NEW YORK STATE | Office of the Medicaid Inspector General

OMIG AUDIT PROTOCOL
OPWDD IRA RESIDENTIAL HABILITATION
FOR SERVICE DATES 7/01/2014 - 6/30/2018

REVISED September 17, 2021

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.

OMIG AUDIT PROTOCOL – OPWDD IRA RESIDENTIAL HABILITATION
FOR SERVICE DATES 7/01/2014 - 6/30/2018

Revised 09/17/2021

1.	**Missing Recipient Record**
OMIG Audit Criteria	If the recipient record is not available for review, claims for all dates of service associated with the recipient record will be disallowed.
Regulatory References	18 NYCRR § 504.3(a) 18 NYCRR § 540.7(a)(8)

2.	**No Documentation of Service**
OMIG Audit Criteria	If the residential habilitation service documentation was not available or missing, the claim will be disallowed.
Regulatory References	18 NYCRR § 504.3(a) 18 NYCRR § 517.3(b)(2)

3.	**No Diagnosis of Developmental Disability**
OMIG Audit Criteria	Claims for services provided in the absence of a clinical assessment substantiating a specific diagnosis of developmental disability will be disallowed.
Regulatory References	14 NYCRR § 635-10.3(a) and (b)(1) 14 NYCRR § 671.4(b)(1)(i)

4.	**Missing Copy of Individualized Service Plan (ISP)**
OMIG Audit Criteria	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.
Regulatory References	14 NYCRR § 635-10.2(a) 14 NYCRR § 635-10.5(b)(6) OPWDD Administrative Memorandum #2014-01, page 6

5.	**Unauthorized IRA Residential Habilitation Services Provider**
OMIG Audit Criteria	If the provider is not listed on the ISP as the authorized provider for Residential Habilitation, with an effective date on or prior to the date of service, the claim(s) will be disallowed.
Regulatory References	14 NYCRR § 635-10.2(a) 14 NYCRR § 635-99.1(bk) OPWDD Administrative Memorandum #2014-01, page 5 OPWDD Administrative Memorandum #2010-04, page 2

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6.	**Missing Required Elements on the Individualized Service Plan (ISP)**
OMIG Audit Criteria	The ISP must contain the following elements: 1. The category of waiver service provided (that is, Residential Habilitation) and identification of the Residential Habilitation Agency delivering the service as provider of the service. 2. Valued Outcomes of the person receiving services. 3. Frequency. The ISP must specify that the frequency of Residential Habilitation is "day" or "daily." 4. Duration. The ISP must specify that the duration as "ongoing." 5. The effective date for Residential Habilitation services (that is, the date the person was enrolled in Residential Habilitation services). This date must be on or before the first date of service that the Residential Habilitation agency bills for Supervised IRA-RH services If one or more of the required elements are missing on the ISP, the claim will be disallowed.
Regulatory References	14 NYCRR § 635-10.2(a) OPWDD Administrative Memorandum #2014-01, page 5

7.	**Missing Residential Habilitation Plan**
OMIG Audit Criteria	The claim will be disallowed if the relevant Residential Habilitation Plan is missing. If no Residential Habilitation Plan is in place on or prior to the service date and in effect for the service date, the claim will be disallowed.
Regulatory References	14 NYCRR Section 635-99.1(bk) OPWDD Administrative Memorandum #2012-01, pages 2-3 OPWDD Administrative Memorandum #2014-01, pages 3, 5, and 6

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8.	**Missing Required Elements of the Residential Habilitation Plan**
OMIG Audit Criteria	The IRA residential habilitation plan must contain these required elements: 1. The individual's name. 2. The individual's Medicaid Identification Number (CIN), if the person is a Medicaid enrollee. 3. The habilitation service provider's agency name. 4. Identification of the habilitation service(s) provided. 5. The date on which the Habilitation Plan was reviewed. 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). 7. Description of the services and supports the habilitation staff will provide to the person. 8. The safeguards (health and welfare) that will be provided by the habilitation service provider. 9. The printed name, signature and title of the staff who wrote the Habilitation Plan. 10. The date that staff signed the Habilitation Plan. If one or more of the required elements is missing, the claim will be disallowed.
Regulatory References	14 NYCRR Section 635-99.1(bk) OPWDD Administrative Memorandum #2012-01, page 7 OPWDD Administrative Memorandum #2014-01, page 5

9.	**Missing Residential Habilitation Plan Review**
OMIG Audit Criteria	Claims will be disallowed if the relevant habilitation plan(s) was not developed, reviewed or revised as required where at least annually one of the residential habilitation plan reviews was conducted at the time of the ISP meeting.
Regulatory References	14 NYCRR § 635-99.1(bk) OPWDD Administrative Memorandum #2012-01, pages 3 and 7 OPWDD Administrative Memorandum #2014-01, page 5

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10.	**Missing Required Elements of the Residential Habilitation Plan Review**
OMIG Audit Criteria	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 one or more of the required elements of the review are missing.
Regulatory References	14 NYCRR § 635-99.1(bk) OPWDD Administrative Memorandum #2012-01, pages 3 and 7

11.	**Failure to Write the Initial Habilitation Plan for Residential Habilitation Service Within 60 Days**
OMIG Audit Criteria	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 of the start of the habilitation service.
Regulatory References	14 NYCRR § 635-99.1(bk) OPWDD Administrative Memorandum #2012-01, pages 2-3 OPWDD Administrative Memorandum #2014-01, page 5

