



Office for People With Developmental Disabilities

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OPWDD AUDIT PROTOCOL – SUPPORTED EMPLOYMENT SERVICES (SEMP)

Effective July 1, 2015 through March 9, 2016

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 the recipient record is not available for review, claims for all dates of service associated with the recipient record will be disallowed.
Regulatory References	18 NYCRR Section 504.3(a) 18 NYCRR Section 540.7(a)(8)
2.	No Documentation of Service
OPWDD Audit Criteria	If the recipient's record does not document that a supported employment service was provided, the claim will be disallowed.
Regulatory References	18 NYCRR Section 504.3(a) 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 diagnosis of developmental disability will be disallowed.
Regulatory References	14 NYCRR Section 635-10.3(a) and (b)(1)
4.	Unauthorized Supported Employment Service Provider
OPWDD Audit Criteria	The claim will be disallowed if the individualized service plan (ISP) does not specify the category of waiver service that the agency is providing (i.e. supported employment), or does not designate the agency as the provider of the service.
Regulatory References	14 NYCRR Section 635-10.2(a) OPWDD ADM #2015-08, p. 7 14 Section 635-10.5(af)(8)(i)
5.	Missing Copy of the Individualized Service Plan (ISP)
OPWDD Audit Criteria	A copy of the recipient's ISP covering the time period of the claim must be maintained by the agency. If the ISP is missing or not valid for the service date, the claim will be disallowed.
Regulatory References	14 NYCRR Section 635-10.2(a) 14 NYCRR Section 635-99.1(bk) OPWDD ADM #2015-08, p. 7
6.	Missing Habilitation Plan for Supported Employment Services
OPWDD Audit Criteria	A relevant habilitation plan(s) must be developed within 60 days of the start of the habilitation service. The claim will be disallowed if the relevant habilitation plan(s) is missing or does not cover the time-period of the SEMP claim.
Regulatory References	14 NYCRR Section 635-99.1(bk) OPWDD ADM #2015-08, p. 8 OPWDD ADM #2012-01, p. 2

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7.	Missing Required Elements of Habilitation Plan for Supported Employment
OPWDD Audit Criteria	<p>For every habilitation service, an individual must have a habilitation plan that contains the following elements:</p> <ol style="list-style-type: none"> 1) The individual's name. 2) The individual's Medicaid Identification Number (CIN), if the person is a Medicaid enrollee. 3) The habilitation service provider's agency name. 4) Identification of the habilitation service(s) provided. 5) The date on which the Habilitation Plan was reviewed. 6) Identification of at least one valued outcome that is derived from the individual's ISP (valued outcomes do not need to be verbatim from the ISP). 7) Description of the services and supports the habilitation staff will provide to the person. 8) The safeguards (health and welfare) that will be provided by the habilitation service provider. 9) The printed name, signature and title of the staff who wrote the Habilitation Plan. 10) The date that staff signed the Habilitation Plan. <p>The claim will be disallowed if one or more of the required elements are missing.</p>
Regulatory References	14 NYCRR Section 635-99.1(bk) OPWDD ADM #2012-01, p. 7
8.	Missing Habilitation Plan Review for Supported Employment Services
OPWDD Audit Criteria	<p>There must be evidence that the Habilitation Plan was reviewed within 12 months prior to the month in which the service occurs.</p> <p>At least annually, a Habilitation Plan review must be conducted at the time of the ISP meeting.</p> <p>The claim will be disallowed in the absence of evidence of a habilitation plan review within 12 months prior to the month in which the service occurs or if at least annually, a habilitation plan review was not conducted at the time of the ISP meeting.</p>
Regulatory References	14 NYCRR Section 635-99.1(bk) OPWDD ADM #2012-01, pp. 4, 7
9.	Failure to Write the Initial Habilitation Plan for Supported Employment Service Within 60 Days
OPWDD Audit Criteria	For supported employment services, the initial habilitation plan must be written within 60 days of the start of the habilitation service and forwarded to the service coordinator. The claim will be disallowed if the plan is not written within 60 days of the start of the supported employment service.
Regulatory References	14 NYCRR Section 635-99.1(bk) OPWDD ADM #2012-01, p. 2

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10.	Failure to Forward Revised Habilitation Plan for Supported Employment Service Within 30 Days to the Service Coordinator
OPWDD Audit Criteria	<p>A revised supported employment service plan must be either sent to the recipient's service coordinator no more than 30 days after either (a) an ISP review date, or (b) the date on which the habilitation service provider makes a significant change to the plan.</p> <p>The claim will be disallowed if the revised plan was not forwarded within 30 days to the service coordinator.</p>
Regulatory References	<p>14 NYCRR Section 635-99.1(bk) OPWDD ADM #2012-01, p. 3</p>

11.	Missing Required Elements for Supported Employment Checklist Documentation
OPWDD Audit Criteria	<p>The claim will be disallowed in the absence of one or more of the required 10 elements in the supported employment checklist documentation:</p> <ol style="list-style-type: none"> 1. Individual's name and Medicaid number (CIN). 2. Name of the agency providing the Supported Employment service. 3. Identification of the category of waiver service provided. (i.e., Supported Employment or SEMP service). 4. Documentation of start and stop times. Document the service start time and service stop time for each continuous period of service provision. 5. The ratio of individual(s) to staff. (i.e., 1:1 or 1: group). 6. Description of services. Each documented session must list at least one allowable service delivered in accordance with the individual's SEMP Service Delivery Plan. The location of the service does not need to be documented. 7. The date the service was provided. 8. Verification of service provision by the staff person delivering the service. Initials are permitted if a "key" is provided which identifies the title, signature, and full name associated with the staff initials. 9. A narrative description of the individual's response to the service and/or the purpose of the service entered at least weekly. 10. Signature of the Supported Employment staff person documenting the service and date the service was documented (or initials as referenced in item #8).
Regulatory References	<p>OPWDD ADM #2015-08, pp. 6-7</p>

