



OPWDD Response to Public Comment Home-Enabling Supports ADM and Provider Manual

Work Group Consultation

1. **Comment:** Comments were received that suggested that a working group of people familiar with delivering remote services be convened to people with I/DD and seek their input on process details for Home-Enabling Supports (HES), such as the assessment.

Response: OPWDD agrees and will work with the Developmental Disabilities Advisory Council (DDAC) to examine how best to use the existing council framework to assist with implementation and evaluation of the new service. In addition, OPWDD will convene a Community of Practice (COP) involving the selected Home-Enabling Supports providers to promote consistency of practice and joint learning.

Assessment

2. **Comment:** A commenter asked for clarification regarding who will complete the HES Assessment?

Response: It is the responsibility of the HES Provider to complete the assessment process which include an in-home visit. Based on the preference of the person, this in-home visit may occur remotely with the use of face-to-face technology, in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

The HES Provider in-home visit is an opportunity for the provider to ensure the technology solution that is selected is appropriate and aligns with the needs and goals of the person choosing the technology. In addition, an opportunity to explain, educate and discuss the person's right to an informed choice.

If the person is selecting a remote support provider, an additional in-home assessment by the vendor is required to support the development of the person's HES plan.

3. **Comment:** Several commenters suggested that the assessment requirement for Health Access and Coordination Services (HACS) be changed to a virtual assessment prior to approval and then have on-site assessment conducted during implementation of the service.

Response: OPWDD agrees and has revised the Administrative Memorandum (ADM) and Provider Manual to eliminate the in-home assessment for HACS, allowing for the assessment to occur remotely. In doing so, OPWDD has also separated HACS from the categorization of Remote Supports and is identifying it as a distinct type of subscription-based technology available under HES.

4. **Comment:**
A commenter suggested that the in-home visit be eliminated for less complex technologies, such as a two-way communication device on a watch or pendant and for Health Assessment & Coordination Services (HACS).

Response: As noted in the response above, OPWDD has removed the requirement for an in-home assessment for HACS and has updated the guidance materials to identify HACS as a distinct

subscription-based technology available under HES.

Based on the preference of the person, the HES in-home visit may occur remotely with the use of face-to-face technology, in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Wearable devices may be used in the person's home and in the larger community, the in-home visit is an opportunity for the person and the HES provider to evaluate the technology that will best support the person to live with the greatest degree of independence, therefore OPWDD has retained this requirement for all HES services except HACS.

Acquisition

5. **Comment:** A commenter suggested that some HES services and devices not require service planning and authorization. They suggested removing the clinical justification for modestly priced technologies or creating a fast-track process in HES for one-time cost of devices under a certain dollar amount.

Response: The Home-Enabling Supports planning and authorization design is a streamlined service process. Unlike traditional Assistive Technology (AT), HES does not require bidding and will work to streamline the assessment process.

6. **Comment:** Several commenters suggested that HES allow general purpose computing equipment, such as laptops and tablets to be purchased outright for the person, rather than being leased/managed services.

Response: OPWDD has evaluated this suggestion, and no change will be made at this time as computing equipment (e.g., tablets and laptops) alone would not provide the benefit to the person that is intended under the home enabling support feature of the service category. To the extent such equipment is necessary to deliver the home enabling support application, accessing the equipment via lease or under a managed service, is considered appropriate and allowable. OPWDD will work with provider agencies and other stakeholders to evaluate and assess the quality of the program design and how it may be improved to meet the needs of people.

Policy Suggestions

7. **Comment:** Several commenters suggested that HES be allowed in certified settings.

Response: OPWDD cannot make this change at this time without a revision to the Residential Habilitation rate methodology and further changes to the Centers for Medicare and Medicaid Services (CMS) approved service definition of HES, which is limited to people who live in non-certified settings.

To clarify, HES is a service designed to assist people who wish to live more independently, in non-certified homes. Remote Supports, one of the options available through HES, is an alternative to in-person staffing. The cost of in-person staffing is built into residential service rates and therefore Remote Supports cannot be authorized as a discrete service. Additionally, the adoption of technology by providers to support or enhance the operational needs of a certified residence may

already be taken up, and reflected accordingly, in agency cost reporting for subsequent cost-based rate reimbursement.

