	Y	N	N A	
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Guideline:

Each time a PRN medication is administered; there should be a record of how the person responded to the medication. The BSP or Monitoring Plan should provide guidance on what should be documented and how. Information may include whether the person calmed or continued the behavior/symptom. Additional appropriate information includes observed actions, mannerisms, symptomology exhibited post medication administration, time elapsed until effective, duration of the change in behavior, as well as vital signs if applicable.

BI145	633.16(j)(5)(iii) (e)	45. The Individual's clinical record includes evidence that any adverse or unexpected side effects were reported to the PRN prescriber immediately and the planning team by the next business day.	Y	N	N A	
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Guideline:

Results observed after prn medication administration that are substantively different from the intended effect, and any adverse side effects, must be reported to the prescriber immediately and the person's program planning team no later than the next business day. The plan and/or medication administration instructions should include this instruction and how this notification should occur.

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Section 4c
Additional Requirements

MEDICATIONS used to treat co-occurring diagnosed psychiatric disorders
as diagnosed by a physician, psychiatrist, or psychiatric nurse practitioner

Review only if the Individual has a plan that includes use of Medication(s) for co-occurring diagnosed psychiatric disorders.
 Diagnoses applicable to Developmental or Intellectual Disabilities are not considered co-occurring psychiatric disorders.

CODE	CITE	STANDARD	Y	N	N A	COMMENTS (Deficiency/Deficient Practice or Best Practice) (Enter Name of Individual associated with deficiency)
BI146	633.16(j)(5)(vi) (e)	46. The Individual's record identifies the symptoms he/she exhibits and each co-occurring psychiatric disorder diagnosis.	Y	N	N A	
<p>Guideline:</p> <p>The person's record should include, via the Behavior Support or Monitoring Plan, prescribing physician's documentation or other clearly documented venue; the symptom(s) of each co-occurring psychiatric for which the medication(s) are prescribed.</p>						
BI147	633.16(j)(5)(vi) (g)	47. The Individual's Monitoring Plan clearly identifies target symptoms associated with each medication prescribed for a psychiatric disorder.	Y	N	N A	
<p>Guideline:</p> <p>Target symptoms to be monitored regarding the co-occurring psychiatric disorder must be identified and documented in practical, operationally defined terms so that reliable data collection can occur, to assess the effectiveness of the treatments.</p>						

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BI148	633.16(j)(5)(vi) (7)	48. The Individual's Monitoring Plan includes the method to measure and document symptom reduction and functional improvement.	Y	N	N A	
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Guideline:

The monitoring plan should describe the specific objective information and observations to be documented for each symptom of the psychiatric disorder for which medication is provided. The plan should also describe the mechanism for documentation. The collection of both positive and negative objective behavioral data related to symptoms is may be needed so that effectiveness of the medication treatment can be reviewed and evaluated.

BI149	633.16(j)(5)(vi) (g)	49. The Individual's Monitoring Plan includes alternative interventions (other than medication).	Y	N	N A	
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Guideline:

Supportive, redirective and alternative interventions to address, alter or prevent the symptoms associated with the psychiatric disorder should be including in the Monitoring plan in addition to medication use.
 If interventions that are restrictive/intrusive /limiting are included, a monitoring plan is no longer acceptable. An FBA and Behavior Support plan is required.

BI150	633.16(b)(29)	50. The individual's Monitoring Plan is develop by a qualified clinician.	Y	N	N A	
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Guideline:

A Monitoring plan can only be developed by a licensed psychologist, licensed clinical social worker, behavioral intervention specialist (BIS) or licensed psychiatric nurse practitioner.

END OF MEDICATION SECTION 4

BEHAVIOR SERVICES – ROUTINE REVIEW PROTOCOL
Person-Centered Behavioral Intervention, 14 NYCRR PART 633.16

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Section 5
General Requirements

PLAN IMPLEMENTATION, MONITORING and SAFEGUARDING

Subsections a-e below are only reviewed if the corresponding restriction is included in the BSP and/or was implemented.

