



ADMINISTRATIVE MEMORANDUM - #2013-03

TO: Executive Directors of Voluntary Provider Agencies
Executive Directors of Agencies Authorized to Provide Intensive Behavioral Services
Developmental Disabilities Regional Office and State Operations Office Directors

FROM: Megan O'Connor-Hebert, Deputy Commissioner
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Statewide Services

DATE: 10/1/2013

SUBJECT: Intensive Behavioral (IB) Services Requirements

EFFECTIVE DATE: October 1, 2013

Suggested Distribution

Intensive Behavioral (IB) Services Administrative & Clinical Staff
Quality Improvement Staff
Medicaid Service Coordinators (MSC) and Supervisors
Regional Office Front Door Staff & IB Services Liaisons

Applicability

All provider agencies authorized by the Office for People With Developmental Disabilities (OPWDD) to deliver IB Services must comply with this Administrative Memorandum (ADM).

Executive Office

Purpose

This ADM defines the scope of IB Services, the required credentials of staff members who deliver and/or supervise the delivery of IB Services, the role of the Developmental Disabilities Regional Offices (DDROs) in the authorization of IB Services, additional requirements to become an IB Services provider agency, and the billing, documentation and reporting requirements of provider agencies authorized to deliver IB Services. IB Services initially began as a statewide pilot project on July 1, 2010 to assist individuals who were presenting highly challenging behaviors that put them at risk for placement into a more restrictive residential setting. The initial roll-out of the service was accomplished through a contract mechanism which allowed approved providers to bill for delivery of the service through an OPWDD web-based application. The value of the service to individuals and families was clearly demonstrated during the pilot phase, and it will now become more widely available. Beginning October 1, 2013 providers of IB Services will be required to bill for delivery of the service directly through eMedNY.

Background and Scope of IB Services

IB Services is a Home and Community Based waiver Service (HCBS), available only to HCBS waiver-enrolled individuals, that provides agencies with time-limited funding for up to six months (180 calendar days) to deliver behavioral supports and services to authorized individuals. IB Services are for individuals who live in settings which are not certified by OPWDD or Family Care Homes and who present with substantial challenging behaviors that put them at imminent risk of placement into a more restrictive living environment. It is important to note the IB Services is not a crisis intervention service; rather it is to provide focused clinical and behavioral treatment and intervention to prevent behaviors from reaching a crisis level.

IB Services entails the completion of a Functional Behavioral Assessment (FBA) and development of an individualized Behavior Support Plan (BSP) for an individual authorized to receive IB Services. The service also includes time spent implementing the BSP which involves services such as: training of the primary caregiver(s) and/or direct support professionals who provide services to the individual, about how to use the behavioral supports, interventions and strategies that are specified in the BSP; training the individual on using the behavioral supports, interventions and strategies that are specified in the BSP; monitoring the implementation of the BSP; updating the BSP after monitoring to remove supports, strategies and interventions that are not effective, and/or to include new supports, strategies and interventions; and transition planning with the individual, family, collaterals, and other agencies to maintain progress using behavior strategies specified in the BSP, after 6 months have passed or time limits are reached.

All interventions designed to manage challenging behaviors should be in conformance with the person-centered behavioral intervention regulations (14 NYCRR Section 633.16) unless stated otherwise in this ADM, as well as in conformance with any other applicable laws, regulations and agency specific policies/procedures.

Required components of the FBA and BSP

The Functional Behavioral Assessment (FBA) and Behavior Support Plan (BSP) must be developed by a Licensed Psychologist, Licensed Clinical Social Worker (LCSW), or a Behavior Intervention Specialist (BIS) as defined in paragraph 633.16(b)(32). **For the purposes of delivering IB Services, a staff member who is a BIS must always operate under the clinical supervision of a Licensed Psychologist or an LCSW.**

The IB Services clinician shall develop the FBA and BSP in consultation with the person (when feasible), the person's parent(s) and/or caregiver(s) and other clinical experts as needed.