8. **Comment:** Commenters suggested allowing HES for 6-18 months for an individual transitioning from certified to non-certified setting.

Response: OPWDD appreciates the comment and agrees that this may be a valuable change. OPWDD will evaluate whether this would require a waiver amendment and will look to make the change as soon as possible.

9. **Comment:** Several commenters suggested that the allowable justifications for HES and HACS be expanded beyond financial savings, to include enhanced quality of life.

Response: There are no financial savings assumed by OPWDD with respect to the implementation of HES. Clarifying language has been added to the ADM to specify an intended outcome of provisioning HES is to decrease or minimize the need for in-person staffing to achieve one's person-centered goals for independent living, including the assurance of health and safety, and in doing so supporting a person's enhanced quality of life.

Given the systemic challenges in staffing availability, OPWDD believes the focus on HES as a means to decrease or minimize the need for in-person staffing is appropriate. In addition, it is a reasonable expectation that access to the service(s) will increase, maintain, or improve the person's safety, independence, health outcomes, and/or meaningful participation in the community with less reliance on or the deferral of paid staff for supervision and/or assistance.

10. **Comment:** A commenter suggested that the HES provider be allowed to directly provide Remote Supports rather than contract with a Remote Supports Vendor.

Response: No change has been made at this time. The HES provider is expected to assist the person with the selection and use of the most suitable technology. The direct provision of Remote Supports by the HES provider could result in a conflict of interest.

11. **Comment:** A commenter stated that the requirement to exhaust all other funding first is very limiting.

Response: Waiver funding is not available for items or services that are available from another funding source; for example, purchasing items that are available through the New York State Medicaid State Plan Durable Medical Equipment cannot be paid for with Waiver funds. Medicaid is the payor of last resort.

12. **Comment:** Page 6 of the ADM states, "AT providers that deliver Home-Enabling Supports will be limited to no more than two per region of the state unless an exception is required to ensure access." One commenter suggested that the regional cap for two HES providers be removed or balanced based on a metric such as total regional population.

Response: The limit of two providers per region is not a hard cap. OPWDD will ensure equitable access to HES throughout the state. If additional providers (beyond two in a region) are necessary due to population size and/or geographical factors, OPWDD may allow additional provider(s) to meet access needs.

This number of selected providers may be further explored following launch of the program in

partnership with providers and stakeholders to ensure the provider capacity effectively supports the needs of the regional community.

13. **Comment:** A commenter recommended that OPWDD encourage and accept proposals that connect, and coordinate Home-Enabling Supports to other community services.

Response: OPWDD agrees that HES and the other community supports a person receives should be connected and this can be achieved through effective person-centered planning. It should be noted that HES providers will be expected to serve any individual who is authorized for the service and cannot limit access to HES to people who also receive other services from the HES provider.

Provider/Vendor Qualifications

14. **Comment:** Several commenters suggested changes to the provider qualifications that would provide staffing flexibility while ensuring HES staffing has sufficient expertise to assess and advise the person on HES options.

Response: Based on feedback, OPWDD has updated the staffing qualifications for HES providers to specify that the HES provider must hire or contract with qualified staff who:

- Have at least one-year of conducting technology assessments and working to identify and implement appropriate technology solutions, provide training, and serve as a resource and mentor to other staff.

In addition, staff must have either

- A credential in enabling technology such as: ETIS ([Credentials & Certifications — Shift \(techfirstshift.com\)](#)) or ATP ([Assistive Technology Professional \(ATP\) \(resna.org\)](#)) or other comparable certification, **OR**
- Be a clinician with at least two years of experience working with people with intellectual and/or developmental disabilities in a related field (e.g., OT, PT, Speech Therapy, Rehabilitation Counselors or Social Work).

15. **Comment:** A commenter suggested that OPWDD provide further information about the Enabling Technology Integration Specialists (ETIS) credentialing.

Response: The term will be defined in the ADM and the Provider Manual glossary. See the link above in the response to Comment 14.

16. **Comment:** Commenters suggested that the ADM and Provider Manual clearly define qualifications for HACS Vendors.

Response: As noted above, based on input from public comments, OPWDD has established HACS as a distinct subscription-based technology available under HES (separate and apart from Remote Supports). The definition for HACS subcontractors has been expanded, as well.