CODE	CITE	STANDARD	Y	N	N A	COMMENTS (Deficiency/Deficient Practice or Best Practice) (Enter Name of Individual associated with deficiency)
BI151	633.16(i)(1)	51. Staff responsible for the support and supervision of the person who has a behavior support plan is trained in the implementation of that person's plan.	Y	N	N A	
<p>Guideline:</p> <ul style="list-style-type: none"> Training must be provided to a staff member when it is expected that he/she implement strategies in the plan either alone or in support of other staff members. This training should be provided <u>prior</u> to working alone with the person and whenever a plan is revised. Through interview of staff working with the individual, observation if opportunity presents, and documentation review as needed, verify that staff has been adequately trained BSPs that they are responsible to implement. 						
BI152	633.16(i)(2)	52. Staff responsible for the support and supervision of a person who has a Behavior Support Plan with a restrictive/intrusive intervention is trained in the particular intervention(s) described prior to implementation.	Y	N	N A	
<p>Guideline:</p> <ul style="list-style-type: none"> Training must be provided to a staff member when it is expected that he/she must use an intervention in the plan either alone or in support of other staff members. This training should be provided <u>prior</u> to working alone with the person and whenever a plan is revised. Through interview of staff working with the individual, observation if opportunity presents, and documentation review as needed, verify that staff has been adequately trained in BSPs and the restrictive and intrusive interventions that they are responsible to implement per the plan. The training for physical intervention should be via SCIP-R or PROMOTE. 						

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B153	633.16(e)(2)(ix)	53. The effectiveness of the individual's Behavior Support or Monitoring Plan in improving the quality of his/her life is reviewed as identified in the plan.	Y	N	N A	
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Guideline:

As described above, the person's BSP must describe the behavioral data to be collected and the plan to review for effectiveness of the BSP interventions.

- Verify that the data is being documented and subsequently reviewed by the qualified professional responsible for supervising the plan.
- This review should be documented and available.
- It is expected that discovery based on the review results in reasoned decision making regarding plan continuance or revision.

END of SECTION 5

GENERAL REQUIREMENTS FOR

PLAN IMPLEMENTATION, MONITORING and SAFEGUARDING

BEHAVIOR SERVICES – ROUTINE REVIEW PROTOCOL
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5a. Physical Intervention Implementation & Oversight

CODE	CITE	STANDARD	Y	N	N A	COMMENTS (Deficiency/Deficient Practice or Best Practice) (Enter Name of Individual associated with deficiency)
BI154	633.16(j)(1)(i) (a-d)	54. Physical Interventions were used in accordance with the individual's Behavior Support Plans.	Y	N	N A	

Guideline:

Based on observation if opportunity presents, interview and review of documents and reports of behaviors and interventions, determine whether physical interventions were used safely and in accordance with BSP guidelines. There should be information in RIA for physical interventions implemented.

Physical Interventions used must be the same interventions listed in the Behavior Support Plan, and used in the same hierarchy as put forth in the plan (least restrictive used first).

The technique must be applied safely, with the minimal amount of force necessary to safely interrupt the challenging behavior.

BI155	633.16(j)(1)(iv)	55. Physical Interventions used were terminated as soon as the individual's behavior has diminished significantly or if the person appeared physically at risk.	Y	N	N A	
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Guideline:

Based on observation, interview, review of documents and reports, and determine whether physical interventions were used safely and in accordance with Plan guidelines.

The intervention should have been stopped in the following situations:

- When the person's behavior which necessitated application of the intervention had diminished sufficiently or had ceased as identified in the plan,
- Immediately if the person appeared to be physically at risk.
- The continuous duration for applying an intermediate or restrictive physical intervention technique for a single behavioral episode cannot exceed 20 minutes.

