



**ADMINISTRATIVE DIRECTIVE**

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| <b>Transmittal:</b>            | 24-ADM-01  |
| <b>To:</b>                     | Executive Directors of Agencies Operating Residential Facilities<br>Executive Directors of Agencies Authorized to Provide Care Coordination<br>Executive Directors of Article 16 Clinics (Clinic Treatment Facilities)<br>Developmental Disabilities State Operations Office Directors<br>IBR Director<br>Developmental Disabilities Regional Office Directors |
| <b>Issuing OPWDD Office:</b>   | Division of Statewide Services   |
| <b>Date:</b>                   | 1/17/2024  |
| <b>Subject:</b>                | Medical Immobilization/Protective Stabilization (MIPS) and Sedation for Medical/Dental Appointments  |
| <b>Suggested Distribution:</b> | Administrators of Residential Facilities<br>Residence Managers<br>Clinicians<br>Quality/Compliance Staff<br>Care Managers and Supervisors  |
| <b>Contact:</b>                | opwdd.mips@opwdd.ny.gov  |
| <b>Attachments:</b>            | Sample MIPS Order Plan<br>Sample MIPS Intervention Outcome Form  |

| <b>Related ADMs/INFs</b> | <b>Releases Cancelled</b> | <b>Regulatory Authority</b> | <b>MHL &amp; Other Statutory Authority</b> | <b>Records Retention</b> |
|--------------------------|---------------------------|-----------------------------|--|--------------------------|
|                          | ADM #2010-02              |                             |  |                          |

## **Purpose:**

Part of OPWDD's mission of supporting individuals with developmental disabilities includes that people with developmental disabilities will have and maintain good health. In order to enable this, OPWDD recognizes that individuals with developmental disabilities may need medical immobilization/protective stabilization (MIPS) and/or sedation during medical or dental appointments to facilitate the comfort and cooperation of the individual receiving services, to prevent injury, and to protect the health and safety of the individual and/or others. MIPS and/or sedation are to be used only when necessary to successfully provide the requisite medical or dental treatment, and there are no other clinically acceptable techniques that would be appropriate or effective.

This ADM defines medical immobilization/protective stabilization (MIPS) and sedation and establishes requirements pertinent to the performance of MIPS and administration of sedation. MIPS and sedation for medical or dental appointments may only be used in accordance with this ADM.

## **Background:**

OPWDD has determined that the use of medical immobilization/protective stabilization and/or sedation is not an incident or abuse **only when used in accordance with the requirements of this ADM**. OPWDD considers MIPS to be techniques which provide stability necessary for therapeutic measures, which are specifically exempted by Mental Hygiene Law section 33.04(h) and 14 NYCRR 624.4(b)(4)(iii).

This Administrative Memorandum (ADM) applies to residents of facilities operated and/or certified by OPWDD.

With respect to sedation for medical or dental appointments, the provisions of this ADM supersede any contradictory provisions of prior policy directives issued by OPWDD.

### **A. Exceptions for routine care:**

Brief holds of short duration which may be needed to facilitate routine activities such as blood draws, eye drops, tooth brushing, injections, etc. do not require compliance with MIPS. A brief hold is defined as the hold not being longer than five (5) minutes. Brief holds should not be utilized for longer than necessary to complete the procedure and must never be longer than 5 minutes. Examples of when this may be used include, but is not limited to:

- Blood draws – holding an individual’s arm(s) still while blood is being drawn to prevent the individual from moving during the procedure and decreasing the risk of injury to him/her.
- Medication Administration such as an insulin injection, or eye drops – holding an individual’s arm(s) still during the administration of such medications to ensure the medication is appropriately administered/received.

The Overcoming Obstacles curriculum provides training and additional information on supporting individuals during tooth brushing. For additional information on this curriculum and where it can be found, please reach out to [opwdd.mips@opwdd.ny.gov](mailto:opwdd.mips@opwdd.ny.gov).

The use of a mouth prop to facilitate tooth brushing is not a type of MIPS and does not require informed consent for its use. However, the need for mouth props or other adaptive supports for tooth brushing should be documented in an individual’s service plan.

