



**Office for People With
Developmental Disabilities**

ADMINISTRATIVE DIRECTIVE

Transmittal:	22-ADM-06
To:	Executive Directors of Voluntary Provider Agencies Executive Directors of Agencies Authorized to Provide Fiscal Intermediary Services Developmental Disabilities Regional Office and State Operations Office Directors
Issuing OPWDD Office:	Division of Service Delivery, Regional Offices
Date:	September 29, 2022
Subject:	Direct Provider Purchased/Agency Supported/Contract Services Delivered by Providers Who are Not the Fiscal Intermediary
Suggested Distribution:	Administrative Staff of Fiscal Intermediary Services Providers Support Brokers Quality Improvement Staff Care Managers and Supervisors who serve individuals receiving Self-Direction Services Regional Office Front Door Staff
Contact:	Self-Direction Unit Self.direction.redesign@opwdd.ny.gov
Attachments:	Attachment A: Agreement Form and Utilization Report

Related ADMs/INFs	Releases Cancelled	Regulatory Authority	MHL & Other Statutory Authority	Records Retention
2019-07		14 NYCRR 636-1.3	MHL §§13.07,13.09(b) and 43.02 Social Security Act §1902(a)(16) OPWDD's Comprehensive HCBS Waiver under §1915(c) of the Social Security Act 42 U.S.C. §1396(n)(c)	18 NYCRR §504.3(a) 18 NYCRR §517.3 14 NYCRR §635-4.5 New York False Claims Act (State Finance Law §192)



Purpose:

This Administrative Memorandum (ADM) identifies the requirements for provider agencies regarding reporting of service-related billing when people who Self-Direct with Budget Authority utilize Direct Provider Purchased (DPP), Agency Supported (AS) and contract services delivered by provider agencies other than their Fiscal Intermediary (FI) agency.

This ADM also reiterates certain FI responsibilities related to reporting expectations and outlines requirements for agencies other than the FI that provide DPP/AS/contract services.

Background:

OPWDD's 1915(c) Comprehensive HCBS Waiver states that for those participants who self-direct their services with Budget Authority, "[a] resource allocation, called a Personal Resource Account (PRA), is established for each participant. The PRA represents a target amount of resources available to the participant for the cost of the supports and services they need. Participants may not budget for more than the maximum PRA amount and the FI will not be reimbursed for services and supports that are above the maximum." Additionally, participants are expected to review the Monthly Expenditure Report prepared by the FI and work with their Circle of Support and Support Broker to maintain spending within their budget.

Discussion:

I. FI Requirements Pertaining to DPP/AS/Contract Services Utilization

As established in ADM 2019-07, "Fiscal Intermediary Services (FI Services) are HCBS Waiver services that include tasks performed by an FI to support a participant who self directs an individualized budget. Such tasks include billing and payment of approved goods and services, fiscal accounting and reporting, Medicaid and corporate compliance, and general administrative supports."

When a participant with Budget Authority receives DPP/AS/contract services delivered by agencies other than the FI, these services must be included in the participant's Self-Direction Budgets, where applicable, based on the budget type and the FI must obtain service utilization information from the other agencies on a monthly basis.

As part of the Person-Centered Planning process, the FI must coordinate with the Care Manager and review the Life Plan and other relevant service documentation to ensure that the Self-Direction Budget reflects all of a participant's services, as required based on budget type. The FI must share with the individual on a monthly basis the expenditure reports of services in their Self-Direction Budgets. To accurately track these expenditures and to ensure that a participant's PRA is not exceeded, any and all DPP/AS/contract services must be reflected in the monthly expenditure report.

The FI must meet specific service documentation standards. Among other requirements listed in ADM 2019-07, expenditure reports must include: a summary of the expenses paid on behalf



of the participant as well as a detailed list of those expenses, including the date paid, the amount paid, a time period that the expenditure report covers and the date the expenditure report was created.

