



The MSC E-VISORY is an electronic publication which provides information on policies, guidance, available programs and services and training opportunities related to MSC. In order to receive an email notification when a new MSC E-Visory is posted, or to view past issues visit the following link: [MSC E-Visory](#)

ISSUE # 05-15

March 10, 2015

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## In This Issue:

### **Materials for the March 11, 2015 MSC Supervisors Conference**

The MSC Supervisors Conference is being held on March 11, 2015 via videoconference and WebEx from 9:30am-12:30pm. The conference agenda is as follows:

- Behavior Support Plans
- Service Amendment Process
- Assistive Technology and Environmental Modifications
- Home and Community Based Services (HCBS) Settings

NOTE: The materials that will be referenced during this conference are attached to this MSC E-Visory. There will not be any materials distributed on the day of the conference. Also, an evaluation has been attached to the materials; please complete and return as your input and feedback is greatly appreciated.

Those who have not registered for this conference and would like to may do so at the following link: [http://www3.opwdd.ny.gov/wp/wp\\_catalogc1310.jsp](http://www3.opwdd.ny.gov/wp/wp_catalogc1310.jsp)

### **Administrative Memorandum: Community Habilitation**

On February 27, 2015, OPWDD issued Administrative Memorandum (ADM) #2015-01: Service Documentation for Community Habilitation Services Provided to Individuals Residing in Certified and Non-Certified Locations. This ADM describes the Community Habilitation service documentation requirements. The full Administrative Memorandum is available at the following link: <http://www.opwdd.ny.gov/node/5912>.

### **SAVE THE DATE: Quality Assurance Including Incident Review Training for MSCs**

On April 14, 2015 from 9:00 am – 1:00 pm the DQI MSC Quality Assurance (QA) training will be available by videoconference at multiple sites throughout the state. The MSC QA training will provide information on the survey process, MSC delivery and documentation, and incident management review and reporting procedures for Title 14, parts 624 and 625. Registration for this training will open soon via [OPWDD's Catalog of Training and Talent Development Programs](#).



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## MSC Supervisors Conference

March 11, 2015

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## Agenda

- MSC Hot Topics
- Behavior Support Plans
- Service Amendment Process
- Assistive Technology & Environmental Modifications
- Home and Community Based Services Settings



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## Welcome & Hot Topics

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## News and Information




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## The Top 10 Deficiencies

(DQI surveys using the MSC protocol)

1. Documentation of Choice Forms are not *always* found in the Individuals file
2. Individuals must be made aware of the process to express complaints or concerns
3. The following must be identified in the ISP:
  - a. Allergies
  - b. Health care needs, supports and services
  - c. Safeguarding needs
  - d. Fire Safeguarding needs
4. MSC Agency name must be listed in the ISP
5. An after-hours phone number to reach the MSC must be available
6. ISP must be reviewed twice annually - 1x face-to-face
7. Willowbrook Individuals must have an activity plan
8. MSC notes must include information to ensure continuity of services
9. MSC must meet with the Individual when needed, and meet in the home when needed
10. MSC must monitor that the Individual is receiving services that they need and want




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## Behavior Support Plans

### Approaches, Strategies and Supports

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### Overview

Definitions  
FBA Descriptions  
BSP Components  
Protections  
Bringing it together

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### Defining our Terms

- Data
- Challenging Behavior
- Functional Behavior Assessment (FBA)
- Behavior Support Plan (BSP)

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- Data
  - Frequency of behavior
  - Intensity of behavior
  - Duration of behavior
  - Latency of behavior

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- Challenging Behavior (The reason we intervene)
  - interferes with the performance of everyday activities
  - undermines the potential for increased self-determination and independence
  - interferes with the rights of others
  - disrupts social functioning
  - causes injury to self or others.
  - May include psychiatric symptoms or overt reactions to symptoms
    - Manic, aggressive, or compulsive behavior
    - verbal threats based on paranoid beliefs or perceptions




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- FBA – A process intended to:
  - identify and operationally describe challenging behavior(s);
  - identify the function(s) or purpose(s) for challenging behavior;
  - identify the specific environmental stimuli or conditions that maintain the challenging behavior(s).
- BSP – A written plan that outlines specific interventions designed to support, develop or increase replacement or alternative behaviors and/or modify or control a person's challenging behavior.




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## Order of Operations





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## Example BSP

<https://www.youtube.com/watch?v=FZNBpKRQgYY>



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## So what needs to go into an FBA?



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## FBA must have these 10 components

- i. Description of challenging behavior in observable and measurable terms;
- ii. Identification of the antecedents of behavior;
- iii. Identify contextual factors (i.e. cognitive, environmental, social, physical, medical, psychiatric) that create or contribute to behavior;
- iv. Identify the likely reason or purpose for the challenging behavior
- v. Identify the consequences that maintain the behavior;



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### FBA components cont.

- vi. Evaluation of whether environmental or social alterations would serve to reduce or eliminate the behavior;
- vii. Include an evaluation of preferred reinforcers;
- viii. Multiple sources of data, including but not limited to:
  - a) Info from direct observation;
  - b) Info from interview/discussion w/ individual, parent/caregiver, service providers;
  - c) Review of clinical, medical, behavior, or other data from individual's record




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### FBA components cont.

- ix. Must not be based solely on an individual's documented history of challenging behaviors\*;
- x. Must provide a baseline of the challenging behaviors including frequency, duration, intensity and/or latency across settings, activities, people, and times of day.

\*Exception circumstances (e.g., unexpected admission to a residential program)




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### Who can create BSPs?

**Behavior Intervention Specialist 1 (BIS 1)**

- Masters from a clinical field of psych, SW, school or applied psych, and training in assessment; or
- BCBAM and Masters in behavior analysis or closely related field; or
- NYS license in mental health counseling w/ appropriate experience.

**Behavior Intervention Specialist 2 (BIS 2)**

- BCBA and Masters in behavior analysis or closely related field; or
- Masters in clinical treatment field or NYS license in mental health counseling and have approved specialized training in FBAs and BSPs; or
- Bachelors in human services field, and experience, and is actively working towards graduate degree in applied psych, SW or special education.




