



Office of the  
Medicaid Inspector  
General

ANDREW M. CUOMO  
Governor

DENNIS ROSEN  
Medicaid Inspector General

# OMIG AUDIT PROTOCOL OPWDD IRA RESIDENTIAL HABILITATION FOR SERVICE DATES PRIOR TO 7/01/2014

**REVISED 08/26/2016**

---

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

**Revised 08/26/2016**

<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 Section 504.3(a) 18 NYCRR Section 540.7(a)(8)
<b>2.</b>	<b>No Documentation of Service</b>
<b>OMIG Audit Criteria</b>	If the recipient record does not contain documentation 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)(2)
<b>3.</b>	<b>No Diagnosis of Developmental Disability</b>
<b>OMIG Audit Criteria</b>	Claims 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 Section 635-10.3(b)(1)
<b>4.</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 Section 635-10.2(a) 14 NYCRR Section 635-10.5(b)(6) OPWDD ADM #2002-01, p. 7
<b>5.</b>	<b>Unauthorized IRA Residential Habilitation Services Provider</b>
<b>OMIG Audit Criteria</b>	If the provider is not listed on the ISP as the authorized provider for a specific service, the claim(s) will be disallowed.
<b>Regulatory References</b>	14 NYCRR Section 635-10.2(a) OPWDD ADM #2002-01, p. 7
<b>6.</b>	<b>Missing Residential Habilitation Plan</b>
<b>OMIG Audit Criteria</b>	The claim will be disallowed if the relevant residential habilitation plan is missing. If a residential 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 Section 635-99.1(b) OPWDD ADM #2002-01, pp. 7-8 OPWDD ADM #2003-03, p. 2 OPWDD ADM #2012-01, pp. 2-3

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 the 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.

# OMIG AUDIT PROTOCOL – OPWDD IRA RESIDENTIAL HABILITATION

**Revised 08/26/2016**

<b>7.</b>	<b>Missing Required Elements of the Residential Habilitation Plan</b>
<b>OMIG Audit Criteria</b>	The IRA residential 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 last reviewed; the recipient's valued outcomes; a description of services and supports; safeguards provided; and, the printed name, signature and title of the person who wrote the habilitation plan, and the date it was written or revised. If one or more of the required elements are missing, the claim will be disallowed.
<b>Regulatory References</b>	14 NYCRR Section 635-99.1(b) OPWDD ADM #2003-03, pp. 2-4 <b>For Services 4/01/12 and After</b> , OPWDD ADM #2012-01, pp. 3 & 7
<b>8.</b>	<b>Missing Residential Habilitation Service Note</b>
<b>OMIG Audit Criteria</b>	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.
<b>Regulatory References</b>	14 NYCRR Section 635-10.5(b)(12)(iii)(e) OPWDD ADM #2002-01, pp. 6-7
<b>9.</b>	<b>Missing Required Elements in the IRA Residential Habilitation Service Note</b>
<b>OMIG Audit Criteria</b>	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.
<b>Regulatory References</b>	OPWDD ADM #2002-01, p. 6
<b>10.</b>	<b>Improper Number of Countable Service Days (Full Month)-Supervised Individualized Residential Alternative (IRA)</b>
<b>OMIG Audit Criteria</b>	The full month supervised IRA residential habilitation payment shall be paid for services provided to a recipient who receives 22 days of face-to-face residential habilitation services. The amount of the claim will be reduced for less than 22 days of face-to-face service, by reducing the full month to a half month, if at least 11 days of face-to-face residential habilitation services are found. 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)(9)(v)(a) 14 NYCRR Section 635-10.5(b)(12)(iii)(c) OPWDD ADM #2002-01, pp. 2-3

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 the 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.

