

## ADMINISTRATIVE MEMORANDUM

<b>Transmittal:</b>	19-ADM-05
<b>To:</b>	Executive Directors of Voluntary Provider Agencies Developmental Disabilities Regional Office and State Operations Office Directors Care Managers and Care Coordination Organizations (CCO) CEOs
<b>Issuing OPWDD Office:</b>	Division of Service Delivery
<b>Date:</b>	July 1, 2019
<b>Subject:</b>	Authorization Standards for Support Brokers
<b>Suggested Distribution:</b>	OPWDD Providers Quality Improvement Staff Care Managers Support Brokers Regional Office Front Door Staff Regional Office Self-Direction Staff Central Office Leadership Team
<b>Contact:</b>	Self-Direction Unit Self.direction.redesign@opwdd.ny.gov
<b>Attachments:</b>	

Related ADMs/INFs	Releases Cancelled	Regulatory Authority	MHL & Other Statutory Authority	Records Retention
#2019-06 #2015-06			MHL §§13.07; 13.09; 13.15	18 NYCRR 504.3(a)

**Purpose:**

This Administrative Memorandum describes the Support Broker Authorization standards required to meet billing, programmatic, and documentary requirements referenced in ADM-#2019-06. Support Brokerage services are available for Home and Community-Based Services (HCBS) Waiver authorized participants who self-direct their services. Participants self-directing their services receive an individualized budget that they direct pursuant to an approved plan.

**Background:**

Self-Directed services provide individuals with the greatest level of control over the services and supports they receive. With Self-Direction, there are a wide array of potential options, each with specific rules and regulations associated. Individuals participating in Self-Direction employ Support Brokers for the important purpose of providing guidance and support.

Effective August 1, 2019, Support Brokers (“Brokers”) who demonstrate that they meet OPWDD training requirements will be listed in a centralized authorization record and recognized as “Authorized”. While authorization demonstrates the Broker’s adherence to OPWDD standards, it does not demonstrate adherence to background check and other billing standards. Prior to August 1, 2019, inclusion on an approved broker list maintained at an OPWDD DDRO is sufficient to meet authorization requirements referenced in this ADM.

Unless revoked by OPWDD, or surrendered by the Broker, a Broker’s authorization is active from the effective date of the authorization until the following July 31. As of 12:00 AM August 1st, the Broker’s authorization becomes inactive unless they are successfully authorized utilizing a method established by OPWDD and available online at [https://opwdd.ny.gov/providers\\_staff/info-for-providers/support\\_broker\\_authorization\\_list](https://opwdd.ny.gov/providers_staff/info-for-providers/support_broker_authorization_list). The authorization lasts for a one-year period, extending from 12:00 AM, August 1 through 11:59 pm on the following July 31.

**Initial Authorization Standards:**

To meet Initial Training Standards for Support Brokers, a prospective Broker must complete an OPWDD approved curriculum utilizing trainers, or a training method, approved by OPWDD.

The Initial Training Standards for Support Brokers includes four separate trainings:

- Self-Advocacy/Self-Determination;
- Introduction and Advanced Person-Centered Planning;
- Broker Training Institute; and
- Developing a Self-Direction Budget.

If a training has a testing element, the Broker must pass the test and receive a score above the minimum acceptable result established by OPWDD. Additionally, if a training has multiple modules, components, or subordinate elements, the training is not complete until the prospective Broker completes all elements. Prior to their initial authorization, Support Brokers must demonstrate that they have met the Initial Training Standards for Support Brokers, utilizing a process established by OPWDD (available at: [https://opwdd.ny.gov/providers\\_staff/info-for-providers/support\\_broker\\_authorization\\_list](https://opwdd.ny.gov/providers_staff/info-for-providers/support_broker_authorization_list)).

OPWDD may revise the required trainings to meet the needs of individuals who Self-Direct their services. In the event of a change to the curriculum, OPWDD may determine that a training module is no longer relevant, therefore rendering it obsolete. To receive credit toward authorization, a prospective Broker must have completed an approved version of the training.

The prospective Broker must submit documentation demonstrating completion of training, in a form and format approved by OPWDD (available at: [https://opwdd.ny.gov/providers\\_staff/info-for-providers/support\\_broker\\_authorization\\_list](https://opwdd.ny.gov/providers_staff/info-for-providers/support_broker_authorization_list)). Upon receipt of this documentation, OPWDD will add the Broker to a centralized authorization record, acknowledge receipt of documentation, and provide the Broker with his/her Authorization Number utilizing the e-mail and/or physical address provided by the prospective Broker. The effective date of the authorization is the first date that the Support Broker is eligible to provide billable Support Broker services.

A prospective Broker's authorization is dependent upon his/her eligibility to provide services and (s)he must meet all the standards for providing services to an individual as established by Federal or New York State law or regulation. If an authorized Broker does not meet Federal or State standards, the Federal and State standards supersede authorization, rendering the Broker ineligible to provide services.

### **Support Brokers Approved as of July 31, 2019:**

As of July 31, 2019, any person who is on an Active Broker list maintained at an OPWDD DDRO will be eligible for inclusion on the centralized authorization record and provided an Authorization Number. Support Brokers who are on an OPWDD Active Broker list as of July 31, 2019 will not be required to repeat the Initial Training Requirements or follow the procedure to demonstrate completion of their initial training. Please note that Brokers included in the authorization record through this method are still subject to record retention standards established in ADM #2015-06, including but not limited to, the "Support Broker is responsible for maintaining his/her training records that verify attendance. Proof of completion of Broker Training must be maintained indefinitely."

