



**ADMINISTRATIVE DIRECTIVE**

<b>Transmittal:</b>	ADM-2016-01
<b>To:</b>	Executive Directors of Voluntary Provider Agencies Developmental Disabilities Regional Office Directors State Operations Office Directors Medicaid Service Coordinators and MSC Supervisors
<b>Issuing OPWDD Office:</b>	Division of Person-Centered Supports (Employment Unit)
<b>Date:</b>	March 10, 2016
<b>Subject:</b>	Supported Employment (SEMP)
<b>Suggested Distribution:</b>	Providers Quality Improvement Staff Medicaid Service Coordinators (MSCs) and Supervisors Regional Office Front Door Staff Central Office Leadership Team Regional Office Front Door Staff Administrative Staff of SEMP
<b>Contact:</b>	Ceylane Meyers-Ruff, Division of Person-Centered Supports
<b>Attachments:</b>	None

<b>Related ADMs</b>	<b>Releases Cancelled</b>	<b>Regulatory Authority</b>	<b>MHL &amp; Other Statutory Authority</b>	<b>Records Retention</b>
ADM-2015-8 ADM-2012-01	ADM-2015-08	14 NYCRR Part 635	MHL §§ 13.07, 13.09, and 16.00	6 Years from Date of Service: 18 NYCRR 504.3(a)

## **Purpose:**

Supported Employment (SEMP) services provide supports for individuals with developmental disabilities to obtain and maintain competitive employment. SEMP services have been redesigned to include new service delivery, documentation, and staff training requirements, as well as a new fee structure for provider reimbursement.

The requirements specified herein apply to SEMP services delivered to individuals who are enrolled in the Medicaid Home and Community Based Services (HCBS) waiver and to non-waiver enrolled individuals. Individuals receiving SEMP services must have expressed an interest in competitive employment or self-employment and have competitive employment or self-employment identified as a valued outcome in their Individualized Service Plans (ISPs).

In addition to the claim documentation requirements identified in this ADM, SEMP providers must continue to comply with applicable OPWDD regulations and quality standards in Administrative Memorandum #2012-01.

## **Background:**

OPWDD amended regulations at 14 NYCRR Part 635 pertaining to the SEMP services effective July 1, 2015.

## **Supported Employment Services:**

SEMP is a person-centered employment planning and support service that provides assistance for an individual to obtain, maintain, or advance in self-employment or in competitive, integrated employment in the general workforce, for which the individual is compensated at or above the minimum wage. The goal of SEMP service is sustained, paid, integrated employment at or above the minimum wage in the general workforce, in a job that meets the individual's personal and career goals.

SEMP may be delivered in an Intensive Phase or Extended Phase and may be provided to a single individual or a group of two to eight (2-8) individuals.

### Minimum Wage Requirement

Individuals enrolled in SEMP who are earning a wage must be compensated at or above the minimum wage. **The SEMP service provider must obtain documentation when an individual is initially hired by an employer (and when the minimum wage is increased) that verifies that the salary earned is at least minimum wage.**

Verification may take the form of a pay stub, payroll record, hiring letter, other documentation from an employer that identifies an individual's wage, or documentation from the Department of Labor or New York Employment Services System identifying the individual's wage. This verification need not be updated once a service provider has it

on file, unless the minimum wage increases. If an individual obtains a new job, the service provider is required to obtain verification that the salary for the new job is at least minimum wage.

The minimum wage requirement is not applicable to individuals who are pursuing self-employment. Wages earned in self-employment may be below the State or federal minimum wage in accordance with Department of Labor guidelines. Wage verification for individuals who are self-employed may include documentation from the Internal Revenue Service (IRS), a tax return, business financial statements, or other documentation that demonstrates that the individual is self-employed.

### Intensive SEMP Services

Intensive SEMP services include intensive job development and/or intensive job coaching services.

#### Eligibility:

The provider is required to obtain prior approval of an individual's eligibility to receive Intensive SEMP services. An individual is eligible for Intensive SEMP if he or she has expressed an interest in competitive employment; competitive employment has been identified as a goal in his or her individualized service plan (ISP); he or she is not employed or has been employed for less than 365 days and Intensive SEMP is needed in order to obtain employment, become stabilized in employment or achieve employment goals identified in the ISP.

#### Reimbursement:

Additionally, the provider is required to obtain prior approval before billing for an eligible individual's receipt of Intensive SEMP services. A provider can only bill for Intensive SEMP services if a request has been approved by OPWDD's Central Office Employment Unit.