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## BIS 1 & 2: What's the difference?

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**Responsibility**

- BIS 2** – Under the supervision of BIS 1
- BIS 1** – Independent if interventions are non-restrictive/intrusive
- Licensed Psych/LCSW** – supervise BIS 1 & 2

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Once you have a completed FBA, how does the BIS develop the BSP?

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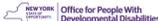
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## Developing the BSP

All BSPs must:

- i. Be developed by a BIS, licensed psych or LCSW
- ii. Be developed in consultation (as appropriate) with person receiving service and others involved in implementation
- iii. Be developed on the basis of a FBA of the target behaviors
- iv. Include concrete, specific description of challenging behavior(s) targeted for intervention
- v. Include a hierarchy of interventions, strategies and supports – with the preferred methods being positive approaches

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### BSP components cont.

- v. Include a personalized plan for actively reinforcing and teaching the person alternative skills and adaptive (replacement) behaviors.
- vi. Include least restrictive/intrusive methods possible.
- vii. Provide a method of data collection for treatment monitoring.
- viii. Include a schedule to review the effectiveness of the interventions
  - At least semi-annual basis
  - Examine frequency, duration, and intensity of challenging/replacement behaviors




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### Interventions: Positive, Preferred, Proactive Approaches

- ❖ ABC's of behavior: Where should we start?
  - ❖ Antecedents – Behaviors – Consequences
- ❖ Focus on Proactive Strategies:
  - Prevention and Setting Event Strategies
  - Teach → Model → Increase → Reward




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### Restrictive/Intrusive Interventions

- **Additional Type of Interventions in Regulations**
- **Discouraged by OPWDD – Unless:**
  - There exists a clear risk to health and/or safety;
  - There is a violation of others' personal rights;
  - They are employed only after less intrusive/positive interventions have been unsuccessful.




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### Restrictive/Intrusive Interventions cont.

1. Any intermediate and/or restrictive **physical** intervention techniques;
2. Use of **time-out** (exclusionary and non-exclusionary);
3. Any **mechanical restraining device** with intent to modify or control challenging behavior;




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### Restrictive/Intrusive Interventions cont.

4. Use of **medication** for behavioral control;
  - ❖ Not associated with a co-occurring diagnosed psychiatric disorder
5. Any other specific methods determined to be restrictive/intrusive.
  - ❖ Response cost
  - ❖ Overcorrection
  - ❖ Negative practice
  - ❖ Satiation




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### Protections: The “Do-Nots”

- Deprivations (punitive actions) involving sleep or food
- Prevention of adequate rest or a balanced and nutritious diet
- Change in the form/composition/timing and delivery of food as a consequence
- Emergency use of specific restrictive interventions
- Aversive conditioning





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### BSP Protective Factors

- Review & approval by Behavior Plan/Human Rights Committee (BPHRC)
- Informed Consent
- Objections to Treatment
  - 633.12





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### Human Rights Committee

- Membership & Purpose: Minimum 4 members who function to protect rights of persons whose BSPs have restrictive/intrusive interventions or limitations on rights.
- Committee reviews BSPs to verify all required components are included, and then approves OR refuses to approve BSPs in writing.
- Committee does NOT review monitoring plans, only BSPs with restrictive/intrusive interventions.




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### Informed Consent



- Required
  - Prior to implementation of any restrictive/intrusive intervention is in a BSP
  - Prior to implementation of a physician's order for planned use of medication
  - For short-term use of medication when there is no BSP
- Documented in clinical record
- Has a maximum duration of one year
- Is accompanied by an appropriate, clear explanation of proposed plan
- Not required in an emergency




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### In Closing...

- BSPs are only one component of a person's overall plan of services
- BSPs are considered to be "living documents"
- Include many types of interventions
- Include protections for both the individual and the service provider




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### Service Amendment Process

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### What is the Service Amendment Process?

- A statewide process that has been developed which enables individuals to request services through their local Developmental Disabilities Regional Office
- The Service Amendment process is not used for individuals who should access services using the Front Door process




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### WHY AN AMENDMENT PROCESS?

Over time, individual's needs change based on their goals, life circumstances, health, and other factors. The Service Amendment (SA) process provides a uniform procedure for individuals to request services which are then reviewed and authorized by the DDRO.




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### Who Should Use the Service Amendment Process?

Those individuals *already in the HCBS Waiver and receiving Waiver services* seeking Waiver service changes which may include:

- **Changing the provider** of a service that will otherwise remain the same (type and amount).
- **Changing the amount** of an existing service
- **Replacing an existing service** with a new service




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### Who Should Use the Service Amendment Process? (continued)

- **Adding a service** when individual is already receiving services
- **Self Direction:** individuals (self-directing their services) have identified a changed need level and request a new DDP2 assessment to change their PRA, and/or request to add a new service within their self-directed budget. This includes adding a different type of a particular service to the Budget (e.g. an individual has agency-purchased community habilitation and wants to add agency-supported [employer authority] community habilitation)




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### Who Should NOT Use the Request for Service Amendment

- Those individuals who *are OPWDD eligible, seeking new non-Waiver services such as FSS and ISS* may access these services by working through their Service Coordinator, if they have one, or by contacting the Service Provider directly who will work with the DDRO FSS or ISS coordinator/liaison.




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### Who Should NOT Use the Request for Service Amendment (continued)

Those individuals who **should be seeking services using the Front Door Process**. Criterion includes:

- OPWDD eligibility has not been established
- An eligible person not receiving Medicaid Service Coordination (MSC) or Plan of Care Support Services (PCSS) and is now requesting MSC or PCSS
- An eligible person receiving Service Coordination or Plan of Care Support Services (PCSS) but not receiving other services and is now requesting a service (and individual has had a break in waiver services for 1 year or more)




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### Who Should NOT Use the Request for Service Amendment (Front Door - continued)

- An eligible person not receiving any HCBS Waiver services and is now requesting HCBS services
- Young adults transitioning from public or residential schools either into the OPWDD system for the first time or requesting a new HCBS waiver service as a result of transition
- Individuals transitioning into the community from Developmental Centers (DCs) or other specialized settings




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## Role of MSC in the Service Amendment Process

**When the Front Door or Service Amendment Process is *not* required:**

- When seeking non-waiver (contract) services FSS and ISS, work with DDRO Coordinator/Liaison and provider to help individual access these services.
- When seeking a residential service, work with DDRO Vacancy Management Team using the established protocol.




