



STATE OF NEW YORK  
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

44 HOLLAND AVENUE  
ALBANY, NEW YORK 12229-0001  
(518) 473-1997 • TDD (518) 474-3694  
www.omr.state.ny.us

**The May 19, 2006 letter and attachments have been modified to reflect  
“Psychologist Services” rather than “Psychological Services.”**

June 13, 2006

Dear ICF Agency Executive:

This is to inform you that starting on January 1, 2007, each OMRDD certified ICF/DD will be fiscally responsible for the long term therapies identified below. A new Schedule of Services specifying this responsibility is included as Attachment A to this letter. With this change, separate Medicaid billing will be prohibited for the following long term services provided to an ICF resident: occupational therapy, physical therapy, psychologist services, speech and language pathology, social work, dietetics and nutrition, rehabilitation counseling, and nursing services (excluding medical services provided by a nurse practitioner). This prohibition on separate billing to Medicaid extends to practitioner provided services, clinics, and any other Medicaid funded service provider and applies to all service delivery locations (e.g., Article 16 clinic services provided at the main clinic site or ICF, Article 28 clinic services provided at the main clinic site or a day treatment site).

In assuming the cost of long term therapies, the ICF must continue to meet all resident treatment needs in a quality manner as required in ICF regulations. These resident needs can be met in a variety of ways, including direct service provision by the ICF's own clinicians or through contracts the ICF executes. The ICF must be aware that where changes in services occur, federal regulations require that the resident's Individual Program Plan be reviewed and revised as needed. Also, if the ICF changes a resident's program plan, OMRDD regulations, at 14 NYCRR 633.12, require the ICF to advise the resident and his or her representative of the right to object under the 633.12 process to the plan change.

Prospective ICF Rate Appeal Mechanism

Providers may utilize OMRDD's prospective rate appeal mechanism if additional funding is needed to meet ICF residents' long term therapy needs. Prospective rate appeals will be accepted and the process and timetable for timely filing of such an appeal to meet the January 1, 2007 implementation date is specified in Attachment B. To insure timely processing, prospective appeals must be filed by July 10, 2006. Providers also have the option of filing retroactive rate appeals for long term therapy needs. In accordance with regulations, retroactive rate appeals must be filed within one year of the close of the rate period. Regardless of what type of appeal is filed, all current policies and procedures will be followed in reviewing requests.

Separate Time-limited Billing In Response to Acute Illness, Accident or Post-Hospitalization Health Need

To address an acute illness, an accident, or post-hospitalization health need, the Medicaid program will allow up to three consecutive months of separate practitioner/clinic billing for short term rehabilitation within a calendar year. This time-limited separate billing pertains only to: occupational therapy, physical therapy, psychologist services, speech and language pathology, dietetics and nutrition, and nursing. Please note that time-limited separate billing is not allowed for social work or rehabilitation counseling.

The allowed time-limited rehabilitation/therapy services referenced above must be directly related to the ICF resident's acute illness, an accident, or post-hospitalization health need. (For example: John has cerebral palsy and receives PT services each week; this is a long term clinical service. Mary has autism and had a behavioral episode in which she injured her wrist, which requires PT; this is an acute situation.) Up to three consecutive months of separate billing for short term rehabilitation/therapy will be allowed in a calendar year; therefore, the ICF will be fiscally responsible for any needed practitioner/clinic service that extends beyond this time frame. While the short term rehabilitation service separately billed to Medicaid is occurring, it is the ICF's responsibility to arrange for and plan to pay for any longer term therapy that is needed by a resident. The ICF rate appeal mechanism is available to accommodate such an extended need.

Review of Resident Long Term Therapy Needs

To assist you in planning for the January 1, 2007 changes, we have included in Attachment C, utilization data for residents of your ICF(s). This data shows all long term therapy services separately billed by practitioners, Article 16, and Article 28 clinics and any other providers for the period December 1, 2004 to November 30, 2005. You should review this utilization data against the resident's current needs and their Individual Program Plan to develop a way to ensure appropriate service to each ICF resident. Based upon that review the agency can develop a prospective ICF rate appeal, if necessary.

