

ADMINISTRATIVE MEMORANDUM

Transmittal:	19-ADM-07R
To:	Executive Directors of Voluntary Provider Agencies Executive Directors of Agencies Authorized to Provide Fiscal Intermediary Services Developmental Disabilities Regional Office and State Operations Office Directors Care Coordination Organizations
Issuing OPWDD Office:	Division of Service Delivery, Regional Offices
Date:	Initially released 7/1/2019 Revised 3/7/2024
Subject:	Service Documentation for Fiscal Intermediary Services
Suggested Distribution:	Administrative Staff of Fiscal Intermediary Services Providers Support Brokers Quality Improvement Staff Care Managers and Supervisors Regional Office Front Door Staff
Contact:	Self-Direction Unit Self.direction.redesign@opwdd.ny.gov
Attachments:	Attachment A: Fiscal Intermediary Community of Practice

Related ADMs/INFs	Releases Cancelled	Regulatory Authority	MHL & Other Statutory Authority	Records Retention
2015-01 2015-02 2015-05 2015-06 2016-01 2017-01	2015-04		MHL §§ 13.07; 13.09; 13.15	18 NYCRR 504.3(a) New York False Claims Act (State Finance Law §192)

Purpose:

This Administrative Memorandum describes the payment standards and service documentation requirements to support a provider's claim for reimbursement for Fiscal Intermediary services. Fiscal Intermediary services are available for Home and Community Based Services (HCBS) Waiver authorized participants who self-direct their services. A participant self-directing with budget authority receives an individualized budget that they direct pursuant to an approved plan.

In addition to the requirements specified in this Administrative Memorandum (ADM), Fiscal Intermediary providers must continue to comply with all other applicable State and Federal requirements. This includes, but is not limited to, ADMs for Supported Employment (SEMP), Community Habilitation, Support Brokerage, Community Transition Services and Moving Assistance, Individual Directed Goods and Services, and Respite when the Fiscal Intermediary is the provider that is billing for such services.

This ADM, ADM #2019-07R, replaces ADM #2019-07 and is effective [INSERT DATE FROM FIRST PAGE]. New language in this revised version appears underlined and in red.

Fiscal Intermediary:

Fiscal Intermediary Services (FI Services) are HCBS Waiver services that include tasks performed by a Fiscal Intermediary (FI) which support a participant who self directs an individualized budget. Such tasks include but are not limited to: billing and payment of approved goods and services; fiscal accounting and reporting; Medicaid and corporate compliance; and general administrative supports. The FI is the employer of record for staff hired by the participant. These staff are referred to as "self-hired staff."

A participant must choose an FI to handle billing when any of the following services are included in their budget:

- Individual Directed Goods and Services (IDGS);
- Live-in Caregiver;
- Brokerage Services;
- Community Transition Services and Moving Assistance;
- 100% state-funded service(s) listed in the participant's individualized budget; or
- Any self-hired staff for Community Habilitation, Supported Employment (SEMP), and/or Respite.

All Fiscal Intermediary services provided on behalf of a participant by an agency must be distinct and separate from Brokerage Services provided on behalf of such participant. The FI must not bill the participant for expenses associated with the FI agency administrative overhead.

FI Levels of Support:

There are different payment amounts for each level of FI service. The three levels of FI services are:

- Level One – Applicable when there are no self-hired staff in the participant's budget and the FI does not pay for any staff. The FI supports the participant with billing and payment of approved goods and services.
- Level Two – This level is pending implementation and is not available as of the date of this ADM.
- Level Three – Applicable when there are self-hired staff in the budget and the FI is the employer of record. The FI assists the participant with self-hiring staff, providing hiring and discharge practices for these staff, verifying staff citizenship status, completing required background checks, arranging for back-up staffing, and other related tasks.

Fiscal Intermediary Level One

The FI must choose the Level One payment level for billing when:

- a) There is no self-hired staff in the participant's budget; and
- b) The self-directed budget includes IDGS, Live-in Caregiver, 100% state-funded services, Support Broker, or Community Transition Services and Moving Assistance.

If an individual receives Community Transition Services (CTS) and Moving Assistance and is not self-directing any other services, the FI may bill a one-month fee at the Level One payment level, for reimbursement for the administration of CTS and Moving Assistance. See the *Fiscal Intermediary Service for Stand-Alone Community Transition Services and Moving Assistance* section for additional information.