Approval of requests to bill for Intensive SEMP services will be based on a review of an individual's previous participation in pre-employment activities, work history, volunteer experiences, and employment related discovery activities. The request must be submitted in a format prescribed by OPWDD's Central Office Employment Unit. The request must include justification of the individual's need for Intensive SEMP services and describe how Intensive SEMP services will assist the individual in obtaining employment. **The service provider must maintain documentation of OPWDD's approval to bill for Intensive SEMP services.**

Intensive SEMP services are limited to 365 days from the date of enrollment or 250 hours, whichever comes first, after which time the service provider must stop billing for Intensive SEMP services, unless additional hours have been approved by OPWDD's

Central Office Employment Unit. The service provider may deliver and bill for Extended SEMP services if the individual is employed at the conclusion of the Intensive SEMP services.

### Extended SEMP Services

Extended SEMP services include ongoing job coaching and career development services. Extended SEMP services are limited to 200 hours annually unless additional hours have been authorized by OPWDD's Central Office Employment Unit.

#### Eligibility:

An individual is eligible for Extended SEMP if he or she has expressed an interest in competitive employment; competitive employment has been identified as a goal in his or her individualized service plan (ISP); he or she is employed in the general workforce, in an integrated workplace; he or she is earning at least minimum wage, and Extended SEMP is needed to maintain employment or achieve employment goals identified in the ISP.

#### Unemployment:

If an individual receiving Extended SEMP services becomes unemployed, the service provider may continue to provide Extended SEMP services for 45 days from the date the job was terminated. During the 45-day period, the service provider may use Extended SEMP services to assist the individual in obtaining a new job. During the 45-day period, the service provider also has the option of submitting a request to OPWDD's Central Office Employment Unit for the individual to receive Intensive SEMP services or submitting a request to the State Education Department for the individual to receive ACCES-VR services. If the individual remains unemployed after 45 days, the service provider must stop billing for Extended SEMP services.

### Extensions of Intensive or Extended SEMP Services

A service provider may submit a written request to OPWDD's Central Office Employment Unit for an extension of services beyond the limits on days and hours of Intensive or Extended SEMP services identified in this memorandum. In the event that an extension(s) is authorized by OPWDD's Central Office Employment Unit, the extension must not exceed an additional 250 hours of Intensive SEMP services or 200 hours of Extended SEMP services in any one request. Multiple extensions can be requested by a service provider. Extensions expire within 365 days of approval at which time a new request can be submitted to OPWDD, if needed. Approval of extensions will be based on an individual's need for additional hours and the type of employment supports needed to assist the individual in successfully obtaining or maintaining employment. **The service provider must maintain documentation of the OPWDD**

## **Central Office Employment Unit's approval of an extension of Intensive or Extended SEMP service hours.**

### Group and Individual Billing

SEMP services provided to 2-8 individuals at the same time must be billed at the group fee. SEMP services provided to individuals employed on a mobile work crew or enclave are considered to be group employment services and must be billed at the group fee.

If more than one individual is employed at a work location, but none of the individuals are working as part of a group (mobile work crew or enclave), SEMP services are considered individual services and the service provider must use the individual billing fee.

### Billing for SEMP Services Delivered Without the Individual Present

Some SEMP services may be delivered on behalf of an individual who is not actually present at the time of service delivery. Such services include: discussions with families about transportation to a job or benefits planning, meetings with businesses about hiring an individual, development of the SEMP Service Delivery Plan (also known as the Habilitation Plan), documentation of the delivery of SEMP services, travel to a job site to provide coaching services, etc. These services may be delivered and billed for during times when an individual may also be receiving another OPWDD service. This is not considered double billing because the individual is receiving two separate services.

### Billing for Transportation (Staff Travel Time)

Transportation (staff travel time) is an allowable billable service in the Intensive and Extended phases of SEMP. Allowable travel time includes time that a job coach, job developer, employment specialist, or other staff with a similar job title travels during the day, evening, or weekend to job sites to provide SEMP services; meetings with potential and current employers, conducting vocational assessments; attending OPWDD Innovations trainings designed to enhance the quality of SEMP services, and providing other billable SEMP activities. Travel may be with or without the individual receiving SEMP services. Travel time that occurs during work hours when staff is being paid by a service provider is billable. Travel time should be billed to either an individual or group activity with specific SEMP participants identified. SEMP services provided during the evening or weekends are considered work day services.

Travel time to OPWDD's Innovations Trainings is billable as long as the staff is being paid by the service provider during the time of the travel. Such travel must be billed using the group fee for up to five individuals. Even if the staff has a larger caseload, billing is limited to a maximum of five individuals. If more than one staff travel to an

OPWDD Innovations Training, each staff person can bill using the group fee for travel time (up to five individuals), but they cannot bill for the same individuals.

Staff travel to non-billable activities, such as travel to lunch or a destination where SEMP services are not being provided, is not considered allowable travel time.

