

FISCAL INTERMEDIARY SERVICES

Effective April 10, 2015

Audit protocols assist the Medicaid provider community in developing programs to evaluate compliance with Medicaid requirements under federal and state statutory and regulatory law, and administrative procedures issued by the New York State Office for People With Developmental Disabilities (OPWDD). The protocols listed are intended solely as guidance in this effort. This guidance does not constitute rulemaking by OPWDD and may not be relied on to create a substantive or procedural right or benefit enforceable, at law or in equity, by any person. Furthermore, nothing in the protocols alters any statutory, regulatory or administrative requirement and the absence of any statutory, regulatory or administrative citation from a protocol does not preclude OPWDD from enforcing a statutory, regulatory or administrative requirement. In the event of a conflict between statements in the protocols and statutory, regulatory or administrative requirements, the requirements of the statutes, regulations and administrative procedures govern.

A Medicaid provider's legal obligations are determined by the applicable federal and state statutory and regulatory law. Audit protocols do not encompass all the current requirements for payment of Medicaid claims for a particular category of service or provider type and therefore are not a substitute for a review of the statutory and regulatory law or administrative procedures.

Audit protocols are applied to a specific provider or category of service(s) in the course of an audit and involve OPWDD's application of articulated Medicaid agency policy and the exercise of agency discretion. Audit protocols are used as a guide in the course of an audit to evaluate a provider's compliance with Medicaid requirements and to determine the propriety of Medicaid expended funds. In this effort, OPWDD will review and consider any relevant contemporaneous documentation maintained and available in the provider's records to substantiate a claim.

New York State, consistent with state and federal law, can pursue civil and administrative enforcement actions against any individual or entity that engages in fraud, abuse, or illegal or improper acts or unacceptable practices perpetrated within the medical assistance program. Furthermore, audit protocols do not limit or diminish OPWDD's authority to recover improperly expended Medicaid funds and OPWDD may amend audit protocols as necessary to address identified issues of non-compliance. Additional reasons for amending protocols include, but are not limited to, responding to a hearing decision, litigation decision, or statutory or regulatory change.

OPWDD AUDIT PROTOCOL – Fiscal Intermediary Services

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1.	Missing Record
OPWDD Audit Criteria	If no record is available for review, claims for all dates of service associated with the individual will be disallowed.
Regulatory References	18 NYCRR Section 504.3(a) 18 NYCRR Section 540.7(a)(8)
2.	No Documentation of Service
OPWDD Audit Criteria	If the record does not document that fiscal intermediary services were provided, the claim will be disallowed.
Regulatory References	18 NYCRR Section 504.3(a) 18 NYCRR Section 517.3(b)(2)
3.	No Determination of a Developmental Disability
OPWDD Audit Criteria	The claim for services provided in the absence of a clinical assessment substantiating a specific determination of developmental disability will be disallowed.
Regulatory References	14 NYCRR Section 635-10.3(a) and (b)(1)
4.	Missing Copy of Individualized Service Plan (ISP)
OPWDD Audit Criteria	A copy of the individual's ISP, covering the time period of the claim, must be maintained by the agency. The claim will be disallowed in the absence of an ISP. If the ISP is not in place prior to the service date and in effect for the service date, the claim will be disallowed.
Regulatory References	14 NYCRR Section 635-99.1(bk) OPWDD ADM #2015-04, p 6
5.	Unauthorized FI Provider
OPWDD Audit Criteria	The claim will be disallowed if the ISP does not specify the category of waiver service that the agency is providing (i.e. fiscal intermediary) or does not designate the agency as the provider of the service.
Regulatory References	14 NYCRR Section 635-99.1(bk) OPWDD ADM #2015-04, p 6
6.	Identification of Frequency, Duration of Service and Effective Date of Service
OPWDD Audit Criteria	The claim will be disallowed if the ISP does not: <ul style="list-style-type: none"> • Specify that the frequency for FI is "monthly." • Specify the duration for FI is "ongoing." • Have an effective date for FI services that is on or before the first day of service for which the agency bills for FI services.
Regulatory References	14 NYCRR Section 635-99.1(bk) OPWDD ADM #2015-04, p 6

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7.	Missing Monthly Expenditure Report
OPWDD Audit Criteria	The claim will be disallowed if the agency does not have a copy of the monthly expenditure report.
Regulatory References	OPWDD ADM #2015-04, p 5
8.	Missing Required Elements of the Monthly Expenditure Report
OPWDD Audit Criteria	The monthly expenditure report must contain these required elements: the individual's name and CIN; the name of the agency providing fiscal intermediary services; identification of the category of waiver services provided; a summary of expenses paid on behalf of the participant; the time period the expenditure report covers and the date the expenditure report was created. The claim will be disallowed if one or more of the required elements are missing.
Regulatory References	OPWDD ADM #2015-04, p 5
9.	Missing Verification of Payment
OPWDD Audit Criteria	The claim will be disallowed if the agency does not have documentation showing the agency verified and processed requests for payment for goods and services shown in the approved budget and tracked disbursements and balances of participant funds.
Regulatory References	OPWDD ADM #2015-04, p 5
10.	Missing Required Elements of Verification of Payment
OPWDD Audit Criteria	The documentation showing the FI has verified and processed requests for payments and tracked and disbursed funds must include these required elements: the individual's name; the name of the agency providing FI services; the date that payments were made; and, information on which services and supports were paid. The claim will be disallowed if one or more of the required elements are missing.
Regulatory References	OPWDD ADM #2015-04, p 6
11.	Improper Billing for FI Services
OPWDD Audit Criteria	The agency may only bill for FI services for a given month if there is another self-directed billing for the participant. The claim will be disallowed if the agency does not have evidence that another self-directed service listed in the self-direction budget was billed for the participant by the FI during that same month.
Regulatory References	OPWDD ADM #2015-04, p 5

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12.	Improper Split Billing
OPWDD Audit Criteria	The FI cannot artificially split their expenditure processing to cross into two months. The claim will be disallowed if the FI has documentation of expenditures and splits the claiming to cross months.
Regulatory References	OPWDD ADM #2015-04, p 5
13.	Incorrect Rate Code - Level Three
OPWDD Audit Criteria	In order to receive payment at the FI level three rate code, the participant's budget must include a plan for self-hired staff with the FI agency serving as the employer of record. The claim will be disallowed in the absence of an individualized budget which notes self-hired staff with the FI serving as the employer or record.
Regulatory References	OPWDD ADM #2015-04, p 5
14.	Billing for Services by Ineligible Provider
OPWDD Audit Criteria	For dates of service prior to 4/13/2016, the claim will be disallowed if the agency does not have a Fiscal Intermediary Medicaid Provider Agreement. Effective 4/13/2016, the claim will be disallowed if the agency does not have an operating certificate identifying certification for fiscal intermediary services.
Regulatory References	For services prior to 4/13/2016, 14 NYCRR Part 635-10.1(b) For services effective 4/13/2016, New York State Mental Hygiene Law, Section 16.03(a)(4)

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