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BI156	633.16(j)(1)(vi)	56. The individual was assessed for possible injuries as soon as possible following the use of physical interventions.	Y	N	N A	
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Guideline:

- Verify that the person was assessed for injury as required.
- Inspections and the findings of the inspection should be documented in the form and format specified by OPWDD or a substantially equivalent form documenting interventions and physical assessment. RIA captures this information.
- If an injury was suspected, medical care should have been provided.
- Any injury that met the definition of a reportable incident or serious reportable incident must have been reported in accordance with Part 624.

BI157	633.16(j)(1)(viii-ix)	57. Use of intermediate or restrictive physical intervention techniques in an emergency resulted in notification to appropriate parties within two business days.	Y	N	N A	
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Guideline:

The following people must be notified *within two business days* of the use of an intermediate or restrictive physical intervention used in an emergency. This notification must be made unless the person is a capable adult who objects to this notification.

- The service coordinator or party designated with the responsibility for coordinating a person’s plan of services
- The appropriate clinician, if applicable
- The person’s guardian, parent, actively involved family member
- Representative of the Consumer Advisory Board (for Willowbrook Class members)
- Correspondents or Advocates

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BI158	633.16(j)(1)(x)	58. Repeated emergency use of physical interventions in a 30-day period or six month period resulted in a comprehensive review.	Y	N	N A	
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Guideline:

- **Repeated use means: More than two times in a 30-day period or four or more times in a six month period.**
- The comprehensive review must be done by the person’s program planning team in consultation with a licensed psychologist, a licensed clinical social worker, or Behavioral Intervention Specialist.
- The purpose of the review is to determine if there is a need for a BSP to address the exhibited behavior, a need to change or revise an existing plan, or to establish the criteria for determining if a plan will need to be developed in the future. The review and determinations must be documented.
- Review documentation to verify that this is has occurred.

BI159	633.16(j)(1)(vii)	59. The use of restrictive physical interventions was reported electronically to OPWDD.	Y	N	N A	
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Guideline:

The report should be in RIA with all appropriate fields completed. Through documentation review, verify that the information entered in RIA is accurate.

For services provided in non-certified sites, documentation may occur via paper documentation. RIA entry is not required.

End of Section 5a

PHYSICAL INTERVENTION IMPLEMENTATION & OVERSIGHT

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5b. Mechanical Restraint Implementation & Oversight

CODE	CITE	STANDARD	Y	N	N A	COMMENTS (Deficiency/Deficient Practice or Best Practice) (Enter Name of Individual associated with deficiency)
BI160	633.16(j)(4)(ii) (a) (1-3)	60. Mechanical restraining devices were used in accordance with the Behavior Support Plan.	Y	N	N A	

Guideline:

- Based on observation, interview and review of documents and reports of behaviors and interventions, determine whether mechanical restraining devices were used in accordance with Plan guidelines
- The use of mechanical restraining devices in an emergency is not permitted.

BI161	633.16(j)(4)(ii) (g)(4)	61. The Individual's clinical record contains a full record of the use of the Mechanical Restraining device.	Y	N	N A	
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Guideline:

This "full record" must be present for each use of mechanical restraining devices.

A "full record" means:

- a description of the event that caused the device to be applied
- the time it was applied
- the times when monitoring occurred
- the findings of monitoring activities and any actions taken
- the time of release
- Any other information required by the BSP

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BI162	633.16(j)(4)(ii) (i)(1-4)	62. Release from mechanical restraining devices was provided in 1 hour and 50 minutes intervals or according to physician's orders.	Y	N	N A	
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Guideline:

- The form and format for documentation of mechanical restraint use should include information on the application and removal of devices.
- Documentation should demonstrate that the person was released from the device when he/she met the criteria for release or when specified by the doctor's order if less than 1 hour and 50 minutes.
- Be alert to a mechanical restraining device always being used for the full one hour and fifty minutes prior to release.
- If the person requests release for movement or access to a toilet before the specified time period has elapsed, this should be afforded to him/her as soon as possible.
- When released, the person should be provided the opportunity for movement, exercise, necessary eating, drinking and toileting.
- If the person has fallen asleep while wearing a mechanical device, he/she does not need to be released while asleep. Opportunity for movement, exercise, necessary eating, drinking and toileting must be provided immediately upon waking if more than one hour and fifty minutes has elapsed since the device was employed or the end of the last release period.

