

MSC E-VISORY

Issue #31-11

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State of New York Office for People With Developmental Disabilities
Courtney Burke, Commissioner
Distributed by: Division of Policy and Enterprise Solutions
Suzanne Zafonte Sennett, Deputy Commissioner

The MSC E-Visory is an electronic advisory which provides pertinent and timely information about programs and services available to individuals receiving MSC. Announcements about MSC training, conferences and meetings appear regularly. **MSC Supervisors: Please share this issue with all MSC Service Coordinators and others as appropriate.** In order to receive an email notification when a new MSC E-Visory is posted, please sign up for our mailing list (listserv). Listserv information and past issues can be accessed via the following link: http://www.opwdd.ny.gov/wt/publications/wt_publications_mscevisories_index.jsp

In This Issue:

SSI Benefit Levels Chart – Effective January 1, 2012

Attached to this e-visory is the SSI Benefit Levels Chart that is effective as of January 1, 2012. This reflects the 3.6% federal Cost-of-Living Adjustment (COLA) for January 2012.

Supporting Individuals to Achieve Personal Safety and Wellbeing

Attached to this e-visory is a memo from James Moran, Acting Executive Deputy Commissioner, dated October 17, 2011, regarding supporting individuals to achieve personal safety and wellbeing. OPWDD regulations require that each person has a care plan that is suited to his or her needs. This plan for safeguards is included in the person's Individualized Service Plan (ISP) and Plan of Protective Oversight (if applicable).

Requirements for Training

A memo from Barbara Brundage, Director Regulatory Affairs, dated October 11, 2011, and the Final Regulations – Requirements for Training for employees and volunteers of state and non-state providers and family care providers is available on the OPWDD website. The regulations require that all employees and volunteers of state and non-state providers and family care providers receive initial and annual training on how to promote positive relationships with the individuals they serve. For more information go to:

http://www.opwdd.ny.gov/regs/hp_regs_requirements_training.jsp

Required Format for Reporting Incidents and Allegations of Abuse

Administrative Memorandum (ADM) #2011-03 – Required Format for Reporting Incidents and Allegations of Abuse, dated October 18, 2011, has been posted to the OPWDD via the following link. This ADM discusses the Incident Report and Management Application (IRMA) for reporting all serious reportable incidents and allegations of abuse.

<http://www.opwdd.ny.gov/wt/memoranda/index.jsp>

Medicaid Buy-In Program for Working People with Disabilities (MBI-WPD) Program Changes

Effective October 1, 2011, the Medicaid Buy-In Program for Working People with Disabilities (MBI-WPD) resource limit has increased to \$20,000 for an individual or \$30,000 for a couple. In order to qualify for the couple resource limit, both individuals must be enrolled in MBI-WPD.

In addition to the increase in resource limit, there has also been a change in how retirement accounts (including, but not limited to pensions, Individual Retirement Accounts (IRAs), 401(k) plans, and Keogh plans) are considered for Medicaid purposes. If the individual must terminate employment in order to obtain any payment, or if the individual has elected to receive periodic payments, the retirement fund is not countable. If the individual is not entitled to periodic payments, but is allowed to withdraw any of the funds, the amount of money that the individual can withdraw, minus penalties, is countable. Ordinary income taxes are not deductible in determining the value of the resource.

While an MBI individual may have a countable (either in full or in part) retirement account, the countable amount will be **disregarded** by Medicaid in determining eligibility for the **MBI program only**. For SSI-related individuals, the countable amount of the retirement account will not be disregarded; this change is specifically intended to benefit MBI individuals.

More detailed information regarding these changes can be found in Administrative Directive 11 OHIP/ADM-7.

Please contact your Revenue Support Field Office with any questions.

Documentary on the Disability Rights Movement

The documentary "Lives Worth Living" premieres October 27, 2011 at 10:00 pm on PBS's Independent Lens series. This documentary tells the story of the disability rights movement starting in the post-World War II years through the signing of the Americans with Disabilities Act in 1990. The story is told through interviews with people with disabilities who emerged as key leaders and legislators who were influential in passing the ADA. For further information go to:

<http://www.disabilityscoop.com/2011/10/21/pbs-documentary-disability-rights/14289/>

SSI Benefit Levels Chart effective January 1, 2012 (reflects the 3.6% federal COLA for January 2012)

Fed L/A Code	State Supp Code	New York State Living Arrangement	Individual			Couple		
			Federal	State	TOTAL ¹	Federal	State	TOTAL ¹
A	A	Living Alone	\$698	\$87	\$785	\$1,048	\$104	\$1,152
A, C (B)	B (F)	Living With Others (Living in the Household of Another) ²	698 (465.34)	23	721 (488.34)	1,048 (698.67)	46	1,094 (744.67)
A	C	Congregate Care Level 1 - Family Care <input type="checkbox"/> OCFS certified Family Type Homes <input type="checkbox"/> OMH or OPWDD certified Family Care Homes <i>NYC, Nassau, Rockland, Suffolk and Westchester Counties</i>	698	266.48	964.48	1,048	880.96	1,928.96
		<i>Rest of State</i>	698	228.48	926.48	1,048	804.96	1,852.96
A	D	Congregate Care Level 2 - Residential Care <input type="checkbox"/> DOH certified Residences for Adults <input type="checkbox"/> OMH or OPWDD certified Community Residences, Individualized Residential Alternatives and OASAS certified Chemical Dependence Residential Services <i>NYC, Nassau, Rockland, Suffolk and Westchester Counties</i>	698	435	1,133	1,048	1,218	2,266
		<i>Rest of State</i>	698	405	1,103	1,048	1,158	2,206
A	E	Congregate Care Level 3 – Enhanced Residential Care <input type="checkbox"/> DOH certified Adult Homes and Enriched Housing programs <input type="checkbox"/> OPWDD certified Schools for the Mentally Retarded	698	694	1,392	1,048	1,736	2,784
D	Z	Title XIX (Medicaid certified) Institutions ³	30	0 ⁴	30 ⁴	60	0 ⁴	60 ⁴
A	Z	(see below) ⁵	698	0	698	1,048	0	1,048