OMRDD Monitoring of Practitioner/Clinic Medicaid Claims

OMRDD will routinely monitor separate practitioner/clinic Medicaid billing for therapies provided to ICF residents. When claims appear to be inappropriate, the ICF will be given the opportunity to respond regarding OMRDD's finding. Where OMRDD makes a determination that the separate practitioner/clinic claim is in fact inappropriate, the ICF will be required to make a payment to the Medicaid system equal to the value of the separately billed practitioner/clinic claim(s). This ICF liability will extend to practitioner/clinic claims made regardless of the therapy service location (e.g. at the ICF, at the ICF resident's day program). In monitoring short term rehabilitative service claims for therapies provided to address acute illness, an accident, or post-hospitalization health need, OMRDD will review a sample of associated medical documentation. Where this short term therapy billing is determined to be unrelated to an acute illness, an accident, or a post-hospitalization health need, the ICF will also be responsible for repayment to Medicaid.

June 13, 2006

Notifications

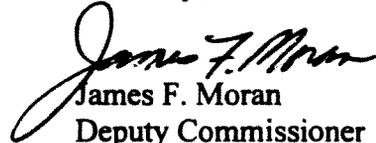
The State Department of Health will notify all private practitioners and Article 16 and Article 28 clinics of this payment change in an upcoming issue of the Medicaid Update. OMRDD will also send correspondence to Article 16 clinic providers.

Technical Assistance

The OMRDD coordinator for this billing change is Karen Desso in our Field Operations Bureau. Ms. Desso, who is available to assist you, can be reached by phone at (518) 402-4339 or by e-mail at karen.desso@omr.state.ny.us. Questions about ICF rate appeals should be directed to Steve Ellrott in the Bureau of Rate Setting. Mr. Ellrott can be reached by phone at (518) 486-4289 or by e-mail at steve.ellrott@omr.state.ny.us.

Thank you for your cooperation in planning for the January 1, 2007 change. With your cooperation, we can appropriately meet all ICF resident needs.

Sincerely,



James F. Moran  
Deputy Commissioner  
Division of Administration and  
Revenue Support

Attachments

cc: Commissioner Maul  
H. DeSanto  
P. Kietzman  
K. Broderick  
M. Gatens  
G. Lind  
L. Kagan  
J. Howard  
S. Ellrott  
S. Mahar  
K. Desso  
R. Nussbaum  
L. Kelly  
DDSO Directors  
Provider Associations  
Multi-CulturalProviderNetwork



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May 26, 2006

Dear Executive Director:

Attached is a letter sent to all Office of Mental Retardation and Developmental Disabilities (OMRDD) voluntary agencies operating Intermediate Care Facilities for the Developmentally Disabled (ICF/DD). The January 1, 2007 change described in the letter may affect your clinic operations.

As noted in the letter, starting January 1, 2007, each OMRDD certified ICF will be fiscally responsible for all long term therapies that their residents require. Separate Medicaid billing of these services by medical practitioners, Article 16 and 28 clinics, and other service entities will be prohibited when provided to an ICF resident, regardless of the service location. This prohibition applies to occupational therapy, physical therapy, psychological services, speech and language pathology, social work, dietetics and nutrition, rehabilitation counseling, and nursing services (excluding medical services provided by a nurse practitioner). Separate time-limited billing of specified therapies will be allowed in response to acute illness, an accident, or a post-hospitalization health need. Please read the attached letter for details about this exception.

Please be aware that OMRDD will not reduce Article 16 clinic Medicaid service authorization capacities as we make this change. Questions about your clinic's service authorization level should be directed to either Larry Zawisza or Karen DeRuyter of OMRDD's Policy Analysis Bureau. They both can be reached at (518) 473-9697.

For general questions regarding the January 1, 2007 changes in fiscal responsibility contact Karen Desso of my staff at (518) 402-339.

Thank you for your assistance and cooperation in planning for this change. Together we can ensure that we continue to provide quality services to our consumers.

