

## **MONTHLY RESIDENTIAL HABILITATION SERVICES**

**Effective January 1, 2020**

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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.

**Note:**

Per ADM 2018-06R, As of July 1, 2018, individuals new to the OPWDD system (i.e., on or after July 1, 2018), will have Life plans developed and finalized in accordance with the CCO/HH Manual. Finalized Life Plans for newly enrolled CCO members (i.e., members enrolled after 10/1/2018) are due no later than 90 days after CCO enrollment or HCBS waiver enrollment, whichever comes first.

Per ADM 2018-06R, For Life Plans finalized on or before December 31, 2019 (i.e., the transition period), OPWDD is suspending service documentation requirements for documenting the Waiver service name, frequency, duration, and effective date in the Life Plan. Instead, only the name of the service provider and the service name must be identified in the Life Plan.

Service providers are responsible for reviewing the finalized, acknowledged and agreed to Life Plan. Providers may occasionally find inaccuracies in the finalized, acknowledged and agreed to Life Plan. Providers should demonstrate due diligence in working with the Care Manager, CCOs, OPWDD and/or others to correct the Life Plan as soon as possible. Service providers should document their timely efforts to correct any errors in the



Life Plan. Examples of this documentation may include notes in the individual's monthly summary, e-mails, phone calls, etc.

All Life Plans created or amended after the transition period must comply with all regulatory and policy standards.

Per ADM 2018-09R, As of March 1, 2020, At the time of transition to the Life Plan, Habilitation Plans must transition to Staff Action Plans. All individuals transitioning from an ISP to a Life Plan who receive habilitation services must have a staff Action Plan no later than March 1, 2020.

<b>1.</b>	<b>Missing Record</b>
<b>OPWDD Audit Criteria</b>	If no record is available for review, claims for all dates of service associated with the individual will be disallowed.
<b>Regulatory References</b>	18 NYCRR Section 504.3(a) 18 NYCRR Section 540.7(a)(8)
<b>2.</b>	<b>No Documentation of Service</b>
<b>OPWDD Audit Criteria</b>	If the record does not document that a Residential Habilitation service was provided, the claim will be disallowed.
<b>Regulatory References</b>	18 NYCRR Section 504.3(a) 18 NYCRR Section 517.3(b)
<b>3.</b>	<b>No Determination of a Developmental Disability</b>
<b>OPWDD Audit Criteria</b>	The claim for services provided in the absence of a clinical assessment substantiating a specific determination of developmental disability will be disallowed.
<b>Regulatory References</b>	14 NYCRR Section 635-10.3(a) and (b)(1) 14 NYCRR Section 671.4(b)(1)(i)
<b>4.</b>	<b>Missing or Inadequate Life Plan (LP)</b>
<b>OPWDD Audit Criteria</b>	A copy of the individual's Life Plan (LP), covering the time period of the claim, must be maintained by the agency. The claim will be disallowed in the absence of a Life Plan (LP). If the Life Plan (LP) is not in place prior to the service date and in effect for the service date, the claim will be disallowed.
<b>Regulatory References</b>	14 NYCRR 635-10.2(a) OPWDD ADM #2002-01, p. 7 OPWDD ADM #2018-06R, pp. 1-2
<b>5.</b>	<b>Unauthorized Residential Habilitation Services Provider</b>
<b>OPWDD Audit Criteria</b>	The claim will be disallowed if the Life Plan (LP) does not: <ul style="list-style-type: none"> <li>• Identify Residential Habilitation as the service to be provided.</li> <li>• List the provider as the authorized provider for a specific service.</li> <li>• Have an effective date for Residential Habilitation services that is on or before the first day of service for which the agency bills for services.</li> </ul>
<b>Regulatory References</b>	14 NYCRR Section 635-10.2(a) OPWDD ADM #2002-01, p. 7 OPWDD ADM #2018-06R, pp. 3-4,7
<b>6.</b>	<b>Missing Residential Habilitation Plan/Staff Action Plan</b>
<b>OPWDD Audit Criteria</b>	The claim will be disallowed in the absence of a Residential Habilitation plan/staff action plan. If no Residential Habilitation plan/staff action plan is in place prior to the service date and in effect for the service date, the claim will be disallowed.
<b>Regulatory References</b>	OPWDD ADM #2002-01, pp. 7-8 OPWDD ADM #2012-01, p. 7 OPWDD ADM #2018-09R, p. 12

