

# OMIG AUDIT PROTOCOL OPWDD DAY HABILITATION

REVISED 08/20/2018

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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. Audit protocols are intended solely as guidance in this effort. This guidance does not constitute rulemaking by the New York State Office of the Medicaid Inspector General (OMIG) 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 audit protocols alters any statutory or regulatory requirement and the absence of any statutory or regulatory requirement from a protocol does not preclude OMIG from enforcing the requirement. In the event of a conflict between statements in the protocols and either statutory or regulatory requirements, the requirements of the statutes and regulations 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. OMIG cannot provide individual advice or counseling, whether medical, legal, or otherwise. If you are seeking specific advice or counseling, you should contact an attorney, a licensed practitioner or professional, a social services agency representative, or an organization in your local community.

Audit protocols are applied to a specific provider type or category of service in the course of an audit and involve OMIG'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, OMIG will review and consider any relevant contemporaneous documentation maintained and available in the provider's records to substantiate a claim.

OMIG, 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 OMIG's authority to recover improperly expended Medicaid funds and OMIG 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.

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<b>1.</b>	<b>Missing Recipient Record</b>
<b>OMIG Audit Criteria</b>	If the recipient record is not available for review, claims for all dates of service associated with the recipient record will be disallowed.
<b>Regulatory References</b>	18 NYCRR § 504.3(a) 18 NYCRR § 540.7(a)(8)
<b>2.</b>	<b>No Documentation of Service</b>
<b>OMIG Audit Criteria</b>	If the recipient record does not document that a day habilitation service was provided, the claim will be disallowed.
<b>Regulatory References</b>	18 NYCRR § 504.3(a) 18 NYCRR § 517.3(b)(2)
<b>3.</b>	<b>No Diagnosis of Developmental Disability</b>
<b>OMIG Audit Criteria</b>	The claim for services provided in the absence of a clinical assessment substantiating a specific diagnosis of developmental disability will be disallowed.
<b>Regulatory References</b>	14 NYCRR §§ 635-10.3(a) and (b)(1)
<b>4.</b>	<b>Unauthorized Day Habilitation Services Provider</b>
<b>OMIG Audit Criteria</b>	The claim will be disallowed if the individualized service plan (ISP) does not specify the category of waiver service that the agency is providing (i.e., day habilitation) or does not designate the agency as the provider of the service.
<b>Regulatory References</b>	14 NYCRR § 635-10.2(a) OPWDD ADM #2006-01, p. 6 OPWDD ADM #2006-02, p. 6
<b>5.</b>	<b>Missing Copy of Individualized Service Plan (ISP)</b>
<b>OMIG Audit Criteria</b>	A copy of the recipient's ISP, covering the time period of the claim, must be maintained by the agency. If the copy of the ISP covering the time period of the claim is missing, the claim will be disallowed.
<b>Regulatory References</b>	14 NYCRR § 635-10.2(a) OPWDD ADM #2006-01, p. 6 OPWDD ADM #2006-02, p. 6
<b>6.</b>	<b>Missing Day Habilitation Plan</b>
<b>OMIG Audit Criteria</b>	The claim will be disallowed if the relevant day habilitation plan is missing. If a day habilitation plan 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 § 635-99.1(bk) OPWDD ADM #2006-01, p. 6 OPWDD ADM #2006-02, pp. 6-7 OPWDD ADM #2012-01, pp. 2-3