Sincerely,

James F. Moran  
Deputy Commissioner  
Division of Administration and  
Revenue Support

Attachment



**May 26, 2006**

**cc: Commissioner Maul**  
**H. DeSanto**  
**P. Kietzman**  
**K. Broderick**  
**M. Gatens**  
**G. Lind**  
**L. Kagan**  
**J. Howard**  
**L. Zawisza**  
**K. DeRuyter**  
**K. Desso**  
**R. Nussbaum**  
**L. Kelly**  
**DDSO Directors**  
**Provider Associations**  
**Multi-Cultural Provider Network**

George E. Pataki  
Governor



Thomas A. Maul  
Commissioner

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May 19, 2006

Dear ICF Agency Executive:

This is to inform you that starting on January 1, 2007, each OMRDD certified ICF/DD will be fiscally responsible for the long term therapies identified below. A new Schedule of Services specifying this responsibility is included as Attachment A to this letter. With this change, separate Medicaid billing will be prohibited for the following long term services provided to an ICF resident: occupational therapy, physical therapy, psychological services, speech and language pathology, social work, dietetics and nutrition, rehabilitation counseling, and nursing services (excluding medical services provided by a nurse practitioner). This prohibition on separate billing to Medicaid extends to practitioner provided services, clinics, and any other Medicaid funded service provider and applies to all service delivery locations (e.g., Article 16 clinic services provided at the main clinic site or ICF, Article 28 clinic services provided at the main clinic site or a day treatment site).

In assuming the cost of long term therapies, the ICF must continue to meet all resident treatment needs in a quality manner as required in ICF regulations. These resident needs can be met in a variety of ways, including direct service provision by the ICF's own clinicians or through contracts the ICF executes. The ICF must be aware that where changes in services occur, federal regulations require that the resident's Individual Program Plan be reviewed and revised as needed. Also, if the ICF changes a resident's program plan, OMRDD regulations, at 14 NYCRR 633.12, require the ICF to advise the resident and his or her representative of the right to object under the 633.12 process to the plan change.

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May 19, 2006

Notifications

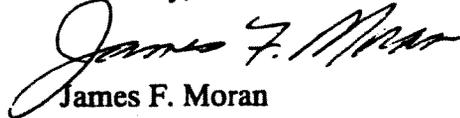
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Technical Assistance

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Thank you for your cooperation in planning for the January 1, 2007 change. With your cooperation, we can appropriately meet all ICF resident needs.

Sincerely,



James F. Moran  
Deputy Commissioner  
Division of Administration and  
Revenue Support

**Attachments**

cc: Commissioner Maul  
H. DeSanto  
P. Kietzman  
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K. Desso  
R. Nussbaum  
L. Kelly  
DDSO Directors  
Provider Associations  
Multi-Cultural Provider Network

AGENCY NAME: \_\_\_\_\_  
 AGENCY CODE: \_\_\_\_\_  
 SITE ADDRESS: \_\_\_\_\_  
 OPERATING CERTIFICATE NUMBER: \_\_\_\_\_

Complete a separate schedule for each site. For each service type or supply, check Col. 1, 2 or 3. If Col. 2 or 3 is checked, show the dollar amount associated with Col. 2 or 3 in Column 4.