<p><b>7.</b> <b>OPWDD Audit Criteria</b></p>	<p><b>Missing Required Elements of the Residential Habilitation Plan/Staff Action Plan</b></p> <p>The claim will be disallowed if any of the required elements are missing in the <b>Habilitation Plan</b>:</p> <ol style="list-style-type: none"> <li>1. The Individual's name.</li> <li>2. The individual's Medicaid Identification Number (CIN), if the person is a Medicaid enrollee.</li> <li>3. The habilitation service provider's agency name.</li> <li>4. Identification of at least one valued outcome that is derived from the individual's ISP (valued outcomes do not need to be verbatim from the ISP).</li> <li>5. The date on which the Habilitation Plan was reviewed.</li> <li>6. Identification of at least one valued outcome that is derived from the individual's ISP (valued outcomes do not need to be verbatim from the ISP).</li> <li>7. Description of the services and supports the habilitation staff will provide to the person.</li> <li>8. The safeguards (health and welfare) that will be provided by the habilitation service provider.</li> <li>9. The printed name, signature and title of the staff who wrote the Habilitation Plan.</li> <li>10. The date that staff signed the Habilitation Plan.</li> </ol> <p>The <b>Staff Action Plan</b> must contain these required elements:</p> <ol style="list-style-type: none"> <li>1. Individual's name;</li> <li>2. Individual's Medicaid Client Identification Number (CIN) (if the individual is enrolled in the OPWDD HCBS Waiver);</li> <li>3. Habilitation service provider's agency name;</li> <li>4. Name of habilitation service(s) provided (e.g., Residential Habilitation or Day Habilitation);</li> <li>5. Date (day, month, and year) of the Life Plan meeting, or Staff Action Plan review, from which the Staff Action Plan was developed/revised;</li> <li>6. Identification of the goals/valued outcomes (My Goal) from the individual's Life Plan;</li> <li>7. Identification of the provider assigned (habilitative/safeguard) goal(s) and/or support(s) from the individual's Life Plan;</li> <li>8. Description of the service(s) and support(s) and identification of the frequency from Section II or III of the Life Plan (e.g., teaching laundry skills weekly) the habilitation staff will provide to the individual;</li> <li>9. Safeguards (i.e., compilation of all supports and services needed for an individual to remain safe, healthy and comfortable across all settings) that will be provided by the habilitation service provider, which may be a reference to internal guidance documents that further define the safeguards;</li> <li>10. Printed name(s), signature(s) and title(s) of the staff who wrote the Staff Action Plan;</li> <li>11. Date (day, month, and year) that staff signed the Staff Action Plan; and</li> <li>12. Evidence demonstrating the Staff Action Plan was distributed no later than 60 days after: the start of the habilitation services; the life plan review date; or the development of a revised/updated Staff Action Plan, whichever comes first (which may include, but is not limited to: a monthly narrative note; a HITS upload; or e-mail).</li> </ol>
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<b>Regulatory References</b>	OPWDD ADM #2012-01, p. 7 OPWDD ADM #2018-09R, pp. 12-13
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<b>8.</b>	<b>Missing Residential Habilitation Plan/Staff Action Plan Review</b>
<b>OPWDD Audit Criteria</b>	<p><b>Habilitation Plan:</b> Claims will be disallowed if the relevant habilitation plan(s) is not developed, reviewed or revised as necessary at a minimum of at least once annually. At least annually, one of the residential habilitation plan reviews must be conducted at the time of the ISP meeting.</p> <p><b>Staff Action Plan:</b> There must be evidence that the Staff Action Plan was reviewed at least twice annually. Evidence of a review may include but is not limited to a: 1) Review sign-in sheet; 2) Service note indicating a review took place; and/or 3) Revised/updated Staff Action Plan.</p>
<b>Regulatory References</b>	OPWDD ADM #2012-01, p. 7 OPWDD ADM #2018-09R, p. 13