# OMIG AUDIT PROTOCOL – OPWDD IRA RESIDENTIAL HABILITATION

**Revised 08/26/2016**

---

<b>11.</b>	<b>Improper Number of Countable Service Days (Full Month)-Supportive Individualized Residential Alternative (IRA)</b>
<b>OMIG Audit Criteria</b>	The full month supported 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. 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>12.</b>	<b>Improper Number of Countable Service Days (Half Month)-Supervised Individualized Residential Alternative (IRA)</b>
<b>OMIG Audit Criteria</b>	The half month supervised 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 11 days. The claim will be disallowed for less than 11 days of face-to-face service.
<b>Regulatory References</b>	14 NYCRR Section 635-10.5(b)(9)(v)(b) 14 NYCRR Sections 635-10.5(b)(12)(iii)(c) OPWDD ADM #2002-01, pp. 3-4

<b>13.</b>	<b>Improper Number of Countable Service Days (Half Month)-Supportive Individualized Residential Alternative (IRA)</b>
<b>OMIG Audit Criteria</b>	The half month supported 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. 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

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 the 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.

# OMIG AUDIT PROTOCOL – OPWDD IRA RESIDENTIAL HABILITATION

**Revised 08/26/2016**

<b>14.</b>	<b>Recipient Absent from IRA on Countable Service Day</b>
<b>OMIG Audit Criteria</b>	<p>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.</p> <p><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. For supervised IRAs, up to 14 days per calendar month may be counted for a full month claim (7 days for a half month claim) when IRA residential habilitation staff deliver and document residential habilitation services to a resident who is away from the IRA for purposes of vacation and visits with family or friends.</p>
<b>Regulatory References</b>	<p>14 NYCRR Section 635-10.5(b)(12)(iii)(a)            14 NYCRR Section 635-10.5(b)(12)(iii)(c)            OPWDD ADM #2002-01, p. 5</p>
<b>15.</b>	<b>Missing IRA Residential Habilitation Monthly Summary Note</b>
<b>OMIG Audit Criteria</b>	<p>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.</p>
<b>Regulatory References</b>	<p>14 NYCRR Section 671.6(a)(8)            OPWDD ADM #2002-01, p. 7            OPWDD ADM #2003-03, p. 4</p>
<b>16.</b>	<b>Missing Residential Habilitation Plan Review</b>
<b>OMIG Audit Criteria</b>	<p>For dates of service prior to and including July 15, 2010, and after March 31, 2012, claims will be disallowed if the relevant habilitation plan(s) is not developed, reviewed or revised as necessary at a minimum of at least twice annually. At least annually one of the residential habilitation plan reviews must be conducted at the time of the ISP meeting.</p>
<b>Regulatory References</b>	<p>14 NYCRR Section 635-99.1(b)            OPWDD ADM #2003-03, pp. 2 &amp; 3  <b>For Services 4/01/12 and After, OPWDD ADM #2012-01, pp. 3-4</b></p>
<b>17.</b>	<b>Failure to Write the Initial Habilitation Plan For Residential Habilitation Service Within 60 Days</b>
<b>OMIG Audit Criteria</b>	<p>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 service coordinator. For dates of service prior to and including July 15, 2010, and after March 31, 2012, the claim will be disallowed if the plan is not written within 60 days of the start of the habilitation service.</p>
<b>Regulatory References</b>	<p>14 NYCRR Section 635-99.1(b)            OPWDD ADM #2003-03, p. 2  <b>For Services 4/01/12 and After, OPWDD ADM #2012-01, p. 2</b></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 the 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.

# OMIG AUDIT PROTOCOL – OPWDD IRA RESIDENTIAL HABILITATION

**Revised 08/26/2016**

<b>18.</b>	<b>Failure to Forward Revised Habilitation Plan For Residential Habilitation Service Within 30 Days to the Service Coordinator</b>
<b>OMIG Audit Criteria</b>	A revised residential 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 for residential habilitation dates of service prior to and including July 15, 2010, and after March 31, 2012. For service dates April 1, 2012, and after, a revised residential 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 Section 635-99.1(b) OPWDD ADM #2003-03, p. 2 <b>For Services 4/01/12 and After, OPWDD ADM #2012-01, p. 3</b>
<b>19.</b>	<b>Missing Required Elements of the Residential Habilitation Plan Review</b>
<b>OMIG Audit Criteria</b>	For services 4/01/2012 and after, at least annually one of the residential 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 Section 635-99.1(b) <b>For Services 4/01/12 and After, OPWDD ADM #2012-01, pp. 3-4, 7</b>

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 the 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.