



April 17, 2020

Revised September 2, 2020 (revisions underlined)

During the COVID-19 state of emergency, declared by Governor Andrew M. Cuomo through [Executive Order 202](#), the top priority for the Office for People With Developmental Disabilities (OPWDD) is the health and safety of New Yorkers with intellectual and developmental disabilities, and our state and voluntary workforce. In response to this state of emergency, and to ensure health and safety, OPWDD, in conjunction with the New York State Department of Health, is working to provide as much flexibility as possible for the delivery of OPWDD 1915(c) Home and Community-Based Waiver Services. The following modifications to the service system, in place for the duration of the state of emergency or until revoked by OPWDD, will allow providers to continue to meet the needs of the people they support to the greatest extent possible.

Administrative Directive Memorandum (ADM) #2015-01, *Service Documentation for Community Habilitation Services Provided to Individuals Residing in Certified and Non-Certified Locations*, remains in force except as temporarily amended by the provisions of this directive.

Use of Technology

Community Habilitation may be provided remotely via telehealth and without prior approval. The Community Habilitation provider must:

- Use good clinical judgment to determine that the telehealth encounter is appropriate;
- Verify that the service can be delivered effectively via verbal prompting/cueing only; and
- Ensure the health and safety of the person will continue to be met via this service modality.

In addition, Community Habilitation providers must continue to follow OPWDD's *Interim Guidance Regarding the Use of Telehealth/COVID-19*, available at <https://opwdd.ny.gov/coronavirus-guidance/covid-19-guidance-documents>.

Location of Community Habilitation Services

The service definition and limits for Community Habilitation services are temporarily modified to allow people who live in a certified residence with less-than 24-hour staffing (Supportive Individualized Residential Alternative, Supportive Community Residence or Family Care Home) to receive Community Habilitation services in the residence when the following are true:

- The person's day service is suspended due to the emergency or the person is unable to participate in the day service;
- No day services can be delivered in the residence; and
- The daily Community Habilitation billing does not exceed six (6) hours of service per day, five (5) days per week, Monday through Friday.

A person is considered unable to attend day services if (a) they, or another resident or staff person from their residence, are under an order of quarantine or isolation; (b) the day service site is not yet at full capacity and cannot safely serve the person; or (c) the person chooses to receive Group Community Habilitation – Residential (Group CH-R) services in lieu of day services for the remainder of the public health emergency.

Community Habilitation services may be provided in out-of-state locations if necessary, for the safety of the service recipient. Services provided in another state must be provided in accordance with the waiver service definition and the person's Life Plan. Community Habilitation staff must continue to provide services to the recipient out-of-state in the same scope, frequency, and duration, as described in the person's Community Habilitation Staff Action Plan.

There will be no duplication of billing for Community Habilitation services and services otherwise rendered in provider-owned or controlled residential settings.

Schedule of Services for School Age Children and Young Adults

Community Habilitation services cannot be duplicative of or delivered at the same time as K-12 educational services otherwise available to the person through a local educational agency/district, under the Individuals with Disabilities Education Act (IDEA) or vocational services under the Rehabilitation Act of 1973. For people who receive K-12 educational services, habilitative service hours are limited based upon a person's daily schedule and activities.

The schedule for service delivery for children and young adults who attend school in-person must be outside of regular school hours. For students who are home schooled or are receiving K-12 virtual/remote instruction, habilitative services may be delivered during traditional school hours, but the services must be outside the scheduled time for educational instruction, may not replace educational services and may not be delivered at the same time the child is receiving any educational services.

Delivering Services and Maintaining Social Distancing

At the close of business October 14, 2020, OPWDD is rescinding the guidance that allows Community Habilitation providers to temporarily provide and bill Medicaid for services that support the person and his/her family while maintaining social distancing. Through October 14, 2020, Community Habilitation staff may deliver groceries or other supplies, or assist with necessary outdoor household chores (such as taking garbage cans to the curb and returning cans to the home). For these types of services, the time that staff spend traveling to the person's home, running the errand, and returning to the worker's home, may be billed as Community Habilitation. After October 14, 2020, billable service time is limited to time when the Direct Support Professional is engaged in the delivery of Community Habilitation services in a face-to-face manner or using telehealth technology.

Billing Guidance

OPWDD first issued interim billing guidance to providers on March 24, 2020 and offered retainer day payments for service dates beginning March 18, 2020. The availability of retainer day payments ended with the last billable date of service for submitting retainer day claims being July

21, 2020. Community Habilitation providers may continue to utilize the telehealth and remote flexibilities described in this guidance. Providers will continue to bill the appropriate fee for services delivered per the current Community Habilitation fee schedule, available at https://www.health.ny.gov/health_care/medicaid/rates/mental_hygiene/.

When calculating the effective reimbursement rate for Community Habilitation services delivered by self-hired staff that are funded through a person's Self-Direction budget, the time staff spent as described in the 'Use of Technology' and 'Delivering Services and Maintaining Social Distancing' sections of this document, may be counted as part of the total billable service units.

Care Planning and the Update of Life Plans

A person's current Life Plan and Staff Action Plan(s) remain in place as long as Community Habilitation is listed as an authorized service in the person's Life Plan or in the COVID-19 Life Plan Addendum. Community Habilitation providers should ensure that Community Habilitation staff know how to safely serve the person and formal updates of the Staff Action Plan must occur no later than sixty (60) days after the end of the COVID-19 state of emergency in accordance with OPWDD's *Interim Care Planning Guidance* issued April 17, 2020 available at https://opwdd.ny.gov/system/files/documents/2020/04/4.17.2020-opwdd_covid19_careplanningguidance.pdf.

Community Habilitation in Self-Direction

The foregoing provisions also apply to Community Habilitation services delivered by self-hired staff that are funded through a person's Self-Direction budget.