

Policy & Enterprise Solutions

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Community Habilitation Phase I Implementation
Effective 11/1/10
Questions and Answers
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Purpose:

Community Habilitation is a new waiver service approved in OPWDD's HCBS Waiver Renewal dated October 1, 2009. The Community Habilitation service is intended to be a more efficient mechanism for the delivery of habilitative services in the community (i.e. non-certified settings) to facilitate community inclusion, integration, and relationship building.

This first implementation phase, which took effect November 1, 2010, converted the existing At Home Residential Habilitation (AHRH) service to the Community Habilitation platform.

Agencies participating in Community Habilitation Service Implementation training during September and October of 2010 raised excellent questions which helped participants to better understand the nuances of the service. As promised during the training, OPWDD staff has compiled the questions and has provided clarifying answers in this document.

If there are any additional questions regarding the service or this document, agencies can contact OPWDD at the following numbers:

- For programmatic questions, call the Waiver Unit at 518-474-5647
- For billing standards and documentation questions, call Medicaid Standards at 518-408-2096

Allowable Services and Authorization for Services

1. With the focus on community integration, can CH be provided in an individual's home?

CH can be provided in any non-certified location, including a person's home.

2. Activities previously authorized under Residential and Day Habilitation can be used in the Community Hab plans. Where can someone find the list of allowable Day Hab services?

The allowable services for residential habilitation and day habilitation are found in current OPWDD regulations at 14 NYCRR paragraphs 635-10.4(b)(1) & (2). NYS regulations are available to the public at: <http://www.dos.state.ny.us/info/nycrr.html> .

3. Who can be authorized to receive the CH service?

14 NYCRR §635-10.5(ab)(2) states that OPWDD approval of CH for a person is based on several factors, one of which is the need for CH services to protect the health or safety of the person or of his or her caregiver. Since CH is an HCBS Waiver service, this standard has been established in the context of the HCBS Waiver. Community Habilitation is part of an array of supports offered through the HCBS Waiver that allow a person to move to a less restrictive setting or that keep a person out of a more restrictive setting. The requirement that the CH services be needed to protect health or safety means that the CH services must, along with other services the person is receiving, allow the person to live in a home or community setting in safety and health. Put another way, it means that there would be negative consequences if the person did not receive supports offered by CH services (for example, the person might have to be placed in a more restrictive environment).

4. How does an agency find out who the DDSO has approved for the CH service?

It is the responsibility of each DDSO (or SDIS Downstate for the four NYC DDSOs when appropriate) to authorize individuals for all waiver services. This may be in the form of a letter or Notice of Decision (NOD) or other form of communication back to an agency. However as an added measure, OPWDD's Medicaid Standards Unit distributes an agency-specific quarterly roster of individuals authorized to receive the agency's Community Habilitation Service. This is distributed by the 15th of January, April, July, and October. If an agency representative is unsure of who is receiving the roster, s/he should contact Medicaid Standards at 518-408-2096.

5. If there is a group of five CH authorized individuals participating in a group activity, can an agency still bill for all five individuals if there are two staff providing CH services?

An agency may still bill for each individual as long as ultimately, the staff to individual ratio does not exceed one staff to four individuals.

Certified v. Non-Certified Sites

6. Regulations indicate that service may only be provided in non-certified community settings except in certain situations. Can an agency provide service in a Day Hab setting in the evening when the day hab is closed (e.g. use kitchen and laundry facilities or attend a dance) to work on specific goals identified in the person's plan?

CH services may not be billed when they occur at a certified setting except where specified in the Administrative Memorandum. The purpose of the CH service is to promote community integration for participants by providing habilitation activities and opportunities within the community at large, rather than in

certified settings where people with developmental disabilities receive services; therefore CH services are delivered in community (non-certified) settings.

7. Can CH take place in a non-certified site for an agency which has certified sites (e.g. can the CH worker bring an individual to the agency's administrative offices to work on cooking skills)?

CH services can be delivered in any site which is not certified by OPWDD or a site which is run by OPWDD and which would not be required to be certified if it were operated by another provider.

If an agency has a location that is not certified, the agency may choose to deliver Community Habilitation Services at this site. However, the agency may still need to justify that a good faith effort was made to find an alternate community location or how this location is integrated into the community.