The IB Services clinician must develop the FBA in accordance with the requirements of paragraph 633.16(d)(1), as follows:

(d) *Functional behavioral assessment.*

- (1) Prior to the development of a behavior support plan to address challenging behavior that is not solely the result of a co-occurring diagnosed psychiatric disorder, a functional behavioral assessment must be completed by a clinician with training in functional behavior assessment techniques to obtain relevant information for effective intervention planning. A functional behavioral assessment must:
 - (i) identify/describe the challenging behavior in observable and measureable terms;
 - (ii) include identification and consideration of the antecedents for the behavior(s);
 - (iii) identify the contextual factors, including cognitive, environmental, social, physical, medical and/or psychiatric conditions, that create or may contribute to the behavior;
 - (iv) identify the likely reason or purpose for the challenging behavior;
 - (v) identify the general conditions or probable consequences that may maintain the behavior;
 - (vi) include an evaluation of whether environmental or social alterations, or further assessments to rule out a contextual factor, would serve to reduce or eliminate the behavior(s);
 - (vii) include an evaluation of preferred reinforcers;
 - (viii) consider multiple sources of data including, but not limited to:
 - (a) information gathered through direct observations of the individual;
 - (b) information gathered from interview and/or discussion with the individual, parent/caregiver, and other relevant service providers; and
 - (c) a review of available clinical, medical, behavioral, or other data from the individual's record and other sources;
 - (ix) not be based solely on an individual's documented history of challenging behaviors; and
 - (x) provide a baseline of the challenging behaviors including frequency, duration, intensity and/or latency across settings, activities, people, and times of day.

The IB Services clinician must develop the BSP in accordance with the requirements of paragraphs 633.16(e)(2) and (e)(3) except as noted otherwise, as follows:

(e) *Behavior support plan.*

(2) All behavior support plans must:

- (i) be developed by a BIS, or a licensed psychologist or a licensed clinical social worker with training in behavioral intervention techniques;
- (ii) be developed in consultation, as clinically appropriate, with the person receiving services and/or other parties who are or will be involved with implementation of the plan;
- (iii) be developed on the basis of a functional behavioral assessment of the target behavior(s);
- (iv) include a concrete, specific description of the challenging behavior(s) targeted for intervention;
- (v) include a hierarchy of evidence-based behavioral approaches, strategies and supports to address the target behavior(s) requiring intervention, with the preferred methods being positive approaches, strategies and supports;
- (vi) include a personalized plan for actively reinforcing and teaching the person alternative skills and adaptive (replacement) behaviors that will enhance or increase the individual's personal satisfaction, degree of independence, or sense of success;
- (vii) include the least restrictive or least intrusive methods possible in the behavioral approaches, strategies and supports designed to address any behaviors that may pose an immediate risk to the health or safety of the person or others;
- (viii) provide a method for collection of positive and negative behavioral data with which treatment progress may be evaluated; and
- (ix) include a schedule to review the effectiveness of the interventions included in the behavior support plan no less frequently than on a semi-annual basis, including examination of the frequency, duration, and intensity of the challenging behavior(s) as well as the replacement behaviors. ***For the purposes of IB Services, however, the schedule of reviews shall be no less frequently than every 60 days.***

(3) A behavior support plan which incorporates a restrictive/intrusive intervention and/or a limitation on a person's rights (see paragraph 633.16(c)(9)) shall be designed in accordance with the following:

- (ii) A plan that incorporates a restrictive/intrusive intervention and/or a limitation on a person's rights must include the following additional components:
 - (a) a description of the person's behavior that justifies the incorporation of the restrictive/intrusive intervention(s) and/or limitation on a person's rights to

- maintain or assure health and safety and/or to minimize challenging behavior;
- (b) a description of all positive, less intrusive, and/or other restrictive/intrusive approaches that have been tried and have not been sufficiently successful prior to the inclusion of the current restrictive/intrusive intervention(s) and/or limitation on a person's rights, and a justification of why the use of less restrictive alternatives would be inappropriate or insufficient to maintain or assure the health or safety or personal rights of the individual or others;
 - (c) designation of the interventions in a hierarchy of implementation, ranging from the most positive or least restrictive/intrusive to the least positive or most restrictive/intrusive, for each challenging behavior being addressed;
 - (d) the criteria to be followed regarding postponement of other activities or services, if necessary and/or applicable (e.g., to prevent the occurrence or recurrence of dangerous or unsafe behavior during such activities);
 - (e) a specific plan to minimize and/or fade the use of each restrictive/intrusive intervention and/or limitation of a person's rights, to eliminate the use of a restrictive/intrusive intervention and/or limitation of a person's rights, and/or transition to the use of a less intrusive, more positive intervention; or, in the case of continuing medication to address challenging behavior, the prescriber's rationale for maintaining medication use;
 - (f) a description of how each use of a restrictive/intrusive intervention and/or limitation on a person's rights is to be documented, including mandated reporting; and
 - (g) a schedule to review and analyze the frequency, duration and/or intensity of use of the restrictive/intrusive intervention(s) and/or limitation on a person's rights included in the behavior support plan. This review shall occur no less frequently than on a semi-annual basis. The results of this review must be documented, and the information used to determine if and when revisions to the behavior support plan are needed. ***For the purposes of IB Services, however, the schedule of reviews shall be no less frequently than every 60 days.***