17. **Comment:** A commenter asked about vendor qualifications related to their experience, track record, and timeliness.

Response: Vendors are subcontracted and overseen by the HES Provider. OPWDD will assure in

the review of HES providers, that the appropriate oversight of vendors is occurring and that vendors are providing high-quality services.

Several vendor qualifications are described in the Provider Requirements section of the Manual. These will be expanded to include three-years of operating experience in addition to the existing qualification that include but are not limited to: capacity to provide real-time, on-demand support; training requirements; ensuring the person's right to privacy and meeting information security standards; emergency response procedures.

Person-Centered Planning

18. **Comment:** A commenter stated that OPWDD needs to ensure that the person is at the center of the conversation about using HES.

Response: OPWDD agrees that the person is at the center of the HES conversation through the person-centered planning process and development of the Life Plan. In addition, OPWDD is developing tools to help care managers, the person, and the person's team to ensure that the selected technology meets the person's needs for increased independence and helps ensure that the person is making an informed decision on the use of technology.

19. **Comment:** A commenter stated that Care Manager should have access to data collected by OPWDD pertaining to the HES and remote service delivery.

Response: As part of the person-centered planning process, the Care Manager will be involved in the review of the person's experience using Home-Enabling Supports. The language in the Manual clarifies that the data provided by the HES provider and vendor will be available to the Care Manager to support the person-centered planning process. OPWDD anticipates that the Community of Practice and advisory bodies will be a resource as we learn from the roll-out of this new service.

Privacy & Rights

20. **Comment:** A comment suggested that OPWDD require HES providers to document how the use of the HES device was explained to the individual.

Response: OPWDD agrees and is developing ~~forms and~~ guidance that will address the informed consent process and document the person's informed choice.

21. **Comment:** A commenter stated that there are privacy concerns over use of GPS trackers and suggests application of 14 NYCRR § 633.16 requirements to GPS use.

Response: 14 NYCRR § 633.16 does not apply to non-certified settings (with the exception of day habilitation services, prevocational services, and community habilitation). OPWDD is developing ~~forms and~~ guidance that will address the informed consent process and document the person's choice. OPWDD has also updated the guidance to make clear that the eligibility for a person's use of HES is based on the informed consent of the person or a representative that assists the person with informed decision making.

22. **Comment:** A comment stated that there is concern regarding the lack of having an adequate process for fading the use of a HES devices that are considered rights limitations.

Response: If a device or technology funded through HES is considered a rights restriction then the rights restriction process applies and 14 NYCRR §§ 633.4 and 636-2.4 **must** be followed. The language for HES services is updated to make clear that the person and/or their representative must make an informed decision to use technology and understand any potential impact on the person's privacy.

23. **Comment:** A comment received expressed concern over limited oversight by OPWDD regarding HES.

Response: OPWDD will be closely engaged with selected HES providers to conduct oversight and monitoring of HES provider operations, the review of routine reporting, and contract reviews to ensure the requirements of the provider manual and Request for Applications (RFA) are maintained. In addition, through a community of practice, OPWDD intends to support HES providers to learn from best practices and to address concerns early on in the roll-out of the new service.

Self-Direction

24. **Comment:** Some commenters asked why HES would be included in a person's self-direction budget since Environmental Modifications (E-mods) and Vehicle Modifications (V-mods) are excluded.

Response: Home-Enabling Supports is a low-cost service unlike the E-Mods/V-Mods, which may often exceed a person's Personal Resource Account (PRA). Further, Home-Enabling Supports is targeted at promoting independence and potentially lessening the need for in-person staffing (for Remote Supports, in particular). As such, HES is a provider managed service and the acquisition and any subscription-based service costs are an offset to the Self-Direction PRA.

25. **Comment:** A commenter asked where in the Self-Direction budget HES will be located.

Response: Once OPWDD is closer to implementation, additional detail will be provided defining where HES is located in a person's Self-Direction PRA budget.

Training

26. **Comment:** A commenter suggested that OPWDD change the requirements that Remote Supports Vendors provide initial and ongoing training to individuals to also allow HACS Vendors to provide training for individuals receiving HACS.