<b>9.</b>	<b>Missing Required Elements of the Residential Habilitation Plan/Staff Action Plan Review</b>
<b>OPWDD Audit Criteria</b>	<p><b>Habilitation Plan:</b> There must be evidence that the Habilitation Plan was reviewed within 12 months prior to the month in which the service occurs. Evidence of a review may include, but is not limited to, a review sign-in sheet, a service note indicating a review, or revised/updated Habilitation Plan.</p> <p>Evidence of reviews must include:</p> <ol style="list-style-type: none"> <li>1. the individual's name,</li> <li>2. the habilitation service(s) under review,</li> <li>3. the staff's signature(s) from the habilitation service,</li> <li>4. the date of the staff's signature,</li> <li>5. date of the review.</li> </ol> <p><b>Staff Action Plan:</b> Evidence of reviews must include the: 1) Individual's name; 2) Habilitation service(s) under review; 3) Staff signature(s) from the habilitation service(s); 4) Date of the staff signature(s); and 5) Date of the review.</p> <p>The claim will be disallowed if one or more of the required elements of the review are missing.</p>
<b>Regulatory References</b>	14 NYCRR Section 635-99.1(bk) OPWDD ADM #2012-01, pp. 3, 7 OPWDD ADM #2018-09R, p. 13

<b>10.</b>	<b>Failure to Write the Initial Residential Habilitation Plan/Staff Action Plan Within 60 Days</b>
<b>OPWDD Audit Criteria</b>	<p><b>Habilitation Plan:</b> For Residential habilitation services, the initial habilitation plan must be written within 60 days of the start of the habilitation service and forwarded to the Medicaid Service Coordinator (MSC). The claim will be disallowed if the plan is not written within 60 days</p>

	<p>of the start of the habilitation service.</p> <p><b>Staff Action Plan:</b> The initial Staff Action Plan must be in place no later than 60 days of the start of the habilitation service, or the Life Plan review date, whichever comes first. Therefore, services that are provided no later than the first 60 days of the start of the habilitation service might not have a Staff Action Plan in place.</p>
<b>Regulatory References</b>	<p>OPWDD ADM #2012-01, pp. 2-3, 7 OPWDD ADM #2018-09R, p. 13</p>

<b>11.</b>	<b>Failure to Forward Revised Habilitation Plan/Staff Action Plan for Residential Habilitation Within Required Time Frames to the Service Coordinator/Care Manager</b>
<b>OPWDD Audit Criteria</b>	<p><b>Habilitation Plan:</b> For service dates April 1, 2012, and after, a revised Residential habilitation plan must be sent to the recipient's service coordinator no more than 30 days after either (a) an ISP review date, or (b) the date on which the habilitation service provider makes a significant change to the plan.</p> <p>The claim will be disallowed if the revised plan was not forwarded within 30 days to the service coordinator.</p> <p><b>Staff Action Plan:</b> A revised Staff Action Plan, written by the habilitation service provider, must be provided to the Care Manager. Staff Action Plans must be provided to the Care Manager no more than 60 days after either: (a) a Life Plan review date; or (b) the date on which the habilitation service provider makes a change to the Staff Action Plan</p>
<b>Regulatory References</b>	<p>14 NYCRR Section 635-99.1(bk) OPWDD ADM #2012-01, pp. 3-4 OPWDD ADM #2018-09R, p. 13</p>