Additional Considerations for IB Services BSPs

Some individuals receiving IB Services may require specific health and safety interventions prescribed by a physician for their treatment or protection due to Self Injurious Behavior (SIB), aggression, agitation, hyperactivity, depression, anxiety, etc., including-- but not limited-- to medication(s) or mechanical devices (helmets, arm sleeves/splints, Posey mitts, etc.). These forms of health and safety interventions or treatments can only be used as directed in a physician's order and therefore should not be incorporated into a Behavior Support Plan developed through IB Services. Rather, these health and safety interventions or treatments should be referenced in their Individualized Service Plan (ISP) and/or habilitation plan.

A BSP incorporating the use of a *restrictive physical intervention*, or *exclusionary time-out* (the placement of a person alone in a room from which his or her normal ability to leave is prevented by a staff's or care provider's direct and continuous physical action, or placement of a person in a secured room or area from which he or she cannot leave at will), is prohibited in IB Services. However, a BSP incorporating restrictive physical interventions to be implemented by Hourly Community Habilitation staff may be permitted if specifically authorized by OPWDD.

Coordinating and Training of the BSP

There must be an agreement between providers and individuals and/or the Parent/Caregiver or family care provider regarding the nature, duration and scope of IB Services to be provided. The agreement must be signed by the provider and individual or Parent/Caregiver or family care provider.

Prior to implementation of a BSP, written informed consent must be obtained as specified in subdivision 633.16(g). Note that if IB services are provided on or after October 1, 2013 which implement a BSP developed prior to October 1, 2013, written informed consent must be obtained for that BSP. The requirement for written informed consent is not limited to plans containing restrictive/intrusive interventions. The consent-giver shall have the right to revoke approval of the BSP at any time, and request that a revised BSP be developed in accordance with the requirements of this ADM.

In addition, when BSPs are being utilized in more than one service setting, the IB Services provider shall consult and coordinate with these other service settings in order to develop an appropriately integrated plan and prevent conflicting or inappropriate strategies.

Parents/Caregivers, Community Habilitation staff, and Family Care providers responsible for the support and supervision of a person who has a BSP, should be trained by the IB Services provider in the implementation of that person's plan, to ensure interventions are utilized and implemented as intended and as written. Respite staff may only be trained, as clinically necessary, in those positive behavioral approaches, strategies and supports detailed in an individual's BSP to better support that individual during delivery of respite services.

Parents/Caregivers, Community Habilitation staff, and Family Care providers responsible for the support and supervision of a person whose BSP includes the use of a restrictive/intrusive intervention as defined in paragraph 633.16(b)(24), shall also be trained in the particular restrictive/intrusive intervention(s) to be utilized with a specific person, prior to their use. Community Habilitation staff and Family Care providers responsible for the support and supervision of a person whose BSP includes any use of physical interventions must have training consistent with the requirements of 633.16(i) and with the standards and procedures of the OPWDD training curriculum (e.g. SCIP-R). Parents/Caregivers may only be taught those specific protective interventions identified in the BSP created for the person for whom they provide care, as they cannot be certified at any level of the OPWDD training curriculum. Parents/Caregivers and Family Care providers must not be trained in restrictive physical interventions or use of *exclusionary* time-out as IB Services BSPs will not incorporate use of these interventions by Parents/Caregivers or Family Care Providers.

Nothing in this ADM shall prevent the use of an emergency intervention by Community Habilitation staff, and Family Care providers to prevent a person who is undergoing acute behavioral or emotional

disturbance from seriously injuring him/herself or others. Emergency techniques to prevent or minimize injury shall be used only for as long as the duration of the incident, with the least restrictive intervention being utilized. These events may constitute a reportable incident under 14 NYCRR Part 624 and if so should be reported in accordance with the requirements of that Part.

