



To: Provider Associations
Voluntary Provider Agency Executive Directors
DDSOO Directors
DDRO Directors
IBR Director
Commissioner's Advisory Council
DDPC Consumer Caucus
OPWDD Required Regulations Mailing List

From: OPWDD Counsel's Office, Bureau of Policy and Regulatory Affairs

Date: June 22, 2016

Re: Final Regulations – Cost Report Submission and Penalty Changes

Effective Date: July 1, 2016

Suggested distribution:

Agency Administrators and Managers
Agency Financial Officers

Purpose:

Effective July 1, 2016, OPWDD is adopting regulations that make changes to requirements in 14 NYCRR Section 635-4.4 pertaining to the submission of cost reports and penalties for failure to submit cost reports in accordance with the requirements.

The amendments require providers to submit their cost reports in the form and format prescribed by OPWDD on or before the specified date in the regulations and replace the time period requirements (e.g. 120 or 150 days to submit cost reports) in existing regulations with specific due dates. The amendments also extend the due date to incorporate the 30 day extension period in the current regulations and eliminate the requirements associated with making requests for an extension. Additionally, the amendments add a table that outlines the respective deadlines for cost report filers.

The amendments add new penalties applicable to providers of Home and Community Based Services (HCBS) waiver services for failure to submit cost reports in accordance with the specified deadlines. If the cost report is still outstanding at the time specified in the regulations, the existing two percent reduction in reimbursement penalty will be replaced by a 50 percent penalty. If a provider is unable to meet its fiscal obligations with such a penalty, the amendments allow OPWDD to request that the provider voluntarily surrender its

operating certificate and/or revoke the operating certificate in accordance with Article 16 of the Mental Hygiene Law.

Lastly, the amendments eliminate penalties for delinquent cost reports associated with time periods prior to those specified in the amendments. For providers filing on the July 1st through June 30th period, the specified time period is prior to July 1, 2012 through June 30, 2013. For providers filing on the calendar period, the specified time period is prior to January 1, 2013 through December 31, 2013.

There are no changes to the final regulations in comparison with the proposed regulations.

The full text of the final regulations and an assessment of public comment are posted on the OPWDD website at www.opwdd.ny.gov. Look under "Regulations & Guidance."

For questions regarding specific application of this regulation, please contact Joanne Howard by email at rate.setting@opwdd.ny.gov or by telephone at (518) 402-4330.

Thank you.