Line No.	SERVICE TYPE	Col. 1	Col. 2	Col. 3	Col. 4	Line No.	SERVICE TYPE	Col. 1	Col. 2	Col. 3	Col. 4
		Exclusively Purchased w/ Medicaid Card	Exclusively Purchased by ICF	ICF Purchases Made Only Where MA Card Did Not Cover Items	ICF Purchase Amount Associated w/ Col. 2 or 3			Exclusively Purchased w/ Medicaid Card	Exclusively Purchased by ICF	ICF Purchases Made Only Where MA Card Did Not Cover Items	ICF Purchase Amount Associated w/ Col. 2 or 3
1	Pharmacy Services					25	Home Health Aide				
2	Non-Prescription Drugs					26	Personal Care Aide				
3	Medical Supplies *						Medical Services				
4	External Formulas					27	General Medical - Direct Service				
5	Diapers					28	General Medical - Consultation				
	Equipment					29	Physician - Direct Service				
6	Durable Medical					30	Physician - Consultation				
7	Prosthetic & Orthotic					31	Psychiatrist - Direct Service				
	Service Coordination					32	Psychiatrist - Consultation				
8	Service Coordination					33	All Dental Services				
	Transportation Services					34	Ortical Laboratory				
9	To Medical Office/Clinic					35	X-Ray Diagnostic				
	Therapy Services (See definition)					36	Specialized (Specify)				
10	Long Term - Occupational Therapy						Complete this section only if this site is funded for Day Services within the ICF/DIS Rate				
11	Long Term - Physical Therapy					37	Day Programming **				
12	Long Term - Psychological Services					38	Day Training				
13	Long Term - Speech and Language Pathology					39	Sheltered Workshop				
14	Long Term - Dietetics and Nutrition					40	Education				
15	Long Term - Rehabilitation Counseling										
16	Long Term - Social Work										
17	Long Term - Nursing										
18	Acute Care - Occupational Therapy ***										
19	Acute Care - Physical Therapy ***										
20	Acute Care - Psychological Services ***										
21	Acute Care - Speech and Language Pathology ***										
22	Acute Care - Dietetics and Nutrition ***										
23	Acute Care - Nursing ***										
24	Other (Specify)										

**Definitions and Notes:**  
 Consultation - Practitioner provides training, oversight and direction to direct care staff.  
 Direct Service - Practitioner directly treats the consumers.  
 Nursing - Excludes medical services provided by a nurse practitioner.  
 \* Medical Supplies: If Column 2 or 3 is checked, complete Schedule OMRDD-2 for each site as well.  
 \*\* If Day Programming is completed, attach a list of consumers whose day service costs are included in the ICF/DIS rate. Include each consumer's Medicaid identification number. The list of consumers should only be sent to OMRDD.  
 \*\*\* Service must be directly related to an acute illness, accident or post-hospitalization health need. If purchased with a Medicaid card, this acute care/rehabilitation service is linked to 3 consecutive months in a calendar year.

AGENCY NAME: \_\_\_\_\_  
 AGENCY CODE: \_\_\_\_\_

SITE ADDRESS: \_\_\_\_\_  
 OPERATING CERTIFICATE NUMBER: \_\_\_\_\_

Complete a separate schedule for each site. For each service type or supply, check Col. 1, 2 or 3. If Col. 2 or 3 is checked, show the dollar amount associated with Col. 2 or 3 in Column 4.

Line No.	SERVICE TYPE	Col. 1	Col. 2	Col. 3	Col. 4	Line No.	SERVICE TYPE	Col. 1	Col. 2	Col. 3	Col. 4
		Exclusively Purchased w/ Medicaid Card	Exclusively Purchased by ICF	ICF Purchases Made Only Where MA Card Did Not Cover Items	ICF Purchase Amount Associated w/ Col. 2 or 3			Exclusively Purchased w/ Medicaid Card	Exclusively Purchased by ICF	ICF Purchases Made Only Where MA Card Did Not Cover Items	ICF Purchase Amount Associated w/ Col. 2 or 3
1	Pharmacy Services					23	Home Health Aide				
2	Prescription Drugs					24	Personal Care Aide				
3	Non-Prescription Drugs					25	Medical Services				
4	Medical Supplies *					26	General Medical - Direct Service				
5	Enteral Formulas					27	General Medical - Consultation				
6	Diapers					28	Physician - Direct Service				
7	Equipment					29	Physician - Consultation				
8	Durable Medical					30	Psychiatrist - Consultation				
9	Prosthetic & Orthotic					31	Psychiatrist - Direct Service				
10	Service Coordination					32	Psychiatrist - Consultation				
11	Transportation Services					33	AI Dental Services				
12	To Medical Office/Clinic					34	AI Dental Services				
13	Therapy Services (See definition)					35	AI Dental Services				
14	Long Term - Occupational Therapy					36	AI Dental Services				
15	Long Term - Physical Therapy					37	AI Dental Services				
16	Long Term - Psychological Services					38	AI Dental Services				
17	Long Term - Speech and Language Pathology					39	AI Dental Services				
18	Long Term - Dietetics and Nutrition					40	AI Dental Services				
19	Long Term - Rehabilitation Counseling										
20	Long Term - Social Work										
21	Long Term - Nursing										
22	Acute Care - Occupational Therapy ***										
23	Acute Care - Physical Therapy ***										
24	Acute Care - Psychological Services ***										
25	Acute Care - Speech and Language Pathology ***										
26	Acute Care - Dietetics and Nutrition ***										
27	Acute Care - Nursing ***										
28	Other (Specify)										