Additional Practices

All training of parties responsible for implementation of the plan and any retraining when the BSP is modified must be documented.

Immediately after the use of any physical intervention or emergency intervention by Community Habilitation staff or the family care provider, they shall visually examine the person for possible injury, ask the individual if they experience pain or discomfort, and document the findings of such examination. Community Habilitation staff should report the results of their examination to their supervisor as soon as reasonably possible, and have the Parents/Caregivers co-sign the documentation completed by staff indicating their agreement with the results of the examination. The family care provider shall document the results of the examination and report the occurrence to their agency family care liaison as soon as reasonably possible. If an injury is suspected, appropriate medical care shall be provided or arranged for by staff or the family care provider. Any injury that meets the criteria in 14 NYCRR Section 624.4 (generally that the injury requires treatment more than first aid) must be reported in accordance with Part 624.

Individual Authorization Requirements

DDROs will review individuals on a case-by-case basis to determine their appropriateness for IB Services. To be authorized for IB Services, an individual must:

- Have documentation that substantiates the individual is at imminent risk of being placed in a more restrictive living environment due to challenging behavioral episodes, and
- Have a clear need for the type of services provided under the IB Services model, and
- Be able to benefit from the provision of IB Services.

An individual application must be completed and submitted along with a current DDP-2 (within 6 months of submission) to the DDRO to request IB Services for any person. Based on review of the application and DDP-2 information, the DDRO may complete a more specific needs assessment of the individual using the Child, Adolescent and Adult Needs and Strengths-Developmental Disability (CAANS-DD) tool to determine the service needs of the individual. Those individuals determined to be appropriate for IB Services will be authorized and provided with a choice of authorized IB Services providers from which to receive this service.

Provider Requirements

In order to be authorized by OPWDD to deliver IB Services, a provider must demonstrate that they are authorized to provide HCBS waiver services to people with developmental disabilities and must also demonstrate that they employ or have access to the necessary clinical staff to deliver and, as necessary, supervise the delivery of IB Services. An agency that does not have clinical staff that meets the educational, experiential, and/or licensure criteria referenced in this ADM will not be authorized to become a provider of IB Services.

Educational, Licensure and Supervision Requirements

At a minimum, staff delivering IB Services must meet one of the following requirements:

- NYS Licensed Psychologist.
- NYS Licensed Clinical Social Worker (LCSW).
- Behavior Intervention Specialist (BIS) meeting the criteria in paragraph 633.16(b)(32).

If the staff delivering IB Services is a BIS, they must also be clinically supervised by a NYS licensed psychologist or an LCSW that meet additional criteria. The supervising NYS licensed psychologist or LCSW must have at least two years of post-licensure experience in clinical supervision and at least one year of post-licensure experience in working with persons with developmental disabilities who present with challenging behaviors. The post-licensure requirements may be obtained concurrently.

With respect to claim submissions to Medicaid, the NPI of either the NYS licensed psychologist or the LCSW is a required claim element and must be included in both the Attending NPI and Referring/Ordering NPI field whether the service is provided directly by these licensed staff or by BIS staff under their supervision.

Clinician Enrollment

Federal regulations at 42 CFR 455.410 specify that the state Medicaid agency require all ordering or referring physicians or other professionals providing services under the State plan or under a waiver of the plan be enrolled as participating providers. As a result, Licensed Psychologists and LCSWs either providing or supervising provision of IB Services must enroll. Additionally, New York State Medicaid requires that LCSWs first enroll in Medicare before Medicaid enrollment is allowable.

Oversight and Supervision

Agencies must also have an oversight and supervision plan for the IB Services. The oversight and supervision plan must effectively demonstrate the systems and controls in place that address the following:

- the number of supervisees assigned to each clinical supervisor (Licensed Psychologist and/or LCSW);
- the type of supervision to be provided (in-person individual or group);
- the required frequency of supervision;
- the provision of a contingent emergency supervisor if the assigned supervisor is not immediately available (the emergency supervisor must still meet the qualifications of a regular supervisor);
- requirements for the supervisor's record or log of supervision including: the name and title of the supervisee; the date, length and location of supervision; the type of supervision; and the signature and title of the supervisor on supervision notes;
- the nature of supervision (e.g., review of treatment/interventions, observations, in-service training); and
- a method for evaluating the effectiveness of supervision.