8. Can CH services be billed if the staff takes the individual to a certified residence to spend time with a friend or to participate in activities there?

Community Habilitation could not be billed during this time. The purpose of the CH service is to promote community integration for participants by providing habilitation activities and opportunities within the community at large, rather than in certified settings where people with developmental disabilities receive services; therefore CH services are delivered in community (non-certified) settings.

9. Can a CH worker accompany an individual to a certified setting if the purpose of the visit is to acclimate the individual to a group setting? For example, can the CH worker accompany an individual to a DH setting if they are uncomfortable around groups?

Except under specific circumstances identified in the regulations, CH services may not be billed when delivered at a site certified by OPWDD or at a site operated by OPWDD which would be required to be certified if it were operated by another provider.

10. If the ISP review is at a certified site, can CH be billed?

This scenario is one of the few exceptions to the non-certified site rule. Time that the individual spends with his/her MSC Service Coordinator during a face-to-face service meeting may be included as CH billable service time as long as Community Habilitation staff are present and if all other billing standards are met as described in the Administrative Memorandum.

Service Documentation and Billing Standards

11. Since CH services require a face-to-face service, how should an agency bill for a CH service session when the individual is meeting with the doctor or dentist (or other medical professional) without the agency staff present?

Time that the individual is at a medical appointment with a physician (including a psychiatrist), a nurse practitioner, or physician assistant, or at a dental appointment may count toward billable time, as long as CH staff are with the individual at these appointments. All other billing standards still need to be met.

If an individual meets with the doctor or dentist without the CH staff present, the time that the staff is not with the individual is not billable. The time before and after the appointment time may be billable CH time, but must be documented as separate service sessions with a face-to-face service provided and other minimum billing standards are met.

Transportation time to and from the medical appointment may also be counted as long as staff accompany the individual and Medicaid is not being charged separately for a transportation attendant for the trip. CH Staff should not be taking the person to the medical appointment for the sole purpose of transportation.

- 12. Once we have provided the 12 clinic visits with a person for the year, we may be asked to continue to support the person using Community Hab hours. What we have done in the past is to stop billing for the period of time the person is receiving the clinic service, and start up again once the person has completed the appointment. Does that sound acceptable? What about mileage to and from the clinic appointment once the 12 visits are used up?**

To clarify, for each calendar year, reimbursement is available for CH staff to participate in no more than 12 clinical appointments per person, per clinical service type. In addition, CH staff are with the individual at these appointments in order to facilitate the implementation of therapeutic methods and treatments and the need for the CH staff's participation in the specified clinical service must be described in the individual's CH Plan.

CH is a habilitation service, time spent transporting individuals to clinic visits is not allowed if the staff are not providing some habilitation services during the documented session time.

- 13. Is it acceptable to pre-enter information on the forms that does not change, such as the job title of the staff, the name of the person served, etc.?**

Certain documentation elements may be completed prior to the service actually being delivered; this can include elements that are not going to change during the month, such as the staff title, the name of the service, the individual's name. Agencies may also pre-print the service descriptions if they know this will not change during the month as well. Staff's initials, signature and signature dates should never be pre-printed.

- 14. The service documentation assumes that the staff is working only with one person unless the staff indicates otherwise, i.e., the staff only circles the staff to individual ratio if s/he is working with a group of 2, 3 or 4. Is there a concern that not specifically indicating 1:1, and really only indicating it by default, might raise concerns from auditors. For example, what if the staff person just forgot to circle a 2?**

If an agency is concerned about documenting a 1:1 ratio, staff to individual ratio may be indicated in another manner. For individuals who are always provided services in a group setting you may modify the daily service documentation to state what the staff to individual ratio is (e.g. CH Services for Joe are always delivered in a 1 staff to 2 individuals ratio).

- 15. How should the CH worker list the location if they attend numerous locations in a billing period? Should they list every location?**

For billing purposes, the service location where services occur must be listed. If there is not a primary service location and there are multiple community locations "Various Community Locations" may be used as the location. For quality purposes, the various community locations should be specified and documented.

