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ADMINISTRATIVE MEMORANDUM #2012-05

TO: Executive Directors of Voluntary Provider Agencies
Directors of Developmental Disabilities Regional Offices
Directors of Developmental Disabilities State Operations Offices

FROM: Gerald Huber, Acting Deputy Commissioner
Division of Person-Centered Supports 

Mark Pattison, Deputy Commissioner
Division of Enterprise Solutions 

SUBJECT: **Community Habilitation Phase II (CH II) Service and Payment Standards**

DATE: **October 29, 2012**

EFFECTIVE DATE: October 1, 2012

Suggested Distribution

- Agency Financial Officers
- Agency Administrators – Residential
- Agency Administrators – Day Habilitation
- Agency Administrators -- Medicaid Service Coordination (MSC)
- Agency Quality Assurance, Clinical, and Service Coordination Staff

Purpose:

Effective October 1, 2012, OPWDD adopted regulations pertaining to Community Habilitation Phase II (CH II), an expansion of Community Habilitation, an existing new Home and Community Based Services (HCBS) waiver service. This Administrative Memorandum describes CH II service and payment standards and documentation requirements necessary to support a provider's claim for CH II reimbursement. These requirements apply to services that are managed exclusively by a provider agency and for CH II services that are self or family directed.

Program quality standards, applicable to all HCBS habilitation services including CH II, can be found in the March 7, 2012 Administrative Memorandum #2012 - 01, entitled *Habilitation Plan Requirements*.

Background:

18 NYCRR Section 504.3(a) states that by enrolling in the Medicaid program, “the provider agrees...to prepare and to **maintain contemporaneous records** demonstrating its right to receive payment under the medical assistance program and to **keep for a period of six years from the date the care, services or supplies were furnished, all records** necessary to disclose the nature and extent of services furnished and all information regarding claims for payment submitted by, or on behalf of, the provider and to furnish such records and information, upon request, to...the Secretary of the United States Department of Health and Human Services, the Deputy Attorney General for Medicaid Fraud Control and the New York State Department of Health (emphasis added).” In addition, 18 NYCRR Section 517.3(b)(2) states that “All information regarding claims for payment submitted by or on behalf of the provider is subject to audit for a period of six years from the date the care, services or supplies were furnished or billed, whichever is later.” It should be noted that there are other entities with rights to audit Medicaid waiver claims as well, including OPWDD.

Specific regulatory requirements applicable to CH II can be found in 14 NYCRR paragraph 635-10.4(b)(4) and subdivision 635-10.5(ac).

CH II is also subject to the Liability for Services regulations in 14 NYCRR subpart 635-12 where CH II is identified as an "**other than pre-existing service.**" Even though an individual who is eligible to receive CH II may have been receiving IRA or CR Residential Habilitation at the time he or she opted to change to CH II, the CH II service must be treated as an "**other than pre-existing service**" subject to notification and other requirements found in section 635-12.3. Note, however, that if the individual was receiving pre-existing residential and/or group day habilitation before switching to CH II, and then decides to switch back to residential and/or group day habilitation, the residential or group day habilitation will be considered pre-existing.

In addition, provider agencies must also comply with 14 NYCRR Parts 624, 633, 635, and 686 as residential and HCBS waiver service providers.

Community Habilitation Phase II Services:

CH II is a waiver service option available to HCBS waiver-enrolled individuals who reside in OPWDD-certified supervised Individualized Residential Alternatives (IRAs) and OPWDD-certified supervised Community Residences (CRs).

Community Habilitation Phase II is designed to enable more flexible service provision for individuals with developmental disabilities residing in certified settings and will enable these individuals to have greater flexibility and choice in how they spend their day

and where they receive their habilitative supports. CH II will enable providers to work with individuals to innovate more individualized and creative approaches to habilitation services by separating the financing of supports from the site of service delivery. CH II is a service option to individuals who have chosen to receive Day Habilitation and Residential Habilitation from the same provider. Individuals may choose to leave at any time if the CH II service is not meeting their needs or if they wish to choose another day service provider or other service options.

A provider agency is authorized to provide CH II if the agency operates at least one OPWDD-certified supervised IRA or OPWDD certified supervised CR and is authorized to provide Group Day Habilitation services. However, OPWDD must approve each individual's eligibility for CH II services before an agency can provide and is authorized to claim reimbursement for the CH II services.

A CH II provider must address the residential **and** non-residential habilitation needs of the individual, and may not bill separately for Group Day Habilitation, Individual Day Habilitation, or Residential Habilitation once the CH II services have been approved and initiated. Individuals enrolled in Consolidated Supports and Services, Prevocational Services, or Supported Employment (SEMP), are not eligible for CH II. In addition, individuals who receive any of the above-described services from a provider paid through a contract with OPWDD, such as OPTS, are not eligible for CH Phase II.

Payment Standards:

The unit of service for CH II services is one month. To bill for a full month, an individual must be enrolled in a supervised IRA or supervised CR for a minimum of 22 days and the provider must document delivery of at least one individualized face-to-face CH II service based on the individual's Community Habilitation (CH) plan on at least 22 separate days during the month. In addition to these 22 separate days of service, another 22 face-to-face CH II services based on the individual's CH plan must be delivered and documented during the month. These additional services may be provided on different days or the same days as the initial 22 separate days of service. Therefore, a total of 44 services must be documented, with at least 22 services occurring on separate days, in order to bill for a full month of CH II services.

