NEW YORK STATE OF OPPORTUNITY. | Office for People With Developmental Disabilities

ADMINISTRATIVE DIRECTIVE

Transmittal:	ADM 2020-01R Updated December 31, 2020
To:	Executive Directors of Voluntary Provider Agencies Developmental Disabilities Regional Office Directors Developmental Disabilities State Operations Office Directors Executive Directors of Care Managers and Care Coordination Organizations
Issuing OPWDD Office:	Division of Service Delivery – Regional Offices Employment Unit
Date:	January 23, 2020 (effective March 1, 2020)
Subject:	Prevocational Services
Suggested Distribution:	Administrators and Mangers of Prevocational Services Quality Improvement Staff Fiscal/Billing Staff Care Managers Regional Office Front Door Staff Central Office Leadership Team
Contact:	Employment and Meaningful Community Activities Division of Service Delivery – Regional Offices employment.technical.assistance.questions@opwdd.ny.gov
Attachments:	Prevocational Services Examples

Related ADMs	Releases Cancelled	Regulatory Authority	MHL & Other Statutory Authority	Records Retention
ADM 2012-01 ADM 2018-06R ADM 2018-09R	ADM 2006-03 ADM 2017-03R	14 NYCRR Part 635	MHL §§ 13.07, 13.09, and 16.00	6 Years from Date of Service: 18 NYCRR 504.3(a)

PURPOSE:

Prevocational Services prepare individuals with developmental disabilities for paid employment or meaningful community activities, including volunteering. This Administrative Directive Memorandum (ADM) seeks to describe how prevocational services have been redesigned to include new service delivery and documentation requirements.

BACKGROUND:

OPWDD amended regulations 14 NYCRR Sections 635-10.4 (effective September 19, 2018) and 634-10.5 (effective July 31, 2019) pertaining to Prevocational Services. OPWDD also amended regulation 14 NYCRR Section 635-7.5 pertaining to Physical Plant, Environmental and Certification Requirements effective September 1, 2016.

In addition to the claim documentation requirements identified in this ADM, Prevocational Services providers must comply with applicable OPWDD regulations and quality standards in Administrative Memorandum #2012-01 and #2018-09R.

On January 23, 2020 (effective March 1, 2020), OPWDD issued Administrative Memorandum #2020-01, entitled "Prevocational Services," describing Prevocational Service program and billing requirements. **This ADM, ADM #2020-01R, revises ADM #2020-01 to make certain clarifying revisions. Those revisions are underlined in red below and are effective retroactive to March 7, 2020.**

PREVOCATIONAL SERVICES

I. Prevocational Services

Prevocational Services are pre-employment and/or job readiness activities specified in an individual's Individualized Service Plan (ISP)/Life Plan and Prevocational Habilitation Plan/Staff Action Plan. These services are habilitative and prepare the individual for paid employment or meaningful community activities that enable an individual to attain the highest level of community engagement in the most integrated setting with the ultimate goal of employment.

Prevocational Services are delivered as either Site Based or Community Based Services. An individual's ISP/Life Plan may contain both Site Based and Community Based Prevocational Services.

II. Annual Prevocational Services Assessment

Assessments are important in determining whether an individual continues to need the allowable Prevocational Services and job readiness preparation through Site Based Prevocational Services and/or Community Based Prevocational Services. Assessments must be conducted in non-certified community-based settings except during the New York State Disaster Emergency for COVID-19. During the state of emergency, providers may complete the assessment in either a certified or non-certified location. Site Based Prevocational Services must be delivered in a certified setting, except for the annual assessment which must be done in a noncertified setting.

If an individual is enrolled in Prevocational Services on or before September 30, an annual assessment must be completed by December 31st of that same year. If, instead, the individual was enrolled in Site Based Prevocational Services on or after October 1, the community-based assessment is not required until the following calendar year.

The annual assessment must:

(a) Determine whether services continue to meet the individual's pre-employment and/or job readiness needs;
(b) Be completed each calendar year (except as noted above);
(c) Be vocational (i.e., what career/job individual expresses interest in) and situational (i.e., how the individual performs and responds in the actual work environment);
(d) Include at least one situational assessment done in a Community Based setting, except during the New York State Disaster Emergency for COVID-19; and
(e) Be completed in a form and format prescribed by OPWDD.