- 16. Would it be acceptable to list the primary service location on the monthly summary note and not on the individual documentation record?**

The location of service delivery is a required element on the service documentation of the CH program. It is not recommended that the service location be identified solely on the monthly summary.

- 17. Should agencies be using a verification sheet as proof of service? Is this required?**

A verification sheet is not required documentation. A verification sheet signed by the individual or his/her family is a good practice, but is not required.

18. For the individual documentation records, does the change indicating Community Hab have to be done immediately or do agencies also have until 7/31/2011 to make this change? If the change should happen on 11/1/10, what would happen if staff accidentally uses existing documentation that states the service as AHRH?

In the CH regulations, agencies are specifically given the flexibility of having until 7/31/11 to update ISPs and Hab Plans to reflect CH as the appropriate service type. Since documentation forms are not identified in the regulations, agencies should change the form as of November 1, 2010. The revised forms are included with the billing ADM and are also available on the web-site at the following location:
<http://www.omr.state.ny.us/CommunityHabilitationServices.jsp>

Every effort should be made to ensure that staff use the correct documentation. However, if a staff person uses an old version, crossing off "At Home Residential" and writing "Community" should suffice. As a best practice, staff should initial and date this change.

19. Is it necessary to include the total hours of service, as long as the start and stop times are included?

The total hours of service is not a required documentation element.

Community Habilitation and Other Services

20. Can an agency's staff provide both CH and Day Hab, such as a Without Walls (WOW) program at the same time?

No. A staff member should be providing one service or another at any given time. If the person can receive appropriate services through a DH service, s/he should not be documented as receiving CH solely for billing purposes under CH.

Also, the purpose of the CH is to provide individualized supports for an individual to become more independent and to gain skills to allow him/her to function in the community.

21. Can a person participate in a group event if s/he is with his/her CH staff? For example, if a person wants to go bowling with a group who is receiving Respite services, can the CH provider bill for the CH staff's time?

From a programmatic perspective, a person can receive CH at a non-certified location as long as the staff person is only providing CH and is not assisting the Respite staff in providing oversight to the individuals in the group. However, if the person can receive appropriate services through the respite service, s/he should not be separated out for billing purposes under CH.

22. Is it appropriate to provide CH in conjunction with SEMP for people who may need additional habilitative supports, as long as the habilitative support time is not concurrent with the job coach face-to-face visits?

Additional guidance on this matter will be provided as the Phase II program is more fully developed. In the interim, it is not recommended.

23. Will an agency providing Clinic Services have an audit vulnerability if the clinic services are billed at the same time as Community Habilitation?

The CH regulations (subparagraph 635-10.5(ab)(7)(v)) allow the CH service to be billed when the CH staff are with the individual at an appointment for a clinical service in order to facilitate the implementation of therapeutic methods and treatments and the need for the CH staff's participation in the specified clinical service is described in the individual's habilitation plan. The final regulations identify the circumstances under which an agency may provide CH services concurrently with clinic services.

24. Can an agency open a satellite to its existing day hab program for individuals who receive site based day and community hab, if the agency does not have the site certified?

This would not be an appropriate arrangement. Site-based day hab facilities must be certified by OPWDD's Division of Quality Management; CH cannot be delivered in a certified location. Individuals interested in receiving site-based supports should seek authorization for DH services, while individuals seeking more flexible and individualized services that facilitate and promote community integration would be better served through the CH program.

Self-Directed / Family Directed Service Option

25. Under self-directed CH, can a person choose a family member to work with them? Under what circumstances?

Relatives can be paid as service providers as long as (a) they are at least 18 years of age and not the parents, legal guardians, spouses, or adult children (including sons and daughters-in-law) of the participant, and (b) the service is a function not ordinarily performed by a family member, and (c) the service is necessary and authorized and would otherwise be provided by another qualified provider of waiver services, and (d) the relative does not reside in the same residence as the participant.

In extraordinary circumstances, the following are exceptions to this policy:

- The Commissioner or designee (i.e. DDSO Director) may authorize a parent or legal guardian of an adult child (over the age of 18) to be paid to provide waiver services, when it can be clearly documented that the arrangement is in the best interests of the participant.
- The Commissioner or designee may authorize an otherwise qualified relative who resides in the same residence as the participant to be paid to provide waiver services when it can be clearly demonstrated that the arrangement is pursuant to the participant's choice, is in the best interests of the participant, and does not potentially jeopardize the health, safety, rights and informed choice of the participant.