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## Role of MSC in the Service Amendment Process (continued)

**When the Service Amendment Process *is* required:**  
Service Coordinator works with the individual, DDRO, and providers to assist the individual in accessing services. This includes:

- Working with the individual/family/advocate in a person-centered manner to identify which services may best meet their needs
- Supporting/encouraging employment, and services provided in the least restrictive environment, consistent with OPWDD's Transformational Agreement with CMS




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## Role of MSC in the Service Amendment Process (continued)

- Completing the Request for Service Amendment form
- Updating the Individual Profile and Valued Outcomes sections of the individual's ISP when appropriate
- Updating the DDP2 if applicable
- Assisting the individual/family to choose an appropriate service provider, ensuring the provider is willing/able to serve them, and helping to coordinate enrollment as necessary




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### Role of DDRO in the Service Amendment Process

Once received from the Service Coordinator, the DDRO reviews the Request for Service Amendment (RSA) to ensure that:

- ✓The RSA is complete
- ✓The request is consistent with the Transformational Agreement, including Olmstead.
- ✓Service request(s) are reasonable based on individual's needs (*note: additional justification may be requested*)




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### Role of DDRO in the Service Amendment Process (continued)

- ✓ When necessary as a part of the Service Amendment process\*, requests are presented and approved as a part of the DDRO Quality Review process. (*see following slide*)
- ✓ Services (change in amount, type, or service provider) are Authorized by the Director/designee and shared with the Service Coordinator via secure email

*Note: If the RSA was NOT approved where additional information/justification is needed, a request is sent to the SC with details on what must be provided.*




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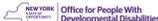
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### Once the RSA has been Authorized, Next Steps for Service Coordinator

- ✓If approved *and a specific provider is identified* on the RSA, the Service Provider will be copied on the authorization correspondence. This will serve as notice to the Provider Agency to complete and submit a DDP1 and the DDP1 supplement (when necessary) to enroll the individual.




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### Once the RSA has been Authorized, Next Steps for Service Coordinator (continued)

- ✓ If approved, and a specific provider has not been identified, the Service Coordinator is responsible to help the individual find a Service Provider. Once a provider has been identified, the Service Coordinator will inform the provider that the service has already been approved by the DDRO and that they may proceed with completion of the DDP1 and the DDP1 supplement (when necessary) and to enroll the individual.



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### Assistive Technology and Environmental Modifications

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### Assistive Technology-Adaptive Devices (also known as "AT")

- An item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of participants
- AT services include services that directly assist a participant in the selection, acquisition, or use of an AT device.
- Available to waiver enrolled individuals; vehicle modifications only if the person lives in their own home or family home
- Examples (but not limited to): vehicle modifications, communication aids/devices, adaptive aids/devices (standing boards/frames, switches, devices for medication administration, computer hardware/software)
- Cost Limits (effective May 28, 2014): The maximum expenditure for AT per HCBS waiver enrolled individual may not exceed \$35,000 in any consecutive two-year period; vehicle modifications limited to once every five years



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## Environmental Modifications-Home Accessibility (also known as E-mods)

- Physical adaptations to the participant's home, required by the service plan, that are necessary to ensure the health, welfare and safety of the individual or that enable the person to function with greater independence in the home and without the person would require a more restrictive and expensive living arrangement
- Available to waiver enrolled individuals who live in their own home or family home
- Examples but not limited to: ramps, handrails, grab bars, lifts, automatic door openers, bed shaker alarms, open door signal devices, window protections
- Cost Limits (effective May 28, 2014): The maximum expenditure for E-mods per HCBS waiver enrolled individual may not exceed \$60,00 in any consecutive five-year period




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## Principles and Considerations

- Necessary to ensure safety/improve or maintain capacity for independence
- Most reasonable means
- Cost-effective
- Related to physical, developmental or behavioral needs
- Not available through other means
- Not required by code
- Specifically for the person
- May not replace responsible oversight and supervision
- Is clearly described and justified in the ISP and has clinical justification




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## Review and Approval for AT and E-mods

- Each DDRO has an AT/E-mod Point Person or Team
  - Prior Approval
  - Waiver Eligibility
  - Verification of other funding sources
  - Review of clinical justifications and ISP
  - Determination if reimbursable project
  - Approval and Acquisition Procedures
    - Contact the DDRO




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## Exclusions (but not limited to)

- Computers or computer devices (such as iPads)
- Restrictive Devices
- Recreational items
- Items of General Utility
- Home Improvements
- Routine home maintenance
- Home additions or new rooms
- Electronic Monitoring - Note: Any type of electronic monitoring is not currently fundable. OPWDD is in the process of developing guidance in this area. GPS tracking devices are not fundable.




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## AT or E-mods and the ISP

- Name of Provider: OPWDD
- Name of Service (Environmental Modification OR Assistive Technology)
- Frequency: One Time Expenditure
- Duration: One Time Expenditure
- Effective Date: Date of Approval by DDRO




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## Overview of New Federal Regulations for Home and Community-Based Services (HCBS) Settings

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## TOPICS:

- ✓ HCBS Settings – Background and Federal Context
- ✓ Person Centered Planning and Process –Federal Regulations
- ✓ HCBS Settings Regulations and Role of MSC
  - ✓ Provider-Controlled or Owned Residential Settings
  - ✓ Modification of Rights
  - ✓ Guidance for Non-Residential Settings
- ✓ HCBS Settings and the Role of the Service Coordinator
- ✓ Resources and Information




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## Access, Choice, and Rights:

Imagine living in a big group home where you never got to choose who your roommate is. You don't even have your own key to your bedroom. You can't choose what or when you eat, watch TV or go to bed. You can't have visitors when you want, and you have very little privacy.