Complete this section only if this site is funded for Day Services within the ICF/DD Rule

37 Day Programming \* \* \*

38 Day Training

39 Sheltered Workshop

40 Education

**Definitions and Notes:**

Consultation - Practitioner provides training, oversight and direction to direct care staff.

Direct Service - Practitioner directly treats the consumers.

Nursing - Excludes medical services provided by a nurse practitioner.

Medical Supplies: If Column 2 or 3 is checked, complete Schedule OMRDD-2 for each site as well.

\*\* If Day Programming is completed, attach a list of consumers whose day service costs are included in the ICF/DD rate. Include each consumer's Medicaid identification number. The list of consumers should only be sent to OMRDD.

\*\*\*Service must be directly related to an acute illness, accident or post-hospitalization health need. If purchased with a Medicaid card, this acute care/rehabilitation service is limited to 3 consecutive months in a calendar year.

**NYS OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES  
BUREAU OF RATE SETTING**

**Application for Prospective ICF/DD Rate Appeal for Clinical Services  
Effective January 1, 2007**

Effective January 1, 2007, ICF/DDs are fiscally responsible for the long-term therapies listed below:

- occupational therapy
- physical therapy
- psychological services
- speech and language pathology
- social work
- dietetics and nutrition
- rehabilitation counseling
- nursing services (excluding medical services provided by a nurse practitioner)

This application is to be utilized by agencies to request prospective funding to cover the costs of the identified therapies previously provided by practitioners/clinics to ICF/DD residents. The application should only be submitted by those providers who expect their ICF/DD funding to be insufficient to cover the cost of the therapy services. All existing OMRDD policies and procedures pertaining to prospective ICF/DD appeals will be utilized in the review/approval of applications submitted through this process.

**To apply for this funding, an agency must:**

- 1) Have a current Consolidated Fiscal Report (CFR) on file with OMRDD.** For agencies in Region 1, OMRDD will review the CFR for the period July 1, 2004 through June 30, 2005. For agencies in Regions 2 and 3, OMRDD will review the CFR for the period January 1, 2005 through December 31, 2005.
- 2) Complete the attached forms (Part 1- Staffing Request and Part 2- Staffing Justification) for each site for which additional funding is sought.** In Part 1, the agency must identify the ICF/DD site which will be fiscally responsible for the clinical services and the associated consumers. In Part 2, the agency must provide written justification for the additional staffing/contracted services. A Part 1 and a Part 2 must be completed for each ICF/DD site for which any monies for long-term therapy services are being requested.

Page 2

Providers should report the services expected to be delivered during the 12 month period of January 1, 2007 to December 31, 2007 on the attached prospective rate appeal application. The Bureau of Rate Setting will adjust the information contained in the application to correspond with the appropriate rate periods for New York City agencies.

Completed appeal applications should be mailed to:

Susan Ivie Mahar  
Bureau of Rate Setting  
New York State OMRDD  
44 Holland Ave., 5<sup>th</sup> floor  
Albany, New York 12229-0001

Contact Persons

General Questions on this Policy Change:

Karen Desso  
(518) 402-4339  
[karen.desso@omr.state.ny.us](mailto:karen.desso@omr.state.ny.us)

Questions on the Prospective Rate Appeal Application:

Susan Ivie Mahar  
(518) 474-8819  
[susan.iviemahar@omr.state.ny.us](mailto:susan.iviemahar@omr.state.ny.us)

**Part I - Stating Request**  
**Application for Prospective CF/DD Rate Appeal**  
**1/1/07 - 12/31/07**

Agency Name: \_\_\_\_\_  
 Certified Name: \_\_\_\_\_  
 Site Name: \_\_\_\_\_  
 Site Address: \_\_\_\_\_  
 Operating Certificate: \_\_\_\_\_