Evaluation

At the conclusion of IB Services, the agency must request that the individual or Parent/Caregiver or family care provider completes an Individual & Family Satisfaction Survey. The IB Services provider must also complete the CAANS-DD tool as a post-treatment assessment. Service outcomes must also be evaluated by the agency including increases in skill development for the individual and/or their Parent/Caregiver or family care provider or direct services professional(s) and decreases in challenging behaviors that precipitated the need for IB Services. Agencies may choose to include additional surveys into their evaluation of services for quality improvement. These evaluation measures will be reviewed by OPWDD for quality purposes on a random basis to ensure the IB Services delivered by the agency are demonstrating efficacy and meeting the intent of the service to reduce challenging behaviors and enable individuals to remain in the most community integrated residential option possible.

Payment Standards

The IB Services provider will be reimbursed a one-time Plan Fee for the completion of the Functional Behavioral Assessment (FBA) and Behavior Support Plan (BSP). In addition, time spent implementing the BSP will be reimbursed with an hourly regional fee (hereafter referred to as the Hourly Fee), which is billed in quarter hour units.

Individuals must be authorized by the DDRO for IB Services and be enrolled in the HCBS Waiver. Providers may only be reimbursed for IB Services that are provided to individuals residing in a setting which is not certified by OPWDD or in a Family Care home. These individuals must have written documentation that substantiates that the individual is at imminent risk of placement in a more restrictive living environment.

Agencies may only be paid once for the one-time Plan Fee for an individual. After three years, an IB Services provider may bill again for the Plan Fee for an individual if that individual has been re-authorized for IB Services and it is clinically necessary and appropriate to complete a new FBA and BSP.

For the Hourly Fee, providers may only be reimbursed up to 25 hours in a six month period (180 calendar days).

If the service needs to be extended beyond the six month (180 calendar day) time frame, which includes the time to complete the FBA and BSP, and implementation of the BSP, an individual must first be reauthorized by the DDRO. Reauthorization is contingent on demonstration that there is a need for additional follow-up after the initial six months (180 calendar days). Limited exceptions can be made by the DDRO to authorize up to 50 hours for the reauthorization period, billed as the Hourly Fee, in a six month period (180 calendar days) in cases where **substantial changes** in the individuals clinical and behavioral presentation have occurred since the original authorization for IB Services, resulting in a need to complete a new FBA and new or substantially modified BSP (clinical and behavioral changes are so significant that these documents cannot simply be updated to reflect current issues). The additional 25 hours for this reauthorization period must be spent completing a new FBA and developing a new or substantially modified BSP, which is then implemented in accordance with the Hourly Fee requirements using the remaining 25 hours allocated during that reauthorization period. This 50 hour

reauthorization would only be approved by DDROs when the individual seeking the IB Services is not eligible for the 3 year Plan Fee authorization that is allowable under this service (i.e., it has only been 2 years since they last had a newly completed FBA and BSP, and the individual is presenting a different array of highly challenging behaviors that warrant intervention using IB Services).

The Hourly Fee is billed in quarter hour countable service units. For each 15 minutes of service, the agency may bill one quarter-hour unit. There is no “rounding-up,” i.e., a full 15 minutes of service must be provided to bill one unit. An agency may only be paid a maximum of 8 hours in a day per individual for the Hourly Fee.

For each continuous period of service delivery (or “session”), the provider must document the delivery of at least one services(s) described in the “Reimbursable Services” section of this ADM for each continuous period of IB Services provision. Countable service time is the time that “counts” toward billing. This includes direct, face-to-face service time and other indirect time when IB Services staff is delivering the IB Service but the individual is not present. Staff members do not need to perform a face-to-face service during every service delivery, but must provide at least one of the services as described in the “Reimbursable Services” section and appropriately document the service delivery.

The provider may not bill the Hourly Fee until the FBA and BSP are completed and the Plan Fee has been billed and paid by Medicaid.

