**Pathway to Employment**
**Amendments to 14 NYCRR Subpart 635-10**

**ADOPTED REGULATIONS**

**Effective April 1, 2025**

- **Repeal existing subdivision 635-10.4(h) and replace as follows:**

**(h) Pathway to Employment.**

Pathway to Employment is a time-limited, person-centered, comprehensive career and vocational planning and support service. The goal of this service is to help individuals in developing a vocational plan with an identified career path to obtain competitive integrated employment in the future. This habilitative service uses an individualized career and vocational planning process to identify the individual's vocational strengths and goals, which includes community vocational experiences and support services.

The outcome of Pathway to Employment is a career, vocational and transition plan document which includes the next steps for achieving self-employment or competitive, integrated employment at or above the State or Federal minimum wage.

**(1) Allowable Services.**

The Pathway to Employment service consists of specific allowable services. Allowable services must be provided directly to and/or on behalf of an individual. This may include providing the services remotely if that is not the only service delivery method. Allowable Pathway to Employment services include:

(i) vocational assessment, discovery activities, person-centered planning, job-related experiential learning, and career exploration;

(ii) assessment and instruction in the use of remote and assistive technology to increase independence in the workplace;

(iii) development and planning community-based vocational experiences (paid or unpaid), including analysis, customization, carving, and negotiating, training or orienting employers on behalf of an individual or group of individuals;

(iv) training, orientation, and systematic instruction including career-specific skills instruction prior to and during the community-based vocational experiences;

(v) job coaching;

(vi) planning for self-employment, including identifying skills that could be used to start a business, identifying business training and technical assistance that could be utilized in achieving self-employment goals;

(vii) communication and meeting with the individual, businesses, staff delivering or coordinating services for the individual, family members and the individual's circle of support and instructors to address challenges, discuss supports or coordinate Pathway to Employment services;

(viii) review of an individual's records and other documentation for career planning;

(ix) observation and assessment of an individual's interactions and routines at home, in the community and within other services or programs for the purpose of assessment and career planning;

(x) staff travel to and from allowable Pathway to Employment activities, including staff travel time to deliver Pathway to Employment services directly or on behalf of an individual;

(xi) travel training related to accessing employment;

(xii) development of social skills, job retention strategies, and other workplace skills that enable the individual to be successfully integrated into the vocational setting (e.g., social interactions, maintaining relationships with co-workers and supervisors, job readiness, how to attend to task, problem-solving, increasing independence, and communication skills);

(xiii) benefits support, advisement and asset development;

(xiv) planning for employment opportunities or vocational experience sites on behalf of an individual or group of individuals;

(xv) documentation of the delivery and support of all Pathway to Employment services, preparation of service-related documentation and completion of the comprehensive career and vocational plan;

(xvi) planning the delivery of all allowable Pathway to Employment services;

(xvii) managing the delivery of all allowable Pathway to Employment services;

(xviii) communication, reports or meetings with OPWDD staff regarding outcomes for individuals receiving Pathway to Employment services, report preparation, and other requested information;

(xix) staff time to attend and travel to OPWDD Innovations Training; and

(xx) other activities with prior approval from OPWDD.

**(2) Eligibility for Pathway for Employment.**

To be eligible for Pathway to Employment services, the individual must:

(i) require habilitative services including employment-related learning, volunteer and vocational experiences;

(ii) express an interest in preparing for competitive integrated employment or self-employment and have this identified in their Life Plan;

(iii) be enrolled in the Home and Community-based Services (HCBS) Waiver; and

(iv) not have met or exceeded the lifetime total of Pathway to Employment service hours cap (*see* paragraph (3) of this subdivision.

**(3) Limits on Pathway to Employment.**

(i) Pathway to Employment is time-limited. Eligible individuals may be approved for Pathway to Employment for up to 12 months or 425 hours, whichever occurs first.

(ii) In unique circumstances, the Pathway to Employment provider may request OPWDD approval for additional time and/or hours of this service. This request must be made in the form and format specified by OPWDD.

(iii) In these unique circumstances, OPWDD may consider requests for approval for additional time and/or hours of Pathway to Employment. OPWDD will determine if these requests are reasonable considering the services provided, community-based vocational experiences, best interests of the individual, and any other relevant criteria as determined by OPWDD.

(iv) In any event, an individual's Pathway to Employment services are capped and must not exceed a total of 24 months or 556 hours (whichever occurs first) over their lifetime.

**(4) Pathway to Employment Service Provision Time.**

Pathway to Employment services may be provided during both the day and/or evening on both weekdays and weekends.

**(5) Individual and Group Provision of Pathway to Employment.**

Pathway to Employment may be provided to one (1) individual or a group of two – five (2-5) individuals, except for training related to gaining vocational skills or career exploration. Related training may be delivered to a group of no more than 15 individuals. Individuals may move to and from individual and group sessions based on the individual's needs.

**(6) Community-Based Vocational Experiences.**

(i) Individuals receiving Pathway to Employment services must participate in community-based vocational experiences to inform the development of the Career, Vocational, and Transition Plan. Community-based vocational experiences must be delivered in integrated settings alongside members of the broader community.