BI163	633.16(j)(4)(ii) (k)	63. Re-employment of a mechanical device did not occur unless necessitating behavior reoccurred.	Y	N	N A	
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Guideline:

If a person is released from the mechanical restraining device before the time limit specified in the order and BSP, and the person is no longer exhibiting behavior that necessitates retraining techniques, it is no longer necessary to employ the device. Under these circumstances, the restraining device should not be reemployed. Verify through documentation review, observation and interview.

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BI164	633.16(j)(4)(ii)(m)	64. Immobilizing devices were only applied under the supervision of a senior member of the staff.	Y	N	N A	
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Guideline:

Verify through observation, interview and documentation review.

- Immobilizing devices are any device which will prevent the free movement of both arms or both legs or totally immobilize the person.
- Part 633.16 defines a senior member of an agency’s staff as that staff member, who is designated by the chief executive officer (CEO) as a senior member of the administrative structure of an agency, and as such, may carry out designated responsibilities delegated by the CEO. This may be someone who is responsible for a group of applicable facilities (e.g., Team Leader, residence manager, head of shift, unit supervisor).
- Staff assigned to monitor a person while in a mechanical restraining device that totally immobilizes the person must stay in continuous visual and auditory range for the duration of the use of the device. .
- In the context of a medical or dental examination or procedure, the supervision must be by a healthcare provider or staff designated by the healthcare provider.
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BI165	633.16(j)(4)(i)(e)	65. Mechanical restraining devices are clean, sanitary and in good repair.	Y	N	N A	
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Guideline:

Visually examine the device being used by the person. If issues with condition are noted, interview staff regarding procedures for care of the device(s).

BI166	633.16(j)(4)(i)(g)	66. Helmets with chin straps are used only when Individuals are awake and in a safe position.	Y	N	N A	
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Guideline:

Verify through observations and documentation review if possible, that helmets with chin straps are not used while a person is sleeping, or in a prone or reclining position unless specifically approved by OPWDD. Documentation of OPWDD approval of atypical use must be evidenced.

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5c. Medication Administration & Oversight

CODE	CITE	STANDARD	Y	N	N A	COMMENTS (Deficiency/Deficient Practice or Best Practice) (Enter Name of Individual associated with deficiency)
BI167	633.16(j)(5)(ii) (a)	67. Medications were administered in accordance with requirements.				

Guideline:

Verify that medications, including those with prn orders, are administered as prescribed and described in the Behavior Support or Monitoring plan, or per the conditions below in the if applicable.

Part 633.16(j)(5)(v) allows the short term use of medication without a behavior support plan if the following conditions are met:

633.16(j)(5)(v)(b) *In the absence of a behavior support plan which incorporates the use of a specific medication, medication to modify or control challenging behavior may be administered on a short-term basis when all of the following conditions are met:*

- (1) an untoward or unanticipated condition, reaction, symptom, event or situation has occurred which creates exceptional circumstances that, if left untreated could potentially lead to an emergency situation;*
- (2) the circumstances resulting from the event are expected to last for a time period longer than that which can be considered an emergency;*
- (3) the medication is deemed to be the most effective course of treatment; and*
- (4) the medication is ordered by a prescriber*

633.16(j)(5)(v) (d) *Within five working days of the first administration of the medication or of the admission to such programs of a person with such a pre-existing medication regimen, a person's program planning team, in consultation with a licensed psychologist, licensed clinical social worker, or Behavioral Intervention Specialist, shall conduct a review of the circumstances which necessitated the use of such medication. The program planning team shall determine if it is necessary to develop a behavior support plan to modify or control the behavior or to modify an existing plan of services, or shall establish the criteria for a future decision that a plan will be needed. All determinations shall be documented.*

633.16(j)(5)(v) (e) *Without incorporation into a behavior support plan and written informed consent, the administration of the medication shall not continue for more than 30 consecutive days and no more than 45 days in a calendar year.*

BI168	633.16(j)(5)(iii) (f)	68. Use of PRN Medications on more than four (4) separate days in a 14-day period resulted in consideration of a recommendation for incorporation into a regular drug regimen.	Y	N	N A	
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Guideline:

There should be evidence in the individual's record that the review of the need to regularly incorporate use of the medication occurred, was conducted in consultation with the licensed psychologist, licensed clinical social worker, or behavioral intervention specialist and healthcare professional, and the findings and decisions resulting were documented. For purposes of this regulation, one day equals a 24 hour period.

