



**Office for People With
Developmental Disabilities**

Unwinding Guidance

Provider Association Meeting April 17, 2023

Public Health Emergency Ends May 11, 2023

- Medicaid Disaster Relief State Plan Amendment (SPA) – coverage ends May 11, 2023
- 1135 Authority – coverage ends May 11, 2023
- Appendix K for HCBS Waiver Services – coverage ends November 11, 2023

ICF/IID Day Services

May 11, 2023

- The voluntary-operated **ICF/IIDs' supplemental payments** to fund the provision of ICF/IID active treatment during daytime, weekday service hours in accordance with each individual's authorized levels of day services provided outside of the ICF/IID prior to the pandemic will end on May 11, 2023.
- **A person living in an ICF/IID may receive day services through in-home day services, Day Treatment, or community-based Day Services.**

Article 16 Clinics – May 11, 2023

- Article 16 Clinic Rehabilitation services must be delivered in-person at the clinic site unless another allowance is identified in the Article 16 Clinic Crosswalk: <https://opwdd.ny.gov/providers/article-16-clinics>
- Article 16 Clinic services that are medical in nature should follow the guidance for Article 28 Clinics, available on NYS DOH's APG webpage: http://www.health.ny.gov/health_care/medicaid/rates/apg/.
- Also the Medicaid Update (Volume 39, Number 3) is available here: https://www.health.ny.gov/health_care/medicaid/program/update/2023/docs/mu_no3_feb23_speced_pr.pdf.

Staff Training & Occupancy Limits

- The Appendix K included flexibilities allowing providers of OPWDD certified, operated, and/or funded HCBS programs to provide **abbreviated trainings and defer annual certifications**.
 - All providers who used these flexibilities must become compliant with these regulations **by June 30, 2023** and create and maintain a plan demonstrating how they will become compliant with OPWDD's training requirements by that date.
- **Effective June 6, 2023, certified capacity for HCBS Residential settings cannot exceed 14 individuals.**

Staff Action Plan – 11/11/23

- **All Staff Action Plans must be updated within 6 months from the end of the PHE** for COVID-19-related changes (if reflected in the Life Plan or Life Plan Addendum) or 60 days from the end of the PHE for non-COVID-19-related changes, and must return to reviewing Staff Action Plans twice annually.

Provisions Effecting Respite, Pathway to Employment & SEMP – 11/11/23

- **Temporarily providing Respite services to people living in a certified residence (Individualized Residential Alternative, Community Residence, or Family Care Home) will end.** (Note: exception for respite at a resource center while enrolled in Crisis Services for Individuals with Intellectual and/or Developmental Disabilities (CSIDD)).
- **Modifications to Supported Employment (SEMP) and Pathway to Employment Services, including the ability to provide services **out-of-state**, will end.**

Retainer Payments – 11/11/23

- **Retainer payments will end when made by a Fiscal Intermediary (FI) to retain ‘self-hired’ staff** who are unable to work because the individual receiving services or his/her family member is ill.
- After October 15, 2020, retainer payments were replaced by **time-limited modifications to the program day duration for billing Day Habilitation and Site-Based Prevocational Services in limited circumstances.**
 - These provisions are allowed when the site is mandated to close due to COVID-19 or the provider voluntarily closes its program due to the elevated percentage of individuals and staff at a particular site that have tested positive for COVID-19.
 - These provisions end on November 11, 2023, and are described here: <https://opwdd.ny.gov/system/files/documents/2021/04/covid-19-program-flexibilities-master-3.25.21.pdf>

Provisions Effecting Community Habilitation– 11/11/23

- Modifications to Community Habilitation services, including allowing those who live in a certified residence to receive Community Habilitation services in the residence and services to be **temporarily provided out-of-state**, will end.
- **After November 11, 2023, OPWDD will permit the delivery of CH-R in-residence services for people who are elderly, medically frail, or present with complex behavioral needs and residing in a certified residence** in accordance with 21-ADM-02 *Requirements for Community Habilitation-Residential (CH-R) services delivered in the Individual's Certified Residence*.