Prevocational Services Annual Assessment form is available on the "Resources" tab of the OPWDD website.

III. Participating in Site Based and/or Community Based Prevocational Services

Individuals may participate in both Site Based and Community Based Prevocational Services. Participation in Site Based and/or Community Based Prevocational Services does not preclude individual's participation in other OPWDD services. Other services may include, but are not limited to:

- Pathway to Employment;
- Supported Employment;
- Day Habilitation; and
- Community Habilitation.

There are, however, daily limits for a combination of Community Based Prevocational Services, Site Based Prevocational Services, and Day habilitation. (*See* 14 NYCRR 635-10.5(ag) (5) and 635-10.5(ah) (6)). Individuals residing in Individual Residential Alternatives (IRAs), Community Residences (CR), and Family Care Homes (FCH) may have additional restrictions.

See Prevocational Services Examples attachment, page 1.

IV. Prevocational Services When the Individual is Paid

For a provider to bill for prevocational services when the individual is paid, there are certain restrictions regarding an individual's earning capacity. If an individual in Site Based or Community Based Prevocational Services is paid, the individual must have an earning capacity associated with those tasks of less than 50% for the provider to be reimbursed for the Prevocational Services. The individual's earning capacity must be documented.

A. Earning Capacity Assessment

Each individual has an earning capacity for work performed. An individual's earning capacity must be calculated and documented in order for a provider to bill for prevocational services provided when the individual is paid. The provider has a consecutive 180-day period to collect data on the individual's earning capacity. The average of all wages paid for tasks over the consecutive 180-day period must be used to demonstrate the individual's earning capacity.

For individuals receiving Prevocational Services where the individual is paid:

- *On the effective date of this ADM*: the 180-day earning capacity assessment period begins on April 1, 2020. Providers must calculate the individual's earnings every 6 months thereafter.
- *After the effective date of this ADM*: the 180-day earning capacity assessment period begins when the individual begins performing the paid activity/work. Providers must reassess every 6 months thereafter.

After the consecutive 180-day data collection period, the provider has an additional 30 days to calculate the individual's earning capacity and continue to bill. Documentation of the assessed earning capacity must be retained for 6 years.

B. Earning Capacity and Billing for Prevocational Services When the Individual is Paid

The individual's earnings are calculated and compared to the federal, state, or prevailing wage. If the individual's earning capacity is:

- *50% or more* than the federal, state, or prevailing wage, the provider *must stop billing* for Prevocational Services when the individual is paid; or
- *Less than 50%* of the applicable federal, state, or prevailing wage, the provider may continue billing for Prevocational Services where the individual is paid.

When an individual in Site Based or Community Based Prevocational Services is paid, (s)he must have an earning capacity associated with those tasks of less than 50% for the provider to be reimbursed for the Prevocational Services. This earning capacity must be documented.

See Prevocational Services Examples attachment, page 1.

C. Earning Capacity Assessment Reimbursement

Providers may be reimbursed for Prevocational Services when the individual is paid through the 180-day data collection period and the 30-day earnings calculation period, regardless of the individual's calculated assessed earning capacity.
If the individual is paid, and their earning capacity was established at more than 50% of the applicable federal, state, or prevailing wage, a provider will not be reimbursed for prevocational services after the 30-day calculation period.

D. Earning Capacity Reassessment

Providers may establish an individual's new earning capacity no sooner than 90 days after it has been determined that the individual has an assessed earning capacity of 50% or more than the federal, state minimum wage, or prevailing wage.

- The reassessment period may start immediately after the initial 180-day

earning capacity period.

- Providers must collect the individual's earning capacity data for a minimum of 90 consecutive days before they can calculate earning capacity.
- The provider cannot bill for Prevocational Services where the individual is paid during the 90-day reassessment period.
- The provider may resume billing Prevocational Services after the 90-day reassessment if the earning capacity is less than 50%.

See Prevocational Services Examples attachment, page 1.

