ADMINISTRATIVE MEMORANDUM -- ADM #2013-02

TO: **Executive Directors of Agencies Authorized to Act as Financial Management Services agencies (FMS) for OPWDD Consolidated Supports and Services (CSS)**

Executive Directors of Agencies Authorized to Provide Medicaid Service Coordination for Participants using Consolidated Supports and Services (CSS)

DDRO & DDSOO Directors

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

Megan O'Connor-Hebert, Deputy Commissioner
Division of Quality Improvement

Mark Pattison, Deputy Commissioner
Division of Enterprise Solutions

Helene DeSanto, Deputy Commissioner
Division of Service Delivery

SUBJECT: **CONSOLIDATED SUPPORTS AND SERVICES SERVICE DOCUMENTATION REQUIREMENTS**

DATE: **February 27, 2013**

Effective Date: March 1, 2013

Suggested Distribution:

FMS agency fiscal managers and billing staff
Individuals participating in CSS
Circle of support members
CSS start-up/support broker agencies
CSS independent start-up and support brokers
Medicaid service coordinators (MSC) and MSC supervisors
DDRO Community Support Offices
DDRO CSS Liaisons

Purpose:

Consolidated Supports and Services (CSS) is the Home and Community Based Services (HCBS) waiver option used to create individualized services through person-controlled, portable budgets. CSS provides an opportunity for people with developmental disabilities to lead richer lives with a continued focus on four basic person-centered outcomes: living in the home of their choice; increasing their ability and opportunity to work or engage in activities that contribute to personal growth and to community participation; developing and maintaining meaningful relationships with friends, family and others in their lives; and maintaining good health.

This Administrative Memorandum (ADM) supersedes Administrative Memorandum #2009-02. This ADM specifies the CSS service documentation requirements that permit a Financial Management Services agency (FMS) as the Medicaid provider of record to bill eMedNY (Medicaid) or the Office for People with Developmental Disabilities (OPWDD) and obtain Medicaid or OPWDD funds to place into CSS participants' individual accounts. Funds in these individual accounts are used by the FMS to cover approved CSS expenses. Other supports provided through CSS, e.g., rent subsidies, are addressed in *"Consolidated Supports and Services: A Guidance Manual for Fiscal Employer Agents."*

Background:

18 NYCRR, Section 504.3(a) states that by enrolling in the Medicaid program, "the provider agrees … to prepare and **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." 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, such as governmental agencies, including, but not limited to, the Office of the Medicaid Inspector General and OPWDD.

The FMS is recognized as the CSS provider of record by the Medicaid program. As such, the FMS is responsible for ensuring that appropriate documentation is maintained to substantiate claims made to Medicaid and OPWDD.

CSS Payment Standards:

The unit of service for CSS addressed in this ADM is the calendar month. The monthly price billed to Medicaid represents one-twelfth of the annual budget for the participant. Service hours and expenditures may vary from month to month. The twelve months of expenditures, revenue, and the participant's annual budget are reconciled at the end of the calendar year.

The FMS as the Medicaid service provider determines whether services meeting minimum standards for payment have been provided prior to billing a full month for a CSS participant. To receive reimbursement for a full month of CSS:

1. The FMS, as the Medicaid provider of record, must have documentation that verifies that the CSS participant received at least four (4) face-to-face countable services, each provided on a separate day during the month. A countable face-to-face service is a service or action that is delivered and documented by staff or a contractor/vendor based on the CSS participant's needs as defined in his/her *Consolidated Supports and Services (CSS) Plan/Budget*.

2. The four (4) face-to-face countable services must be documented on the *CSS Employee Time Sheet/Daily Service Record,* and/or the *CSS Invoice/Service Record for Contracted/Vendor Services,* or a form containing the same elements that is developed by the FMS. These service documentation records must be signed and dated contemporaneously with service delivery by the person providing the service. The record of service must also be countersigned by the CSS participant or by his/her designee. This countersignature does not need to be contemporaneous, but the signature and date should be provided as soon as possible after the provision of service.

3. The FMS bills eMedNY (Medicaid) and/or OPWDD for a month of CSS based on receipt of the *CSS Employee Time Sheet/Daily Service Record* and/or the *CSS Invoice/Service Record for Contracted/Vendor Services.* These documents must individually or collectively document that the CSS participant received at least four (4) countable face-to-face services, each provided on a separate day of the month.

4. The *CSS Monthly Summary Note* must be prepared and submitted every month by the participant and/or his/her designee. The FMS must receive and retain, for each month when service is billed, this *CSS Monthly Summary Note* written, signed and dated contemporaneously by the CSS participant and/or his/her chosen designee.

Rules Governing Inpatient Status:

The FMS may not use any services provided on days that the CSS participant is an in-patient in a hospital or is temporarily residing in a skilled nursing facility, a rehabilitation facility, an Intermediate Care Facility (ICF) or other certified, licensed or government funded residential health related facility as one of the four (4) face-to-face countable services required for monthly Medicaid billing.