To bill for a half month, an individual must be enrolled in a supervised IRA or supervised CR for a minimum of 11 days and the provider must document the delivery of at least one individualized face-to-face CH II service based on the individual's CH plan on 11 separate days during the month. In addition to these 11 separate days of service, another 11 face-to-face CH II services based on the individual's CH plan must be delivered and documented during the month. These additional services may be provided on different days or the same days as the initial 11 separate days of service. Therefore, a total of 22

services must be documented, with at least 11 services occurring on separate days, in order to bill for a half month of CH II services.

Individualized face-to-face services must be provided by designated CH staff. Services delivered when an individual is admitted to a hospital, nursing home, Intermediate Care Facility (ICF) or other certified, licensed, or government funded residential setting, may **not be used** toward the billing minimum requirement. However, services delivered on the day of admission and day of discharge to a hospital, nursing home, ICF, or other certified, licensed, or government funded residential setting, may be used toward the billing minimum requirement if CH II services are delivered before admission or after discharge and the services are not delivered in those settings.

Service Documentation:

Medicaid rules require that service documentation is contemporaneous with the service provision. Required service documentation elements are:

1. **Individual's name and Medicaid number (CIN).** Note that the CIN need not be included in daily documentation; rather, it can appear in the individual's Community Habilitation plan.
2. **Identification of the category of waiver service provided.** For billing and service documentation purposes, the individual's Individualized Service Plan (ISP) must identify the category of waiver service (Community Habilitation).
3. **Description of the face-to-face services provided by staff during the month.** Face-to-face services are individualized services based on the individual's Community Habilitation plan, e.g., the staff person documents that he/she "taught the individual to follow instructions in a recipe."
4. **The individual's response to the service.** For example, the staff person documents that "the individual understood the activity and was able to identify four of the five foods on the grocery list consistently." Note: This element of the documentation is required monthly, but a provider may choose to include the individual response more frequently, e.g., daily.
5. **The date the service was provided.**
6. **The primary service location** (e.g., the individual's residence).
7. **Verification of service provision by the Community Habilitation 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.

8. **The signature and title of the Community Habilitation staff person documenting the service.**
9. **The date the service was documented and signed by the Community Habilitation staff person.**

Acceptable formats for service documentation which supports a provider's billing include a checklist/chart with an entry made contemporaneously to CH II service delivery or a narrative note.

Checklist/Chart Format:

For each service session, a provider may elect to document the face-to-face Community Habilitation Phase II service delivered by CH staff using a checklist or chart. If this format is selected, a monthly summary is also required. The monthly summary must summarize the implementation of the individual's Community Habilitation plan, and address the individual's response to services provided as well as any issues or concerns regarding the plan or the individual receiving services.

Narrative Note Format:

For each service session, a provider may elect to document a daily service note describing the face-to-face individualized services delivered by CH staff. The narrative note format requires either a separate monthly note or at least one daily note that summarizes the implementation of the individual's Community Habilitation plan, and addresses the individual's response to the services provided as well as any issues or concerns regarding the plan or the individual receiving services.

Both the Narrative Note format and the Checklist/Chart format must include all the required Service Documentation elements listed above and found on the OPWDD-developed checklist to document the provision of CH II services. Documentation that includes all of these elements is allowable in paper or electronic versions. A copy of this note and the directions for its completion are included in this memorandum.

Other Documentation Requirements:

In addition to the service note(s) supporting the CH II billing claim, the agency providing CH II services must maintain the following documentation:

A copy of the individual's **Individualized Service Plan (ISP)**, developed by the individual's Medicaid Service Coordinator (MSC) or Plan of Care Support Services

(PCSS) Service Coordinator. For Community Habilitation Phase II, the following elements must be included in the ISP:

1. Identification of the category of waiver service (Community Habilitation).
2. Identification of the agency providing the CH II services.
3. Specification of an **effective date for CH II that is on or before the first date of service for which the agency bills CH II for the individual**.
4. Specification of the frequency for CH II as **“month”**.
5. Specification of the duration for CH II as **“ongoing”**.

The Community Habilitation plan developed by the agency providing CH II services must conform with the Habilitation Plan requirements found in Administrative Memorandum #2012-01. In addition, it should be clearly stated that the plan is for Community Habilitation services (e.g., titled “Community Habilitation plan”). For an individual receiving Residential Habilitation and Day Habilitation from the CH II provider prior to choosing CH II, the Habilitation Plan must be updated within 30 days of the first date of CH II services. For individuals brand new to Residential Habilitation and/or Day Habilitation with a CH II provider, the Habilitation Plan must be in place within 60 days of the start of the service.

To ensure that services are provided in a manner that guards against an individual becoming secluded or unnecessarily withdrawn from involvement with his or her community, the habilitation plan must also include the following additional elements:

1. **A weekly or monthly schedule.** The schedule must include notations that identify **when** the individual will typically be in the community with CH staff, **and what** the individual will typically do **or where** the individual will typically go during provision of CH II services.
2. **A written justification (if applicable).** An individualized written justification is required if an individual is not expected to participate in community activities on a regular basis (e.g., the individual is medically frail).
3. **Community activity alternatives.** The habilitation plan must include examples of methods CH staff will use to bring community experiences into the residence, when appropriate to the individual’s needs or interests, on days the individual does not go into the community. Examples of such methods may include inviting friends or family members to the house, researching and planning future

community events and activities, or participating in community volunteer work from home.

Self Direction/Family Direction

If an individual chooses self-directed or family-directed services, the management of those services must be described in a co-management agreement between the person, the CH II provider, and if one exists, an identified adult.

Documentation Retention:

All documentation specified above, including the ISP, Community Habilitation plan, and service documentation, **must be retained for a period of at least six years from the date the service was delivered or the date service was billed**, whichever is later.

For additional information on the documentation requirements or to request samples of documentation checklist formats and a co-management agreement, contact the Waiver Management Unit at (518) 473-9697.

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