How would you feel if you lived like this?




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## Background and Federal Context for the Home and Community-Based Services (HCBS) Waiver:

In 1981, Congress passed Section 1915c of the Social Security Act. This allows Medicaid to fund community services for people with long-term care needs. This is referred to as the Home and Community-Based Services (HCBS) Waiver.

↓

This was designed to be an alternative to receiving long-term care services in an institution.

↓

Until recently, CMS has not formally defined in regulation what a "home and community based setting" truly means or what qualities should be present in an HCBS Setting.

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In March 2014, CMS issued a new rule that defines an HCBS Setting.




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## Background and Federal Context, continued

- The final rule defines the requirements for **both** residential and non-residential settings before CMS will authorize Medicaid funding for HCBS services.
- The final rule focuses on the nature and quality of a participant's experience **as compared to individuals not receiving HCBS services**
- States have up to five years to bring their existing HCBS programs into compliance with the new rule (except for PCP)
- Defines person-centered planning requirements and process (effective now!!)




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## Olmstead and HCBS Settings

- In June of 1999, The United States Supreme Court held in *Olmstead v. L.C.* that **unjustified segregation** of persons with disabilities constitutes discrimination in violation of title II of the **Americans with Disabilities Act**.
- The Court held that public entities **must provide community-based services** to persons with disabilities when such services are appropriate and available.
- The HCBS requirements closely reflect **best practice in community integration** for people with disabilities
- HCBS requirements also reflect the policy direction of federal agencies charged with ensuring full access to community living opportunities for people with disabilities.




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**The HCBS Settings Requirements clarify, enhance, and expand the rights of ALL people receiving Home and Community-Based Services—these are the same rights that we all enjoy as citizens!!**




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## Status Update

- For the OPWDD system, compliance is required no later than October 2018 for all providers!
- CMS is requiring Full System Compliance for **all states** no later than March 2019
- Person-centered planning requirements have already been in effect since March 17, 2014




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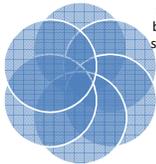
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## Standards for **all** HCBS Waiver Services:



- Integration and full access to the community
- Choice and selection by the individual from several setting options
- Individuals' rights to privacy, dignity and respect
- Freedom from coercion and restraint
- Facilitating choice of services and who provides them
- Optimizing autonomy and independence in life choices




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## HCBS Settings Rules apply to the following Programs/Services:

Person-Centered Planning Requirements:	Certified Residential Settings:	Non-Residential Settings:
<ul style="list-style-type: none"> <li>• PCP requirements apply to <b>all</b> Individualized Service Plans</li> <li>• Became effective immediately in March of 2014</li> </ul>	<ul style="list-style-type: none"> <li>• Individualized Residential Alternatives (IRAs)- both supportive and supervised</li> <li>• Community Residences (CRs)</li> </ul>	<ul style="list-style-type: none"> <li>• Certified day habilitation sites</li> <li>• pre-vocational and sheltered workshop sites</li> </ul>




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42 CFR 441.301(c)(1)-(2)

## PERSON-CENTERED PLANNING PROCESS AND PLAN




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### Person-Centered Approaches to Service Planning:

- Understanding and acknowledging that life and risk are inseparable
- Using a holistic approach to risk and supporting person to make their own choices
- Identifying what is important to a person from his or her own perspective and find appropriate solutions
- Finding creative solutions instead of ruling things out




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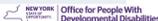
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**The person-centered planning process and plan: 42 CFR 441.301(c)(1)-(2)**

- Includes people **chosen** by the individual
- Provides necessary information and support to the individual to ensure that **the individual directs the process** to the maximum extent possible
- Is **timely** and occurs at times/locations of convenience to the individual
- Offers **choices** to the individual regarding services and supports that the individual receives and from whom
- Provides **method** to request updates
- Reflects **cultural** considerations/uses plain language




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**The person-centered planning process and plan: 42 CFR 441.301(c)(1)-(2)**

- Includes **risk factors** and plans to minimize them
- Is **signed by all** individuals and providers responsible for its implementation and a copy of the plan must be provided to the individual and his/her representative
- Includes strategies for **solving disagreement**
- Conducted to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare
- Identifies the **strengths, preferences, needs** (clinical and support), and desired outcomes of the individual
- Includes individually identified **goals and preferences** related to relationships, community participation, employment, income and savings, healthcare and wellness, education and others



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**Things to consider about Person-Centered Planning:**

Can the people you work with identify other providers who deliver the services that they receive?

Do the people that you work with know how and to whom to make a request for a new provider?

Is informal (written and oral) communication conducted in a language that people understand?



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**Things to consider about Person-Centered Planning:**

Is information about filing a complaint available in an understandable format?

Are people that you work with comfortable discussing their concerns?

Do people know **WHO** to contact or the process to make an anonymous complaint?

Is there a way for people to file an anonymous complaint?

Are people able to ask for a meeting to discuss a change in their plan or services?



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**Providers Can Use the Strengths and Risk Inventory Tool to help enhance the person-centered planning process:**

**Not all risks are preventable**, but it is important to **demonstrate and document** that **thoughtful discussion** occurred and that there is agreement on appropriate **safeguards** that can mitigate risks.

Use OPWDD's optional Strengths and Risks Inventory when planning with people:  
<http://www.opwdd.ny.gov/node/5521>




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CFR 441.301 (c)(4)(vi)

**HOME AND COMMUNITY-BASED SERVICES IN PROVIDER-CONTROLLED OR OWNED RESIDENTIAL SETTINGS**




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**In Provider-Controlled Residential Settings:**

- Individuals must have legally enforceable lease/agreement
- Individuals have privacy in their living unit including:
  - Lockable doors
  - Choice of roommates
  - Freedom to furnish/decorate
- Individuals control their own schedules
- Individuals have access to food at any time
- Individuals can have visitors at any time
- Physical accessibility to the setting




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### Eviction Protection

**in Provider-Controlled Residential Settings:**

Individuals should have, at minimum, the same protections from eviction that other tenants have under landlord/tenant laws.