Response: As noted above, based on input from public comments, OPWDD has established HACS as a distinct subscription-based technology available under HES (separate and apart from Remote Supports). OPWDD does not intend to direct which entity provides the training but rather, will entrust the HES Provider to ensure that training is provided in the most effective manner possible for the situation. OPWDD has updated the Provider Manual to state the following:

"The Home-Enabling Supports provider and/or the Remote Support or HACS Vendor shall provide the individual receiving support with initial and ongoing training on how to use the support system as specified in the Home-Enabling Supports Plan."

27. **Comment:** A commenter asking who will be training people receiving HES, if this is part of the vendor's contract, if there will be a "support" line if problems arise, and if such training is an "unfunded" mandate.

Response: It is the HES provider's responsibility to ensure that initial training is provided to persons receiving HES. Training should also be provided to the people who support the person in their day-to-day life, such as family/natural supports and/or Community Habilitation staff. Training may be provided by either the HES provider or the vendor (e.g., Remote Support or HACS). Funding for initial training is included in the one-time startup fee for the HES provider and will also be included in vendor fees.

In general, the expectation is that the HES provider's need to engage in troubleshooting and technical assistance will fade as the person and his or her circle of support gain understanding of the technology. For the different components of HES, the following on-going resources are available:

- For devices: Additional funding for ongoing troubleshooting by the HES Provider is available for up to three months, in the 12-month period following initial acquisition and start-up training. If troubleshooting is needed beyond three months, the person (and/or those who support them) should seek assistance from the device manufacturer.
- For Remote Support or HACS: If technical assistance is needed beyond the initial training provided by the HES provider and/or Remote Support Vendor troubleshooting services are built into the subscription service and may be accessed for the duration of the service by contacting the Remote Support or HACS Vendor.

Payment and Billing

28. **Comment:** Several commenters suggested that the annual cap of \$5,000 be increased in the first year or in general for people using Remote Supports.

Response: The \$5,000 annual funding limit is consistent with the additional resource investment that has been made available in the OPWDD budget. Further, raising the annual cap would require a waiver amendment and cannot be implemented at this time. OPWDD will evaluate HES utilization and costs and may adjust at a future date.

29. **Comment:** A commenter suggested that the monthly fee for subscription services (technology platform) be increased.

Response: The \$63 per month fee is an administrative fee paid to the HES provider for their costs of administering ongoing services and is not counted within the \$5,000 annual funding limit. Fees for monthly subscription services may exceed \$63. The costs for monthly subscription services and acquisition costs are limited to a \$5,000 annually. OPWDD has updated the Payment Standards section of the Provider Manual to clarify this.

30. **Comment:** A commenter requested that the Provider Manual stipulate that payment to Vendors be

made within 30 days of receipt of clean invoice.

Response: Contracting between the HES Provider and the Vendor is the responsibility of the HES Provider.

31. **Comment:** One comment received asked if HES will be a separate rate code to bill Medicaid?

Response: There will be separate rate codes for selected HES providers to directly bill Medicaid for HES. Additional information will be forthcoming.

Suggested Edits to ADM/Provider Manual

32. **Comments:** Several comments were received regarding consistency with the definitions within the Purpose and Background sections; re-ordering the paragraphs of the Authorization of Services section for clarity; clarifying what items of general utility are; separating out language regarding service animals and experimental technology; including a flow chart for the general process of HES; and being consistent with the definition of HES in the ADM between the Purpose and Background section.

Response: OPWDD agrees with these comments and has made edits to the ADM and Provider Manual accordingly for clarity and consistency. A flow chart has been created to assist in outlining the process.

33. **Comment:** A commenter requested that OPWDD explain in the Manual the steps to become an Assistive Technology (AT) provider.

Response: If a provider is interested in becoming an AT provider, a Letter of Interest (LOI) must be submitted to their local OPWDD Developmental Disabilities Regional Field Office (DDRFO) Director. Please note: successfully becoming an AT provider does not automatically result in being selected as an HES provider, as that will follow a separate competitive procurement.

34. **Comment:** A commenter requested that a link to process rules for the competitive procurement process be included in the Manual.

Response: The competitive procurement has not yet been published and will be published following the completion of public comment.