

FAMILY EDUCATION AND TRAINING (FET) SERVICES

Effective January 1, 2020

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.

Background:

Family Education and Training (FET), is training given to families of participants enrolled in the HCBS waiver. The purpose of FET is to enhance the decision making capacity of the family unit, provide orientation regarding the nature and impact of a developmental disability on the person and his or her family, including behavioral management practices, and teach the family about service alternatives. FET is distinct from service coordination in that the purpose is to support the family unit in understanding and coping with the developmental disability. The information and knowledge imparted in FET increases the chances of creating a supportive environment at home and decreases the chances of a premature residential placement outside the home.

FET sessions may be private or in groups of families covering subject matter that enhances the ability of a family to handle the demands of nurturing a family member with a developmental disability. Personnel knowledgeable in the topics covered may conduct the sessions. Most frequently, this will be a service coordinator or behavioral specialist, but it may also include other clinicians and experts in such fields as law



and finances pertaining to disabilities.

The audit protocol criteria listed below are the **standard audit protocols**. “Appendix” contains flexibilities enacted during the COVID public health emergency.



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| 1. | Missing Record |
| OPWDD Audit Criteria | If no record is available for review, claims for all dates of service associated with the individual will be disallowed. |
| Regulatory References | 18 NYCRR Section 504.3(a) 18 NYCRR Section 540.7(a)(8) |
| 2. | No Documentation of Service |
| OPWDD Audit Criteria | If the record does not document that a Family Education and Training Habilitation service was provided, the claim will be disallowed. |
| Regulatory References | 18 NYCRR Section 504.3(a) 18 NYCRR Section 517.3(b) |
| 3. | No Determination of a Developmental Disability |
| OPWDD Audit Criteria | The claim for services provided in the absence of a clinical assessment substantiating a specific determination of developmental disability will be disallowed. |
| Regulatory References | 14 NYCRR Section 635-10.3(a) and (b)(1) 14 NYCRR Section 671.4(b)(1)(i) |
| 4. | Missing or Inadequate Life Plan (LP) |
| OPWDD Audit Criteria | 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. |
| Regulatory References | 14 NYCRR 635-10.2(a) May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS OPWDD ADM #2018-06R, pp. 1-2 |
| 5. | Unauthorized Family Education and Training Services Provider |
| OPWDD Audit Criteria | The claim will be disallowed if the Life Plan (LP) does not: <ul style="list-style-type: none"> • Identify Family Education and Training as the service to be provided. • List the provider as the authorized provider for a specific service. • Have an effective date for Family Education and Training services that is on or before the first day of service for which the agency bills for services. |
| Regulatory References | 14 NYCRR Section 635-10.2(a) May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS OPWDD ADM #2018-06R, pp. 3-4,7 |
| 6. | Identification of Frequency and Duration of Service |
| OPWDD Audit Criteria | The claim will be disallowed if the Life Plan (LP) does not: <ul style="list-style-type: none"> • Specify that the frequency for Family Education and Training is "1 or 2 units per Year". • Specify the duration for Family Education and Training is "Ongoing". |
| Regulatory References | May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS OPWDD ADM #2018-06R, pp. 3-4,7 |



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| 7. | Improper Reimbursement - Eligibility (Age Requirement) |
| OPWDD Audit Criteria | The claim will be disallowed if the individual whose family is receiving service is not under the age of 18 at the time the service was provided. |
| Regulatory References | 14 NYCRR 635-10.5(aa)(2)(ii) May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS |
| 8. | Incorrect Payment Level |
| OPWDD Audit Criteria | Attendance at training can be claimed for either a single family or group of families (involving 2 - 8 families). The claim will disallowed if more than 8 families are involved. |
| Regulatory References | 14 NYCRR 635-10.5(aa)(3)(ii) May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS |
| 9. | Failure to Meet Billing Minimum duration |
| OPWDD Audit Criteria | The claim will be disallowed if the duration of training was less than two hours. |
| Regulatory References | 14 NYCRR 635-10.5(aa)(3)(iii) May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS |
| 10. | Missing Required Elements in the Service Record |
| OPWDD Audit Criteria | The claim will be disallowed if documentation to support the service does not include the following: <ul style="list-style-type: none"> 1. Name and title of person providing the session 2. Outline of the session 3. Length of the session 4. Location where the sessions was held 5. Date the session was held 6. Name of the individual(s) whose family attended 7. Name of the individual's family members who attended <p>Service documentation must be completed contemporaneously.</p> |
| Regulatory References | May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS 18 NYCRR 504.3 |
| 11. | Failure to Adhere to Attendance Maximums |
| OPWDD Audit Criteria | If more than 8 individuals' families participate in a single FET session, the claim will be disallowed. |
| Regulatory References | 14 NYCRR 635-10.5(aa)(3)(ii) May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS |
| 12. | Failure to Comply with Annual Billing Limits |
| OPWDD Audit Criteria | The claim will be disallowed if more than two units of service per eligible person is provided on an annual basis to each family. |
| Regulatory References | 14 NYCRR 635-10.5(aa)(3)(iii) May 4, 2000 OPWDD Letter to Executive Directors re: FET and PCSS |



| 13. | | Billing for Services Not Authorized by Operating Certificate |
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| OPWDD Audit Criteria | | The claim will be disallowed if the agency does not have an operating certificate identifying certification for Family Education and Training services. |
| Regulatory References | | New York State Mental Hygiene Law, Section 16.03(a)(4) 14 NYCRR Sections 619.2(d) 14 NYCRR Sections 619.3 |

APPENDIX

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.

