NEW YORK STATE OF OPPORTUNITY. | Office for People With Developmental Disabilities | Memorandum

ADMINISTRATIVE MEMORANDUM - #2015-01

TO: Executive Directors of Voluntary Provider Agencies
Executive Directors of Agencies Authorized to Provide Community Habilitation Services
Developmental Disabilities Regional Office and State Operations Office Directors
Medicaid Service Coordinators and MSC Supervisors

FROM: Katherine Marlay, Acting Deputy Commissioner
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DATE: February 27, 2015

SUBJECT: **Service Documentation for Community Habilitation Services Provided to Individuals Residing in Certified and Non-Certified Locations**

SERVICE EFFECTIVE DATE: October 1, 2014

SUGGESTED DISTRIBUTION

Community Habilitation Program/Service Staff
Family Care Providers
IRA and Community Residence Providers
Quality/Compliance Staff
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Purpose:

This Administrative Memorandum issued by the Office for People With Developmental Disabilities (OPWDD) describes the Community Habilitation (CH) service documentation requirements that support a provider's claim for reimbursement. These requirements apply to CH services delivered to individuals who are enrolled in the Home and Community Based Services (HCBS) waiver or to non-waiver enrolled individuals. Beginning October 1, 2014, eligibility for CH services is expanded to include not only individuals residing outside of OPWDD certified settings, but also individuals who live in an OPWDD-certified Individualized Residential Alternative (IRA), Community Residence (CR) or Family Care Home (FCH). This expansion of eligibility will allow individuals residing in OPWDD-certified settings to utilize CH services in lieu of part or all of their day services. Requirements set forth in this Administrative Memorandum supersede Administrative Memorandum #2010-05 and fiscal audit service documentation requirements addressed in The Key to Individualized Services, The Home and Community Based Services Waiver (OMRDD, 1997). Quality service standards in The Key remain the same.

Background:

18 NYCRR Section 504.3(a) states that by enrolling in the Medicaid program, "the provider agrees…to prepare and to **maintain contemporaneous records** demonstrating its right to receive payment under the medical assistance program and to **keep for a period of six years from the date the care, services or supplies were furnished, all records** necessary to disclose the nature and extent of services furnished and all information regarding claims for payment submitted by, or on behalf of, the provider and to furnish such records and information, upon request, to…the Secretary of the United States Department of Health and Human Services, the Deputy Attorney General for Medicaid Fraud Control and the New York State Department of Health (emphasis added)." In addition, 18 NYCRR Section 517.3(b)(2) states that "All information regarding claims for payment submitted by or on behalf of the provider is subject to audit for a period of six years from the date the care, services or supplies were furnished or billed, whichever is later." It should be noted that there are other entities with rights to audit Medicaid waiver claims as well, including OPWDD.

The regulatory basis for HCBS Waiver Community Habilitation is 14 NYCRR Sections 635-10.4(B)(3) and 635-10.5(ab).

Community Habilitation Services:

This memorandum describes the service documentation requirements for Community Habilitation (CH).

Where CH May Be Provided

With few exceptions, CH services may not be billed when delivered at a site certified by OPWDD or at a site operated by OPWDD which would be required to be certified if it

were operated by another provider. The exceptions to the prohibitions barring payment for CH delivered in certified settings are:

- CH services may be billed when the CH staff person accompanies the person to a clinic treatment facility certified in accordance with Part 679 regulations (also known as "Article 16 Clinics"). This is described in greater detail later in this document.
- CH services may be billed when the staff person accompanies the person to an Individualized Service Plan (ISP) review meeting that occurs in a certified location.

Prior Authorization

Payment for CH requires, for each individual served, prior authorization from the DDSO or Service Delivery Region 2 (formerly NYCRO). For individuals residing in an OPWDD-certified IRA, CR or FCH, this authorization is based on their need for community-based activities. For all other individuals, this authorization is based on their need for supports for daily living as well as community-based activities.

Fee Structure

Community Habilitation has six different fee structures based on the staff to individual ratio at the time of service delivery and the residential setting of the individual(s).

- For CH delivered to individuals residing outside of OPWDD-certified settings, there are four fee structures:
  - one staff to one individual;
  - one staff to two individuals;
  - one staff to three individuals; and
  - one staff to four individuals.

- For CH delivered to individuals residing in a qualifying OPWDD-certified setting, there are two fee structures:
  - one staff to one individual; or
  - one staff to group (consisting of between two and four individuals).

Agencies must maintain documentation that validates that services were billed based on the correct staff to individual ratio.

Billing Standard:

The unit of service for Community Habilitation services is an hour. Services are billed in 15- minute increments, with a full 15 minutes of service required to bill a single increment (i.e., there is no "rounding up").

