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

Frequently Asked Questions: Interim Guidance Regarding Reopening of Day Services

July 15, 2020
Revised July 16, 2020 (revised material underlined)

On July 10, 2020, OPWDD issued Interim Guidance Regarding Reopening Day Services, to be effective July 15, 2020 in those geographic regions of New York State which have entered Phase IV of the Governor's NY Forward Initiative.
https://opwdd.ny.gov/system/files/documents/2020/07/7.10.2020-reopening-day-programs_opwdd_new-final-agency-guidance-format-final.pdf

The following Frequently Asked Questions should help providers clarify and implement that guidance.

APPLICABILITY OF DOCUMENT

Q: Does the guidance apply to non site-based day programs?

A: Yes, the July 10th guidance applies to all suspended day programs, both site-based and community based and should be applied to the extent possible.

Q: Does the guidance apply to SEMP programs?

A: No, the July 10th guidance applies to all day programs that were forced to suspend operations, pursuant to OPWDD's March 17, 2020 suspension memo. SEMP was not formally suspended by OPWDD, albeit many individuals have been temporarily unable to work within closed businesses.

Q: What happens if a Region moves back to Phase 3? Do programs have to close again?

A: No, the guidance is not necessarily tied to Phase 4. If day programs are required to close again, OPWDD will issue a closure notice.

SAFETY PLAN/ATTESTATION

Q: The guidance was revised on July 16th to reflect changes to the transportation section. Should our safety plan reflect the July 16th restrictions instead of the original July 10th restrictions?

A: Yes, please outline how you will implement the most current version of the guidelines. An updated safety plan template was also emailed out July 16, 2020 but either version is acceptable.

Q: Are all programs expected to complete the same attestation/complete the same safety plan even though there are so many differences between programs?

A: Yes, the attestation and safety plans are for all day programs, regardless of type or location. Site based/non site-based services will have differences in how they operationalize the guidelines and some won't apply. Providers will note within their safety plans where the

guidance cannot be implemented due to the nature of the service (e.g. signs cannot be hung on non site-based locations).

Q: Where can I find the attestation/safety plan template?

A: OPWDD emailed them out from the DQI mailbox to all providers on July 15, 2020.

Q: What will the process of review/approval be and how long will it take?

A: OPWDD will be collecting the safety plans and attestations and will survey providers against the plans, but it will NOT be individually approving them. Once plans and attestations are submitted, a provider may begin delivering services as long as it can do so safely and in accordance with the guidelines.

Q: What will a surveyor would be looking for with regards to safe re-opening practices and procedures as indicated by this paragraph:
"OPWDD certified day programs may only reopen if they meet minimum State and Federal safety requirements as outlined by the Centers for Disease Control and Prevention (CDC), Environmental Protection Agency (EPA), United States Department of Labor's Occupational Safety and Health Administration (OSHA), New York State Department of Health (DOH) and OPWDD while also meeting the minimum standards of the Americans with Disabilities Act (ADA). "

A: OPWDD guidance all relies on DOH/CDC standards and employers are expected to comply with requirements set forth by OSHA and the ADA, without the need for OPWDD to outline specific requirements. There are not survey-specific checks against anything beyond OPWDD guidelines but employers are always expected to comply with all relevant laws and regulations. Please consult with your counsel if you have additional questions about what these may be.

ENTRANCE REQUIREMENTS FOR DAY PROGRAMS

Q: What defines a "medical" reason for not wearing a mask?

A: The exception in the Executive Order is for those who cannot medically tolerate a mask, which would include any underlying medical diagnosis for which mask-wearing is contraindicated or for any disability which prohibits the individual from keeping a mask on.

Q: Should someone who cannot medically tolerate a mask stay home?

A: No, not necessarily. Someone who cannot tolerate wearing a face covering should still be able to access programming/community inclusion, but the treatment team should consider how to most safely accommodate the risk (e.g. increased social distancing, transport separately, lower risk/outdoor activities, etc), and should document.

Q: Will OPWDD allow workers to self-screen prior to entering the building and attest to their health? Electronic?

A: Yes, this protocol is up to each employer to implement and enforce.

Q: Who is an “essential Visitor?”

A: An essential visitor is anyone necessary to the care and treatment of the individuals within the program or anyone necessary to the functioning of the site. For example, a physical therapist providing services on site would be an essential visitor but a family member dropping by to say hello would not be.

Q: Why can only supervisors or health professionals conduct health screenings?