Note, however, that CSS can be provided to the CSS participant on the day of admission and the day of discharge from a hospital or health related facility <u>as long as the service is provided outside of the hospital or health-related facility</u>.

Ensuring FMS Funding Under Extraordinary Circumstances:

On rare occasions, extraordinary circumstances (hospitalizations or temporary residence in another certified, licensed or government funded residential health related facility, loss of staff, etc.) may prevent a CSS participant from receiving the minimum four (4) face-to-face countable

services, each provided on a separate day during the month, required for billing a month of CSS. This will prevent the FMS from billing eMedNY (Medicaid). If, for that month, the CSS participant has legitimate expenses approved as part of his/her CSS Plan/Budget (e.g., expenses for services provided, a fixed monthly payment, etc.), the FMS may request reimbursement from OPWDD. These requests for reimbursement must be submitted in a timely manner and are subject to approval by OPWDD. OPWDD will use 100% state funds rather than Medicaid dollars to reimburse the FMS.

Service Documentation Requirements:

Documentation of each of the four (4) face-to-face countable services, each provided on a separate day during the month, required for monthly reimbursement must include the following service elements:

1. The person's name and Medicaid number (CIN). (Note that the CIN need not be included in daily documentation, rather it can appear in the person's Consolidated Supports and Services Plan/Budget.)

2. Identification of category of waiver service provided (that is, Consolidated Supports and Services.)

3. The date the service was provided.

4. Service description, defined as the staff action in support of a valued outcome provided by CSS staff based on the person's CSS Plan/Budget. The service description must demonstrate an action by the CSS staff, for example, the staff person documents that she "instructed the person on how to answer common job interview questions."

5. General location of the service provided, that is, "at home and/or in the community."

6. Verification of service provision by the CSS staff person delivering the service. That is, the CSS staff person who delivered the service must sign, provide his/her work title, and include the date of signature, thus verifying that the services were delivered. The date of signature must be contemporaneous to the date the services were provided. In addition, the CSS participant or his/her designee must sign the completed form to verify that the service was provided. Completed and appropriately signed service documentation records must be submitted to the FMS for billing. Service documentation records submitted without the contemporaneous signature of the staff person or vendor who provided the service will result in nonpayment.

   Note: The above six (6) elements must be included in each of the required service notes that substantiate a CSS claim. For full month billing, at least four (4) of these documented services must be face-to-face countable services, each provided on a separate day during the month.

7. The participant's response to the service: At least once a month in the *CSS Monthly Summary Note*, the CSS participant must describe his/her activities, how these activities

helped him/her progress toward his/her valued outcomes, and his/her satisfaction with the services and supports received, and address any special issues or concerns that he/she may have. The participant may be assisted in preparing *CSS Monthly Summary Note* by the designee of his or her choice.

Note: The *CSS Monthly Summary Note* must be signed and dated contemporaneously by the participant, and/or his/her chosen designee.

Documentation Formats:

Basic Forms

OPWDD has developed service documentation forms that meet the Medicaid standards described in this Administrative Memorandum. Samples of these forms are attached to this ADM. It is recommended that the FMS use these forms. The OPWDD-developed forms are:

- *CSS Employee Time Sheet/Daily Service Record* is used as the time sheet for staff hired by the CSS participant and employed by the FMS (termed "self-hired staff"). It captures the days and hours the CSS participant's staff worked, and is used to document that the minimum four (4) required countable face-to-face services on separate days in a given month required for a full month billing have occurred. (Two versions of this form are attached -- one for recording days and hours of service on a weekly basis, the other on a bi-weekly basis.)

- *CSS Invoice/Service Record for Contracted/Vendor Services* is used as a service record and invoice for services provided by independent contractors/vendors (i.e., organizations, businesses, support brokers or others providing CSS who are not employed by the FMS). It captures the service days and hours of independent contractors/vendors, and identifies the services provided and how these services relate to the CSS participant's valued outcomes.

- *CSS Monthly Summary Note* captures a participant's monthly activities which are implemented from the CSS Plan/Budget, and satisfaction with services delivered during the month. This form also indicates any changes a CSS participant may want to make to his/her CSS Plan/Budget.

* When a CSS participant receives services from his/her CSS staff person and a contractor/vendor during the month, the two forms above must be submitted and must collectively document delivery of at least four (4) face-to-face services, each provided on a separate day.

General Documentation Requirements:

In addition to the service notes supporting each monthly CSS claim, the FMS must maintain the following documentation:

1. A copy of the person's Individualized Service Plan (ISP), covering the time period of the payment claim. The ISP must include the following elements:

    A. The category of waiver service provided (that is, "Consolidated Supports and Services") and identification of the FMS agency delivering the service as provider of the service.

    B. Valued outcomes of the person receiving services.

    C. Frequency and duration. The ISP must specify that the frequency of CSS is "monthly" and specify that the duration is "ongoing."