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<b>7.</b>	<b>Failure to Write the Initial Day Habilitation Plan Within 60 Days</b>
<b>OMIG Audit Criteria</b>	For day habilitation services, the initial habilitation plan must be written within 60 days of the start of the habilitation service and forwarded to the service coordinator. The claim will be disallowed if the plan is not written within 60 days of the start of the habilitation service.
<b>Regulatory References</b>	14 NYCRR § 635-99.1(bk) OPWDD ADM #2006-01, p. 6 OPWDD ADM #2006-02, pp. 6-7 OPWDD ADM #2012-01, p. 2
<b>8.</b>	<b>Missing Day Habilitation Plan Review</b>
<b>OMIG Audit Criteria</b>	The claim will be disallowed if the relevant habilitation plans is not developed, reviewed or revised as necessary at a minimum of at least twice annually. At least annually one of the day habilitation plan reviews must be conducted at the time of the ISP meeting.
<b>Regulatory References</b>	14 NYCRR § 635-99.1(bk) OPWDD ADM #2012-01, pp. 3-4
<b>9.</b>	<b>Missing Required Elements of the Day Habilitation Plan</b>
<b>OMIG Audit Criteria</b>	The day habilitation plan must contain these required elements: the recipient's name and CIN; the habilitation service provider agency name and type of habilitation service; the date the habilitation plan was reviewed; the recipient's valued outcomes; a description of services and supports; safeguards provided; and, the printed name, signature, signature date and title of the person who wrote the habilitation plan. The claim will be disallowed if one or more of the required elements are missing.
<b>Regulatory References</b>	14 NYCRR § 635-99.1(bk) OPWDD ADM #2012-01, p. 7 OPWDD ADM #2012-01, p. 3
<b>10.</b>	<b>Missing Day Habilitation Service Documentation (Individual/Supplemental Individual)</b>
<b>OMIG Audit Criteria</b>	The claim will be disallowed in the absence of documentation of the provision of at least one individualized face-to-face service delivered in accordance with the recipient's day habilitation plan.
<b>Regulatory References</b>	14 NYCRR § 635-10.5(c)(5)(ii) OPWDD ADM #2006-02, p. 3
<b>11.</b>	<b>Missing Day Habilitation Service Documentation (Group/Supplemental Group)</b>
<b>OMIG Audit Criteria</b>	The claim will be disallowed in the absence of documentation to support the number of individualized face-to-face group day habilitation services to a recipient during the program day and the documentation of the program day duration.
<b>Regulatory References</b>	14 NYCRR § 635-10.5(c)(6)(i)(a) and (b) OPWDD ADM #2006-01, p. 3

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<b>12.</b>	<b>Missing Required Elements in Day Habilitation Service Documentation (Individual/Supplemental Individual)</b>
<b>OMIG Audit Criteria</b>	The claim will be disallowed in the absence of one or more of the required 10 elements in the day habilitation service documentation (checklist or narrative note): 1) recipient's name and CIN; 2) identification of category of waiver service provided; 3) a daily description of at least one face-to-face service; 4) start and stop times; 5) recipient's response to the service; 6) the date the service was provided; 7) the primary service location; 8) verification of service provision by day habilitation staff; 9) signature and title of habilitation staff person documenting the service; and, 10) the date the service was documented.
<b>Regulatory References</b>	OPWDD ADM #2006-02, pp. 4-5
<b>13.</b>	<b>Missing Required Elements in Day Habilitation Service Documentation (Group/Supplemental Group)</b>
<b>OMIG Audit Criteria</b>	The claim will be disallowed in the absence of one or more of the required 10 elements in the day habilitation service documentation (checklist or narrative note): 1) recipient's name and CIN; 2) identification of category of waiver service provided; 3) a daily description of the required minimum number of face-to-face services; 4) documentation that the minimum number of face-to-face services was met; 5) recipient's response to the service; 6) the date the service was provided; 7) the primary service location; 8) verification of service provision by day habilitation staff; 9) signature and title of habilitation staff person documenting the service; and, 10) the date the service was documented.
<b>Regulatory References</b>	OPWDD ADM #2006-01, pp. 3-5
<b>14.</b>	<b>Missing Service Times</b>
<b>OMIG Audit Criteria</b>	The claim will be disallowed for failure to document the service start time and service end time of the recipient's individual or supplemental individual day habilitation service.
<b>Regulatory References</b>	14 NYCRR § 635-10.5(c)(5)(ii)
<b>15.</b>	<b>Missing Day Habilitation Monthly Summary Note</b>
<b>OMIG Audit Criteria</b>	The claim will be disallowed in the absence of the required response to service, whether written in the daily note or the monthly note format, that: a) summarizes the implementation of the recipient's habilitation plan, and b) addresses the recipient's response to the services provided.
<b>Regulatory References</b>	OPWDD ADM #2006-01, p. 5 OPWDD ADM #2006-02, p. 6