COVID PUBLIC HEALTH EMERGENCY FLEXIBILITIES:

The chart below contains flexibilities enacted during the COVID-19 Public Health Emergency. The chart below may **NOT** be comprehensive. Please see the OPWDD “Regulations & Guidance” landing page for a comprehensive listing (<https://opwdd.ny.gov/regulations-guidance>).

| Policy Area | Flexibility that is Ending | Start Date of Flexibility | End Date of Flexibility | Where to find Post-PHE Policy & Resources |
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| In-person Face-to-Face requirements | Face-to-Face requirements, beyond those deemed medically necessary are waived. | April 17, 2020 | May 11, 2023 | Interim Care Planning and Related Activities Guidance Under COVID-19 OPWDD Care Management Technology Service Delivery Policy |



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| Level of Care Eligibility Determination (LCED) Annual Redetermination | <p>The annual LCED redeterminations are deferred for no more than six (6) months from the original due date</p> | <p>April 17, 2020</p> | <p>May 11, 2023</p> | <p>Interim Care Planning and Related Activities Guidance Under COVID-19</p> <p>Public Health Emergency (PHE) Flexibilities Unwinding</p> <p>ADM #2020-02 Revised Intermediate Care Facilities for Individuals with Intellectual Disabilities ICF/IDD Level of Eligibility Determination (LCED)</p> |
| Life Plan Signatures | <p>Verbal or email approval of proposed changes and additions to the Life Plan are acceptable.</p> | <p>April 17, 2020</p> | <p>May 11, 2023</p> | <p>Interim Care Planning and Related Activities Guidance Under COVID-19</p> <p>Public Health Emergency (PHE) Flexibilities Unwinding</p> <p>ADM #2018-06R2 Transition to People First Care Coordination</p> |
| Timeframes for Finalization of Non-COVID 19 Related Life Plan Changes and corresponding changes to the Staff Action Plan | <p>Timeframes for finalization of non-COVID-19 related Life Plan changes that were in-process prior to March 7, 2020, or which result from any Life Plan meetings or reviews held during the PHE, are waived. The corresponding changes to the Staff Action Plans can similarly be deferred.</p> | <p>April 17, 2020</p> | <p>May 11, 2023</p> | <p>Public Health Emergency (PHE) Flexibilities Unwinding</p> <p>CCO Provider Guidance and Manual</p> <p>ADM #2018-09R Staff Action Plan Program and Billing Requirements</p> <p>ADM #2018-06R2 Transition to People First Care Coordination</p> |
| Life Plan Annual Meetings | <ul style="list-style-type: none"> Ability to hold the annual Life Plan meeting | <p>April 17, 2020</p> | <p>May 11, 2023</p> | <p>Interim Care Planning and Related Activities Guidance Under COVID-</p> |

This document is intended solely for guidance. No statutory or regulatory requirement(s) are in any way altered by any statement(s) contained herein. 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.



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| | <p>remotely versus face-to-face.</p> <ul style="list-style-type: none"> The annual Life Plan review date may be extended if the Care Manager made reasonable efforts to hold the meeting on time, and the reason for the delay is well documented in the Care Management Record. | | | <p>19</p> <p>Public Health Emergency (PHE) Flexibilities Unwinding</p> <p>CCO Provider Guidance and Manual</p> <p>ADM #2018-06R2 Transition to People First Care Coordination</p> <p>OPWDD Care Management Remote Technology Service Delivery Policy</p> |
| <p>Immediate Life Plan/Staff Action Plan Changes related to COVID- 19</p> | <p>The COVID-19 Life Plan/Staff Action Plan Addendum may be used to describe any needed updates per the addendum instructions.</p> | <p>April 17, 2020</p> | <p>November 11, 2023</p> | <p>Interim Care Planning and Related Activities Guidance Under COVID-19</p> <p>Public Health Emergency (PHE) Flexibilities Unwinding</p> <p>Care Planning Post PHE Service Options Memo August 2021</p> <p>Willowbrook Class Member Request to Return to Day Service ADM #2021-02 Requirements for Com Hab-Res (CH-R) Services</p> <p>ADM#2021-03 Ability to use Technology to Remotely Deliver HCBS OPWDD</p> <p>ADM #2018-09R Staff Action Plan Program and Billing Requirements</p> |



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| <p>Life Plans and Service Authorizations and Amendments</p> | <p>Requirement for a Life Plan or in-process Life Plan to justify the need for service authorization or amendment are waived.</p> | <p>April 17, 2020</p> | <p>November 11, 2023</p> | <p>Interim Care Planning and Related Activities Guidance Under COVID-19</p> <p>Public Health Emergency (PHE) Flexibilities Unwinding</p> <p>In process Life Plan requirements: Life Plans and Service Authorization Memo 3.15.22</p> <p>HCBS Waiver Application Requirements for Parental Deeming</p> |
| <p>Request for Service Authorization (RSAs) and Service Amendment Request Forms (SARFs) Signature</p> | <ul style="list-style-type: none"> • Electronic signatures on the RSA and SARF are allowed. • Individual/family/representative signature is not required. | <p>April 17, 2020</p> | <p>N/A Adopted as OPWDD Policy on March 15, 2022, requiring only one signature from a CCO staff.</p> | <p>Interim Care Planning and Related Activities Guidance Under COVID-19</p> <p>Public Health Emergency (PHE) Flexibilities Unwinding</p> <p>Updated Request for Service Authorization Form, 3-15-2022</p> <p>Service Amendment Request Form.pdf (ny.gov)</p> |