This right must be established by a legally enforceable agreement, such as a lease

If landlord/tenant laws do not apply, a lease, residency agreement, or other written agreement must be in place for each resident

The document must provide protections that address the eviction process and appeals



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### Privacy in Provider-Controlled Residential Settings:

- Individuals must be given **privacy** in their home.
- This right to privacy includes the ability to have **keys** to their front door and bedroom door
- Individuals should **agree** to which staff members can have a key to their bedroom
- Individuals also have the right to choose between a **private or shared** bedroom. The agency must ensure that there are options made available but the new rule does not REQUIRE the residence itself to have private rooms.
- Those individuals who do share a bedroom should be given a **choice of roommate**
- Individuals should also have the freedom to **decorate or furnish** their living space the way that they choose
- Health and other personal information should be kept **private** and not posted in general open areas for everyone to see



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### Freedom of Choice

**in Provider-Controlled Residential Settings:**

**Individuals must have freedom and support to control their own schedules and activities.**

Is there access to public transportation?	Is transportation and staffing adequate to support community access?	Is there access to information about activities occurring outside of the residence?	Is there access to radio, TV, computer, cell phone and other technology?	Are individuals able to choose their services and providers?
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## Access In Provider-Controlled Residential Settings:



**Access to Food:**  
Individuals must have access to food at any time. This includes:

- Being able to choose what foods to eat
- Having access to food storage and preparation space
- Deciding when to eat



**Physical Accessibility:**  
The residence must be physically accessible and individuals must have full access to all living spaces in the facility. This right can never be modified.



**Language Access:**  
Is information provided to individuals in plain language that individuals can understand?



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## More Rights in Provider- Controlled Residential Settings:

- **Right to Receive Visitors:** An individual has the right to receive visitors of his/her choosing at any time
- **Control of Personal Resources:** An individual has the right to have access to and decision-making abilities on what to spend his/her money on.

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## What about circumstances where a person's needs may dictate that he/she cannot safely access the HCBS Settings Rights?

Rights must not be modified outside of the person-centered planning process or without the informed consent of the person or authorized surrogate unless there is an immediate, serious and credible threat (this is a high bar).

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## Documentation Requirements if Rights Modification is Necessary—

Any modification of these rights must be supported in the Person-Centered Plan as follows:

1. Identification of the specific assessed need
2. Documentation of positive interventions and supports used prior to modification
3. Documentation of less intrusive methods tried
4. clear description of condition in direct proportion to the assessed need
5. Inclusion of regular collection/review of data to measure effectiveness of modification
6. Established timeframes for periodic review
7. Informed Consent of the person
8. Assurance that interventions/supports will cause no harm to the person




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## What if a Rights Modification for one person affects others in the home?

- Providers must do everything they can to mitigate the impact of the rights modification on others in the home.
- Providers should discuss these concerns with the person and his/her authorized surrogates (if applicable) during the person-centered planning process and
- There should be agreement on the accommodations to be made so that the person can have unrestricted access to their full rights— the person provides informed consent by signing the plan (ISP or Hab Plan)
- Documentation in the Site Specific Plan of Protective Oversight (SPOP) regarding the impact and accommodations that have been made for **other** affected individuals
- Site Specific POP is reviewed and approved by the agency Human Rights Committee or other specially constituted committee charged with reviewing and approving rights modifications.




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## HOME AND COMMUNITY-BASED SERVICES IN NON-RESIDENTIAL SETTINGS




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## Non-Residential Settings:

- Non-residential settings guidance was issued by CMS in December of 2014. HCBS Settings requirements **apply to site-based HCBS day programs** as well.
- Includes day programs like Day Habilitation and Prevocational Services.
- Does NOT prohibit facility-based or site-based settings but does require that sites provide **informed choices, access, and integration opportunities**
- Requires that the setting does not **isolate** or **segregate** individuals from the broader community
- People must have the option to be served in a setting that is **not** exclusive to only people with developmental or physical disabilities



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## Questions to Consider about Non-Residential Settings:

Are there opportunities for meaningful non-work activities in integrated community settings?	Are schedules individualized, and focus on needs, desires, and individual growth?	Is there access to information on age appropriate activities?
Is the setting among other community homes and businesses?	Are visitors encouraged?	Is there access to and training on use of public transportation?
Are there options to volunteer or work in non-disability specific community settings?	Do individuals have access to food at any time?	



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## HCBS SETTINGS REQUIREMENTS AND YOUR ROLE AS AN MSC



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## You are the key to informed choice!

It all starts with a good service plan!

You ensure that services are being delivered as *described* in the service plan

You **communicate** with service providers to make sure everybody is aware of person's wants, needs, and choices

You **follow-up** on any issues that need to be addressed

You **document** all of these efforts and make sure that service plans reflect current circumstances

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## Service Coordination and Advocacy:

- Does the person receiving services **access** the community the way that he/she wants?
- Are the person's choices **supported** by the service providers that work with him/her?
- Are individual rights to privacy **protected**?
- Does the person have enough **independence and autonomy** in making choices about what is important to him/her?
- Is the person satisfied with **where** they live and **who** they live with?
- Does the person know that they can ask you for help in making **changes** to their services?

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## Ensuring Informed Choice!

- A person has the right to live in a **non-disability specific** living arrangement
- This means that service coordinators need to educate and inform people that they work with that they have other **choices** about where they live
- Service coordinators should educate people they work with that they have the right to live in the **broader community** alongside people that do **not** have disabilities
- Service coordinators should ensure that people receiving services are **NOT isolated** from the broader community and that they have access to services and community events that are important to them
- service coordinators play a critical role in **educating and informing** people they work with that they have these **choices!**

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### Rights Modifications and the Role of the Service Coordinator

- If any changes are made to a person's rights under HCBS Settings, have you confirmed that **positive interventions** have been tried first?
- Have you ensured that this has been explained to the person and that it has been documented why he/she needs this modification to their right(s)/
- Have you checked that data is documented that justifies the **effectiveness** of the modification?
- Do you **review** the need for this modification regularly to make sure it is still necessary?
- Have you made sure that the person has provided **informed consent** for this modification?




