



TO: Executive Directors, Individual Residential Alternative (IRA) Agencies
Executive Directors, Community Residence (CR) Agencies
Executive Directors, Family Care (FC) Agencies
Developmental Disabilities Regional Office (DDRO) Directors

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SUBJECT: Scope of Residential Habilitation Services & Changes for Individual Residential Alternative (IRA) and Community Residence (CR) Residential Habilitation Services and Family Care Residential Habilitation services

DATE: April 30, 2015

This memo is to inform you of changes that the Office for People With Developmental Disabilities (OPWDD) will be making related to the Medicaid-funded supports and services that people in IRAs, Community Residences and Family Care can access. As you are aware, OPWDD and the federal Centers for Medicare and Medicaid Services (CMS) are working to finalize service and funding agreements related to Home and Community Based Services. As we make required changes, OPWDD is committed to working with you to ensure that people supported in certified residential settings receive needed services.

As part of these agreements, we must ensure that residential habilitation services consistently fund the same types of services, based on the needs of people who are served. In many cases, implementing these new rules will not affect a provider's operation. Where services for people supported in certified residential settings will be affected, funding will be adjusted so that the residential agency can either contract with service providers outside your agency, or make arrangements to satisfy the needs directly with appropriately credentialed agency employees. OPWDD intends to implement these changes on October 1, 2015.

Supervised IRA/CR Residential Habilitation

Effective October 1, 2015, Supervised IRA/CR Residential Habilitation providers will be financially responsible for any required nursing (RN and LPN), nutrition, and psychology services delivered within the confines of the residence and during evening and weekend hours, and these services can no longer be billed to a person's Medicaid card while he or she lives in an OPWDD certified residence. Existing prohibitions on delivery of separately-billed personal care services, consumer directed personal assistance, home health aide services, homemaker services, and supplemental habilitation (i.e., supplemental day habilitation and community habilitation) within the

confines of the residence and during evening and weekend hours will also remain in place.¹ Supervised Residential Habilitation rates will be evaluated and adjusted to reflect the costs of these in-home therapy services.

Supportive IRA/CR Residential Habilitation & Family Care Residential Habilitation

Effective October 1, 2015, the Supportive IRA/CR Residential Habilitation and Family Care Residential Habilitation service must be sufficient to meet residents' needs without authorization of additional, separately-billed personal care services, consumer directed personal assistance program services, home health aide services, and homemaker services delivered within the confines of the residence and during evening and weekend hours. Nor may supplemental habilitation services (e.g., supplemental day habilitation, community habilitation) be delivered within the confines of the residence or during evening and weekend hours.²

If separate billing for a service now considered included in the residential habilitation rate is identified by the State following implementation of this policy, the residential agency will be expected to reimburse the full cost of the separately-billed service to Medicaid. As in all recovery actions, the residential provider will be afforded an opportunity to contest findings and offer exculpatory evidence (e.g., the separately billed service was never actually provided or the residential provider paid the other provider who then double billed Medicaid).

This new policy reflects CMS's view that residential habilitation services should fully meet the care needs of residents while they are in the residence and also meet all habilitative, recreational and community integration needs of the people they serve during weekends and on week day evenings. As previously noted, the Medicaid funds previously expended on the separately-billed services no longer permitted will be repurposed as additional residential habilitation funding. Therefore, OPWDD expects residential providers to implement these changes in a manner that does not diminish or impair the quality of life for individuals currently receiving services.

Fortunately, the numbers of individuals affected by the implementation of these new limits is relatively small. OPWDD and the Department of Health will work with agencies operating Supportive IRAs and Family Care homes to adjust funding so that the residential agency can either contract for the outside service provision or make arrangements to meet the service needs directly with residential agency staff.

Next Steps

OPWDD will hold a webinar on Monday, May 11th 2:30pm-3:30pm to discuss these changes, and will follow-up with more detailed information to review the changes with each agency based on recent outside Medicaid billing information for people that live in residences operated by the agency. A separate memo will be sent to affected provider agencies to identify the contact persons who will work with OPWDD regarding the transition. Thank you for your assistance with this matter. We look forward to working collaboratively with you in the months ahead to ensure a successful transition.

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¹ Day and community habilitation will continue to be available for Supervised IRA/CR residents when delivered outside of the residence during regular day programming hours.

² Day and community habilitation will continue to be available for Supportive IRA/CR and Family Care Home residents when delivered outside of the residence during regular day programming hours.