E. Prevocational Services When the Individual is Not Paid

When an individual does not receive compensation during the time, they receive Prevocational Services, there is no required documentation of earning capacity. Providers must comply with all applicable local, state, and federal requirements regarding volunteering activities.

V. Prevocational Services Staff Training

Delivery of Site Based or Community Based Prevocational Services does not require specific prevocational service staff training. However, provider agencies are strongly encouraged to have prevocational staff participate in the OPWDD Innovations in Employment Supports trainings. Innovations in Employment Supports trainings include topics pertinent to Prevocational Services such as introduction to employment, discovery, job readiness training, creating connections, etc. Providers may bill for Community Based Prevocational staff who attend Innovations in Employment Supports trainings in accordance with the billing limitations. No additional billing beyond the half day or full day at the Site Based Prevocational rate is available for Innovations staff training.

VI. Group Size and Number of Groups

A. Group Size

One staff person may provide services to a maximum of 8 individuals without written approval from OPWDD. If a provider wants to increase a group size or have multiple groups at a location, a Request to Provide Prevocational Services in a Larger Group or Multiple Groups form must be approved by OPWDD Central Office and kept on file by the provider. Maximum group size is capped at 15 individuals, including groups at Community Based hubs.

Requests to provide Site Based Prevocational Services to groups larger than 8 individuals must be submitted in a form and format prescribed by OPWDD, which is available on the "Resources" tab on our website.

Approval will be based on whether the:

a. Individuals receiving Prevocational Services no longer require a high level of supervision and would benefit from being in a larger group size;
b. Increased group size will facilitate the individuals' transition from Prevocational Services to obtaining competitive employment at their present work location; and
c. Decision to increase group size is in the individuals' best interests and consistent with their person-centered plans.

B. Multiple Groups

A Site Based Prevocational Services certified site may have more than one group at the site. No OPWDD prior written approval is required to have multiple groups at a Site Based Prevocational Services certified site.

Community Based Prevocational Services cannot have multiple groups at one location unless there is OPWDD prior written approval. Requests to provide Community Based Prevocational Services in multiple groups of individuals at the same location must be submitted in a form and format prescribed by OPWDD and is available on our website.

Multiple group approval is based on whether the:

a. Community site will maintain integration levels and provide a community experience for the individuals; and
b. Increase in the number of groups is in the best interests of the individuals and continues to promote vocational growth.

SITE BASED PREVOCATIONAL SERVICES

I. Certification of Site Based Prevocational Service Space

Effective September 19, 2019, all Site Based Prevocational Services, except the annual assessment, must be delivered at a site that is certified by OPWDD as a Site Based Prevocational Services Site in accordance with 14 NYCRR Section 635-7.5.

Providers may only enroll new individuals into their Site Based Prevocational Services programs if the provider has an accepted Workshop Transformation Plan and prior OPWDD written approval permitting new enrollments in the Site Based Prevocational Services program.

OPWDD certified sites, including Site Based Prevocational Services sites, may be used as a hub for Community Based Prevocational Services. The time spent at the hub is not considered Site Based Prevocational Services and must be billed as Community Based Prevocational Services. Community Based Prevocational Services may be delivered at the hub for up to 2 hours each day.

II. Billing for Site Based Prevocational Services

Billing and documentation standards can be found at 14 NYCRR 635-10.5(ag). Site Based Prevocational Services are billed as either a Full Unit or Half Unit.

For Site Based Prevocational Services, the *program day duration* is defined as the length of time the individual attends the provider's program day. There are some activities that cannot be counted toward the program day duration, and therefore cannot be used to meet the program day billing requirements for a Full or Half Unit. These activities include:

- Time the individual spends at a separate service (e.g., a clinic service);
- Mealtime;

- Staff services provided without the individual present; and
- Time the individual spends being transported to:
    - the first Site Based Prevocational Services activity of the day;
    - subsequent Site Based Prevocational Services (i.e., travel time from one site to another site, even if both are Site Based Prevocational Services);
    - a location that terminates the Site Based prevocational service (e.g., home) after the conclusion of Site Based Prevocational Services; or
    - any other service where transportation is specifically included in the rate.

See Prevocational Services Examples attachment, page 2.