12.	**Failure to Forward Revised Habilitation Plan for Residential Habilitation Service Within 30 Days to the Service Coordinator**
OMIG Audit Criteria	Revised Habilitation Plans, which are also written by the habilitation service provider, must be sent to the person'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 in the Habilitation Plan. The claim will be disallowed if the revised Residential Habilitation Plan was not forwarded to the MSC within 30 days.
Regulatory References	14 NYCRR § 635-99.1(bk) OPWDD Administrative Memorandum #2012-01, pages 3-4

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13.	**Missing Documentation of Presence**
OMIG Audit Criteria	The unit of service for supervised IRA residential habilitation services is daily. The provider must document the day present in the IRA by denoting lodging. There are two other types of days (in addition to service days) that a Supervised IRA-RH provider must document to be eligible for payment: Retainer Day/Medical Leave Day and Therapeutic Leave Day. A Retainer/Medical Leave Day is a day during which an individual is on medical leave from the IRA or associated days where any other institutional or in-patient Medicaid payment is made for providing services to the individual. A Therapeutic/Non-Medical Leave Day is a day when the individual is away from the supervised residence and is not receiving services from paid residential habilitation staff. The claim will be disallowed in the absence of documentation to indicate the correct presence of the individual for either a service day, retainer/medical leave day, or therapeutic leave day.
Regulatory References	14 NYCRR § 635-10.5(b)(12)(i)(a) 14 NYCRR § 641-1.6 OPWDD Administrative Memorandum #2014-01, pages 3-5

14.	**Missing Documentation of Residential Habilitation Service (Per Diem)**
OMIG Audit Criteria	On any countable service day residential habilitation staff must deliver and document at least one individualized face-to-face service or staff action which is drawn from the Habilitation Plan and ISP. The claim will be disallowed in the absence of such service provision and documentation. **Note**: Services provided on a day of hospital admission may not be counted; however, the day of hospital discharge can be counted so long as eligible services were provided and documented.
Regulatory References	14 NYCRR § 635-10.5(b)(12)(i)(b) OPWDD Administrative Memorandum #2014-01, pages 3 and 5

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15.	**Missing Required Elements in the IRA Residential Habilitation Service Note (Per Diem)**
OMIG Audit Criteria	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 based on residential habilitation plan; 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 writing the note; and, 9. date the note was written.
Regulatory References	OPWDD Administrative Memorandum #2014-01, page 6

16.	**Missing IRA Residential Habilitation Monthly Summary Note**
OMIG Audit Criteria	The monthly summary note must discuss any issues or concerns and summarize the implementation of the individual's Residential Habilitation Plan, and address how the individual responded to the services provided during the month. Claims will be disallowed in the absence of a monthly summary note.
Regulatory References	OPWDD Administrative Memorandum #2014-01, pages 5 and 6

17.	**Incorrect Rate Code Billed for Supervised IRA Residential Habilitation**
OMIG Audit Criteria	There are three rate code types for supervised IRA residential habilitation: Service day, Therapeutic/Non-Medical Leave day, and Retainer/Medical Leave Day. The claim will be disallowed if the documentation does not support the rate code type billed.
Regulatory References	14 NYCRR § 635-10.5(b)(12)(i)(a) and (b) 14 NYCRR § 641-1.6 OPWDD Administrative Memorandum #2014-01, page 3

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18.	**Improper Countable Service Day Billed**
OMIG Audit Criteria	For service days, the recipient may not receive another Medicaid–funded residential or in-patient service on that day (e.g., hospital, nursing home, ICF or other certified, licensed or government funded residential setting). The claim will be disallowed if another Medicaid–funded residential or in-patient service was provided on that day. **Note**: Services provided on a day of hospital admission may not be counted; however, the day of hospital discharge can be counted so long as eligible services were provided and documented.
Regulatory References	14 NYCRR § 635-10.5(b)(12)(i)(a)(1) OPWDD Administrative Memorandum #2014-01, page 3

19.	**Improper Billing for Retainer/Medical Leave Day**
OMIG Audit Criteria	For Retainer/Medical leave days, the claim will be disallowed if documentation does not support the individual's medical leave for purposes of receiving services from a hospital, or from another other institutional or in-patient setting. **Note**: Services provided on a day of hospital admission may not be counted; however, the day of hospital discharge can be counted so long as eligible services were provided and documented. **Note:** A provider is limited to payment for up to 14 Retainer Days per rate year, per individual. All retainer days must be documented.
Regulatory References	14 NYCRR § 635-10.5(b)(12)(i)(a)(1) OPWDD Administrative Memorandum #2014-01, pages 4-5

20.	**Improper Billing for Therapeutic Leave Day**
OMIG Audit Criteria	For therapeutic/non-medical leave days, the recipient may not receive another Medicaid–funded residential or in-patient service on that day (e.g., hospital, nursing home, ICF or other certified, licensed or government funded residential setting). The claim will be disallowed if another Medicaid–funded residential or in-patient service was provided on that day. **Note**: Services provided on a day of hospital admission may not be counted; however, the day of hospital discharge can be counted so long as eligible services were provided and documented.
Regulatory References	14 NYCRR § 635-10.5(b)(12)(i)(a)(1) OPWDD Administrative Memorandum #2014-01, page 4

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21.	**Staff Member Delivering the Residential Habilitation Service Absent on Date of Service**
OMIG Audit Criteria	Claims will be disallowed when the provider's time and attendance records indicate that the residential habilitation direct care worker documented as delivering the residential habilitation service was absent on the date of service.
Regulatory References	OPWDD Administrative Memorandum #2014-01, page 3

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