### Billing for Meetings

Time spent attending meetings with an individual or on behalf of an individual receiving SEMP services is billable. If multiple staff attend a meeting, the billing may be split between the multiple staff or billed to only one staff person.

### Other Allowable Activities

14 NYCRR subpart 635-10.4(j) lists allowable activities including “other activities previously approved by OPWDD.” Service provider paid staff time spent participating in OPWDD’s Innovations in Employment Supports Trainings can be billed as “other activities”.

Such staff time must be billed using the group fee for up to five individuals. Even if the staff has a larger caseload, billing is limited to a maximum of five individuals. If more than one staff person participates in the Innovations Trainings, each staff person can bill for up to five individuals, but they cannot bill for the same individuals.

### Self-Employment

SEMP may include services and supports to assist an individual to achieve self-employment, including home-based self-employment. A service provider may assist an individual in identifying potential business opportunities, developing a business plan, identifying community resources that could assist the individual in operating a business, and providing ongoing supports and assistance, as needed once the business has been created. The service provider is prohibited from staffing the business and purchasing supplies or equipment for the business.

## Staff Training Requirement

Effective July 1, 2015, SEMP staff, supervisors and directors must participate in OPWDD's Innovations in Employment Supports Trainings as required below. **The service provider must maintain documentation of such training.**

Staff who are hired **on or after July 1, 2015**, to provide SEMP services must complete 24 hours of OPWDD's Innovations in Employment Supports Trainings within 12 months of being hired as a job coach, job developer, employment specialist, or a related employment or vocational rehabilitation job title.

Staff who provided SEMP services **prior to July 1, 2015**, but who have not completed 24 hours of OPWDD's Innovations in Employment Supports Trainings must complete 24 hours of training by June 30, 2017.

Effective July 1, 2017 SEMP staff, supervisors, and directors must obtain at least six hours of continuing education in SEMP on an annual basis by participating in OPWDD's Innovations in Employment Supports Trainings. **The service provider must maintain documentation that annual continuing education requirements are met.**

## Self-Directed SEMP

Self-Directed SEMP may be agency supported or self-hired. If Self-Directed SEMP services are agency supported, service providers must adhere to OPWDD and Department of Health regulations related to SEMP staff salaries, staff training requirements and allowable SEMP services.

If Self-Directed SEMP services are self-hired, service providers must adhere to OPWDD SEMP training requirements and provide SEMP allowable services; however, the wages of SEMP staff are determined by the individual receiving SEMP services who has budget authority.

## Billing Standards/ Restrictions on Billable Service Time:

The unit of service for SEMP is an hour. Services are billed in 15-minute increments (units), with a full 15 minutes of service required to bill a single increment (i.e., there is no "rounding up"). When there is a break in service delivery during a single day, the service provider must combine, for billing purposes, the durations of the continuous periods/sessions of each specific type of service provision for billing purposes (e.g., the durations of each individual session within a day must be combined, but a combination of individual and group sessions provided in the same day must not be combined).

**Example 1-** From 10:00am to 10:10am, a job developer meets with a potential employer about hiring an individual receiving Intensive SEMP services. Since there is no rounding up the service provider would not be able to bill for the 10 minutes.

However, if later in the same day SEMP staff meet with the individual and his or her family from 1:15pm to 1:50pm to discuss benefits planning, the service provider would document on a checklist the multiple services provided during that day and bill for a combined time of 45 minutes (3 units) at the individual fee.

**Example 2-** If three (3) individuals received a SEMP service (e.g., travel training) in a group from 9:00am to 9:30am and then individually received another SEMP service (e.g., job coaching) for one hour, the service provider would bill as follows: For the 30 minute session, the service provider would bill for each person at the group fee. For the 1 hour session, the service provider would bill for each person at the individual fee. The service provider cannot combine the 30 minute session and 1 hour session because the staff to individual ratios differed and there are separate billing codes for individual and group services.

**Example 3-** Three individuals are employed at a supermarket. Sometimes they work the same shift. Sometimes they share a job coach. The first individual is a cashier, the second individual bags groceries and the third individual stocks the shelves. Each of these jobs is an individual job placement. The service provider must bill using the individual fee.

**Example 4-** An individual is employed at a clothing store that is also a location for community prevocational services. The service provider would like to assign one staff person to support both the individual receiving SEMP services and the individual engaged in community prevocational activities. One staff person can bill for both SEMP and Community Prevocational Services, but not at the same time. If the SEMP related job coaching is provided from 10am-11am, prevocational services cannot be billed for the same time period. Separate documentation must be maintained for the SEMP and Prevocational Services.

