



April 24, 2020

On March 7, 2020, Governor Andrew M. Cuomo declared a state of emergency through [Executive Order 202](#) to respond to the COVID-19 public health emergency. The top priority for the Office for People With Developmental Disabilities (OPWDD) continues to be the health and safety of New Yorkers with intellectual and developmental disabilities and our state and voluntary workforce. In response to this state of emergency, and to ensure health and safety, OPWDD, in conjunction with the New York State Department of Health, is working to provide flexibility for the delivery of OPWDD 1915(c) Home and Community-Based Waiver services. The following modifications to the service system, in place for the duration of the state of emergency, will allow OPWDD providers to meet the needs of the people they support, to the greatest extent possible.

Administrative Directive Memorandum #2006-01, *Group Day Habilitation Service Documentation Requirements*, remains in force for the duration of the state of emergency, but is temporarily amended by the provisions of this directive.

Use of Technology

Day Habilitation may temporarily be provided remotely using telehealth. The use of technology to deliver Day Habilitation services does not require prior approval. The Day Habilitation provider must:

- Use good clinical judgment to determine that the telehealth encounter is appropriate;
- Verify that the service can be delivered effectively via verbal prompting/cueing only; and
- Ensure the health and safety of the person will continue to be met via this service modality.

In addition, Day Habilitation providers must follow OPWDD's "Interim Guidance Regarding the Use of Telehealth/COVID-19", available at <https://opwdd.ny.gov/coronavirus-guidance/covid-19-guidance-documents>.

Location of Day Habilitation Services

The service definition and limits for Day Habilitation services are temporarily modified to allow Day Habilitation in the following alternate locations:

- The person's private home;
- The person's family home;
- A provider owned or controlled certified or uncertified residential setting; or
- Any other emergency residential setting, such as a hotel.

Day Habilitation provided in a supervised residence cannot be billed to Medicaid, if the Residential agency is also receiving an enhanced residential rate to reflect day-time staffing needs.

Day Habilitation services may also be provided in out-of-state locations, if necessary, for the safety of the person. Services provided in another state must be provided in accordance with the waiver

service definition and the person's Life Plan, as may be amended to address service needs during the emergency. See section below on *Care Planning and the Update of Life Plans*.

Delivering Services and Maintaining Social Distancing

During the state of emergency, Day Habilitation providers may provide and bill Medicaid for services that support the person, while maintaining social distancing. For example, Day Habilitation staff may deliver groceries or other supplies, or assist with necessary outdoor household chores (such as taking garbage cans to the curb and returning cans to the home). For these types of services, the time that staff spend traveling to the person's home, running the errand, and returning to the worker's home, may be billed as Day Habilitation.

Interim Billing Guidance

There may be no duplication of billing for Day Habilitation services and services otherwise rendered in provider-owned or controlled residential settings.

OPWDD issued interim billing guidance to Day Habilitation providers on March 24, 2020, regarding retainer day payments for service dates beginning on March 18, 2020 through March 31, 2020, due to the suspension of these services, effective March 18, 2020. This interim billing guidance was extended for service dates through April 15, 2020. As of the date of this guidance, billing instructions for service dates on or after April 16, 2020 are anticipated to be forthcoming. Check OPWDD's webpage regularly for updates, at <https://opwdd.ny.gov/coronavirus-guidance/covid-19-guidance-documents>.

Care Planning and the Update of Life Plans

A person's current Life Plan and Staff Action Plan(s) remain in place. Day Habilitation providers should ensure that Day Habilitation staff know how to safely serve the person. Formal updates of the Staff Action Plan can occur later. Additional information regarding the timing of Life Plan and Staff Action Plan adjustments will be released in separate guidance.