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12.	Missing Supported Employment Monthly Summary Note
OPWDD Audit Criteria	The claim will be disallowed if the required narrative monthly summary note is missing. The claim will also be disallowed if the narrative monthly summary note does not summarize: (1) the implementation of the individual's SEMP Service Delivery Plan for the month; (2) description of the individual's vocational progress; (3) description of some of the actions of staff to address vocational challenges; (4) description of the individual's response; and (5) any issues or concerns; or if the narrative monthly summary note was not completed, signed, and dated no later than the 30th day after the month of service.
Regulatory References	OPWDD ADM #2015-08, p. 6-7

13.	Billing for Services by Ineligible Provider/Provider Employee
OPWDD Audit Criteria	<p>The claim will be disallowed if the supported employment services billed were performed by providers or provider staff not authorized by either the NYS Department of Health or OPWDD. The claim will also be disallowed if the supported employment services billed were performed by provider staff who have not met education or staff training requirements:</p> <p><u>All staff providing SEMP services must:</u></p> <ol style="list-style-type: none"> i. have at least a high school equivalency diploma or one year of work experience providing vocational or pre-vocational services to individuals with disabilities; and ii. complete an OPWDD approved vocational rehabilitation or supported employment training program. <p><u>Staff Training Requirement</u></p> <p>For staff who are hired on or after July 1, 2015 to provide SEMP services, such staff must complete 24 hours of OPWDD's Innovations in Employment Supports Trainings within 12 months of being hired as a job coach, job developer, employment specialist or in a related employment or vocational rehabilitation job title.</p> <p>For staff who have provided SEMP services prior to July 1, 2015 but who have not completed 24 hours of OPWDD's Innovations in Employment Supports Trainings, such staff must complete 24 hours of training by June 30, 2017.</p> <p>Effective July 1, 2017 SEMP staff, supervisors, and directors must obtain at least 6 hours of continuing education in SEMP on an annual basis by participating in OPWDD's Innovations in Employment Supports Trainings. The service provider must maintain documentation that annual continuing education requirements are met.</p> <p>OPWDD Central Office may grant an exception to the training requirement under an extenuating circumstance. Documentation of any exception granted by OPWDD must be maintained by the service provider.</p>

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Regulatory References	14 NYCRR Section 635-10.1(b) 14 NYCRR Section 635-10.4(j)(4)(i)-(ii) OPWDD ADM #2015-08, p. 5
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14.	Supported Employment Compensation Not At or Above Minimum Wage
OPWDD Audit Criteria	The claim will be disallowed if the supported employment compensation paid to a recipient was not at or above the established minimum wage.
Regulatory References	34 CFR Section 361.47(a)(9) Centers for Medicare & Medicaid Services CMCS Informational Bulletin, Sept. 2011, p. 9 14 NYCRR Section 635-10.4(j) OPWDD ADM #2015-08, pp. 2-3 14 NYCRR Section 635-99.1(v)

15.	Supported Employment Services Available Through an Educational Agency
OPWDD Audit Criteria	The claim will be disallowed if the supported employment services were available through a program funded under section 110 of the Rehabilitation Act of 1973 or the IDEA (20 U.S.C. 1401 et seq.).
Regulatory References	Centers for Medicare & Medicaid Services CMCS Informational Bulletin, Sept. 2011, p. 9 14 NYCRR Section 635-10.5(af)(8)(iv)

16.	Claimed Incorrect Billing Units
OPWDD Audit Criteria	<p>The claim will be disallowed if the number of 15 minute increments billed exceeded the number of 15 minute increments documented for SEMP services. Billing unit errors will be disallowed to the extent of the difference between the amount claimed and actual.</p> <p>The unit of service for SEMP is an hour. Services are billed in 15-minute increments (units), with a full 15 minutes of service required to bill a single increment (i.e., there is no “rounding up”). When there is a break in the service delivery during a single day, the service provider must combine, for billing purposes, the durations of the continuous periods/sessions of each specific type of service provision for billing purposes (e.g., the durations of each individual session within a day must be combined, but a combination of individual and group sessions provided in the same day must not be combined).</p> <p><u>Billable service time.</u> Billable service time for Intensive and Extended SEMP is:</p> <ol style="list-style-type: none"> i. time when the service provider is providing SEMP in accordance with the individual's supported employment service delivery plan; and ii. time when service provider is developing the supported employment service delivery plan. <p><u>Restrictions on billable service time.</u></p> <ol style="list-style-type: none"> i. Time spent receiving another Medicaid service must not be counted toward SEMP service time in instances when the Medicaid service is received simultaneously with one or more allowable SEMP activities (see 14 NYCRR

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	<p>635-10.4(j)) provided directly to the individual. An exception is the provision of Medicaid Service Coordination, which may be received simultaneously with all allowable SEMP activities.</p> <p>ii. (ii) If an individual is in the Intensive phase of SEMP, the individual is not eligible to receive the Pathway to Employment service because allowable activities in Intensive SEMP and the Pathway to Employment service are the same.</p>
Regulatory References	<p>OPWDD Administrative Memorandum #2015-08, p.3-6 14 NYCRR Section 635-10.5(a)(6)(i)(ii) 14 NYCRR Section 635-10.5(a)(7)(i)(ii)</p>

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