The FI must keep updated information on the DPP/AS/contract services and units. The DPP/AS/contract service agency must provide information on billing in a timely manner to the FI agencies. Any excess utilization above the authorized PRA is subject to recoupments via reimbursement checks. Recoupments can apply to the DPP/AS/contract agency and/or the FI agency.

II. DPP/AS/Contract Services Requirements Pertaining to Participants who Self-Direct with Budget Authority

When participants with Budget Authority receive DPP/AS/contract services delivered by agencies other than the FI, these services must be included in the Self-Direction Budgets, where applicable. The DPP/AS/contract agency is responsible for providing the FI with timely service utilization information.

For DPP/AS/contract services required to be included in a Self-Direction Budget, agencies must report billing information to the FI in a timely manner. Reporting must follow the service documentation requirements of the FI as described in ADM 2019-07. These services must be included in the FI's reported utilization information in the monthly expenditure reports as well as the overall budgeted PRA.

DPP/AS/contract agencies must report the billing for each individual they serve to the FI agency by the 15th day of the month following the month of service to ensure the necessary information is reflected on the expenditure reports.

The following elements must be included in the utilization reports for each individual:

1. Individual's name
2. CIN/TABS
3. Name of the agency providing FI services
4. Name of the agency providing DPP/AS/contract services
5. Name of Service utilized
6. Effective date for annual units
7. Total annual units authorized, cost per unit and total annual cost authorized
8. Service month
9. Dates of Service
10. Monthly units utilized, cost per unit and monthly total cost utilized

DPP/AS/contract agencies may use the OPWDD Service Utilization form to report service utilization to FIs.



III. Accountability for FI and DPP/AS/Contract Agencies Pertaining to Reported Service Utilization Information

The Self-Direction Budget documents the number of billable service units the DPP/AS/contract agencies are authorized to provide in a given timeframe. The planning for these services is completed following Person-Centered Planning. Any changes to the service units must be reflected in the Self-Direction Budget.

Fiscal Intermediary Agencies must send current Self-Direction Budgets with DPP/AS/contract services to the DPP/AS/contract agency. The DPP/AS/contract service amount in the Self-Direction Budget is considered the planned service amount. Any approved Self-Direction Budget amendments with changes to the DPP/AS/contract services must be sent to the DPP/AS/contract agency.

Expenditure reports produced by the FI must equal the actual utilization provided by the DPP/AS/contract agencies. If a DPP/AS/contract agency fails to timely report this information to the FI, the FI may use an estimate based on the planned service amount in its report. The documentation requirements for the FI are listed in ADM 2019-07.

OPWDD reserves the right to review utilization of services that are subject to PRAs, including those DPP/AS/contract services not provided by the FI.

If, upon OPWDD review, it is determined that an individual's annual service utilization exceeded their PRA, billing in excess of the PRA will be subject to recoupment.

FIs must ensure that service utilization does not exceed the PRA, including where DPP/AS/contract services are utilized and identified in the Self-Direction Budget and reported to the FI. FI billing is subject to recoupment if the services billed result in utilization that exceeds the PRA, except where the over-PRA utilization is determined by OPWDD to have been caused by the failure of the DPP/AS/contract agencies to report the service utilization to the FI on a timely basis and or/adhere to service planning. FIs will be subject to recoupment for instances of over-PRA utilization where the DPP/AS/contract agency did not adhere to service planning if it is determined that the FI failed to send OPWDD approved Self-Direction Budgets and amendments with DPP/AS/contract services to the DPP/AS/contract agency.

DPP/AS/contract agencies will be subject to recoupments for over-utilization that exceeds the PRA where the DPP/AS/contract agencies fail to adhere to service planning and/or fail to report the service utilization to the FI in a timely manner.

OPWDD will determine which agency or agencies are subject to recoupments.

Records Retention:

Records must be contemporaneous and kept for ten (10) years from the date the service was provided or when the service was billed, whichever is later.