Provisions Effecting Day Habilitation & Prevocational Services – 11/11/23

- **Modifications to the Day Habilitation and Site Based Pre-Vocational services program day duration will end**, including in-person service time and mealtime modifications. To bill for a full-or half-day of services after November 11, 2023, providers must meet the requirements in ADM 2006-01 *Group Day Habilitation Service Documentation Requirements* or ADM 2020-01R *Prevocational Services*.
- **Out-of-state** will end and no longer be allowed unless comport with ADM 2019-02R *Permissible Out-of-State or Country Home and Community-Based Services (HCBS) Waiver Services Delivery* available at:
<https://opwdd.ny.gov/system/files/documents/2020/01/oos-ooc-adm-10.10.19.pdf>

Provisions Effecting Day Habilitation & Prevocational Services – 11/11/23

- **DH & PV services will no longer be allowed to be provided in a certified residential setting.**
- **Individuals who choose to receive in-residence day services may receive in-residence Community Habilitation-Residential (CH-R).** Eligibility requirements for in-residence CH-R are described in 21-ADM-02 *Requirements for Community Habilitation-Residential (CH-R) services delivered in the Individual's Certified Residence for people who are elderly, medically frail or present with complex behavioral needs* available at:
https://opwdd.ny.gov/system/files/documents/2021/07/21-adm-02-in-residence-community-habilitation-services_final.pdf.
 - Additional guidance is forthcoming regarding the transition to out-of-residence day services.

Guidance for CCOs

Policy Area	Flexibility that is Ending	End Date of Flexibility
A. In-person Face-to-Face requirements	Face-to-Face requirements, beyond those deemed medically necessary are waived.	May 11, 2023
B. Level of Care Eligibility Determination (LCED) Annual Redetermination	The annual LCED redeterminations are deferred for no more than one (1) year from the original due date.	May 11, 2023
C. Life Plan Signatures	Verbal or email approval of proposed changes and additions to the Life Plan are acceptable.	May 11, 2023

Guidance for CCOs

D. Timeframes for Finalization of Non-COVID 19 Related Life Plan Changes and corresponding changes to the Staff Action Plan	Timeframes for finalization of non-COVID-19 related Life Plan changes that were in-process prior to March 7, 2020, or which result from any Life Plan meetings or reviews held during the PHE, are waived. The corresponding changes to the Staff Action Plans can similarly be deferred.	May 11, 2023
E. Life Plan Annual Meetings	Ability to hold the annual Life Plan meeting remotely versus in-face-to-face. The annual Life Plan review date may be extended if the Care Manager made reasonable efforts to hold the meeting on time, and the reason for the delay is well documented in the Care Management Record.	May 11, 2023

Guidance for CCOs

F. Immediate Life Plan/Staff Action Plan Changes related to COVID-19	<p>The COVID-19 Life Plan/Staff Action Plan Addendum may be used to describe any needed updates per the addendum instructions.</p>	<p>November 11, 2023</p>
G. Life Plans and Service Authorizations and Amendments	<p>Requirement for a Life Plan or in-process Life Plan to justify the need for service authorization or amendment are waived.</p>	<p>November 11, 2023</p>
H. Request for Service Authorization (RSAs) and Service Amendment Request Forms (SARFs) Signature	<p>Electronic signatures on the RSA and SARF are allowed.</p> <p>Individual/family/ representative signature is not required.</p>	<p>N/A Adopted as OPWDD Policy on March 15, 2022, requiring only one signature from a CCO staff.</p>

Guidance for CCOs

I. Willowbrook Class Members	<p>The Care Manager Observation Reports (CMOR) for Willowbrook Class Members due during the PHE are waived.</p> <p>(If during a face-to-face visit something of concern is noted, a CMOR and required procedures must be completed.)</p>	November 11, 2023
J. Medicaid Extensions	<p>No person who currently has Medicaid coverage will lose their coverage during the COVID-19 public health emergency.</p>	Ends June, 2023

Other Helpful Resources

- Telehealth & HCBS Services: <https://opwdd.ny.gov/adm2021-03-ability-use-technology-remotely-deliver-home-and-community-based-services-hcbs>
- Person Centered Planning & Unwinding of the PHE: https://opwdd.ny.gov/system/files/documents/2021/08/cp-and-service-options-post-phe-memo_final.pdf
- Revised protocols for COVID-19 precautions in certified facilities: <https://opwdd.ny.gov/coronavirus-guidance>

Next Steps

- Distribute Guidance week of April 17
- Follow-up Training – TBD
- Further Guidance on ending DH in Residences & Provider Work Group
- For Questions regarding these unwinding topics please contact:
 - Article 16 clinics: clinic.services.information@opwdd.ny.gov
 - CCO/Health Home: ccoprojectmanagement@opwdd.ny.gov
 - All other: peoplefirstwaiver@opwdd.ny.gov