<b>12.</b>	<b>Missing Residential Habilitation Service Note</b>
<b>OPWDD Audit Criteria</b>	<p>On any countable service day there must be documentation of at least one residential habilitation service delivered to the recipient by IRA residential habilitation staff. The claim will be disallowed in the absence of such documentation.</p>
<b>Regulatory References</b>	<p>14 NYCRR Section 635-10.5(b)(12)(iii)(e) OPWDD ADM #2002-01, pp. 6-7</p>

<b>13.</b>	<b>Missing Required Elements in the IRA Residential Habilitation Service Note</b>
<b>OPWDD Audit Criteria</b>	<p>The claim will be disallowed if any of the nine required elements are missing in the note: 1. recipient's name and CIN number; 2. identification of category of waiver service provided; 3. description of the individualized service provided; 4. recipient's response to the service; 5. date the service was provided; 6. primary service location; 7. verification of service provision by the staff person delivering the service; 8. signature and title of the staff person; 9. date the note was written (completed contemporaneously).</p>
<b>Regulatory References</b>	<p>18 NYCRR 504.3 OPWDD ADM #2002-01, p. 6</p>

<b>14.</b>	<b>Improper Number of Countable Service Days (Full Month)-Supportive Individualized Residential Alternative (IRA)</b>
<b>OPWDD Audit Criteria</b>	The full month supportive IRA residential habilitation payment shall be paid for services provided to a recipient who is enrolled for 22 days and receives 4 days of face-to-face residential habilitation services (no more than 2 service days within a week are countable toward the 4-day minimum). The amount of the claim will be reduced for less than 4 days of face-to-face service, by reducing the full month to a half month, if at least 11 enrolled days and 2 days of face-to-face residential habilitation service. The difference between the amount of the full month rate and the amount of the half month rate will be disallowed.
<b>Regulatory References</b>	14 NYCRR Section 635-10.5(b)(10)(iv)(a) OPWDD ADM #2002-01, pp. 4-5
<b>15.</b>	<b>Improper Number of Countable Service Days (Half Month)-Supportive Individualized Residential Alternative (IRA)</b>
<b>OPWDD Audit Criteria</b>	The half month supportive IRA residential habilitation rate shall be paid for services provided to a recipient who meets the enrollment requirement of 11 days and receives face-to-face residential habilitation services on 2 days (no more than one service day within a week is countable toward the 2-day minimum). The claim will be disallowed for recipients who do not meet the enrollment requirement of 11 days or for less than 2 days of face-to-face service.
<b>Regulatory References</b>	14 NYCRR Section 635-10.5(b)(10)(iv)(b) OPWDD ADM #2002-01, p. 5
<b>16.</b>	<b>Recipient Absent from IRA on Countable Service Day</b>
<b>OPWDD Audit Criteria</b>	The provider cannot include days that the recipient is in a hospital, nursing home or other government funded residential site as a countable service day. Claims will be disallowed for days identified as improperly countable service days while the recipient is out of the IRA.  <b>Note:</b> As per ADM #2002-01, the day of admission and day of discharge to a hospital, nursing home, ICF, or other government funded residential site may be counted when IRA residential habilitation staff deliver and document residential habilitation services.
<b>Regulatory References</b>	OPWDD ADM #2002-01, p. 5
<b>17.</b>	<b>Missing or Inadequate IRA Residential Habilitation Monthly Summary Note</b>
<b>OPWDD Audit Criteria</b>	A summary note shall be recorded, at least monthly, by the staff member(s) having a substantive responsibility for delivering or monitoring delivery of the plan of services. Claims will be disallowed in the absence of the monthly summary note if required based on the chosen format.
<b>Regulatory References</b>	14 NYCRR Section 671.6(a)(8) OPWDD ADM #2002-01, p. 7

<b>18.</b>	<b>Billing for Services Not Authorized by Operating Certificate</b>
<b>OPWDD Audit Criteria</b>	The claim will be disallowed if the agency does not have an operating certificate identifying certification for Residential Habilitation services.
<b>Regulatory References</b>	New York State Mental Hygiene Law, Section 16.03(a)(4) 14 NYCRR Sections 619.2(d) 14 NYCRR Sections 619.3