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BI169	633.16(j)(5)(iii)(h)	69. Lack of use of a PRN medication during a six-month period resulted in a review of the BSP and a recommendation to the prescriber.	Y	N	N A	
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Guideline:
The review must be done in consultation with the licensed psychologist, licensed clinical social worker, or behavioral intervention specialist.

- The review should result in a recommendation to the prescriber regarding the appropriateness of continuing the as-needed medication as part of the plan. If the order is continued, a clear justification is to be documented in the record.

BI170	633.16(J)(5)(iv)(c)	70. Effectiveness of the medication ordered in an emergency is documented in the Individual's record.	Y	N	N A	
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Guideline:
When medication is appropriately used in an emergency per 633.16(j)(5)(iv)(a) the medication order and the documentation describing its effect must be entered into the individual's record.

An emergency medication order is different from a standing prn medication order that has been included in the BSP.

633.16(j)(5)(iv)(a) States:

Medication may be administered in an emergency, without informed consent, with the express intent of controlling a person's challenging behavior or acute symptoms of a diagnosed co-occurring psychiatric condition when:

- (1) the person's behavior constitutes an immediate risk to the health or safety of the person or others; or
- (2) in a physician's judgment, an emergency exists that creates an immediate need for the administration of such medication, and an attempt to secure informed consent would result in a delay which would increase the risk to the health or safety of the person or others.

BI171	633.16(J) (5)(iv) (d)	71. Emergency use of medication in more than 4 instances in a 14-day period resulted in a comprehensive review.	Y	N	N A	
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Guideline:
The emergency use of medication to control challenging behavior or acute symptoms of a co-occurring diagnosed psychiatric disorder more than four times in a 14-day period requires a comprehensive review by the program planning team in consultation with the licensed psychologist, a licensed clinical social worker or behavioral intervention specialist within three business days of the fifth medication administration. The review must be documented.

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BI172	633.16(j)(5)(ii)(g)	72. Use of PRN medications in conjunction with a restrictive physical intervention technique were reported electronically to OPWDD.	Y	N	N A	
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Guideline:

The report should be recorded in RIA. Please review the individual’s record and RIA to validate that the information in RIA is accurate and complete.

- RIA entry **IS required** for prn medication administration in conjunction with physical intervention
- RIA entry **IS required** for emergency medication administration
- RIA entry is **NOT required** for prn medication administration that is part of plan, when administered independently of a physical intervention