III. Billing for Site Based Prevocational Services Annual Assessments

When billing for Site Based Prevocational Services Annual Assessment activities, program day billing requirements apply (*see* 635-10.5(ag)(4)(i) and 635-10.5(ag)(4)(ii)).The Site Based Prevocational Annual Assessment must be completed in no more than 5 full day units or 10 half day units. Site Based Prevocational Services are delivered in a certified setting except when the provider is conducting this annual assessment. Annual assessments must not be completed in a certified site, except during the COVID-19 State Disaster Emergency.

IV. Site Based Prevocational Service Documentation

A. Medicaid Documentation Requirements

Medicaid rules require that service documentation be contemporaneous with the service provision. The documentation supporting a provider's billing must include Service Documentation and a Monthly Summary, which include the elements listed below.

a. Service Documentation Requirements

The service documentation may be submitted as a checklist, chart, or other format. Required service documentation elements include:

1. **Individual's name and Medicaid number (CIN).**

2. **Name of the agency providing the Site Based Prevocational Services.**

3. **Identification of the category of waiver service provided** (Site Based Prevocational Services).

4. **Start and stop times.** The provider must document the program day duration by indicating the service start time and service stop time. Minimum service duration requirements must be met. When an individual attends another service during the Site Based Prevocational Services program day (e.g., clinic service or doctor's appointment), the provider must document the time of the individual's departure from the Site Based Prevocational Services program and the time the individual returned.

5. **Description of services.** For each full day billing, list at least two allowable services delivered face to face (directly to the person) in accordance with the individual's Prevocational Habilitation Plan/Staff

Action Plan. For each half day billing at least one allowable service delivered face to face (directly to the person) in accordance with the individual's Prevocational Habilitation Plan/Staff Action Plan. The specific allowable service must be indicated on the service documentation.

6. **Service location** (i.e., the address or a notation of traveling).

7. **The date the service was provided.**

8. **Verification of service provision by the staff person delivering the service.** The verification must be completed by the staff person delivering the allowable services, which must include the staff person's full name and signature. Initials are permitted only if a key is provided. The key must identify the signature and full name associated with the staff initials.

b. Monthly Summary Requirements

A narrative monthly summary is required and must be completed, signed, and dated no later than the end of the following month of service. A narrative monthly summary must include a summary of the following:

1. A summary of the implementation of the individual's Habilitation Plan/Staff Action Plan for the month;
2. A description of the individual's prevocational progress;
3. A description of some of the actions of staff to address prevocational challenges;
4. A description of the individual's response to services;
5. Whether the individual is paid or unpaid; and
6. Issues or concerns pertaining to Prevocational Services, if applicable.

B. Additional Documentation Requirements

In addition to the service documentation and monthly summary supporting the Site Based Prevocational Services billing claim, the provider must maintain the following documentation:

1. **A copy of the individual's person-centered plan/Life Plan, covering the time of the claim.** For Site Based Prevocational Services, the following elements must be included in the individual's plan:

    a) Identification of preparation for competitive employment self-employment or job readiness as a valued outcome;
    b) Identification of the Site Based Prevocational Services as category of waiver service;
    c) Identification of the agency providing Site Based Prevocational Services;
    d) Specification of an effective date for Site Based Prevocational Services that is on or before the first date of service for which the agency bills Site Based Prevocational Services for the individual;
    e) Specification of the frequency for Site Based Prevocational Services

as “Day;” and

f) Specification of the duration of Site Based Prevocational Services as “Ongoing.”

2. **The Site Based Prevocational Service Habilitation Plan/Staff Action Plan.** The Site Based Prevocational Services Staff Action Plan/Habilitation Plan developed by the agency providing services must conform to the corresponding Staff Action Plan (#2019-09R) or Habilitation Plan (#2012-01) requirements.

COMMUNITY BASED PREVOCATIONAL SERVICES

I. Community Based Prevocational Services and Use of Hub Space

Community Based Prevocational Services may be provided face-to-face or on behalf of the individual. Community Prevocational Service locations are in the community and are not certified by OPWDD.