**Requested Services Previously Acquired through the Medicaid Card**

Visit	Cost of Services
1/1/07-12/31/07	01/01/07-12/31/07
Occupational Therapy (OT)	
Physical Therapy (PT)	
Psychologist Services (Psy)	
Speech and Language Pathology (SP)	
Social Work (SW)	
Dietetics and Nutrition (Diet)	
Rehabilitation Counseling (Rehab)	
Nursing Services (Nursing)	

**Replacement Staff Requested**

FTEs	Costs	Assessment Fringe Benefit Costs
Clinical Staff OT		
Clinical Contractual Staff OT		
Clinical Staff PT		
Clinical Contractual Staff PT		
Clinical Staff Psy		
Clinical Contractual Psy		
Clinical Staff SP		
Clinical Contractual Staff SP		
Clinical Staff Diet		
Clinical Contractual Staff Diet		
Clinical Staff Rehab		
Clinical Contractual Staff Rehab		
Clinical Staff Nursing		
Clinical Contractual Staff Nursing		

Please list the consumers impacted and accompanying ISPM scores.

Consumer	ISPM Score
1. _____	1. _____
2. _____	2. _____
3. _____	3. _____
4. _____	4. _____
5. _____	5. _____
6. _____	6. _____
7. _____	7. _____
8. _____	8. _____
9. _____	9. _____
10. _____	10. _____
11. _____	11. _____
12. _____	12. _____

**Part 2 -- Staffing Justification**

**Application for Prospective ICF/DD Rate Appeal**

**Agency Name:** \_\_\_\_\_

**Site Name:** \_\_\_\_\_

**Site Address:** \_\_\_\_\_

**Operating Certificate:** \_\_\_\_\_

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**Please provide written justification for the additional staffing. (employees and contracted services requested in Part 1)**

# ICF/Clinical Services Initiative

## **WORK PLAN/TIME LINE**

**The following schedule is to ensure that ICF rate adjustments can be made prospectively for January 1, 2007**

- 05/19/2006 Notification letter to all ICF providers, with Schedules of Services that will include certain clinical services in the ICF rates as of January 1, 2007. The letter will include ICF site specific data on clinic billing for the period October 1, 2004 through September 30, 2005.
- 05/19/2006 - ICF providers file prospective rate appeals  
07/10/2006
- Appeals must be filed **no later than July 10, 2006** to allow rates to be adjusted prospectively for January 1, 2007. Rate appeals associated with this budget initiative that are received after July 10, 2006 may result in delayed rate changes.
- Other prospective and retroactive rate appeals can be filed as usual outside this date range in accordance with applicable regulations.
- 11/15/2006 Notification to providers of proposed ICF rates to be effective January 1, 2007
- 12/15/2006 Adjusted ICF rates effective January 1, 2007 sent to eMedNY

## Attachment C

### Separately Billed Nursing, Nutrition, Occupational Therapy, Physical Therapy, Psychology, Rehab Counseling, Social Work, and Speech Language Pathology Services Delivered to ICF Residents (December 1, 2004 to November 30, 2005)

The Report is sorted by each ICF site operated by the provider. The following information explains each column header:

<u>Service</u>	The type of service claimed to Medicaid. For example, physical therapy or occupational therapy
<u>PTYPE</u>	Practitioner Type – The type of practitioner that claimed to Medicaid. For example, Art 28: Article 28 clinic
<u>Provider Name</u>	The specific provider that claimed
<u>Consumer Name</u>	The ICF resident's last and first names
<u>CIN</u>	The ICF resident's Medicaid Client Identification Number
<u>TID</u>	The ICF resident's TABS Identification Number
<u>BEG</u>	The first date this therapy service was performed. (The starting date of the report is December 1, 2004.)
<u>END</u>	The last date this therapy service was performed. (The last date of the report is November 30, 2005.)
<u>Visits</u>	The total number of billed therapy visits claimed by the practitioner for the period December 1, 2004 through November 30, 2005.