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### Good Documentation is Critical!

Good documentation reflects that:

- Informed choice has been provided to the person
- Full access to the broader community is supported
- The person is satisfied with the services that are received
- Any modifications to the person's rights were justified
- The service plan is changed and updated based on person's wants and needs
- Information provided to the person receiving services was provided in plain language that the person understands
- **and most importantly, that the person's rights, dignity, and privacy have been protected!**




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**Over time, OPWDD will have higher expectations for programs and services to demonstrate true person-centeredness in future compliance and enforcement activities.**

**There will be OPWDD regulations**




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## HCBS Rights BEYOND Part 633.4:

dignity+respect  
=Inclusion

Thinking Differently about the  
Rights of Individuals

- The person's ability to live a life we all take for granted:
  - What we do
  - When we do things
  - How we do things
  - Who we do things with
  - Saying no or changing our minds

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## HCBS Rights BEYOND Part 633.4

Empowering & Enabling  
Individuals' Rights

- Person's right to make decisions is **consistently** reinforced in daily life:
  - Empowered to say or demonstrate what I think and want
  - Supports respond accordingly
- People are supported in:
  - Big Life Decisions
  - Everyday Life Decisions
  - Decisions that may involve risk

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## Informed Decision-Making is Critical!

Education & Experience

- Provided in a manner that is **meaningful and understandable** to the person
- Directly related** to the choice in question

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## RESOURCES AND INFORMATION




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## HCBS Settings ADM #2014-04

**Revised HCBS Settings ADM Sets Stage For:**

- ✓ Implementation of HCBS Settings Assessment Tool;
- ✓ Interpretation and Understanding of the HCBS Settings Standards; and
- ✓ OPWDD's promulgation of Future Regulations on this topic

- The ADM describes the quality principles and standards that OPWDD will be assessing beginning November 2014, based upon the needs and preferences of individuals as indicated in their person-centered service plan.
- It is expected that providers will use the ADM and OPWDD's HCBS Setting Assessment Tools and CMS guidance and Exploratory Questions to actively plan and develop proactive approaches to working towards and maintaining full compliance with the HCBS Settings federal requirements.




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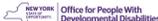
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## HCBS Settings ADM #2014-04

- The standards in the ADM specifically address:
  - the person-centered habilitation planning process;
  - delivery of person-centered HCBS funded supports and services in integrated settings;
  - promotion and support of informed choice and rights; and,
  - standards applicable to the **nature and experience** of each person's living situation.




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## HCBS Settings ADM #2014-04:

See OPWDD Administrative Memorandum #2014-04, "HCBS Settings Preliminary Transition Plan Implementation"

[http://www.opwdd.ny.gov/opwdd\\_regulations\\_guidance/adm\\_memoranda](http://www.opwdd.ny.gov/opwdd_regulations_guidance/adm_memoranda)




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## Where to Get More Information?

OPWDD Public Announcement and Transition Plan:  
[http://www.opwdd.ny.gov/opwdd\\_services\\_supports/HCBS/announcement-for-public-content](http://www.opwdd.ny.gov/opwdd_services_supports/HCBS/announcement-for-public-content)

OPWDD HCBS Settings Toolkit:  
[http://www.opwdd.ny.gov/opwdd\\_services\\_supports/HCBS/hcbs-settings-toolkit](http://www.opwdd.ny.gov/opwdd_services_supports/HCBS/hcbs-settings-toolkit)

CMS Toolkit:  
[http://www.opwdd.ny.gov/opwdd\\_services\\_supports/HCBS/CMS\\_Information\\_on\\_HCBS\\_Settings](http://www.opwdd.ny.gov/opwdd_services_supports/HCBS/CMS_Information_on_HCBS_Settings)

The original regulation can be found at the Electronic Code of Federal Regulations: <http://www.ecfr.gov>




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## More information:

**The Strengths and Risk Inventory Tool**  
 and other valuable person-centered  
 planning materials are available at:

[http://www.opwdd.ny.gov/opwdd\\_services\\_supports/person\\_centered\\_planning/other-resources](http://www.opwdd.ny.gov/opwdd_services_supports/person_centered_planning/other-resources)




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Also Check out Resources on OPWDD's Person-Centered Planning Website!

[http://www.opwdd.ny.gov/opwdd\\_services\\_supports/person\\_centered\\_planning](http://www.opwdd.ny.gov/opwdd_services_supports/person_centered_planning)



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### Questions or Comments?

We want your feedback!  
E-mail: [quality@opwdd.ny.gov](mailto:quality@opwdd.ny.gov)



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### MSC Supervisors Conference Schedule

June 10, 2015  
September 9, 2015  
December 9, 2015

Registration is now open for upcoming videoconferences or webinars at the following link:

[http://www3.opwdd.ny.gov/wp/wp\\_catalogc1310.jsp](http://www3.opwdd.ny.gov/wp/wp_catalogc1310.jsp)



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## Thank You

An evaluation has been included in your conference materials. Your feedback is greatly appreciated. Please complete and return your evaluation to:

[Angie.x.Francis@opwdd.ny.gov](mailto:Angie.x.Francis@opwdd.ny.gov)



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# OPWDD REGIONAL OFFICE REQUEST FOR SERVICE AMENDMENT

To be submitted by the Service Coordinator (SC) for those individuals not required to go through the Front Door. Please refer to last page of this document for information about those services that *do not* require submission of this form.

*\*This form was designed to be completed electronically. To request a digital copy, please contact your DDRO\**

➤ Reason for Submitting this Form:  Requesting New Service  Requesting an Increase in Service Amount  Change in Provider

**I. APPLICANT INFORMATION**

NAME:	DOB:	TABS ID#:
ADDRESS:	COUNTY:	MEDICAID #:
		TELEPHONE #:
CURRENT LIVING SITUATION:		
CONTACT PERSON:		RELATIONSHIP:
ADDRESS: <i>(if different than applicant)</i>		TELEPHONE #:

II.

