

## **Assessment of Public Comment – Proposed Amendments to 14 NYCRR Subpart 635-10 Community Habilitation Amendments**

OPWDD received one comment from a provider association. Below is the assessment of the comment and OPWDD's response.

COMMENT: OPWDD stated that the goal of the regulation is to increase the availability of self-directed services, allow individuals more service options, and increase the ability of individuals residing in certified settings to participate in activities in the community in lieu of more traditional day services. The day and time restriction placed on billing, and on when community habilitation can occur (weekdays up to 3 PM), contradicts this goal. The provider association recognized that there needs to be a restriction on the level of community habilitation that an individual who resides in a supervised setting can receive in a given week, and proposed a weekly cap of 30 hours of community habilitation. This would provide the individual with maximum flexibility to set their own schedule, while controlling the amount of hours they can receive.

RESPONSE: OPWDD will not change the regulation at this time. The intent of the regulation is to offer a service option during the time when individuals would otherwise attend a traditional day service. Allowing community habilitation at other times will require residences to change staffing patterns to provide coverage for any individual who receives community habilitation at non-traditional hours and is therefore home when all the other residents are in traditional day services. It should be noted that CH services are allowed to take place outside of traditional day service time frames, provided they begin within the traditional day service timeframes (i.e. prior to 3:00 pm). Moreover, as long as providers are allowed to bill for units larger than a quarter hour, OPWDD will need to set limits to prevent duplicative billing for services. The federal Centers for Medicare and Medicaid Services is adamant that limitations on combinations of residential habilitation and community habilitation be maintained.