



Office for People With Developmental Disabilities

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OPWDD AUDIT PROTOCOL – DAILY RESIDENTIAL HABILITATION SERVICES PROVIDED IN SUPERVISED INDIVIDUALIZED RESIDENTIAL ALTERNATIVES AND COMMUNITY RESIDENCES

Effective July 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) OPWDD ADM #2014-01 pp. 2 & 6
2.	No Documentation of Service
OPWDD Audit Criteria	If the record does not document that a Residential Habilitation service was provided, the claim will be disallowed.
Regulatory References	18 NYCRR Section 504.3(a) 18 NYCRR Section 517.3(b)(2) OPWDD ADM #2014-01 pp. 2 & 6
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) 14 NYCRR Section 671.4(b)(l)(i)
4.	Missing Copy of 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 635-10.2(a) 14 NYCRR 635-10.5(b)(5) 14 NYCRR Section 635-99.1(bk) OPWDD ADM #2014-01 pp. 2, 5 & 6
5.	Unauthorized Residential Habilitation Services Provider
OPWDD Audit Criteria	If the provider is not listed on the ISP, as the authorized provider for a specific service, the service will be disallowed.
Regulatory References	14 NYCRR Section 635-10.2(a) 14 NYCRR Section 635-99.1(bk) OPWDD ADM #2014-01 p. 5
6.	Missing Residential Habilitation Plan
OPWDD Audit Criteria	The claim will be disallowed in the absence of a Residential Habilitation plan. If no Residential Habilitation plan is 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 ADM #2014-01 pp. 2 & 6

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7.	Missing Required Elements of the Residential Habilitation Plan
OPWDD Audit Criteria	The claim will be disallowed if any of the seven required elements are missing in the Habilitation Plan: <ol style="list-style-type: none"> 1. The person’s (a) name and (b) Medicaid Identification Number (CIN), 2. The Habilitation Service Provider agency name and type of Habilitation Service provided, 3. The date on which the Habilitation Plan was last reviewed, 4. The person’s valued outcome(s) that will be addressed through the Habilitation Service, 5. A description of services and supports the Habilitation Service Provider staff will provide to the person, 6. The safeguards identified in the Individual’s Plan of Protective Oversight that will be provided by the Habilitation Service Provider, and 7. The printed name, signature and title of the person who wrote the Habilitation Plan and the date staff signed the habilitation plan.
Regulatory References	14 NYCRR Section 635-99.1(bk) OPWDD ADM - #2012-01 p. 7 OPWDD ADM #2014-01 p. 5
8.	Missing Residential Habilitation Plan Review
OPWDD Audit Criteria	Claims will be disallowed if the relevant habilitation plan(s) is not developed, reviewed or revised as necessary at a minimum of at least once annually. At least annually, one of the residential habilitation plan reviews must be conducted at the time of the ISP meeting.
Regulatory References	14 NYCRR Section 635-99.1(bk) OPWDD ADM #2012-01 p. 7 OPWDD ADM #2014-01 p. 5
9.	Missing Residential Habilitation Service Note - Service Day
OPWDD Audit Criteria	On any service day there must be documentation of the individual’s presence and provision of staff action. The claim will be disallowed in the absence of such documentation.
Regulatory References	14 NYCRR 635-10.5(12)(i) OPWDD ADM #2014-01 pp. 5 & 6
10.	Missing Billing Standard Element - Service Day
OPWDD Audit Criteria	There are two standards for billing Supervised IRA-RH daily Service Days: Presence in the IRA and Provision of Staff Actions. The provider will document the day present by denoting lodging and services rendered to the individual. In addition to documenting presence, the Residential Habilitation staff must deliver and contemporaneously document the delivery of staff actions drawn from the individual’s residential habilitation plan during the service time (day) billed. The claim will be disallowed in the absence of such documentation.
Regulatory References	14 NYCRR 635-10.5(12)(i) OPWDD ADM #2014-01 pp. 3, 4 & 5

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11.	Missing Residential Habilitation Service Note - Therapeutic/Retainer Day
OPWDD Audit Criteria	On any therapeutic leave/retainer day there must be documentation that the individual was away from the residence, not receiving services from paid residential habilitation staff, and the purpose of the therapeutic leave or retainer day. The claim will be disallowed in the absence of such documentation.
Regulatory References	OPWDD ADM #2014-01 pp. 4 & 5
12.	Missing Billing Standard Element - Therapeutic Day
OPWDD Audit Criteria	The habilitation plan should generally describe the purposes of the therapeutic leave that the individual uses and the general frequency of the leave. The claim will be disallowed in the absence of such documentation.
Regulatory References	OPWDD ADM #2014-01 pp. 4 & 5
13.	Billing For Ineligible Therapeutic Leave Day
OPWDD Audit Criteria	On any therapeutic leave day, the individual may not receive another Medicaid-funded residential or in-patient service on that day. The claim will be disallowed if another Medicaid-funded or in-patient service was provided on that day.
Regulatory References	OPWDD ADM #2014-01 pp. 4 & 5
14.	Billing For Ineligible Retainer Day
OPWDD Audit Criteria	A provider may bill for a retainer day for an individual who is on medical leave from the IRA or associated days where any other institutional or in-patient Medicaid payment is made for providing services to the individual. The claim will be disallowed where the documentation does not support the individual's medical leave, other institutional, or in-patient Medicaid payment was made.
Regulatory References	OPWDD ADM - #2014-01 pp. 4 & 5
15.	Missing Required Elements in the Residential Habilitation Service Documentation
OPWDD Audit Criteria	<p>The claim will be disallowed if one or more of the following required elements are missing in the note:</p> <ol style="list-style-type: none"> 1. Individual's name and Medicaid number ("CIN"). 2. Identification of category of waiver service provided. 3. A description of the individualized service provided by staff that is based on the person's Residential Habilitation Plan. 4. The individual's response to the service. 5. The date the service was provided. 6. The primary service location. 7. Verification of service provision by the staff person delivering the service. 8. The signature and title of the staff person writing the note.

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	9. The date the note was written.
Regulatory References	OPWDD ADM #2014-01 pp. 5 & 6

16.	Missing Residential Habilitation Monthly Summary Note
OPWDD Audit Criteria	The monthly summary note must discuss any issues or concerns and summarize the implementation of the individual's Residential Habilitation Plan, and address how the individual responded to the services provided during the month. Claims will be disallowed in the absence of the monthly summary note.
Regulatory References	OPWDD ADM #2014-01 pp. 5 & 6

17.	Billing for Services by Ineligible Provider
OPWDD Audit Criteria	The claim will be disallowed if the agency does not have a Residential Habilitation Medicaid Provider Agreement.
Regulatory References	OPWDD ADM #2014-01 p. 6

18.	Failure to Forward Revised Habilitation Plan for Residential Habilitation Within 30 Days to the Service Coordinator
OPWDD Audit Criteria	For service dates April 1, 2012, and after, a revised residential habilitation plan must be 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. The claim will be disallowed if the revised plan was not forwarded within 30 days to the service coordinator.
Regulatory References	14 NYCRR Section 635-99.1(bk) OPWDD ADM #2012-01, pp.3

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