NAME OF SERVICE COORDINATOR COMPLETING FORM:		DATE:
EMAIL ADDRESS:		TELEPHONE:
AGENCY:	ADDRESS:	
BROKER NAME : <i>(if applicable)</i>	EMAIL:	

III. DEVELOPMENTAL DISABILITY/DIAGNOSES: \_\_\_\_\_  
Describe Ambulation Status: \_\_\_\_\_

IV. ISPM Overall Score: \_\_\_\_\_ Date of DDP2: \_\_\_\_\_  
Domain Scores: Health \_\_\_\_\_ Behavioral \_\_\_\_\_ Adaptive \_\_\_\_\_

V. **CURRENT SERVICES:** List all supports currently received through both OPWDD and generic service providers. Include agency and frequency/amount of service.

Service Type	Frequency/Amount of Service (Units/Year)	Agency Name/OPWDD

Does individual attend a school program?  Yes  No Specify: \_\_\_\_\_

Projected age out or graduation date: \_\_\_\_\_

VI. **SERVICES REQUESTED:** (Check all that apply)

A. COMMUNITY HABILITATION:  Self-Hire (PRA and FI required)  Agency Supported Self-Directed  Direct Provider-Purchased

➤ Requested # units\* annually: \_\_\_\_\_ Agency Name: \_\_\_\_\_

(\*1 unit = 15 minutes. Example: 6 hours/week = 1248 units/year)

Agency Contact Person: \_\_\_\_\_ Email Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

➤ Proposed start date: \_\_\_\_\_

➤ Justification for service/goals: \_\_\_\_\_

➤ If agency directed, reason individual or family cannot self-direct: \_\_\_\_\_

➤ Is the individual 12 years of age or younger?  Yes  No If yes, explain individual's need for habilitation: \_\_\_\_\_

➤ Has new provider agency agreed to provide the service on the requested start date?  Yes  No

**B. COMMUNITY PRE-VOCATIONAL:**

- Requested # units\* annually: \_\_\_\_\_ Provider Agency Name: \_\_\_\_\_  
(\*1 unit = minimum of 4 hours or more per day / ½ unit = minimum of 2 hours or more per day. E.g. 5 units per week = up to 215 annually)
- Agency Contact Person: \_\_\_\_\_ Email Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_
- Pre-Vocational Setting(s): \_\_\_\_\_
- Proposed start date: \_\_\_\_\_
- Justification for service/goals: \_\_\_\_\_
- Has new provider agency agreed to provide the service on the requested start date?  Yes  No

**C. COMMUNITY TRANSITION SERVICES (Fiscal Intermediary required, 1 time expenditure, up to \$3000 – please submit required documentation)**

**D. DAY HABILITATION:**

- Day Habilitation Without Walls  Site-Based  Supplemental Group Day Habilitation

Confirm that a conversation has occurred with individual/family which explores less restrictive, more integrated day options have been discussed, reviewed, and considered.

- Requested # units\* annually: \_\_\_\_\_ Provider Agency Name: \_\_\_\_\_  
(\*1 unit = minimum of 4 hours or more per day / ½ unit = minimum of 2 hours or more per day. E.g. 5 units per week = up to 215 annually)
- Agency Contact Person: \_\_\_\_\_ Email Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_
- Proposed start date: \_\_\_\_\_
- Justification for service/goals: \_\_\_\_\_
- Has new provider agency agreed to provide the service on the requested start date?  Yes  No

**E. FAMILY EDUCATION TRAINING (FET):**

- Proposed start date:
- Justification for service/goals:

**F. INTENSIVE BEHAVIORAL (IB) SERVICES (along with this form, submit the application):**

*Note: The DDRO will verify that the DDP2 has been completed within the past 6 months and update as necessary. The DDRO will also complete a Child, Adolescent, and Adults Needs and Strengths Developmental Disabilities Tool (CAANS-DD) to determine the service needs of the individual.*

**G. PATHWAY TO EMPLOYMENT:**

- Provider Agency Name: \_\_\_\_\_ Agency Contact Person: \_\_\_\_\_
- Contact Phone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_
- Proposed start date: \_\_\_\_\_
- Has the individual been in Pathway to Employment previously?  Yes  No
- Has new provider agency agreed to provide the service on the requested start date?  Yes  No
- Justification for service/goals: \_\_\_\_\_

**H. SELF-DIRECTED BUDGET AUTHORITY (Budget must be developed, falls within PRA): *check all that apply***

*Note: The Service Amendment Process must be followed when individuals (self-directing their services) have identified a changed need level and request a new DDP2 assessment to change their PRA, and/or request to add a new service within their self-directed plan. This includes adding a different type of a particular service to the Budget (e.g. an individual has agency-purchased community habilitation and wants to add agency-supported [employer authority] community habilitation). **All participants and/or their family interested in self-direction are expected to attend a required two-hour self-direction orientation. Please contact the self-direction liaison at the regional office for orientation session dates/times.***

**Fiscal Intermediary (FI)**

- FI Provider Agency Name: \_\_\_\_\_

**Individual-Directed Goods and Services (FI required)**

- Justification for service/goals: \_\_\_\_\_
- Proposed start date: \_\_\_\_\_

**Live in Caregiver (FI required)**

- Justification for service/goals: \_\_\_\_\_
- Proposed start date: \_\_\_\_\_

**Brokerage (FI Required):**

- Justification for service/goals: \_\_\_\_\_
- Proposed start date: \_\_\_\_\_
- Has a broker agreed to provide the service on the requested start date?  Yes  No

**I. SUPPORTED EMPLOYMENT (HCBS Waiver SEMP):**  Self-Hired Staff (PRA and FI required)  Agency Supported Self-Directed  
 Direct Provider Purchased

**Has the individual participated in ACCES-VR funded Supported Employment services?**  Yes  No

**IF YES (check which applies):**

- Individual is participating in ACCES-VR Intensive Services. Projected date of transition from ACCES-VR: \_\_\_\_\_
- Is individual currently employed?  Yes  No  
Projected SEMP services enrollment date: \_\_\_\_\_

**IF No (check which applies):**

- The individual has completed Pathway to Employment services, was denied from ACCES-VR, and the Pathway Discovery report recommends OPWDD SEMP. Projected SEMP services enrollment date: \_\_\_\_\_

