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New York's OPWDD releases interim COVID-19 guidance regarding community habilitation and care planning activities

By Jena Grady, Jennifer Greco and Meredith LaMaster

In response to Governor Andrew Cuomo's Executive Order (E.O.) 202 declaring a state of emergency in New York on March 7, 2020, the New York Office for People with Developmental Disabilities (OPWDD) and the New York Department of Health submitted to the Centers for Medicare & Medicaid Services (CMS) for review and approval Emergency Preparedness and Response Appendix K (a standalone appendix that is utilized by states in response to emergency situations such as the COVID-19 pandemic) for a waiver to the OPWDD 1915(c) Home and Community-Based Services (HCBS) Waiver. CMS approved New York's request to approve the HCBS Waiver with Appendix K on April 7, 2020. The approval is effective from March 7, 2020, through September 7, 2020.

Subsequently, in late April, OPWDD issued interim guidance for community habilitation and care planning activities under the approved waiver for OPWDD Medicaid members. A high level review of the guidance is below.

Life Plans

Life Plans are a critical aspect of OPWDD services and is a person-centered plan that outlines an OPWDD member's goals and desired outcomes, habilitation goals, and coordinates developmental disability-related supports as well as medical and behavioral health services. A number of modification measures pertaining to Life Plans have been implemented during the COVID-19 pandemic, which include the following:

Relaxed requirements related to hand-written signatures on Life Plans

Providers may initiate services to members before signatures of the service recipient and care manager have been obtained. During the state of emergency, recommended changes to Life Plans may be authorized through the documentation of verbal or e-mail approval of the recommended changes; however, verbal confirmation is only permitted for the initiation of services when a provider is awaiting a signature.

Relaxations to documentation requirements

Providers have sixty (60) days to document any changes to a Life Plan's service and support resulting from the COVID-19 pandemic. Such changes may be documented through an addendum, which identifies the approval dates, and must be notated as soon as the provider is able and for the changes to be considered final, signatures from the applicable parties must be obtained. Staff Action Plans corresponding to the Life Plans must also be amended within sixty (60) days of the termination of the state of emergency. Finalization of any changes to Life Plans that are non-COVID-19 related, and the corresponding Staff Action Plan changes, do not have to be completed until after the state of emergency ceases.

Delay of face-to-face annual life plan meeting

During the state of emergency, OPWDD has provided flexibility to its requirement that at least one (1) face-to-face Life Plan meeting takes place annually. The annual meeting, along with the necessary assessments, may be delayed until the next semi-annual Life Plan review takes place, but must be conducted within six (6) months of the end of the state of emergency. The requirement that service authorization requests be sent in with a Life Plan is also suspended during the state of emergency. If a member or their representative wishes to proceed with a Life Plan meeting during the pandemic, a Care Manager may do so using the appropriate alternative contact methods, such as telephonic or telehealth methods.

Increased flexibility

Requests for Service Authorization (RSAs) and Service Amendment Request Forms (SARFs)

Due to the impracticality of obtaining handwritten signatures during the pandemic, Care Managers and/or Supervisors have the flexibility to utilize electronic signatures for RSAs and SARFs. So long as the Care Manager documents that they have obtained the verbal agreement, the member or family representative's signature will not be required and the Care Manager may write or type "Verbal Agreement Obtained" in the individual/family representative signature block.

Deferment of Level of Care Eligibility Determination (LCED)

During the state of emergency, the annual LCED redetermination may be deferred for up to six (6) months from its original due date.

Relief of Coordinated Assessment System (CAS) assessment requirements

The duties of Care Coordination Organization/Health Home (CCO/HH) Care Managers regarding CAS Assessments, including gathering data of assessors, scheduling assessments, proving CAS documents, and attending CAS assessments, have been temporarily relieved. The CCO/HH shall facilitate direct access to the care management system by CAS assessors to allow assessors to complete assessments without the help of Care Managers. The results of completed CAS assessments should be shared and reviewed by the Care Manager and member through appropriate means within thirty (30) days of receiving the completed report.

Face-to-face meetings

To prevent the spread of COVID-19, OPWDD has temporarily waived the requirement for face-to-face meetings, unless the meeting is medically necessary, for the following health home providers: Health Homes Serving Adults, Health Homes Serving Children, and CCO/HHs. Postponement of an in-person visit requires careful coordination of next steps with the affected member and any other providers who may be involved in the member's treatment. As an alternative to a face-to-face

meeting, OPWDD recommends that care managers use telephonic or telehealth options so long as such options comply with OPWDD guidance.

Specifically, OPWDD notes that Community Habilitation providers are permitted to deliver telehealth services without prior approval if the provider:

- Uses sound clinical judgement to conclude that a telehealth meeting is suitable;
- Confirms that the provided service will be effectively conveyed to the individual through verbal prompting/cueing only; and
- Guarantees the continued health and safety of the individual through the use of this alternative service.

Service location and limits

The definition and limits for Community Habilitation services has also been amended for members who live in certified residences without 24-hour staffing to permit such members to receive services within their residence, under the following circumstances:

- The individual's customary day service has been suspended because of the COVID-19 pandemic, or the individual is unable to partake in the day service;
- Day services are undeliverable in the individual's residence; and
- Daily Community Habilitation billing is limited to six (6) hours of service a day, Monday through Friday.

Community Habilitation services, as set forth in the Staff Action Plan, may be provided to out-of-state locations, if required for the safety of the individual receiving services and fall within the parameters of the waiver service definition and the member's Life Plan. There can be no duplicated billing for services provided by Community Habilitation and services otherwise rendered in provider-owned or controlled residential settings.

Scheduling of services

School age children and young adults requiring Community Habilitation services may temporarily receive services during weekday daytime hours, up to the amount the individual had been previously authorized for during the school day.

Billing

Community Habilitation providers are to continue billing based on the rates designated in the current Community Habilitation fee schedule. When calculating reimbursement rates for self-hired staff funded through a member's Self Direction budget, the time spent performing activities related to the "Use of Technology" and "Delivering Services and Maintaining Social Distancing" sections is to be included in the total billable service units.

In addition, any health home whose members are contacted through telephonic or telehealth measures during the COVID-19 state of emergency may still bill at the applicable rate for that billing month.

Retainer payments will be made available to agencies that provide day services, including habilitation services, if service utilization falls below eighty (80) percent of the average monthly

utilization rate (from July 2019 through December 2019) or facilities are closed due to COVID-19 containment efforts. Retainer payments are limited to fourteen (14) consecutive days.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

- Jena Grady at **jgrady@nixonpeabody.com** or 212-940-3114
- Jennifer Greco at **jgreco@nixonpeabody.com** or 516-832-7641
- Peter Armstrong Egan at **pegan@nixonpeabody.com** or 516-832-7633