



**STATE OF NEW YORK  
OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES**

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**OPWDD AUDIT PROTOCOL — Family Education and Training (FET)  
For service dates prior to January 1, 2014  
Effective April 1, 2014**

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Audit protocols assist the Medicaid provider community in developing programs to evaluate compliance with Medicaid requirements under federal and state statutory and regulatory law, and administrative procedures issued by the New York State Office For People With Developmental Disabilities (OPWDD). The protocols listed are intended solely as guidance in this effort. This guidance does not constitute rulemaking by OPWDD and may not be relied on to create a substantive or procedural right or benefit enforceable, at law or in equity, by any person. Furthermore, nothing in the protocols alters any statutory, regulatory or administrative requirement and the absence of any statutory, regulatory or administrative citation from a protocol does not preclude OPWDD from enforcing a statutory, regulatory or administrative requirement. In the event of a conflict between statements in the protocols and statutory, regulatory or administrative requirements, the requirements of the statutes, regulations and administrative procedures govern.

A Medicaid provider's legal obligations are determined by the applicable federal and state statutory and regulatory law. Audit protocols do not encompass all the current requirements for payment of Medicaid claims for a particular category of service or provider type and therefore are not a substitute for a review of the statutory and regulatory law or administrative procedures.

Audit protocols are applied to a specific provider or category of service(s) in the course of an audit and involve OPWDD's application of articulated Medicaid agency policy and the exercise of agency discretion. Audit protocols are used as a guide in the course of an audit to evaluate a provider's compliance with Medicaid requirements and to determine the propriety of Medicaid expended funds. In this effort, OPWDD will review and consider any relevant contemporaneous documentation maintained and available in the provider's records to substantiate a claim.

New York State, consistent with state and federal law, can pursue civil and administrative enforcement actions against any individual or entity that engages in fraud, abuse, or illegal or improper acts or unacceptable practices perpetrated within the medical assistance program. Furthermore, audit protocols do not limit or diminish OPWDD's authority to recover improperly expended Medicaid funds and OPWDD may amend audit protocols as necessary to address identified issues of non-compliance. Additional reasons for amending protocols include, but are not limited to, responding to a hearing decision, litigation decision, or statutory or regulatory change.

## OPWDD AUDIT PROTOCOL – Family Education and Training Effective April 1, 2014

<b>1.</b>	<b>Missing Record</b>
<b>OPWDD Audit Criteria</b>	If no record is available for review, claims for all dates of service associated with the individual will be disallowed.
<b>Regulatory References</b>	18 NYCRR Section 504.3(a) 18 NYCRR Section 540.7(a)(8) 18 NYCRR Section 517.3(b)(2)
<b>2.</b>	<b>No Documentation of Service</b>
<b>OPWDD Audit Criteria</b>	If the record does not document that a family education and training service was provided, the claim will be disallowed.
<b>Regulatory References</b>	18 NYCRR Section 504.3(a) 18 NYCRR Section 540.7(a)(8) 18 NYCRR Section 517.3(b)(2)
<b>3.</b>	<b>No Determination of a Developmental Disability</b>
<b>OPWDD Audit Criteria</b>	The claim for services provided in the absence of a clinical assessment substantiating a specific determination of developmental disability will be disallowed.
<b>Regulatory References</b>	14 NYCRR Section 635-10.3(a) and (b)(1)
<b>4.</b>	<b>Missing Copy of Individualized Service Plan (ISP)</b>
<b>OPWDD Audit Criteria</b>	A copy of the individual’s ISP, covering the time period of the claim, must be maintained by the agency. The claim will be disallowed in the absence of an ISP. If the ISP is not in place prior to the service date and in effect for the service date, the claim will be disallowed.
<b>Regulatory References</b>	14 NYCRR Section 635-99.1(bk) May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS
<b>5.</b>	<b>Unauthorized FET Provider</b>
<b>OPWDD Audit Criteria</b>	The claim will be disallowed if the ISP does not specify the category of waiver service that the agency is providing (i.e. family education and training) or does not designate the agency as the provider of the service.
<b>Regulatory References</b>	14 NYCRR Section 635-99.1(bk) May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS
<b>6.</b>	<b>Improper Reimbursement - Eligibility (Age Requirement)</b>
<b>OPWDD Audit Criteria</b>	The claim will be disallowed if the individual whose family is receiving service is not under the age of 18 at the time the service was provided.
<b>Regulatory References</b>	14 NYCRR 635-10.5(aa)(2)(ii) May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS

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<b>7.</b>	<b>Incorrect Payment Level</b>
<b>OPWDD Audit Criteria</b>	Attendance at training can be claimed for either a single family or group of families (involving 2 - 8 families). The claim will be disallowed if more than 8 families are involved.
<b>Regulatory References</b>	14 NYCRR 635-10.5(aa)(3)(ii) May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS
<b>8.</b>	<b>Failure to Meet Billing Minimum duration</b>
<b>OPWDD Audit Criteria</b>	The claim will be disallowed if the duration of training was less than two hours.
<b>Regulatory References</b>	14 NYCRR 635-10.5(aa)(3)(iii) May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS
<b>9.</b>	<b>Missing Required Elements in the Service Record</b>
<b>OPWDD Audit Criteria</b>	The claim will be disallowed if documentation to support the service does not include the following: <ol style="list-style-type: none"> <li>1. Name and title of person providing the session</li> <li>2. Outline of the session</li> <li>3. Length of the session</li> <li>4. Location where the sessions was held</li> <li>5. Date the session was held</li> <li>6. Name of the individual(s) whose family attended</li> <li>7. Name of the individual's family members who attended</li> </ol>
<b>Regulatory References</b>	May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS
<b>10.</b>	<b>Failure to Adhere to Attendance Maximums</b>
<b>OPWDD Audit Criteria</b>	If more than 8 individuals' families participate in a single FET session, the claim will be disallowed.
<b>Regulatory References</b>	May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS
<b>11.</b>	<b>Failure to Comply with Annual Billing Limits</b>
<b>OPWDD Audit Criteria</b>	The claim will be disallowed if more than two units of service per eligible person are provided on an annual basis to each family.
<b>Regulatory References</b>	14 CRR-NY 635-10.5(aa)(3)(iii) May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS

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<b>12.</b>	<b>Billing for Services by Ineligible Provider</b>
<b>OPWDD Audit Criteria</b>	The claim will be disallowed if the agency does not have a family education and training Medicaid Provider Agreement.
<b>Regulatory References</b>	14 NYCRR Part 635-10.1(b)

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