(ii) Community-based vocational experiences may be paid or unpaid. Applicable Federal and/or State Department of Labor laws, rules, regulations, and guidance applies to both paid and unpaid community experiences.

(iii) If the individual is paid for their community-based vocational experience, then they must earn minimum wage at or above the applicable county, State or Federal minimum wage.

(iv) If an individual is provided 100 or more hours of Pathway to Employment services, there must be at least:

*(a)* 30% of those hours must include community-based vocational experiences. This must be documented in the individual's Career, Vocational, and Transition Plan.; and
*(b)* three (3) different community-based vocational experiences.

(v) In exceptional circumstances where the individual is provided 100 or more hours of Pathway to Employment services, OPWDD may grant an exception to allow fewer than:

*(a)* 30% community-based vocational experience hours; and/or
*(b)* three (3) community-based vocational experiences.

**(7) Career, Vocational, and Transition Plan.**

(i) A Career, Vocational, and Transition Plan is a comprehensive plan that identifies an individual's career path to help them obtain competitive

integrated employment.

(ii) Providers must complete a Career, Vocational, and Transition Plan for each individual enrolled in the service.

(iii) Career, Vocational, and Transition Plans must be completed in the form and format specified by OPWDD.

(iv) Career, Vocational, and Transition Plans must be submitted to OPWDD no later than 90 days after the individual's disenrollment from Pathway to Employment.

(v) Individuals are entitled to a copy of their final Career, Vocational and Transition Plan as submitted to OPWDD. Providers must provide a copy to the individual no later than 14 days from their request.

- **Repeal existing subdivision 635-10.5(ad) and replace as follows:**

**(ad) Pathway to Employment:**

**(1) Reimbursement.**

Reimbursement is contingent on the individual and service provision meeting the requirements listed in subdivision 635-10.4(h) of this Subpart.

**(2) Unit of service.**

Pathway to Employment is an hourly service and is reimbursed in 15-minute increments. When there is a break in service delivery during a single day, the service provider must combine, for billing purposes, the durations of the continuous periods/sessions of each specific type (individual or group) of service provision. The duration of each individual session within a day must be combined, but individual and group sessions provided in the same day must not be combined.

**(3) Rounding.**

Only the total minutes of the specific billing category (individual or group) for the day may be rounded up to the next 15-minute increment. If there are multiple periods of service during the day, the provider must combine the total minutes for the specific billing category (individual or group) for the day and may not round each specific service period separately. The provider should determine how many 15-minute increments were provided for each specific service. If there are additional minutes of the specific service provided that do not meet the full 15-minute increment, the additional minutes may be

rounded to one additional 15-minute increment if there were 10-14 minutes of additional service.

**(4) Billable service time**.

Billable service time is:

(i) time when staff are providing Pathway to Employment allowable services listed in section 635-10.4(h)(1) of this Subpart in accordance with the individual's Life Plan and Pathway to Employment Staff Action Plan; and

(ii) time when service provider is developing the Pathway to Employment staff action plan.

**(5) Restrictions on billable service time.**

(i) Allowable Pathway to Employment services provided without the individual present may be delivered when the individual is simultaneously receiving another direct Medicaid service including a Pathway to Employment service provided directly to the individual.

(ii) Allowable Pathway to Employment services provided with the individual present must not be delivered when the individual is simultaneously receiving another direct Medicaid service except when the Pathway to Employment Services staff is observing and not providing a direct service.

(iii) An exception is the provision of Medicaid Care Management (CM), which may be provided simultaneously with allowable activities that involve service when the individual is present.

(iv) Transportation to another Medicaid Waiver service that includes transportation in the rate may not be billed under Pathway to Employment services.

**(6) Staff Training Requirements.**

(i) All staff providing Pathway to Employment services must complete required OPWDD approved Pathway to Employment and supported employment-related training. This includes:

*(a) initial training.* 24 hours of initial training completed no later than December 31st two (2) years after the staff's date of hire or transfer to Pathway to Employment service; and

*(b) annual training.* Six (6) additional hours of training annually, starting January 1st of the following calendar year after the completion of initial

training. For staff hired prior to the effective date of this regulation, they must complete the six (6) hours of annual training no later than December 31, 2025. OPWDD may grant extensions or waivers under extenuating circumstances.

**(7) Documentation.**

(i) The service provider must maintain service documentation and a monthly summary to show that an individual received Pathway to Employment services in accordance with their Life Plan and Staff Action Plan.

(ii) For each continuous Pathway to Employment service session, the service provider must document at least one allowable service delivered during the Pathway to Employment service session.

(iii) The service provider must complete and submit the Pathway to Employment Career, Vocational and Transition Plan as specified in paragraph 635-10.4(h)(7) of this Subpart.

(iv) The service provider must report semi-annually on Pathway to Employment data and related requested information in a form and format specified by OPWDD.

**(8) Use of funds.**

The Pathway to Employment service provider must ensure that Medicaid revenue billed and received for the provision of the Pathway to Employment service is not used to pay wages to an individual receiving the service.