Additional safeguards will be required by the Commissioner or designee including frequent monitoring of this arrangement if either exception is authorized.

Relatives who are paid to provide services as outlined above must meet the same requirements and qualifications as other providers/staff and are subject to the same oversight levels and applicable OPWDD regulations and policies.

26. Is there a minimum age for staff to provide CH services if the person chooses to self-direct?

Staff chosen by an individual who is self-directing must meet the same requirements and qualifications as other providers/staff and are subject to the same oversight levels and applicable OPWDD regulations and policies. It is preferable to have staff who are at least 18 years of age.

27. Do agencies have additional liabilities if a person self-directs his/her services (e.g. unemployment insurance)? If yes, how are agencies handling this?

OPWDD cannot give advice on agencies' liability for personal injury or property damage arising out of self directed services. However, agency staff should be aware that as the employer of record, the agency is required to ensure that the "self-hired" staff has been fingerprinted, has CBC clearance and has all required trainings. Essentially, the agencies have the same obligations in regard to "self-hired" staff that they have in regard to any individual on their payrolls, including training, supervision and oversight, and ensuring Medicaid compliance.

Unit Allocation and Service Funding

28. How will the allocations work when an individual changes providers?

Waiver services are an entitlement for the individual, and not for the agency, therefore, it is expected that an individual will retain his/her service level even if s/he changes provider agency. Agencies should work with the person's Service Coordinator and the DDSO to ensure a smooth transition of services for the individual from one provider to another.

29. If an individual wants to transition from Group Day Hab to CH, would it be possible, and if yes, what would be the process?

The individual's Service Coordinator should contact the DDSO for assistance in transitioning an individual from a GDH program into a CH program.

Other Considerations

30. Will there be a new TABS program code for Community Hab?

Agencies will continue to use the assigned AHRH TABS program code.

31. Do agencies need to resend Liability letters to the people who will be receiving CH if they were already sent Liability letters earlier this year referring to At Home Res Hab?

Agencies will not be required to re-send Liability Notices to existing service recipients just because the service name changed from AHRH to CH. However, agencies will have to give Liability Notices and fee schedules to individuals seeking CH services for the first time. This is required by the Liability Regulations at 14 NYCRR 635-12.

32. Is a QMRP required to sign off on a Community Hab Plan as is required in other habilitation services?

A QMRP is not required to sign off on a Community Habilitation plan; however, it is a best practice to involve a QMRP in the delivery, management, or supervision of a habilitation service.

The QMRP is not required to be the actual author of the plan. It is up to the agency providing the res hab to decide how they demonstrate the involvement of a QMRP. It could be a "sign-off" on the hab plans, or just the assignment of a supervisor (that qualifies as a QMRP) to the hab staff.

33. How should the service be reported on CFRs?

Because CH is a new service, information must be split on the CFR between AHRH and CH.

Agencies providing services in Rate Setting Region 1 should report income and expenses from July 1, 2010 through October 31, 2010 under the AHRH service and from November 1, 2010 through June 30 2011 under the CH service.

Agencies providing services in Rate Setting Regions 2 and 3 should report income and expenses from January 1, 2010 through October 31, 2010 under the AHRH service and from November 1, 2010 through December 31, 2010 under the CH service.

Community Habilitation – Phase II

34. Will there be a committee in regards to the parameters of Phase II of CH? How would an agency participate in this committee?

OPWDD is in the beginning stages of design for the CH Phase II program. Additional information will be provided to stakeholders as it becomes available.

35. In the future will other community based services such as Day Hab without walls be included under the umbrella of CH? If so, how will the CH plan logistically be generated? For example, if someone is receiving Day Hab without wall services and CH (formerly AHRH) from two different agencies which agency will develop the plan, or will there be more than one plan?

OPWDD is in the early stages of considering the best way to open the CH service as an option for all appropriate individuals within the service system. Additional information will be provided to stakeholders as it becomes available.