**Has the individual participated or anticipates participating in the Employment Training Program (ETP)?**  Yes  No

**IF YES (check which applies):**

- The individual has completed the ETP application and is approved to start ETP.  
Projected SEMP services enrollment date: \_\_\_\_\_
- The individual has successfully completed ETP and is transitioning to SEMP services.  
Projected SEMP services enrollment date: \_\_\_\_\_

Identified SEMP provider for above services: \_\_\_\_\_

Justification for service/goals: \_\_\_\_\_

**J. WAIVER RESPITE:**

**HOURLY RESPITE:**  Self-Hired Staff (PRA and FI required)  Agency Supported Self-Directed  Direct Provider Purchased

- Requested # units\* annually: \_\_\_\_\_ Agency Name: \_\_\_\_\_  
(\*1 unit = 15 minutes. Example: 6 hours/week = 1248 units/year)  
Agency Contact Person: \_\_\_\_\_ Email Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_
- Proposed start date: \_\_\_\_\_
- Justification for service/goals: \_\_\_\_\_

**FREE STANDING RESPITE** Site Name: \_\_\_\_\_

- Requested # units\* annually: \_\_\_\_\_ Agency Name: \_\_\_\_\_  
(\*1 unit = 15 minutes. Example: 6 hours/week = 1248 units/year)
- Agency Contact Person: \_\_\_\_\_ Email Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_
- Justification for service/goals: \_\_\_\_\_

**Signature Section**

Service Coordinator Signature	Date:
Service Coordinator Supervisor Signature	Date:

*TO BE COMPLETED BY DDRO*

- Requests must be emailed via SECURE mail to:
- Requests must be submitted via CHOICES followed by a notification to the DDRO

**INDIVIDUALS REQUESTING A SERVICE AMENDMENT:**

→ **SERVICES FOR WHICH COMPLETING A REQUEST FOR SERVICE AMENDMENT FORM IS NOT REQUIRED** ←

Please see instructions below regarding gaining access to these services

SERVICE TYPE	INSTRUCTIONS
CERTIFIED RESIDENTIAL SERVICES	Follow Vacancy Management Protocol, contact your Regional Office for assistance.
ENVIRONMENTAL MODIFICATIONS (EMODS) AND/OR ADAPTIVE TECHNOLOGY	Follow the established application process, submitting all required application materials to the DDRO.
<b>EXISTING SELF-DIRECTED PLAN: REQUEST FOR A CHANGE TO AN EXISTING SERVICE WITHIN PRA</b>	The Service Amendment process is not required for those making a change to an existing service that is in their Self-Direction Budget and within their PRA. For example, increasing wages for self-hired staff within the individual's PRA or making cost neutral changes to categories within the Individual Directed Goods and Services (IDGS).
FAMILY SUPPORT SERVICES (FSS)/NON-WAIVER SERVICES	Respite Reimbursement, Family Reimbursement, Recreation, Service Access Assistance, Educational Advocacy. Individual/family works directly with provider agency and FSS liaison at the DDRO to apply for available services. When Service Coordinator is in place, the SC will help to facilitate this process between the provider agency and the FSS liaison.
HOME OF YOUR OWN (HOYO)	For more information, contact DDRO
INDIVIDUAL SUPPORTS AND SERVICES (ISS)	Please contact ISS providers directly. If unable to locate an ISS provider agency with available funding, please contact your DDRO ISS liaison for assistance.
NON-WAIVER SEMP	Non-waiver SEMP is part of an approved contract. Providers must send requests for exception directly to the DDRO.
MSC OR PCSS	Follow established protocol including submission of the MSC1 application and Ongoing and Comprehensive form for MSC enrollment. The MSC3 and DDP1 is required for PCSS enrollment.

**INDIVIDUALS WHO SHOULD ACCESS SERVICES THROUGH THE FRONT DOOR PROCESS  
(AND SHOULD NOT USE THE SERVICE AMENDMENT PROCESS OR THIS FORM)**

**Front Door Processes apply to people in the following categories:**

- OPWDD eligibility has not been established
- An eligible person not receiving Service Coordination (SC) or Plan of Care Support Services (PCSS) and is now requesting SC or PCSS
- An eligible person receiving Service Coordination or Plan of Care Support Services (PCSS) but not receiving other services and is now requesting a service (and individual has had a break in waiver services for 1 year or more)
- An eligible person not receiving any HCBS Waiver services and is now requesting HCBS services
- Young adults transitioning from public or residential schools either into the OPWDD system for the first time or requesting a new HCBS waiver service as a result of transition
- Individuals transitioning into the community from Developmental Centers (DCs) or other specialized settings

**Evaluation Form Findings  
March 11, 2015 MSC Supervisors Conference**

**Please check a rating for each statement:**

**I attended the webinar \_\_\_\_\_ I attended the video conference \_\_\_\_\_**

- 1. The session materials helped me to understand the subject matter.**  
Strongly Agree   Agree   Neutral   Disagree   Strongly Disagree
- 2. The session content increased my understanding of the subject matter.**  
Strongly Agree   Agree   Neutral   Disagree   Strongly Disagree
- 3. The subject matter will be useful to me in my job.**  
Strongly Agree   Agree   Neutral   Disagree   Strongly Disagree
- 4. The presenter was knowledgeable about the subject matter.**  
Strongly Agree   Agree   Neutral   Disagree   Strongly Disagree
- 5. The presentation style contributed positively to the program.**  
Strongly Agree   Agree   Neutral   Disagree   Strongly Disagree
- 6. The length of the session was appropriate.**  
Strongly Agree   Agree   Neutral   Disagree   Strongly Disagree

**What were the positive points of this presentation?**

**What improvements could be made to this presentation?**

**Recommendations for future topics:**

Name (optional) \_\_\_\_\_  
Title \_\_\_\_\_  
Location \_\_\_\_\_

**Thank you for your feedback!**

Please return this evaluation to Angie Francis via email by **March 25, 2015** to: [angie.x.francis@opwdd.ny.gov](mailto:angie.x.francis@opwdd.ny.gov)