



April 24, 2020

Revised September 3, 2020 (revisions underlined)

On March 7, 2020, Governor Andrew M. Cuomo declared a state of emergency through [Executive Order 202](#) to respond to the COVID-19 public health emergency. The top priority for the Office for People With Developmental Disabilities (OPWDD) continues to be the health and safety of New Yorkers with intellectual and developmental disabilities and our state and voluntary workforce. In response to this state of emergency, and to ensure health and safety, OPWDD, in conjunction with the New York State Department of Health, is working to provide flexibility for the delivery of OPWDD 1915(c) Home and Community-Based Waiver services. The following modifications to the service system, in place for the duration of the state of emergency, or until revoked by OPWDD, will allow OPWDD providers to continue to meet the needs of the people they support, to the greatest extent possible.

[Administrative Directive Memorandum \(ADM\) #2006-01, Group Day Habilitation Service Documentation Requirements](#) remains in force but is temporarily amended by the provisions of this directive.

Use of Technology

Day Habilitation may temporarily be provided remotely using telehealth and without prior approval. The Day Habilitation provider must:

- Use good clinical judgment to determine that the telehealth encounter is appropriate;
- Verify that the service can be delivered effectively via verbal prompting/cueing only; and
- Ensure the health and safety of the person will continue to be met via this service modality.

In addition, Day Habilitation providers must follow OPWDD's *Interim Guidance Regarding the Use of Telehealth/COVID-19*, available at <https://opwdd.ny.gov/coronavirus-guidance/covid-19-guidance-documents>.

Location of Day Habilitation Services

The service definition and limits for Day Habilitation services are temporarily modified to allow Day Habilitation in the following alternate locations:

- The person's private home;
- The person's family home;
- A provider owned or controlled certified or uncertified residential setting; or
- Any other emergency residential setting, such as a hotel.

Day Habilitation services provided in a supervised residence cannot be billed to Medicaid, if the Residential agency is also claiming Group Community Habilitation – Residential (Group CH-R) to reflect day-time staffing needs.

Day Habilitation services may be provided in out-of-state locations, if necessary, for the safety of the person. Services provided in another state must be provided in accordance with the waiver service definition and the person's Life Plan and may be amended to address service needs during the emergency. See section below on *Care Planning and the Update of Life Plans*.

Modified Billing Standards

OPWDD first issued interim billing guidance to Day Habilitation providers on March 24, 2020 and offered retainer day payments for service dates beginning March 18, 2020. The availability of retainer day payments ended with the last billable date of service for submitting retainer day claims being July 21, 2020. Effective July 22, 2020 through October 14, 2020, OPWDD is temporarily modifying the billing standards for the program day duration described in ADM #2006-01 subject to certain limitations. Guidance regarding the modified standards for program day duration can be found in OPWDD's *Interim Post Service Retainer Program Guidance* available at <https://opwdd.ny.gov/system/files/documents/2020/08/8.24.2020-billing-flexibility-guidance.pdf>.

There will no duplication of billing for Day Habilitation services and services otherwise rendered in provider-owned or controlled residential settings.

Additional guidance regarding retainer day payments is available in the resource section of the following web page: <https://opwdd.ny.gov/providers/home-and-community-based-services-waiver>.

Delivering Services and Maintaining Social Distancing

Effective August 22, 2020, OPWDD rescinded guidance that allowed Day Habilitation providers to count time when staff are providing non-face-to-face support to a person while maintaining social distancing (i.e., delivering groceries and assisting with outdoor household chores) toward the duration of the service. Day Habilitation staff may no longer include, as part of the program day duration, time spent traveling to a person's home, running an errand, and returning to their home/office.

For service dates between July 24, 2020 and August 23, 2020, providers may use either the flexibilities to include non-face-to-face service time as described above, or the modified program day duration requirements of two hours (for a half unit) and four hours (for a full unit). Any claims that use both provisions will be subject to disallowance. For example, a claim for a full unit of Day Habilitation will be subject to disallowance if it is based on 'counting' staff travel time toward a program day duration and the total program day duration is two hours.

Care Planning and the Update of Life Plans

A person's current Life Plan and Staff Action Plan(s) remain in place as long as Day Habilitation is included as an authorized service in the person's Life Plan. Day Habilitation providers should ensure that Day Habilitation staff know how to safely serve the person and formal updates of the Staff Action Plan are required no later than sixty (60) days after the end of the COVID-19 state of emergency in accordance with OPWDD's Interim Care Planning Guidance issued April 17, 2020 available at : https://opwdd.ny.gov/system/files/documents/2020/04/4.17.2020-opwdd_covid19_careplanningguidance.pdf.