END OF SECTION 5c

MEDICATION ADMINISTRATION and OVERSIGHT

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5d. Rights Limitations						
CODE	CITE	STANDARD	Y	N	N A	COMMENTS (Deficiency/Deficient Practice or Best Practice) <i>(Enter Name of Individual associated with deficiency)</i>
BI173	633.16(J)(2)(i) (a-b)	73. Rights Limitations were used in accordance with Behavior Support Plans	Y	N	N A	
<p>Guideline: Based on observation, interview and review of documents and reports, determine whether right limitations were used in accordance with Plan guidelines. Rights limitations must never be used for the convenience of staff, as a threat, as a means of retribution, for disciplinary purposes or as a substitute for treatment or supervision.</p> <p>Also, during observations within the service environment, interview and documentation review take notice of indicators of rights limitations such as observations of staff denying the individual's access or items, locked areas, sparse bedrooms without belongings, etc. Verify that there is an associated approved BSP which includes the strategies and they are appropriate justified.</p> <p>Rights Limitations include (but are not limited to) access to mail, telephone, visitation, personal property, electronic communication devices (e.g., cell phones, stationary or portable electronic communication or entertainment devices computers), program activities and/or equipment, items commonly used by members of a household, travel to/in the community, privacy, or personal allowance to manage challenging behavior).</p>						
BI174	633.16(j)(2)(ii)	74. Clinical justification for use of rights limitations in an emergency is documented in the person's record.	Y	N	N A	
<p>Guideline: Verify that the person's record includes documentation of emergency rights' limitations. The circumstances regarding the implementation of limitations should clearly indicate clinical necessity. The anticipated duration of the limitation or criteria for removal must be specified</p>						
BI175	633.16(j)(2)(iii)	75. Repeated use of emergency or unplanned rights limitations in a 30-day period resulted in a comprehensive review.	Y	N	N A	
<p>Guideline: Repeat use means more than four times in a 30-day period. The comprehensive review must be done by the person's program planning team in consultation with a licensed psychologist, a licensed clinical social worker, or Behavioral Intervention Specialist. The purpose of the review is to determine if there is a need for a BSP to address the exhibited behavior, a need to change or revise an existing plan, or to establish the criteria for determining if a plan will need to be developed in the future. The review, findings, decisions should be documented.</p>						

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5e. Time Out Use & Oversight

CODE	CITE	STANDARD	Y	N	N A	COMMENTS (Deficiency/Deficient Practice or Best Practice) (Enter Name of Individual associated with deficiency)
BI176	633.16(j)(3)(iv) (a)(1)	76. Time-out was used in accordance with the Individual's Behavior Support Plan.	Y	N	N A	

Guideline:

- Based on observation, interview and review of documents and reports, determine whether use of the Time Out strategy was implemented safely and in accordance with the BSP criteria and instruction. Time out use will also be documented in RIA. The plan should be followed regarding circumstance for initiation of Time Out as well as adherence to criteria and time frames for release from Time Out.
- Time-out cannot be used in an emergency in the absence of a written plan. It cannot be used as a form of punishment or retribution or for the convenience of staff.

Time away, when a person is redirected to a quieter or less stimulating area of the program and where staff do not actively prevent egress from that area, is not considered a form of time-out.

BI177	633.16(j)(3)(iv) (a)(2)	77. Constant auditory and visual contact was maintained during time-outs to monitor the Individual's safety.	Y	N	N A	
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Guideline:

Constant auditory and visual contact is mandated to ensure that if the Individual engages in behavior that poses a risk to their health or safety, staff intervenes to prevent injury. Guidance to provide this monitoring should be clearly indicated in the BSP. Documentation for implementation of time out should indicate the provided. Verify that it is appropriate.

BI178	633.16(j)(3)(iv) (c)	78. The maximum duration of the individual's placement in a time out room did not exceed one continuous hour.	Y	N	N A	
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Guideline:

The individualized guidance for maximum placement in Time Out should be clearly indicated in the person's BSP. However, this time cannot exceed one continuous hour.

Documentation related to implementation of the Time Out strategy should include Time Out entry and exit time. Through observation if possible and documentation review verify that durations do not exceed one hour.

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BI179	633.16(j)(3)(iv) (c)	79. Use of a time-out room on five or more occasions within a 24-hour period resulted in a review of the Behavior Support Plan within three business days.	Y	N	N A	
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Guideline:

If a time out room is used on 5 or more occasions within a 24 hour period, there is evidence that the BSP was reviewed by the program planning team in consultation with the licensed psychologist, licensed clinical social worker, or behavioral intervention specialist within three business days. The review and determinations must be documented.

BI180	633.16(j)(3)(iv) (d)	80. The use of a time out room was reported electronically to OPWDD.	Y	N	N A	
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Guideline:

The use of time-out is to be reported in RIA. Please review to verify that each use of time-out was reported and all required information was entered into IRMA and accurate per information available on site if different.

**END
 BEHAVIOR SUPPORTS
 ROUTINE PROTOCOL**