Minimum Personal Needs Allowances
<input type="checkbox"/> Congregate Care Level 1 - \$135
<input type="checkbox"/> Congregate Care Level 2 - \$155
<input type="checkbox"/> Congregate Care Level 3 - \$184

Limits on Countable Resources
<input type="checkbox"/> Individuals \$2,000
<input type="checkbox"/> Couples \$3,000

Revised 19 Oct 2011
Statutory References: Chap. 58 of L. 2011

¹ The combined federal and State SSI benefit provided to eligible individuals and eligible couples with no countable income.

² The *Living With Others* category includes recipients whose federal benefit has been reduced by the "value of the 1/3 reduction" (VTR) due to the federal determination that they are both: *a)* living in someone else's household, *and b)* receiving some amount of free or subsidized food and shelter (room and board).

³ Applies when an SSI recipient is residing in a medical facility, is not expected to return home within 90 days, and Medicaid is paying for at least 50% of the cost of care.

⁴ Recipients in nursing homes licensed by DOH receive an additional monthly grant of \$25 issued by OTDA called a State Supplemental Personal Needs Allowance (SSPNA). Residents of other medical facilities receive an SSPNA of \$5.

⁵ This zero federally-administered State supplement applies: *a)* when an SSI recipient is residing in a private medical facility and Medicaid is paying for less than 50% of the cost of care, *or b)* when a recipient resides in certain publicly operated residential facilities serving 16 or fewer residents, *or c)* while a recipient resides in a public emergency shelter for 6 calendar months during a 9 month period.

To: Executive Directors of Nonprofit Agencies
DDSO Directors

From: James F. Moran *James F. Moran*
Acting Executive Deputy Commissioner

Date: October 17, 2011

Subject: Supporting Individuals to Achieve Personal Safety and Wellbeing

Executive Office

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All of us strive to achieve a sense of wellbeing in our day-to-day lives and we manage personal risk accordingly. Individuals who are supported by the Office for People With Developmental Disabilities (OPWDD) or nonprofit agencies have the same expectation. Each of us bears an important responsibility to assist individuals we serve to experience good health and safety. To that end, all providers must ensure that safeguards are developed to identify, implement and sustain the supports needed to keep people safe from harm.

OPWDD regulations [14 NYCRR § 633.10(a) (1)] require that each person has a care plan that is suited to his or her needs. This plan for safeguards may be part of an Individualized Service Plan, Plan of Protective Oversight or Comprehensive Functional Assessment. Part of assessing a person's needs includes determining adequate safeguards and oversight. Safeguards may address many areas and include topics such as:

- the level of supervision a person requires at home either generally or during specified activities such as bathing and eating and while in the community;
- a person's special dietary needs, consistency of foods and assistance while eating; and
- the assistance a person requires for medication administration.

All staff are responsible to ensure safety, and most particularly direct support professionals who are entrusted to provide day to day support to individuals. To competently implement appropriate safeguards and afford people adequate protective oversight, direct support professionals should be knowledgeable regarding care plans and provide input into how these plans are carried out. All responsible staff must be provided with comprehensive and ongoing training in the individualized needs of people in their care. OPWDD regulations [14 NYCRR § 633.8(a) (1)], note that "It is the responsibility of the agency/facility or the sponsoring agency to heighten the awareness of its employees, volunteers or family care providers to those factors which affect and/or contribute to situations that can be potentially abusive or harmful. To this end, there shall be training of employees, volunteers and family care providers to meet the needs of staff, volunteers and persons."

In order to consistently ensure people's safety, it is essential that training provides staff with a true understanding of the importance of each safeguard required. All staff must then consistently observe and provide each person's necessary safeguards. Failure to implement plans may have serious and in some instances, life-threatening consequences for the person. Historically, failures to provide appropriate safeguards have resulted in incidents such as choking and drowning. The

importance of the Direct Support Professional's role in providing this critical oversight cannot be overstated.

In addition to understanding and appropriately implementing peoples plans, it is essential these safeguarding plans are reviewed and revised whenever a risk factor is identified, or a person's needs warrant a revision (i.e. an individual who develops an acute or chronic health condition and now needs additional assistance performing activities he or she could safely perform previously). Staff training should be provided whenever a plan is modified to ensure that those responsible for its implementation are familiar with the supports they are to provide.

Ultimately, to ensure the people we serve are provided a safe and comfortable environment, all staff must take their personal responsibility in this area seriously and act whenever necessary to ensure that individual plans are being followed. Staff must also be encouraged to seek assistance if a problem is observed, a weakness identified, or to ask for clarification related to any confusion about expectations. Seemingly, small concerns may be early warning signs of larger systemic issues that, if identified early, may prevent an untoward event in the future. Working together, we can identify and correct risks in our system when they first appear in order to help people live richer lives.

cc: Provider Associations
Commissioner's Advisory Council
DDPC Consumer Caucus
OPWDD Regulations Mailing List
CQC