A: A supervisor or health professional is responsible for overseeing the health screening protocol, but the actual screens can be delegated to other staff if the agency feels it is appropriate to do so.

CAPACITY/SOCIAL DISTANCING

Q: Is there a limitation to only using 50% of the total day habilitation space? Page 5 of the guidance speaks to reducing in tightly confined spaces; is that where the reduction would be required?

A: The 50% capacity reduction applies in small/confined spaces, such an employee break room or a kitchen, not to the entire capacity of any site-based building. Numbers should be reduced to accommodate social distancing but there is not a minimum/maximum requirement.

Q: If we have a very large space, such a warehouse, are we able to split it into multiple shared spaces by using partitions, etc?

A: Yes, as long as cohorts of individuals are kept separated and social distancing can be maintained.

TRANSPORTATION

Q: The guidance indicates that people from the “same facility” should only be transported together and not intermingled. Does “facility” refer to the residence or the day program?

A: Guidance was revised on July 16, 2020 to allow individuals who are participating in the same day program, but who may live in difference residences, to be transported together.

Q: Can the guidance be revised so that people living who are currently living together do not need to distance when being transported to programs?

A: Guidance was revised on July 16, 2020 to reflect this change.

Q: Can individuals who live in family homes be picked up by agency bus for day program?

A: Yes, if they are traveling to the same day program. Families could also decide to transport directly.

Q: Can the residential program transport the individual to day program and bill for it?

A: No, transportation costs are included in the day hab rate and residential programs are unable to bill.

LIFE PLANS/SERVICE AUTHORIZATION

Q: How do we handle life plan changes related to day program reopening?

A: A Life Plan change during COVID is only needed if an individual is getting a new service during COVID that was not previously in the person's Life Plan. For providers in the Retainer Program and using Community Habilitation R, the COVID Life Plan Addendum can be used to add the new service for each individual affected. New services must be added to the Life Plan within 60 days of approval of the new service. This means that the Care Manager must sign the COVID Life Plan Addendum within 60 days from the Addendum Date (the date the Addendum was written by the Provider).

Q: If someone needs an additional service due to this decrease in service, would a care manager submit a SARF for an additional service?

A: When the flexibility of the current day service retainer program sunsets, normal service request process resumes. The addition/change of services currently authorized would require a service amendment, DDP-1/DDP supplement as appropriate.

Q: Does OPWDD plan to waive any requirement for community integration, particularly for individuals that will not wear a mask and/or socially distance?

A: The Executive Order waiver of community inclusion remain in place, at least temporarily, and we will continue to monitor the need to address this/other solutions.

Q: If someone is temporarily receiving day habilitation services in a different space (in order to accommodate provision of services to more people), does their lifeplan need to be updated?

A: No. As long as the Appendix K flexibilities are in place, a change in location does not require a formal update. If, however, the change will be long term, it may be appropriate to note it at the semi-annual life planning meeting.
Additionally, notifications to interested parties (CAB/Willowbrook, actively involved family, etc) should be made beforehand as part of the normal planning process.

Q. Can individuals refuse a return to day programming?

A. Yes, they can and they should be referred to their care manager to identify viable alternatives. They can also continue to receive day programming in their residence/virtually.

RETAINER DAYS/BILLING

Q: Do the retainer days end for everyone on July 21st, even if they have not yet reached 30 days?

A: Yes. The federal government clarified that retainer payments are capped at a total of 3 consecutive 30-service day periods (a total of 90 service days). Since we don't manage the system on a person-specific basis, retainer payments in their entirety will sunset after 7-21-20. Retainer payments commenced on 3-17-20.

Q: Can providers bill for day habilitation services provided in person in an IRA?

A: Billing for day habilitation at alternative locations may continue as long as the authority exists in the Appendix K. It is proposed to continue in the current version of the Appendix K, which is with CMS for approval.

Q: Currently, providers are not able to bill while people are eating lunch at Day Hab. That time doesn't count toward services, so providers would need to add an extra half an hour to the day in order to bill a full 8 hours. Can we include lunch as a billable service?

A: Meal times cannot be billed for as a service. We would recommend providing services in two blocks that avoid meal times. For example, one group receives services from 8-12 and another group receives services from 1-5, and no time is carved out for meals.

Q: Will agencies continue to be paid for virtual services?

A: yes, so long as the the flexibility of the Appendix K/executive orders remain in place.

Q: Can we deliver 2 hours of in-person day habilitation and 2 hours of virtual day habilitation for a full day?

A: Yes, as long as the Appendix K remains in place and service requirements are met.