OPWDD certified sites, including Site Based Prevocational Services or day habilitation sites, may be used as a hub for Community Based Prevocational Services. For example, the hub may be where individuals meet to identify community activities for the day. The time spent at a hub that is certified is not considered Site Based Prevocational Services and must be billed as Community Based Prevocational Services. Community Based Prevocational Services may be delivered at the hub for up to 2 hours each day, regardless of the total number of Community Based Prevocational Services hours the individual receives in that day.

II. Community Based Prevocational Services Delivered Without the Individual Present

Some Community Based Prevocational Services may be delivered on behalf of an individual who is not present at the time of service delivery and may be receiving other Medicaid services. These services delivered on behalf of the individual may include, but are not limited to:

- Discussing the individual’s prevocational progress with family;
- Meeting with businesses/organizations about potential work experiences for the individual;
- Developing the individual’s Community Based Prevocational Staff Action Plan/Habilitation Plan;
- Documenting the delivery of services; or
- Traveling to and from the delivery of an allowable Community Prevocational service site.

A. Simultaneous Billing

Community Based Prevocational Services delivered on behalf on an individual may be billed even when the individual is receiving another Medicaid Service at the same time. This is not considered double billing because the individual is receiving two separate services, only one of which is being delivered directly to the individual.

See Prevocational Services Examples attachment, page 2.

III. Community Prevocational Service Billing

Billing and documentation standards and can be found at 14 NYCRR 635-10.5(ah).

A. Rounding for Units of Service

Rounding for units of service is permitted based on the criteria outlined in 14 NYCRR 635-10.5 (ah) (5).

See Prevocational Services Examples attachment, page 2.

B. Billing for Community Based Prevocational Assessments

When billing for Community Based Prevocational Services Annual Assessment activities, program day billing requirements apply (see 635-10.5(ag)(4)(ii) and 635-10.5(4)(i)). The annual assessments must be completed at businesses or organizations in the community, except during the COVID-19 State Disaster Emergency. The Community Based Prevocational Annual Assessments that are completed in the community (i.e., non-certified sites) may be completed at existing or new sites, whichever best demonstrates the individual's skill levels, progress and instructional needs.

C. Billing During Lunch and Breaks

If Community Based Prevocational Services are provided directly to an individual during the individual's lunch or breaks, the service provider can bill in incremental units if the specific services provided are included in the service documentation and are drawn from the individual's Habilitation Plan/Staff Action Plan.

See Prevocational Services Examples attachment, page 3.

D. Billing for Staff Travel

Billable travel time includes staff related travel associated with the delivery of Community Based Prevocational Services. Staff travel may be with or without the individual receiving services. A service provider can bill for staff travel associated with the delivery of Community Based Prevocational Services (i.e., to and from the delivery of allowable services site) to either an individual or a group. This includes, but is not limited to, travelling to:

1. Meetings to explore or follow up on existing or potential community experiences;
2. Conduct assessments of vocational skills and interests;
3. OPWDD Innovations Trainings designed to enhance the delivery of HCBS pre-employment and employment services;
4. Support an individual on-site at his/her community experience;
5. An individual's home/final destination of the day with the individual; and
6. Deliver an allowable community prevocational service.

See Prevocational Services Examples attachment, page 3.

E. Billing for OPWDD Innovations Trainings

Providers may bill Community Based Prevocational Services for staff attendance at OPWDD Innovations training for 5 hours for the class and for staff travel to the Innovations Trainings. (*See Billing for Staff Travel* above). Total billing time with and without the individual is subject to daily billing limitations.

Providers may bill for up to 5 individuals per staff person per training. Providers may only bill for a group fee, even if the staff person is attending the training for one individual. The group fee is billed as one of two categories: (a) serving 2individuals; or (b) serving 3-8 individuals. The staff billing Innovations training travel/attendance to an individual must provide regular or periodic services to the individual.

See Prevocational Services Examples attachment, page 3.

F. Community Based Prevocational Services Group Billing

Community Based Prevocational Services may be provided to an individual, or to a group of individuals. When services are provided to one individual the service provider must bill at the individual fee. There is an exception when billing for Innovations Trainings, as that must always be billed at the group fee regardless of how many individuals the staff is attending on behalf of.