For each continuous period of service delivery (or "session"), the provider must document the delivery of at least one individualized, face-to-face service provided by CH staff that is based on the individual's Community Habilitation Plan. The provider must also

document the service start time and service stop time for each Community Habilitation "session." The *billable service time* for Community Habilitation is the time when CH staff are providing face-to-face CH services to an individual.

> For example, an individual may receive Community Habilitation services for a one-hour session in the morning from 9:00 a.m. to 10:00 a.m. and again for a two-hour session in the afternoon from 3:00 p.m. to 5:00 p.m. For the morning session, the CH staff must contemporaneously document the service start time (9:00 a.m.) and the service stop time (10:00 a.m.) and document the provision of at least one face-to-face service which is drawn from the individual's Community Habilitation Plan. For the afternoon session, the Community Habilitation staff must contemporaneously document the service start time (3:00 p.m.) and service stop time (5:00 p.m.) and document the provision of at least one face-to-face service which is drawn from the individual's Community Habilitation Plan.

Time spent receiving another Medicaid service cannot be counted toward the Community Habilitation billable service time, except as follows:

1. For individuals residing outside of an OPWDD-certified setting and for individuals residing in a Family Care Home (FCH):

    - The individual may receive Hospice at the same time as CH services.

    - The individual may receive Personal Care, Home Health Aide, or nursing services at the same time as CH services. This is only in cases where the Community Habilitation Plan describes supports and services that are distinct and separate from the supports and services being provided by the Personal Care, Home Health Aide, or nursing staff.

    - Time that the individual spends with his/her MSC Service Coordinator during face-to- face visits may be included as CH billable service time as long as Community Habilitation staff is present.

    - Time that the individual is at a medical appointment with a physician (including a psychiatrist), a nurse practitioner, or physician assistant, or at a dental appointment as long as CH staff is with the individual at these appointments. Transportation to and from the medical appointment may also be counted as long as staff accompany the individual and Medicaid is not being charged separately for a transportation attendant for the trip.

    - Time that the individual is at an appointment for a clinical service of the type described below and staff is with the individual in order to facilitate the implementation of therapeutic methods and treatments. The allowable types of

clinical services are occupational therapy, physical therapy, speech therapy, psychology, dietetics and nutrition, and social work. The time when an individual is being transported to and from the appointment may also be counted as long as the staff accompanies the individual and Medicaid is not being charged for a transportation attendant for the trip. Payment for CH services delivered concurrently with these clinical services is contingent upon the need for the CH staff's participation in the specified clinical service being described in the individual's CH Plan.

> Note: For each calendar year, reimbursement is available for CH staff to participate in no more than 12 clinical appointments per person, per clinical service type.

- Day of admission and day of discharge to a hospital, nursing home, rehabilitation facility, or ICF if CH Services are delivered prior to admission or after discharge and the services are not delivered in the hospital, nursing home, rehabilitation facility, or ICF/DD.

2. For individuals living in a Individualized Residential Alternative (IRA) or Community Residence (CR):

- The individual may concurrently receive hospice and CH services.

- Time when the Medicaid service coordination (MSC) service coordinator is conducting the face-to-face MSC visit with the individual may be counted toward the CH billing as long as the CH staff is present. This concurrent billing is allowed in order to promote the coordination of services.

- Nursing services may be provided concurrently with CH services, but only in cases where the CH plan describes supports and services that are distinct and separate from the supports and services being provided by the nursing staff.

Further billing limitations for individuals residing in OPWDD-certified settings (IRA, CR and FCH) include the following:

- Community habilitation services may only be reimbursed if the services are delivered on weekdays and have a service start time prior to 3:00 p.m.

- CH services may not be reimbursed on a given day that the individual receives:

  - one full unit of group day habilitation services; or

  - one full unit of prevocational services; or

  - one full unit of a blended service (which is a combination of day habilitation and prevocational services); or

- any combination of two half units of group day habilitation, prevocational services or blended services.

- On a given day, a maximum of the following may be reimbursed:
  - six hours of CH services; or
  - the combination of:
    - one half unit of group day habilitation, prevocational services or blended services; and
    - four hours of CH services.

Service Documentation:

Medicaid rules require that service documentation be contemporaneous with the service provision. Required service documentation elements are:

1. **Individual's name and Medicaid number (CIN).** Note that the CIN need not be included in daily documentation; rather, it can appear in the individual's Community Habilitation Plan.

2. **Identification of the category of waiver service provided.** For billing and service documentation purposes, the individual's Individualized Service Plan (ISP) must identify the CH category of waiver service (e.g., Community Habilitation or Community Hab).

