



**September 3, 2020**

On March 7, 2020, Governor Andrew M. Cuomo declared a state of emergency, through [Executive Order 202](#), to respond to the COVID-19 public health emergency. The top priority for the Office for People With Developmental Disabilities (OPWDD) continues to be 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 flexibility 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 OPWDD providers to continue to meet the needs of the people they support to the greatest extent possible.

Administrative Directive Memorandum (ADM) #2016-01, *Supported Employment (SEMP)*, remains in force, except as temporarily amended by the provisions of this directive.

### **Use of Technology**

Supported Employment services may temporarily be provided remotely via telehealth and without prior approval. The Supported Employment 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.

Supported Employment providers should continue to provide allowable services that support the review and development of an individual's career/employment/job development plan and reflects the individual's abilities, interests, and current environment.

Supported Employment 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 Supported Employment Services**

Supported Employment services may be provided in out-of-state locations, if necessary, for the safety of the person. Services provided in another state must be provided in accordance with the waiver service definition and the person's Life Plan. The Life Plan may be amended to address service needs throughout the state of emergency. Supported Employment staff must continue to provide services to the person out-of-state in the same scope, frequency, and duration as described in the person's Staff Action Plan. See section below on *Care Planning and the Update of Life Plans*.

## **Delivering Additional Support Services and Maintaining Social Distancing**

There are a number of Supported Employment services that may be provided in a manner that does not require social contact. These allowable services include the review and development of an individual's career/employment/job development plan that reflects the individual's abilities, interests, and current environment. Additionally, staff may attend on-line *Innovations* trainings.

At the close of business October 14, 2020, OPWDD is rescinding the guidance that allowed Supported Employment providers to temporarily provide and bill Medicaid for services that support the person while maintaining social distancing. Through October 14, 2020, Supported Employment 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 Supported Employment. After October 14, 2020, billable service time is limited to time when staff are engaged in the delivery of Supported Employment services in a manner described in ADM #2016-01 or using telehealth technology.

## **Billing Guidance**

Supported Employment providers will continue to bill the appropriate fee for services delivered per the current Supported Employment fee schedule, available at:

[https://www.health.ny.gov/health\\_care/medicaid/rates/mental\\_hygiene/](https://www.health.ny.gov/health_care/medicaid/rates/mental_hygiene/).

When calculating the effective reimbursement rate for Supported Employment 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 Supported Employment is listed as an authorized service in the person's Life Plan or in the COVID-19 Life Plan Addendum. Supported Employment 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](https://opwdd.ny.gov/system/files/documents/2020/04/4.17.2020-opwdd_covid19_careplanningguidance.pdf).

## **Supported Employment in Self-Direction**

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