



ADMINISTRATIVE DIRECTIVE

Transmittal:	16-ADM-03
To:	Executive Directors of Voluntary Provider Agencies Executive Directors of Agencies Authorized to Provide Fiscal Intermediary Services Developmental Disabilities Regional Office Directors Developmental Disabilities State Operations Office Directors Medicaid Service Coordinators and MSC Supervisors
Issuing OPWDD Office:	OPWDD Division of Person Centered Supports
Date:	May 11, 2016
Subject:	Live-in Caregiver Service Documentation
Suggested Distribution:	Providers Fiscal Intermediaries Quality Improvement Staff Medicaid Service Coordinators (MSCs) and Supervisors Support Brokers Regional Office Self-Direction Staff Regional Office Front Door Staff COLT Members
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Attachments:	None

Related ADMs/INFs	Releases Cancelled	Regulatory Authority	MHL & Other Statutory Authority	Records Retention
None	None	-----	Mental Hygiene Law Sections 13.07, 13.09(b), and 16.00.	6 Years from Date of Service: 18 NYCRR 504.3(a)

Purpose:

This Administrative Memorandum describes the payment standards and service documentation requirements to support a provider's claim for reimbursement of the Live-in Caregiver (LIC) room and board supplement when individuals self-direct their services.

The term "Individual" as used in this Administrative Memorandum means *an individual with a developmental disability who is enrolled in OPWDD's Home and Community-Based Waiver.*

Background:

LIC services are available only for individuals enrolled in the Home and Community Based Services (HCBS) Waiver who self-direct their services. When an individual who self-directs his/her services seeks to receive support from a LIC, the individual must choose a Fiscal Intermediary (FI) to bill and administer the LIC service.

Discussion:**LIVE-IN CAREGIVER**

The LIC is a care provider who resides in the same household as the individual and provides as-needed supports to address the individual's physical, social, or emotional needs in order for the individual to live safely in his or her own home. The LIC may not be related to the individual by blood or marriage. The LIC cannot be someone who has control or authority over decisions regarding the individual's resources.

A portion of additional costs incurred by the individual that can be reasonably attributed to the LIC for room and board will be reimbursed. Room and board includes rent, utilities and food.

The individual must reside in his/her own home or leased residence. Payment will not be made when the individual lives in the caregiver's home, in a residence that is owned or leased by the provider of Medicaid services, in a Family Care home, or any other residential arrangement where the individual is not directly responsible for the residence.

It is important to be aware of and comply with the applicable labor laws relating to caregivers living in an individual's home.

COMPANIONSHIP SERVICE:

LIC is a companionship service and includes the provision of fellowship and protection.

Fellowship means engaging the individual in social, physical and mental activities, such as conversation, reading, games, crafts or accompanying the individual on walks, on errands, to appointments or to social events.

Protection means being present with the individual in his or her home, or to accompany the individual when outside of the home to monitor the individual's safety and well-being.

The role of a LIC does not include assistance with activities of daily living or medically related services.

Billing Standards

The unit of service for LIC is a month. For the FI to bill for a month of LIC service:

- (A) an agreement between the individual and the LIC must be in place;
- (B) an agreement between the individual and the FI must be in place; and
- (C) there must be evidence of the FI's payment of the LIC room and board supplement.

Payment may not be made directly to the LIC. Payment will be made to a FI that, will in turn, transfer the amount of reimbursement to the individual or the landlord and utility companies, as specified in the agreement between the individual and the FI.

For LIC services that begin on or after the date this Administrative Memorandum is issued, the agreement between the individual and the LIC and the agreement between the individual and the FI must be written and signed by both parties to the agreements prior to the date that services begin.

For LIC services that began prior to the date this Administrative Memorandum is issued, the agreement between the individual and the LIC and the agreement between the individual and the FI must be written and signed by both parties to the agreements within six months from the date this Administrative Memorandum is issued.