**Discussion:**

A. Definitions:

1. Medical Immobilization/protective stabilization (MIPS) - The partial or complete control of an individual’s arms, legs, head or torso which is necessary to protect the individual or others from injury for the duration of a medical or dental appointment. This includes manual and mechanical immobilization/stabilization and use of a papoose board. MIPS (not sedation) can be performed by a health care practitioner, medical/dental staff, family member, guardian, friend, agency staff or family care provider with or without the aid of a mechanical device.
2. Sedation – The depression of brain functioning by a medication, manifested by sleepiness, fatigue, slowed brain activity, and impaired performance. Sedation is on a continuum with the following levels:
  - a. *Minimal Sedation* (Anxiolysis) is a drug-induced state during which a person responds normally to verbal commands. Although cognitive function and coordination may be impaired, ventilatory and cardiovascular functions are unaffected. Minimal sedation may be administered prior to or during the appointment.

- b. *Moderate Sedation* (“Conscious Sedation”) is a drug-induced depression of consciousness during which a person responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation. Reflex withdrawal from painful stimuli is not considered a purposeful response. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.
- c. *Deep Sedation/Analgesia* is a drug-induced state of depression of consciousness during which a person cannot be easily aroused but responds purposefully following repeated or painful stimulation. Reflex withdrawal from painful stimuli is not considered a purposeful response. The ability to independently maintain ventilatory function may be impaired. Individuals often require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.
- d. *General Anesthesia*. A drug-induced state of unconsciousness during which a person is not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Individuals often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

B. Types of medical immobilization/protective stabilization and sedation:

MIPS and/or sedation should be used only when necessary to protect the individual and others during a medical or dental appointment - not as a convenience for staff. OPWDD requires that agencies work with health care practitioners to address concerns through alternative strategies, unless clinically contraindicated, before MIPS and/or sedation is used with a particular individual.

The MIPS technique and/or sedation specified for use with an individual should be the least restrictive technique(s) or level/type of sedation that is safe and effective. In the identification of appropriate techniques, the relative restrictiveness of the technique should be evaluated depending on the situation and the characteristics of the individual as documented in the clinical record.

The types of medical immobilization/protective stabilization (MIPS) that are authorized for use areas follows:

1. Manual (hands-on) techniques (head, arms, legs)
2. Mechanical techniques (head, arms, legs, torso)
3. Papoose board

#### C. Physician's/Dentist's Orders

The order of a physician, physician assistant, nurse practitioner or dentist is required for sedation and/or the use of all MIPS techniques and must be reviewed and re-ordered on at least an annual basis. The order must be kept in the individual's clinical record. A copy of the order must be attached to the plan.

#### D. Plan for Use of Medical Immobilization/Protective Stabilization and Sedation:

Except in an emergency, the use of MIPS and/or sedation must be part of an individual-specific plan. The purpose of the plan is to detail the MIPS and/or sedation which are planned for an individual when he or she receives medical or dental care. The plan must be based on the order of a physician, physician assistant, nurse practitioner or dentist.

In developing plans in accordance with the requirements of this ADM, the agencies must document the following:

- That alternative methods (i.e. desensitization, training), unless clinically contraindicated, have been attempted and have been ineffective; and
- That any medical or physical conditions that may impact the use of any MIPS or sedation have been considered.

#### E. Written Informed Consent:

1. Written informed consent must be obtained for plans that include the use of medical immobilization/protective stabilization and/or sedation for medical or dental appointments and procedures.
  - a. Informed consent for the plan is required prior to administration of MIPS or sedation. Consent must be obtained on at least an annual basis, or more frequently if there is a change in the plan, or if required by the agency or health care practitioner. Informed consent will specifically be limited to use associated with medical and/or dental appointments and procedures. A current informed consent must be kept in the individual's clinical record.
  - b. If the informed consent is for sedation, the informed consent shall specify:
    - i. The agent to be used;