If a Support Broker believes that they are on, or should be on, an Active Broker list, but do not appear on the established Broker authorization record, (s)he must contact OPWDD to request inclusion on the centralized authorization record and an Authorization Number. Brokers have up

to sixty (60) calendar days from the date of the establishment of the initial Broker authorization record to contact OPWDD about a potential exclusion. If OPWDD determines that the Broker's exclusion is due to an error on the part of OPWDD, the Broker is immediately included in the authorization record with an effective date equal to the initial date of the authorization.

Alternately, if the Broker's exclusion is due to a decision by the relevant Developmental Disabilities Regional Office (DDRO) or other governmental authority to remove the Broker from their lists or restrict their eligibility to provide services, the Broker is not eligible for immediate authorization and the Broker must repeat the initial training and authorization processes outlined in this ADM.

### **Annual Reauthorization:**

Each year, Support Brokers must be reauthorized if they intend to continue providing services. The Support Broker is responsible for obtaining authorization, using a method established by OPWDD and available online at [https://opwdd.ny.gov/providers\\_staff/info-for-providers/support\\_broker\\_authorization\\_list](https://opwdd.ny.gov/providers_staff/info-for-providers/support_broker_authorization_list), on or before July 31<sup>st</sup> prior to the expiration of the authorization year.

To be reauthorized, the Support Broker must demonstrate that (s)he has completed OPWDD Mandatory Training and obtained twelve (12) or more hours of Yearly Professional Training during the authorization year.

Yearly Professional Training may include: lectures; workshops; OPWDD-sponsored or attended Broker Forums or Broker Communities of Practice; OPWDD-endorsed Broker Mentorship and other training sessions conducted by OPWDD, a Support Brokerage Learning Network, other agencies, or educational institutions. This may include online courses, webcasts, or other electronic communication media, offered by OPWDD or other entities. The subject of the training must enhance the Support Broker's ability to serve individuals with developmental disabilities. The Support Broker is responsible for ensuring that the subject matter of all training applied to the Yearly Professional Training requirement is appropriate.

During the first year of authorization, a Support Broker's Yearly Professional Training Requirements are pro-rated based on the Support Broker's effective date of authorization. If the effective date of authorization is between August 1 and October 31, the Broker must demonstrate that (s)he has obtained twelve (12) hours of training. If the effective date of authorization is between November 1 and January 31, the Broker must demonstrate that (s)he has obtained nine (9) hours of training. If the effective date of authorization is between February 1 and April 30, the Broker must demonstrate that (s)he has obtained six (6) hours of training. If the effective date of authorization is between May 1 and June 30, the Broker must demonstrate that (s)he has obtained three (3) hours of training.

Any Support Broker that successfully applies for their initial authorization between July 1 and July 31, receives an effective date as of August 1<sup>st</sup>. Support Brokers included in the

authorization record based on being on an Active Broker list maintained at an OPWDD DDRO as of July 31, 2019 must complete twelve (12) or more hours of Yearly Professional Training during the authorization year.

Note that training hours associated with trainings required to meet the Initial Training Standards do not count toward satisfaction of the Annual Yearly Professional Training Requirements.

**Broker Review:**

For Support Brokers to maintain their authorization, they must adhere to training and authorization standards. They must also provide copies of executed Support Broker Agreements and Termination forms to OPWDD. A Support Broker must also maintain a standard of conduct in line with OPWDD expectations including, but not necessarily limited to, providing services as outlined in the Support Broker Agreement; maintenance of systematic knowledge of person centered planning and supports; the provision of services in a timely fashion; providing proper notification to OPWDD, the Fiscal Intermediary, and the participant, if the Support Broker wishes to discontinue the provision of Support Broker services; and adherence to Medicaid Standards.

If circumstances warrant, and there is a substantiated complaint (or complaints) of requisite severity, OPWDD will engage the Support Broker in corrective action, including placing limitations on the Support Broker's caseload, the imposition of additional training standards, the revocation of the Support Broker's authorization based on the circumstances, or take additional actions as appropriate.

If OPWDD places any limitations on a Support Broker, they will receive a notice of the limitation, with the rationale for the limitation, and an advisory of the next available steps.

**Revocation of Authorization:**

If circumstances lead to the revocation a Support Broker's authorization, OPWDD will establish an effective date for revocation and provide an advisory to the impacted party utilizing the contact information provided by the Support Broker. The advisory outlines the rationale for the revocation and provides an advisory of the impacted party's next available steps.

In the event OPWDD revokes a Support Broker's authorization for cause, the Broker is ineligible for authorization for a period of no less than one calendar year. After that time, if the Broker is to resume providing services, they must complete the initial training process as cited above and, if determined appropriate by OPWDD, they are potentially subject to restrictions on their eligibility to provide services.

**Lapse in Authorization or Failure to be Reauthorized:**

If a Support Broker does not obtain reauthorization as required, and his/her authorization lapses, (s)he may seek to regain authorization. To do so, the Support Broker must follow the procedure for initial training and authorization, as established above.

**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).

For additional information on the documentation requirements, contact the OPWDD Self-Direction Unit at [Self.direction.redesign@opwdd.ny.gov](mailto:Self.direction.redesign@opwdd.ny.gov).

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