A. THE AGREEMENT BETWEEN THE INDIVIDUAL AND THE LIC

The agreement between the individual and the LIC should be reviewed periodically and requires the following elements:

1. Individual's name and Medicaid number (CIN).
2. Identification of the category of waiver service provided (e.g., Live-in Caregiver, LIC).
3. The LIC's name and an acknowledgement that room and board are being provided to the LIC free of charge.
4. The times when the LIC is expected to be available to act in the LIC capacity.
5. The expectations on the level of companionship service provided by the LIC including specific activities associated with fellowship and protection.
6. The date at which the agreement between the individual and the LIC begins. This date must be on or prior to the day that the LIC services began.
7. The date at which the agreement between the individual and the LIC will end or need to be reviewed and renewed.
8. The contingency plan/back up plan for the individual should the LIC be unable to perform fellowship and protection activities as described in this agreement.
9. A provision outlining the process to end the agreement early, including when there is a concern regarding the individual's health and safety.
10. An agreement establishing responsibility for the LIC's room and board costs in situations where the costs cannot be reimbursed by the FI (e.g., the individual is hospitalized for an entire month or longer).
11. Signature and date of the individual.
12. Signature and date of the LIC.

B. THE AGREEMENT BETWEEN THE INDIVIDUAL AND THE FI

The agreement between the individual and the FI should be reviewed periodically and requires the following elements:

1. Affirmation that the FI is not a party to agreement between the individual and the LIC.
2. Description of the individual's obligation to inform the FI if the agreement between the individual and the LIC is ended early.
3. Outline of the individual's responsibility to cover costs formerly reimbursed for the LIC's room and board if the agreement between the individual and the LIC is ended.
4. The FI's responsibility to inform the individual of situations (such as hospitalization) which may cause the individual to lose eligibility for LIC reimbursement.
5. The FI's policy and procedures for reimbursing room and board, including which party is responsible for making payments to the landlord, utility companies, etc. and what, if any, documentation is required to reimburse room and board.
6. Signature and date of the individual.
7. Signature and date of the FI.

C. EVIDENCE OF PAYMENT

There must be evidence that payment was made for the LIC room and board supplement. Documentation of this may include the expenditure report, expense vouchers or accounting statements.

For evidence showing the FI's payment of the LIC room and board supplement, the required elements are:

1. Individual's name and Medicaid number (CIN).

2. Name of the FI agency reimbursing the LIC room and board supplement.
3. The date that payment for the LIC room and board supplement was made by the FI.
4. The amount paid.

To bill for a month of LIC, the individual must have been living at home for all or some portion of the month. For example, if a person enters a hospital on July 25 and returns home on September 4, LIC could be billed for the months of July and September, but not for the month of August.

Other Documentation Requirements:

In addition to the documentation described above for LIC claims, the agency billing for the LIC room and board supplement must maintain a copy of the individual's Individualized Service Plan (ISP), developed by the individual's Medicaid Service Coordinator (MSC) or Care Coordinator.

For LIC, the following elements must be included in the ISP:

1. Identification of the LIC category of Waiver service (i.e., Live-in Caregiver).
2. Name of the FI agency reimbursing the LIC room and board supplement.
3. Specification of an effective date for LIC that is on or before the date of service for which the FI bills LIC for the individual.
4. Specification of the frequency for LIC is "monthly."
5. Specification of the duration for LIC is "ongoing."

LIC services are not habilitative in nature and, therefore, do not require a habilitation plan.

For additional information on the documentation requirements contact the OPWDD Director of Waiver Management at (518) 486-6466.

Records Retention:

New York State regulations require each Medicaid provider to prepare records to demonstrate the provider's right to receive Medicaid payment for a service. These records must be "contemporaneous" and kept for six years. 18 NYCRR 504.3(a).

All documentation specified above 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.

For additional information on the documentation requirements contact the OPWDD Division of Person-Centered Supports.