- ii. The dosage and route of administration;
  - iii. Expected results;
  - iv. Whether or not a repeated dosage is allowed, and the time frame between doses; and
  - v. Information about the medication, including: any known interactions with other medicine the individual is taking and contraindications for the medication if any.
2. Procedures for obtaining informed consent for MIPS plan:
- a. Self-consenting individuals:
    - i. If individuals are capable of providing informed consent for MIPS or sedation, their consent is required. Agencies shall document the application and effectiveness of MIPS or sedation for that individual either by interviewing the individual, or by having the treating clinician or staff who accompanied the individual to the appointment complete an intervention outcome form.
  - b. Surrogates for individuals who are unable to provide their own consent for MIPS plan including the use of sedation, other than general anesthesia:
    - i. For individuals 18 years of age or older as listed in subclauses 633.16(g)(6)(iii)(a)-(h) in the order stated:
      - 1. a guardian lawfully empowered to give such consent;
      - 2. an actively involved spouse;
      - 3. an actively involved parent;
      - 4. an actively involved adult child;
      - 5. an actively involved adult sibling;
      - 6. an actively involved adult family member;
      - 7. the Consumer Advisory Board for the Willowbrook Class for class members it fully represents; or
      - 8. an informed consent committee (see paragraph [8] of this subdivision), or a court of competent jurisdiction.
    - ii. For individuals less than 18 years of age as listed in subclauses 633.16(g)(6)(i)(a)-(g) in the order stated, unless the plan includes the use of general anesthesia:
      - 1. a guardian lawfully empowered to give such consent;
      - 2. an actively involved spouse;
      - 3. a parent;
      - 4. an actively involved adult sibling;
      - 5. an actively involved adult family member;
      - 6. a local commissioner of social services with custody of the person pursuant to the social services law or family court (if applicable); or;
      - 7. an informed consent committee (see paragraph [8] of this subdivision) or a court of competent jurisdiction.

3. Informed Consent for Sedation When Used as Part of a Medical/Dental Procedure:

- a. When informed consent is needed for a medical/dental procedure which will include the use of sedation, the informed consent should be provided in accordance with 633.11(a)(1)(iii)(a)(1)-(7) for minors, and 633.11(a)(1)(iii)(b)(1)-(8) for adults who lack capacity to provide informed consent for the proposed professional medical treatment. This includes the use of a Surrogate Decision-Making Committee (SDMC) if the treatment/procedure will be provided under general anesthesia or if the sedation is utilized in conjunction with a specific medical/dental procedure to which the SDMC is providing informed consent. However, SDMC will not provide consent for MIPS under any circumstances.

F. Objections to MIPS/Sedation:

If a self-consenting individual or a surrogate, objects to the use of MIPS and/or sedation, and the agency and/or practitioner deems MIPS and/or sedation necessary to provide appropriate medical or dental care, the agency must apply for a court order.

G. Use of MIPS at a Medical or Dental Appointment:

Staff employing MIPS as part of a medical/dental procedure will do so under the direction and supervision of the physician, physician assistant, nurse practitioner or dentist performing the procedure, or his/her designee.

Agency staff or the family care provider must provide a copy of the appropriate plan, order and written informed consent to the health care practitioner.

The effectiveness of the intervention/sedation must be documented immediately after the appointment. Medical/dental staff, agency staff or the family care provider may complete the documentation. The documentation must be reviewed by the appropriate medical or clinical staff to ensure necessary changes (if any) are made and to ensure the order, plan and informed consent are updated if needed. The documentation must be kept in the individual's clinical record. A copy should be provided to the medical/dental provider for their record.

H. Emergency Use:

Public Health Law Section 2504(4) states, "Medical, dental, health and hospital services may be rendered to persons of any age without the consent of a parent or legal guardian when, in the physician's judgment an emergency exists and the person is in

immediate need of medical attention and an attempt to secure consent would result in delay of treatment which would increase the risk to the person's life or health.”

Use of physical interventions and/or sedation in an emergency [as defined in Public Health Law Section 2504(4)] as part of a medical or dental appointment is permissible without a plan or prior informed consent. The use must be noted in the individual's record. If future use of MIPS and/or sedation is anticipated, the agency must develop a plan for the individual that incorporates appropriate use of MIPS and/or sedation in accordance with this ADM.

I. Relationship to Part 624 (incidents and abuse):

Use of MIPS and sedation in accordance with this ADM is not considered abuse and is not a reportable or serious reportable incident. This is true for both planned and emergency use.

J. Staff Training:

OPWDD will make training available on SLMS to all agencies on the use of MIPS.

K. Related Behavioral Issues:

If the individual is exhibiting challenging behavior prior to entering the office for a medical or health care practitioner's appointment, the inappropriate behavior must be addressed through the procedures established by the agency for managing challenging behaviors. Addressing these issues is beyond the scope of this ADM.

L. Recommended Forms:

OPWDD has developed sample forms for use in conjunction with this ADM (see attached). However, these forms are not required. If similar forms are developed by the provider agency, it is recommended that all of the information contained on the sample forms be included.

M. Effective Date:

The requirements imposed by this ADM are effective immediately if the necessary documentation detailed in this ADM is in place.



**Records Retention:** Providers should maintain documentation for a period of ten (10) years. This period is tied to the statute of limitations under the [New York False Claims Act](#).