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<b>16.</b>	<b>Billing for Non-reimbursable Service Time (Individual/Supplemental Individual Day Habilitation)</b>
<b>OMIG Audit Criteria</b>	If non-reimbursable program day duration events were counted towards the individual or supplemental individual day habilitation billable service time, a portion of the claim will be disallowed.
<b>Regulatory References</b>	14 NYCRR §§ 635-10.5(c)(5)(iii)(a), (b) and (c) OPWDD ADM #2006-02, p. 3
<b>17.</b>	<b>Billing for Non-reimbursable Service Time (Group/Supplemental Group Day Habilitation)</b>
<b>OMIG Audit Criteria</b>	If non-reimbursable program day duration events were counted towards the group or supplemental group day habilitation billable service time, a portion of the claim will be disallowed.
<b>Regulatory References</b>	14 NYCRR §§ 635-10.5(c)(6)(ii)(a), (b), (c) and (d) OPWDD ADM #2006-01, p. 3
<b>18.</b>	<b>Improper Billing for Individual/Supplemental Individual Day Habilitation Services</b>
<b>OMIG Audit Criteria</b>	If the number of 15 minute increments billed exceeded the number of 15 minute increments documented for individual or supplemental individual day habilitation services, the undocumented 15 minute increments will be disallowed.
<b>Regulatory References</b>	14 NYCRR § 635-10.5(c)(5) OPWDD ADM #2006-02, p. 3
<b>19.</b>	<b>Incorrect Rate Code Billed for Group/Supplemental Group Day Habilitation Services</b>
<b>OMIG Audit Criteria</b>	The claim will be reduced if a full unit of service was billed when a half unit of service was documented for group or supplemental group day habilitation services. The difference between the amount of the full unit of service and the amount of the half unit of service will be disallowed.
<b>Regulatory References</b>	14 NYCRR §§ 635-10.5(c)(6)(i)(a) and (b) OPWDD ADM #2006-01, p. 3
<b>20.</b>	<b>Billing for Services Not Authorized by Operating Certificate</b>
<b>OMIG Audit Criteria</b>	The claim will be disallowed if the day habilitation services billed were not authorized by the operating certificate.
<b>Regulatory References</b>	14 NYCRR § 70.3(b) 14 NYCRR § 635-10.1(b)
<b>21.</b>	<b>Failure to Meet Minimum Duration Requirements for Group/Supplemental Group Services</b>
<b>OMIG Audit Criteria</b>	A claim for a group or supplemental group day habilitation service of less than 2 hours in duration will be disallowed.
<b>Regulatory References</b>	OPWDD ADM #2006-01, p. 3

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<b>22.</b>	<b>Failure to Forward Revised Habilitation Plan For Day Habilitation Service Within 30 Days to the Service Coordinator</b>
<b>OMIG Audit Criteria</b>	A revised day habilitation service plan must be given to the recipient's service coordinator no more than 30 days after either the six month ISP review date or if the plan's provider makes a significant change as agreed to by the recipient, their advocate and service coordinator. The claim will be disallowed if the revised plan was not forwarded within 30 days to the service coordinator. A revised day habilitation service 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.
<b>Regulatory References</b>	14 NYCRR § 635-99.1(bk) OPWDD ADM #2012-01, pp. 3-4
<b>23.</b>	<b>Missing Required Elements of the Day Habilitation Plan Review</b>
<b>OMIG Audit Criteria</b>	At least annually one of the day habilitation plan reviews must be conducted at the time of the ISP meeting. In addition, 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. Evidence of reviews must include: 1) the individual's name, 2) the habilitation service(s) under review, 3) the staff's signature(s) from the habilitation service, 4) the date of the staff's signature, 5) date of the review. The claim will be disallowed if evidence of the review is missing.
<b>Regulatory References</b>	14 NYCRR § 635-99.1(bk) OPWDD ADM #2012-01, pp. 3-4, 7

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