Reimbursable Services

The one-time Plan Fee for the Functional Behavioral Assessment (FBA) and the individualized Behavior Support Plan (BSP) covers the time that the clinician(s) spend developing the FBA and BSP. Services related to the completion of the FBA and BSP include:

- Reviewing records and evaluations regarding the individual’s challenging behaviors;
- Conducting relevant assessments and collecting data pertinent to the challenging behaviors;
- Communicating with other professionals or service providers including review of written reports, telephone contacts, or electronic contacts about the individual;
- Communicating with the individual, the family, or others through written reports, telephone contacts, electronic contacts or face-to-face encounters; and
- Writing the FBA and BSP.

Following the completion of the FBA and BSP and billing of the Plan Fee, an IB Services provider may bill for the **Hourly Fee** when staff are providing the following services:

- Training of the primary caregiver(s) and/or direct support professionals who provide services to the individual, about how to use the behavioral supports, interventions and strategies that are specified in the BSP;
- Training the individual on using the behavioral supports, interventions and strategies that are specified in the BSP;
- Monitoring the implementation of the BSP, such as:
 - observing the individual, family and/or staff as they utilize the supports, interventions and strategies that are specified in the BSP, and/or
 - following up with the individual, family and/or staff as to the effectiveness of the supports,

- interventions and strategies (via face-to-face contacts, telephone calls, or electronic contacts);
- Updating the BSP after monitoring to remove supports, strategies and interventions that are not effective, to introduce less restrictive interventions (e.g. fading), and/or to include new supports, strategies and interventions;
 - Transition planning with the individual, family, collaterals, and other agencies to refer the individual to appropriate services to maintain on a long term basis the behavior strategies specified in the BSP, and progress related to the plan; and
 - Completing a new FBA or updating the FBA when it is so outdated that the BSP cannot be updated.

If an individual is receiving services through a clinic these services must be separate and distinct from the IB Services being delivered.

For the Hourly Fee, delivery of face-to-face services with the individual when the individual is at another Medicaid service cannot count toward the billing time for the Intensive Behavioral Hourly Fee with the following exceptions:

- Time when the individual is receiving Family Care or Community Habilitation for purposes of training Family Care and Community Habilitation staff in implementing the BSP and for monitoring implementation of the BSP.
- Time when the individual is receiving respite for purposes of training respite staff. Respite staff may only be trained, as clinically necessary, in those positive behavioral approaches, strategies and supports detailed in an individual's BSP to better support that individual during delivery of respite services.
- The BSP must also clearly indicate the need for training of these direct support professionals.
- Time when the MSC Service Coordinator is conducting the face-to-face MSC visit with the individual as long as the IB Services staff person is present. This is allowed in order to promote the coordination of services.

IB Services are reimbursed based on geographic location where the individual lives, for both the Plan Fee and the Hourly Fee.

Formats for Documenting Intensive Behavioral Services

For the Plan Fee, staff must have a completed Functional Behavior Assessment (FBA) and Behavioral Support Plan (BSP) which should include the criteria described in the section of this ADM pertaining to the Background and Scope of IB Services.

For the Hourly Fee, staff must complete a narrative note for each day of service.

Specific Service Documentation Requirements:

ISP Requirements

Individual's must have an **ISP**, developed by the individual's Medicaid Service Coordination (MSC) or Plan of Care Support Services (PCSS) service coordinator, that covers the time period of the payment claim for the Plan Fee and Hourly Fee. The ISP must include the following elements:

1. Category of waiver service provided (e.g. Intensive Behavioral Services or IB Services).
2. Identification of the agency delivering the IB Services as the provider of service.
3. Specification of the frequency of Intensive Behavioral as “Plan/Hourly.” Since there are two components to this service, it is important to list accurately.
4. Specification of the duration as “time limited.”
5. Effective date for IB Services (the date the individual was enrolled in IB Services). This date must be on or before the first date of service that the Intensive Behavioral agency bills for completion of the FBA and BSP if it is an initial IB Services authorization or before delivering services related to the implementation of the BSP if IB Services have been reauthorized.

For individuals who had service authorized prior to 10/1/13, “Product/Hourly” is acceptable for the frequency, but the ISP will need to reflect “Plan/Hourly” as the frequency if the individual is reauthorized for service 10/1/13 or after.