When services are provided to a group of individuals, the service provider must bill at the appropriate group fee. Note, a provider may only bill at the group fee for 9-15 individuals *if* it has prior approval from OPWDD's Central Office Employment Unit. Appropriate billing fees are listed in the chart below:

Number of Individuals Served	**Billing Fee**
1	Individual
2	Group (Serving 2)
3-8	Group (Serving 3-8)
9-15	Group (Serving 3-8)

IV. Community Prevocational Service Documentation

The service documentation supporting a provider's billing for Community Based Prevocational Services must include Service Documentation and a Monthly Summary.

For each service session, a provider must document the Community Based Prevocational Services with the elements listed below.

A. Service Documentation Requirements

The service documentation may be submitted as a checklist, chart, or other format. Required service documentation elements include:

1. **Individual's name and Medicaid number (CIN).**

2. **Name of the agency providing the Community Based Prevocational Services.**

3. **Identification of the category of waiver service provided (i.e., Community Based Prevocational Services).** The individual's Habilitation Plan/Staff Action Plan must identify the category of waiver service as "Community Based Prevocational Services."

4. **Start and stop times.** Document the service start time and service stop time for each continuous period of service provision.

5. **Group or Individual.** Document whether service was delivered to a Group or Individual. If the service was delivered to a group, the group size must be listed.

6. **Description of services.** Each documented session must list *at least one allowable service* delivered in accordance with the individual's Habilitation Plan/Staff Action Plan.

7. **Services must be identified as either with the person present or not.**

8. **The date the service was provided.**

9. **Location of the service (i.e., the address) and whether the location is certified or uncertified.**

10. **Verification of service provision by the staff person delivering the service.** The verification should be completed by the staff person delivering the service. Initials are permitted only if a key is provided. The key must identify the signature and full name associated with the staff initials. If there is no key, the staff person must provide his/her full name and signature.

B. Monthly Summary Requirements

A narrative monthly summary is required and must be completed, signed, and dated no later than the end of the following month of service. A narrative monthly summary must include a summary of the following:

1. A summary of the implementation of the individual's Habilitation Plan/Staff Action Plan for the month;
2. A description of the individual's prevocational progress;
3. A description of some of the actions of staff to address prevocational challenges;
4. A description of the individual's response to services;
5. Whether the individual is paid or unpaid; and

6. Issues or concerns pertaining to Prevocational Services, if applicable.

C. Additional Community Based Prevocational Service Documentation Requirements

In addition to the service documentation and monthly summary supporting the Community Based Prevocational Services billing claim, the provider must maintain the following documentation:

1. **A copy of the individual's person-centered plan/Life Plan, covering the time of the claim.** For Community Based Prevocational Services, the following elements must be included in the individual's plan:

    a) Identification of preparation for competitive employment self-employment or job readiness as a valued outcome;
    b) Identification of the Community Based Prevocational Services as category of waiver service;
    c) Identification of the agency providing Community Based Prevocational Services;
    d) Specification of an effective date for Community Based Prevocational Services that is on or before the first date of service for which the agency bills Community Based Prevocational Services for the individual;
    e) Specification of the frequency for Community Based Prevocational Services as "Day;" and
    f) Specification of the duration of Community Based Prevocational Services as "Ongoing" or "Ongoing as authorized."

2. **The Community Based Prevocational Service Staff Action Plan/Habilitation Plan.** The Community Based Prevocational Services Staff Action Plan/Habilitation Plan developed by the agency providing services must conform to the corresponding Staff Action Plan (#2019-09R) or Habilitation Plan (#2012-01) requirements.

RECORDS RETENTION:

New York State regulations require each Medicaid provider to prepare records to demonstrate its right to receive Medicaid payment for a service. These records must be "contemporaneous" and kept for six years from the date the service was provided.
18 NYCRR 504.3(a).

All documentation specified above, including the ISP/Life Plan, Habilitation Plan/Staff Action Plan, and service documentation must be retained for a period of at least six years from the date the service was delivered or when the service was billed, whichever is later.

ADDITIONAL INFORMATION:

For additional information on this Administrative Memorandum and related documentation requirements contact the OPWDD Office of Employment & Meaningful Community Activities at (518) 473-7957.