    D. The effective date for CSS (that is, the date the person was enrolled in Consolidated Supports and Services). This date must be on or before the first date of service.

2. For all people receiving CSS, the **CSS Plan/Budget** developed with the participant and his/her circle of support, developed in conformance with ADM #2012-01, Habilitation Plan Requirements. The CSS Plan/Budget must cover the time period of the payment claim. The following elements must be included in the CSS Plan/Budget:

    A. The person's **(a) name and (b) Medicaid Identification Number (CIN)**.

    B. The category of waiver service provided (that is, Consolidated Supports and Services) and designation of the FMS agency providing the CSS as the provider of the service.

    C. Valued Outcomes of the person receiving services (for people with an ISP, the valued outcomes are derived from the ISP.)

    D. Date on which the CSS Plan/Budget was last reviewed. The CSS Plan/Budget must be reviewed at least twice annually.

    E. Location where the service will be provided (that is, "at home and/or in the community.")

    F. Description of the individualized services provided through CSS.

    G. If necessary, safeguards to be taken by the provider to ensure the person's health and safety.

    H. The contemporaneous signature and title of the CSS FMS agency representative, and the date signed, and the signature of the participant and the date signed. The participant's signature does not need to be contemporaneous, but the signature and date should be provided as soon as possible after the CSS Plan/Budget is developed. Further, for each required review of the CSS

Plan/Budget, evidence that the review was conducted, including the signature and title of an agency staff person representing the FMS agency that participated in the review, and the date of the review and whether changes are requested to the CSS Plan/Budget.

Documentation Retention:

All documentation specified above must be retained for a period of at least six years from the date of service or the date of billing (to either eMedNY (Medicaid) or OPWDD), whichever is greater. The documents to be retained include:

- the *ISP*,
- the *Consolidated Supports and Services (CSS) Plan/Budget,*
- documentation of at least four (4) countable face-to-face services for billing a full month of CSS provided on separate days during the month by:
  - the *CSS Employee Time Sheet/Daily Service Record*, or
  - the *CSS Invoice/Service Record for Contracted/Vendor Services,* or
  - a combination of the *CSS Employee Time Sheet/Daily Service Record* and the *CSS Invoice/Service Record for Contracted/Vendor Services,* individually or together documenting four (4) countable face-to-face services and
- the *CSS Monthly Summary Note*.

Diagnostic information and other clinical records are generally maintained for a longer period of time and are not the subject of this ADM.

Billing and Claiming Audit:

In an OPWDD Billing and Claiming audit, a monthly CSS claim for sampled CSS participants served by the FMS will be selected and the auditor will ask for each participant's *ISP* and *CSS Plan/Budget* in effect for the claim date. The auditor will also require for the claim month the *CSS Employee Time Sheet/Daily Service Record* and/or the *CSS Invoice/Service Record for Contracted/Vendor Services,* and the *CSS Monthly Summary Note*. In reviewing the service notes, the auditor will determine whether the sampled claim conforms to the "CSS Payment Standards" specified on pages 2 and 3 of this Administrative Memorandum. Other auditing entities may ask to see documentation other than that which OPWDD auditors review.

Audit of Revenue and Expenditures:

The fiscal audit of the FMS requires that all personal service expenditures are supported by and adequately documented with *CSS Employee Time Sheet/Daily Service Records,* and/or the *CSS Invoice/Service Records for Contracted/Vendor Services,* and/or the *CSS Monthly Summary Note*. Nonpersonal service expenditures must be supported by receipts, invoices, and/or bills, as well as related proof of payment. Expenditures lacking adequate supporting documentation may be subject to recovery from the FMS. All expenditures are subject to the requirements contained in the "Consolidated Fiscal Reporting and Claiming Manual." It is necessary to keep such documentation on file for a minimum of six years from the date of

service or date of billing, whichever is greater, since a fiscal audit can review service documentation from a period of six years prior to the date of the audit.

For additional information on Consolidated Supports and Services documentation requirements, contact OPWDD Division of Person Centered Supports (CSS) at (518) 473-9697.

Attachments:

- CSS Monthly Summary Note (CSS-01)
- Instructions for Using the CSS Monthly Summary Note (CSS-01)
- CSS Employee Bi-Weekly Time Sheet/Daily Service Record (CSS-02a)
- CSS Employee Weekly Time Sheet/Daily Service Record (CSS-02b)
- Instructions for Using CSS Employee Time Sheet/Daily Service Record (CSS-02a, CSS-02b)
- CSS Invoice/Service Record for Contracted/Vendor Services (CSS-03)
- Annual and Semi-Annual Review Record (CSS-10)

cc: Executive Deputy Commissioner
Deputy Commissioners
Associate Commissioners
Provider Associations
Regional Office CSS Liaisons
HCBS Waiver Coordinators
Kate Bishop
Emilie Wright
Barbara Brundage
SANYS