



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

44 Holland Avenue
Albany, New York 12229

ANDREW M. CUOMO
GOVERNOR

KERRY A. DELANEY
ACTING COMMISSIONER

**OPWDD AUDIT PROTOCOL —
Intensive Behavioral Services (IB Services)
For service dates October 1, 2013 to January 1, 2014
Effective April 1, 2014**

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.

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1.	Missing Record
OPWDD Audit Criteria	If no record is available for review, claims for all dates of service associated with the individual will be disallowed.
Regulatory References	18 NYCRR Section 504.3(a) 18 NYCRR Section 540.7(a)(8) 18 NYCRR Section 517.3(b)(2)
2.	No Documentation of Service
OPWDD Audit Criteria	If the record does not document that an intensive behavioral service was provided, the claim will be disallowed.
Regulatory References	18 NYCRR Section 504.3(a) 18 NYCRR Section 540.7(a)(8) 18 NYCRR Section 517.3(b)(2)
3.	No Determination of a Developmental Disability
OPWDD Audit Criteria	The claim for services provided in the absence of a clinical assessment substantiating a specific determination of developmental disability will be disallowed.
Regulatory References	14 NYCRR Section 635-10.3(a) and (b)(1)
4.	Missing Individualized Service Plan (ISP)
OPWDD Audit Criteria	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.
Regulatory References	14 NYCRR Section 635-99.1(bk) OPWDD Administrative Memorandum #2013-03, p. 11
5.	Unauthorized IB Service Provider
OPWDD Audit Criteria	The claim will be disallowed if the ISP does not specify the category of waiver service that the agency is providing (i.e. IB services) or does not designate the agency as the provider of the service.
Regulatory References	14 NYCRR Section 635-10.2(a) OPWDD Administrative Memorandum #2013-03, pp. 11-12
6.	Plan Fee Reimbursement Exceeded Period Limits
OPWDD Audit Criteria	The one time Plan Fee for the IB Services covers the time that the clinician(s) spend developing the Functional Behavioral Assessment (FBA) and Behavior Support Plan (BSP). Agencies may only be paid once for the one-time Plan Fee for an individual.

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	A claim for more than the one-time Plan Fee will be disallowed.
Regulatory References	OPWDD Administrative Memorandum #2013-03, p. 9
7.	Missing Functional Behavioral Assessment or Individualized Behavior Support Plan
OPWDD Audit Criteria	The claim will be disallowed if the Functional Behavioral Assessment (FBA) or the individualized Behavior Support Plan (BSP) is unavailable or does not cover the period of the claim.
Regulatory References	OPWDD Administrative Memorandum #2013-03, p. 10
8.	Missing Required Elements in the Functional Behavioral Assessment (FBA)-Plan Fee only
OPWDD Audit Criteria	The claim will be disallowed if the FBA does not include: <ol style="list-style-type: none"> 1. The individual’s name. 2. The individual’s Medicaid Client Identification Number (CIN). 3. The category of waiver service provided (e.g. Intensive Behavioral Services or IB Services). 4. Identification of the agency providing IB Services as the provider of the service. 5. Date on which the Assessment was completed. 6. Name, signature and title of the Intensive Behavioral staff person completing the FBA, and the date the FBA was completed (i.e. the signature date). 7. Co-signature of the licensed supervisor (if applicable) and signature date.
Regulatory References	OPWDD Administrative Memorandum #2013-03, p. 12
9.	Missing Required Elements in the Behavioral Support Plan (BSP)
OPWDD Audit Criteria	The claim will be disallowed if the BSP does not include: <ol style="list-style-type: none"> 1. The individual’s name. 2. The individual’s Medicaid Client Identification Number (CIN). 3. The category of waiver service provided (e.g. Intensive Behavioral Services or IB Services). 4. Identification of the agency providing IB Services as the provider of the service. 5. Name, signature and title of the Intensive Behavioral staff person writing the BSP and the date the BSP was completed (i.e. the signature date). 6. Co-signature of the licensed supervisor (if applicable) and signature date. 7. Evidence of when the BSP was last reviewed which must occur at minimum every 60 days. On an immediate reauthorization or at a reauthorization that

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	occurs later, it is expected that a review will occur immediately and then subsequent reviews will occur again no less frequently than every 60 days. Evidence that a review was conducted includes the name, signature and title of the Intensive Behavioral staff who conducted the review and the date of the review and a summary of any changes in the BSP.
Regulatory References	OPWDD Administrative Memorandum #2013-03, pp. 12-13

10.	Missing IB Service Documentation-Hourly Fee
OPWDD Audit Criteria	The claim will be disallowed in the absence of documentation to support each day IB services were provided.
Regulatory References	OPWDD Administrative Memorandum #2013-03, p. 13

11.	Billing for Non-reimbursable Service Time
OPWDD Audit Criteria	<p>The claim will be disallowed if the delivery of face to face services with the individual occurred when the individual is at another Medicaid service. This period cannot count toward the billing time for the Intensive Behavioral Hourly Fee with the following exceptions:</p> <ul style="list-style-type: none"> • Time when the individual is receiving Family Care or Community Habilitation for purposes of training Family Care and Community Habilitation staff in implementing the BSP and for monitoring implementation of the BSP. • Time when the individual is receiving respite for purposes of training respite staff. Respite staff may only be trained, as clinically necessary, in those positive behavioral approaches, strategies and supports detailed in an individual’s BSP to better support that individual during delivery of respite services. • The BSP must also clearly indicate the need for training of these direct support professionals. • Time when the MSC Service Coordinator is conducting the face-to-face MSC visit with the individual as long as the IB Services staff person is present.
Regulatory References	OPWDD Administrative Memorandum #2013-03, p. 11

12.	Missing Required Elements in the Service Documentation
OPWDD Audit Criteria	<p>For each day where hourly IB Services are billed the documentation must include:</p> <ol style="list-style-type: none"> 1. Individual’s name. 2. Identification of category of waiver service 3. A daily description of all of the services provided for the day. 4. Documentation of start and stop times for each “session.” The provider must

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	<p>document the service start time and service stop time for each continuous period of Intensive Behavioral service provisions or “session.”</p> <ol style="list-style-type: none"> 5. The individual’s response to the service.(Note: The response to service does not have to be recorded for every service session as long as the individual response is summarized at least monthly on one of the narrative notes). 6. The date the service was provided. 7. The primary service location 8. The name, signature and title of the Intensive Behavioral staff person documenting the service. 9. The date the service was documented. <p>The claim will be disallowed if any of the required elements are missing.</p>
Regulatory References	OPWDD Administrative Memorandum #2013-03, p. 13
13.	Improper Countable Service Units Billed
OPWDD Audit Criteria	The claim will be disallowed if the number of 15 minute increments billed exceeded the number of 15 minute increments documented for IB services.
Regulatory References	OPWDD Administrative Memorandum #2013-03, p. 10
14.	Hourly Fee Reimbursements Exceeded Period Limits
OPWDD Audit Criteria	For the Hourly Fee, providers may only be reimbursed up to 25 hours in a six month period (180 calendar days). Claims for hourly fee reimbursement in excess of 25 hours in a six month period (180 calendar days) will be disallowed.
Regulatory References	OPWDD Administrative Memorandum #2013-03, p. 9
15.	Billing for Services by Ineligible Provider
OPWDD Audit Criteria	The claim will be disallowed if the agency does not have an intensive behavior services Medicaid Provider Agreement.
Regulatory References	14 NYCRR Part 635-10.1(b)

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