3. **A daily description of at least one face-to-face service provided by staff during each "session" (or continuous period of Community Habilitation service provision)**. Face-to-face services are individualized services based on the person's Community Habilitation Plan, e.g., the staff person documents that he/she "taught the individual to follow instructions in a recipe."

4. **Documentation of start and stop times.** The provider must document the service start time and service stop time for each continuous period of CH service provision or "session."

5. **Documentation of the staff-to-individual ratio.** If the individual resides in a non-certified setting, the provider must document if a staff person was serving one individual, two individuals, three individuals, or four individuals at the time of service delivery. If the individual resides in a certified setting, the provider must document if the staff-to-individual ratio was one staff to one individual or one staff to group (between two and four individuals).

6. **The individual's response to the service.** For example, the staff person documents that "the individual was able to keep to the grocery list." Note: This element of the documentation does not have to be recorded for every service session as long as the individual response is documented in a monthly summary.

A provider may choose to include the individual response more frequently (e.g., daily).

7. **The date the service was provided.**

8. **The primary service location** (e.g., the individual's residence).

9. **Verification of service provision by the Community Habilitation staff person delivering the service.** Initials are permitted if a "key" is provided which identifies the title, signature and full name associated with the staff initials.

10. **The signature and title of the Community Habilitation staff person documenting the service.**

11. **The date the service was documented and signed by the Community Habilitation staff person.**

Acceptable formats for the service documentation supporting a provider's billing submittal include a narrative note or a checklist/chart with an entry made contemporaneously during CH service delivery.

Narrative Note Format

If the narrative note format is selected, the documentation can be completed in one of two ways:

1. A daily service note describing at least one face-to-face individualized service delivered by CH staff for each CH "session." The note does not include the individual's response to the service. If this format is selected, a monthly summary is required. This monthly note must summarize the implementation of the individual's Community Habilitation Plan, address the individual's response to the services provided and any issues or concerns; **OR**

2. A daily service note describing at least one face-to-face individualized service delivered by Community Habilitation staff for each Community Habilitation "session" and the individual's response to the service delivery. Additionally, at least one of the daily notes written during the month must summarize the implementation of the person's Community Habilitation Plan and address any issues or concerns.

Checklist/Chart Format

For each service session, a provider may elect to document the face-to-face Community Habilitation service delivered by CH staff using a checklist or chart. If this format is selected, a monthly summary is also required. The monthly summary must summarize the implementation of the individual's Community Habilitation Plan; address the individual's response to services provided and any issues or concerns.

Both the Narrative Note format and the Checklist/Chart format must include all the Service Documentation elements listed above, including a description of at least one face-to-face individualized service provided by Community Habilitation staff for each Community Habilitation session. The start and stop time for each Community Habilitation "session" must also be documented.

Other Documentation Requirements:

In addition to the service note(s) supporting the CH billing claim, the agency providing CH services must maintain the following documentation:

- A copy of the individual's **Individualized Service Plan (ISP)**, developed by the individual's Medicaid Service Coordinator (MSC) or Plan of Care Support Services (PCSS) Service Coordinator if the individual is HCBS Waiver enrolled or receives service coordination. For Community Habilitation, the following elements must be included in the ISP:
  - Identification of the CH category of waiver service (e.g., Community Habilitation or Community Hab).
  - Identification of the agency providing the CH services.
  - Specification of an effective date for Community Habilitation that is on or before the first date of service for which the agency bills Community Habilitation for the individual.
  - Specification of the frequency for Community Habilitation as hour or hourly.
  - Specification of the duration for Community Habilitation as "ongoing."

- The **Community Habilitation Plan** developed by the agency providing CH services that conforms to the Habilitation Plan requirements found in Administrative Memorandum #2012-01. For Community Habilitation, the habilitation plan should clearly identify that the habilitation plan is for Community Habilitation (e.g., titled "Community Habilitation Plan"). The Community Habilitation Plan must "cover" the time period of the CH claim.

- If an individual chooses to family-direct all or part of his or her Community Habilitation services and receives any additional OPWDD services outside of the home, at least one representative from the outside service(s) must participate at least annually in the individual's ISP review.

- If an individual chooses to self-direct or family-direct part of his or her CH services, the agency providing CH services only needs to maintain one Community Habilitation Plan.

> The management of self-directed or family-directed services where the provider agency is co-managing the delivery of CH services must be described in a co-management agreement between the person, the CH provider and if one exists, an identified adult.

Billing requirements for self-directed (where the person self-hires staff) services is available under separate guidance.

Documentation Retention:

All documentation specified above, including the ISP, Community Habilitation Plan and service documentation, 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 or to request samples of documentation checklist formats and a co-management agreement, contact the OPWDD Director of Waiver Management at (518) 486-6466 or email peoplefirstwaiver@opwdd.ny.gov .

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