The following documentation must be maintained to support payment of the Plan Fee:

Functional Behavioral Assessment Requirements

For all people receiving IB Services, an agency must complete a **Functional Behavioral Assessment** developed by the IB Services agency. The following elements must also be included in the FBA:

1. **The individual’s name.**
2. **The individual’s Medicaid Client Identification Number (CIN).**
3. **The category of waiver service** provided (e.g. Intensive Behavioral Services or IB Services).
4. **Identification of the agency** providing IB Services as the provider of the service.
5. **Date on which the Assessment was completed.**
6. **Name, signature and title of the Intensive Behavioral staff person completing the FBA, and the date the FBA was completed** (i.e. the signature date).
7. **Co-signature of the licensed supervisor (if applicable) and signature date.**

Behavior Support Plan Requirements

For all people receiving IB Services, an agency must complete and maintain the **Behavior Support Plan** developed by the agency delivering IB Services. In addition, the plan must be in effect for the time period of any IB Services claim submitted. The following elements must be included in the BSP:

1. **The individual’s name.**
2. **The individual’s Medicaid Client Identification Number (CIN).**
3. **The category of waiver service** provided (e.g. Intensive Behavioral Services or IB Services).
4. **Identification of the agency** providing IB Services as the provider of the service.
5. **Name, signature and title of the Intensive Behavioral staff person writing the BSP and the date the BSP was completed** (i.e. the signature date).
6. **Co-signature of the licensed supervisor (if applicable) and signature date.**

7. **Evidence of when the BSP was last reviewed** which must occur at minimum every 60 days. On an immediate reauthorization or at a reauthorization that occurs later, it is expected that a review will occur immediately and then subsequent reviews will occur again no less frequently than every 60 days. Evidence that a review was conducted includes the name, signature and title of the Intensive Behavioral staff who conducted the review and the date of the review and a summary of any changes in the BSP.

The billing date of service for the Plan Fee must be the date that the BSP is signed by the Licensed Psychologist or LCSW responsible for oversight of the BSP.

In addition to the BSP, the following documentation must be maintained to support payment(s) of the Hourly Fee:

Narrative Note Requirements (See Sample Daily Service Documentation Note).

For each day where hourly IB Services are billed the documentation must include:

1. **Individual's name.**
2. **Identification of category of waiver service** provided (e.g. Intensive Behavioral Services or IB Services).
3. **A daily description of all of the services provided for the day.** The allowable services are described in the "Reimbursable Services" section described above. These services are individualized services based on the individual's BSP, e.g., the staff person documents that he/she "taught the individual to use a relaxation technique."
4. **Documentation of start and stop times for each "session."** The provider must document the service start time and service stop time for each continuous period of Intensive Behavioral service provision or "session."
5. **The individual's response to the service.** For example, the staff person documents that "the individual was able to use the relaxation technique twice." (Note: The response to service does not have to be recorded for every service session as long as the individual response is summarized at least monthly on one of the narrative notes).
6. **The date the service was provided.**
7. **The primary service location** (i.e. the individual's residence).
8. **The name, signature and title of the Intensive Behavioral staff person documenting the service.**
9. **The date the service was documented.** Note that this date must be contemporaneous with service provision. The date the note was written must be "contemporaneous" to the date the IB Service was provided. "Contemporaneous" is defined as "at the time the service was delivered or shortly after."

Documentation Retention

18 NYCRR, Section 504.3 states that by enrolling in the Medicaid program, "the provider agrees...to prepare and to **maintain contemporaneous records** demonstrating its right to receive payment under the medical assistance program and to **keep for a period of six years from the date the care, services or supplies were furnished, all records** necessary to disclose the nature and extent of services

furnished and all information regarding claims for payment submitted by, or on behalf of, the provider and to furnish such records and information, upon request, to...the Secretary of the United States Department of Health and Human Services, the Deputy Attorney General for Medicaid Fraud Control and the New York State Department of Health (emphasis added).” It should be noted that there are other entities with rights to audit Medicaid waiver claims as well, including the Office of The Medicaid Inspector General (OMIG) and OPWDD.

All documentation that supports a Medicaid claim, including the ISP, Functional Behavioral Assessment, the Behavior Support Plan and daily note, 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.

For additional information on clinician enrollment requirements, contact OPWDD’s Bureau of Central Operations at (518) 402-4333. For additional information on the other requirements in this Administrative Memorandum, please contact OPWDD’s Division of Person Centered Supports at (518) 473-9697.

Attachment

cc: Karla Smith
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