**Example 5-** An individual receives day habilitation services on Mondays and Wednesdays and is employed at a movie theater on Tuesdays, Thursdays and Fridays. The job coach has a 30 minute meeting with the supervisor at the movie theater on a Monday to discuss new job responsibilities for the individual. The service provider may bill for SEMP services for the 30 minute meeting, even though the individual was not present when the service was delivered and even though the individual was receiving another OPWDD service at the time that SEMP service was delivered on the individual's behalf.

## **Service Documentation:**

The acceptable format for the service documentation supporting a provider's billing for SEMP services includes a Checklist and Monthly Summary.

For each service session, a provider must document the SEMP services delivered using, at a minimum, the checklist prescribed by OPWDD or a checklist with all of the elements required by OPWDD.

### **Checklist**

Required service documentation elements for the checklist are as follows:

- 1. Individual's name and Medicaid number (CIN).**
- 2. Name of the agency providing the Supported Employment (SEMP) service.**
- 3. Identification of the category of waiver service provided.** (i.e., Supported Employment or SEMP service).
- 4. Documentation of start and stop times.** Document the service start time and service stop time for each continuous period of service provision.
- 5. The ratio of individual(s) to staff.** (i.e., individual or: group).
- 6. Description of services.** Each documented session must list **at least one allowable service** delivered in accordance with the individual's SEMP Service Delivery Plan. The location of the service does not need to be documented.
- 7. The date the service was provided.**
- 8. Verification of service provision by the staff person delivering the service.** Initials are permitted if a "key" is provided which identifies the title, signature, and full name associated with the staff initials.
- 9. Signature of the Supported Employment staff person documenting the service and date the service was documented (or initials as referenced in item #8).**

## Monthly Summary

A narrative monthly summary note must include a summary of the following:

1. The implementation of the individual's SEMP Habilitation Plan for the month;
2. A description of the individual's vocational progress;
3. A description of some of the actions of staff to address vocational challenges;
4. A description of the individual's response; and
5. Any issues or concerns.

The narrative monthly summary note must be completed, signed, and dated no later than the 30<sup>th</sup> day after the month of service.

### **Other Documentation Requirements:**

In addition to the checklist and monthly summary supporting the SEMP service billing claim, the agency providing SEMP services must maintain the following documentation:

1. A copy of the individual's **ISP**, developed by the individual's Medicaid Service Coordinator (MSC) or Plan of Care Support Services (PCSS) Coordinator. For SEMP services, the following elements must be included in the ISP:
  - a) Identification of competitive employment or self-employment as a valued outcome.
  - b) Identification of SEMP as the service category of waiver service.
  - c) Identification of the agency providing SEMP services.
  - d) Specification of an effective date for SEMP services that is on or before the first date of service for which the agency bills SEMP services for the individual.
  - e) Specification of the frequency for SEMP services as "hour" or "hourly."
  - f) Specification of the duration for SEMP services is "ongoing as authorized". The service provider must not annually bill for more than 250 hours of Intensive SEMP within 365 days or 200 hours of Extended SEMP within 365 days unless an extension of days and/or additional hours have been granted by OPWDD's Central Office Employment Unit.

2. The **SEMP Service Delivery Plan (Habilitation Plan)** developed by the agency providing SEMP services must conform to the Habilitation Plan requirements found in Administrative Memorandum #2012-01.

- a) For SEMP services, the Service Delivery Plan should clearly identify that the habilitation plan is for SEMP services (i.e., titled “SEMP Service Delivery Plan or SEMP Habilitation Plan”).
- b) The Service Delivery Plan should list all the allowable SEMP services as stated in the regulations in addition to all the Habilitation Plan requirements found in Administrative Memorandum #2010-01
- c) There is no need to identify whether an individual receives Intensive or Extended SEMP.
- d) The SEMP Service Delivery Plan must “cover” the time period of the SEMP claim.

#### **Records Retention:**

New York State regulations require each Medicaid provider to prepare records to demonstrate its right to receive Medicaid payment for a service. These records must be “contemporaneous” and kept for six years from the date the service was provided. 18 NYCRR 504.3(a).

All documentation specified above, including the ISP, SEMP Service Delivery Plan, and service documentation must be retained for a period of at least six years from the date the service was delivered or when the service was billed, whichever is later.

During this period of time, the service period should also retain documentation of ACCES-VR (Adult Career and Continuing Education Services-Vocational Rehabilitation) dates of closure, referral and recommendation of OPWDD services if ACCES-VR services were utilized. The service provider must maintain documentation that there is no funding available for the individual’s SEMP services from the ACCESS-VR.

For additional information on the documentation requirements contact the OPWDD Office of Employment & Meaningful Community Activities at (518) 473-9697.