

MSC E-VISORY

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

The MSC E-Visory is an electronic advisory distributed to MSC Supervisors. Each issue 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 forward this issue to all MSC Service Coordinators and others as appropriate.** Past issues of the MSC E-Visory can be accessed via the following link: http://www.omr.state.ny.us/wt/publications/wt_publications_mscevisories_index.jsp

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In This Issue:

Responding to the Day Service Needs of the Medically Frail and Elderly Individuals Enrolled in the HCBS Waiver

Attached to this MSC E-Visory is a memo clarifying existing options to respond to the day service needs of the medically frail and elderly individuals who are enrolled in the HCBS Waiver when transport to and participation in a group day habilitation program would be contrary to the medical or physical needs of the individual. Included is a section of the HCBS Waiver Key which provides guidance and flexibility in crafting meaningful day activities for these individuals.



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Date: December 15, 2010

To: DDSO Directors
Executives Directors of Voluntary Agencies
Medicaid Service Coordination Program Administrators

From: Suzanne Zafonte Sennett, Deputy Commissioner

Suggested Distribution:

**Service Coordinators and Service Coordination Supervisors
Day Habilitation Program Managers
Residential Managers**

Re: Responding to the Day Service Needs of the Medically Frail and Elderly Individuals Enrolled in the HCBS Waiver

Background:

OPWDD's mission is to Help People with Developmental Disabilities Live Richer Lives. We are also committed to ensuring that the definition of richer life is driven by the needs and desires of the individual. In order to achieve this mission, OPWDD has promoted innovation and has openly challenged many of its own rules and practices. However, sometimes promoting our mission actually calls for a greater compliance with and utilization of tools and opportunities already embedded in OPWDD's programmatic and regulatory framework. This is the case with efforts to enhance the appropriateness of day services for individuals with developmental disabilities who are also medically frail or extremely elderly.

Purpose:

The purpose of this memo is to clarify existing options to respond to the day service needs of the Medically Frail and Elderly individuals who are enrolled in the HCBS Waiver when transport to and participation in a group day habilitation program would be contrary to the medical or physical needs of the individual.

Included as an attachment to this memo is a section of the HCBS Waiver Key which provides guidance and flexibility in crafting meaningful day activities for individuals where transport to and participation in a group day habilitation program would be contrary to the medical or physical needs of the individual.

MSC's are encouraged, as may be appropriate, to explore this strategy for providing enriched day services for elderly or medically frail individuals with the individual, their families and the residential and day providers who support them.

Guidance:

The following information provides additional clarification and guidance:

- Day habilitation design strategies using this approach should be crafted within the context of the person's ISP and associated habilitation plan. Day habilitation services provided to the individual should support the person's valued outcomes and his/her safeguarding needs. There is no requirement for a DDSO review or approval outside of the normal approval and oversight of any habilitation plan.
- Day habilitation services may initiate in a variety of places, including the person's residence, or a community setting.
 - If services initiate in a community setting, the time spent in transporting the individuals to that setting is NOT included in determining the time spent in the receipt of services.
 - If services are initiated in the person's residence, and there is substantive provision of services at the residence – followed by transport to a community setting for the purpose of additional habilitation services, the time spent in transport IS included in the calculation of time spent in the receipt of habilitative services.
 - Accordingly, transportation from the consumer's home to the day service is the responsibility of the day provider.
- Because this is exclusively an encouragement of the appropriate use of current regulatory and programmatic options, new certification or provider agreements are not required to utilize this approach. However, for clarification, the following is offered:
 - A provider does not need additional Day Habilitation certification for a new site if they are providing day habilitation in the residence for the individuals who live there. However if the provider intends to serve individuals from another residence or individuals who live at home and routinely (at least 2 times a week for 2 hours or more per day) brings them into a second residence to obtain day habilitation services, the provider would have to obtain additional certification for the residence, as a Day Habilitation site. If the provider is going to bill separately for Day Habilitation they must have a provider agreement to provide Day Habilitation and the individuals need authorization to receive Day Habilitation.
- If use of this approach for Day Service provision is intended as a long term service delivery strategy for an elderly or medically frail person, and the alternative approach may be to

document these activities as extended residential habilitation services for the individual in the residential habilitation plan. The additional costs related to these expanded habilitation efforts would be considered as part of a rate adjustment for the residence. Please note, elderly individuals should have a choice in whether they want to continue to receive day habilitation services or enhanced residential habilitation services.

As OPWDD continues to explore individualized and person-centered approaches to service delivery such as full implementation of Community Habilitation, with the expansion of this service to individuals residing in certified settings, it is possible that this new waiver service may become the preferred vehicle for providing day services for older individuals and individuals with medical challenges that do not wish to or can not safely participate in group day habilitation on an ongoing basis. However, in the meantime, it is clear that the flexibility already provided in the definition of day habilitation services allows for individualized approaches as described in this memo.

If you have additional questions, contact your local DDSO.

Cc: James Moran, Executive Deputy Commissioner
DDSO Directors
Sheila McBain, Deputy Commissioner for Quality Management
Jill Gentile, Associate Commissioner
James Whitehead, Associate Commissioner

March 1997 Waiver Key, pages 8-17 and 8-18

Day Habilitation – 51% Guideline

Day Habilitation services are provided “primarily in a non-residential setting separate from the person’s home/residence with exceptions allowed to promote transition or adaptation.” The location where the service is given, whether in the home or anywhere outside the residence, should be determined from the outcome(s) which has a value for each consumer. The proportion of time spent at home versus in the community should reflect the person’s needs and desires and the philosophy that a person should, whenever possible, receive day services in the community.

As a general guideline, it is expected that at least 51% of a person’s day habilitation services should be provided away from the home. This guideline is not a regulatory requirement, nor does it imply an expectation that the service hours in any specific day or week or even month should be counted in order to meet a percentage at any location.

The ISP and day habilitation plan should contain information which explains why any portion of the day service takes place in the home. The ISP and day habilitation plan should be amended if the pattern of service changes. Spending less than 51% of a person’s time in the community may be appropriate for the exceptionally medically frail or the elderly, for example. Extreme weather conditions or seasonal physical reactions, such as asthma, may also justify a plan that allows a person to remain in the home at certain times of the year.

Plans which justify day services occurring in the home should retain a community focus in accordance with the person’s interests and abilities. For such consumers it would be expected that people from the community or community oriented activities could be brought into the home or, if the individual were unable to interact with anyone, that fact would be so noted. A fundamental assumption is that everyone, regardless of age or infirmity, should have an opportunity to receive stimulating activity. Providers should try to find a balance between the person’s capacity to benefit from stimulation and the ideal outcome that everyone will be in the mainstream of community life.

The amount of time spent in community related activities should be determined individually. Services should not be scheduled at home for reasons of staff or programmatic convenience or because the person meets an arbitrary criterion such as age group or need for specialized transportation.

Transportation

A transportation associated with HCBS habilitative services (residential, day habilitation, prevocational services or supported employment) is part of the habilitative service and is the responsibility of the pertinent waiver service provider. This includes transportation from the consumer’s home to day service.