To bill for a Level One payment, the FI must perform the following duties 1-4 below, as needed:

1. Billing and payment of approved goods and services on behalf of the participant
 - a. Receive, verify, and process requests for payment for all goods and services shown in the approved budget (i.e., mileage reimbursement, invoices, and service records)
 - b. Promptly notify participant or designee of any requests for payment for services that have not been identified in the participant's approved Life Plan/Staff Action Plan and budget
 - c. Confirm credentialing of contractors and vendors
 - d. Bill Medicaid (eMedNY) and/or OPWDD for services, supports, and goods on behalf of the individual who has a Self-Direction budget
2. Fiscal accounting and reporting
 - a. Establish and maintain a separate account for each participant
 - b. Track disbursements and balances of participant funds for those services that are included in the self-directed budget
 - c. Send monthly expenditure reports to the participant by the end of the following month
 - d. Report inconsistencies between the approved Life Plan/Staff Action Plan and the budget to OPWDD
3. Ensure Medicaid and corporate compliance

- a. Review all service documentation that supports billing to eMedNY and OPWDD for accuracy, completeness, and compliance with applicable requirements
 - b. Maintain current copies of the Life Plan/Staff Action Plans and budgets
 - c. Maintain all components of the individual service record and documents supporting billing for a period of ten years from the date the care, services or supplies were furnished or billed, whichever is later
 - d. Participate in Regional Fiscal Intermediary Communities of Practice to assess allowable goods and services for reimbursement
 - e. Provide expenditure reports and service documentation to OPWDD and other authorized state agencies as required and as requested
4. General administrative supports
- a. Conduct necessary meetings regarding the budget and FI duties
 - b. Report and investigate incidents related to IDGS, Community Transition Services and Moving Assistance, Live-in Caregiver, Support Broker, and Housing Subsidies/100% state-funded services, as required
 - c. Provide a dispute resolution process for participants who have specific requested reimbursements denied for service compliance reasons.
 - d. Teach the participant the importance of proper documentation of staff work hours, expenditures, and provision of services, including how to review a service record, mileage reimbursement form, monthly summary note, invoice, and any other claim for payment to ensure that documentation is complete and accurate
 - e. Participate in Circle of Support/Planning Team meetings, as needed and/or when requested.
 - f. Inform the participant of situations (such a hospitalization) which will cause the participant to lose eligibility for FI services or other Medicaid funded services that are in their budget

Fiscal Intermediary Level Two

(Pending Implementation)

Fiscal Intermediary Level Three

To bill at the Level Three payment level the: (a) individual must have self-hired staff in their budget; and (b) FI must perform the duties outlined in Level One and at least one of the following additional duties related to self-hired staffing (i.e., Community Habilitation, Respite, Supported Employment)., as needed:

- 1. Verify staff employment eligibility.
- 2. Complete required background checks: Criminal Background Check, Department Motor Vehicles, Central Registry, etc.
- 3. Help the participant manage staff by:
 - a. Maintaining staff background records;
 - b. Processing time sheets and service records;
 - c. Processing payroll; withholdings; federal, state, and local taxes; and making tax

- payments to appropriate tax authorities (such as Federal Insurance Contributions Act, Workers Comp, unemployment, etc.); or
- d. Ensuring timely staff payments.
 5. Participate in annual and/or semi-annual Life Plan meetings to discuss issues related to self-directed staffing and/or supports and budget expenditures, as required or as requested.
 6. Incident Management - reporting/investigating related to self-hired staff, as required.
 7. Maintain communication with OPWDD regarding the participant and services related to self-hired staffing (i.e., Community Habilitation, Respite, Supported Employment).
 8. Travel when necessary to address the responsibilities listed.
 9. Provide training to the participant on their employer responsibilities by:
 - a. Providing the participant with orientation and support in hiring staff (including assistance with job descriptions), staff management, performance evaluations, staff conflict resolution;
 - b. Reviewing with participant the FI's employment and conduct policies that would apply to self-hired staff;
 - c. Addressing relevant co-management practices which relate to agency vs. participant responsibilities;
 - d. Discussing use of overtime with participant (e.g., budget consequences).
 10. Help the participant manage staff by:
 - a. Implementing hiring and discharge decisions for self-directed staff;
 - b. Providing enrollment/employment package for all new self-directed staff;
 - c. Providing to self-hired staff all OPWDD-approved basic agency mandatory trainings (e.g., incident reporting);
 - d. Providing other trainings for self-hired staff as agreed upon with participant;
 - e. Scheduling back up staffing, if agreed upon with participant;
 - f. Assisting the participant with budget management; or
 - g. Collecting and verifying time sheets/service records.

Fiscal Intermediary Documentation Standard

The unit of service for FI is a month.

FI Level One Documentation

To bill for a month of FI services at Level One, the FI must have:

1. a copy of the monthly expenditure report that was sent to the participant;
2. documentation showing that the FI has verified and processed requests for payments and tracked and disbursed funds; and
3. evidence that another self-directed service listed in the Self-Direction budget was billed for the participant by the FI during that same month.

FI Level Three Documentation

To bill for a month of FI services at Level Three, the FI must:

1. Complete the documentation required for billing at Level One;
2. Ensure the participant's Self-Direction budget includes self-hired staff; **and**
3. **Ensure there is documentation showing either:**
 - a. **A self-hired service listed in the Self-Direction budget was billed for the participant by the FI during that same month; or**
 - b. **At least one of the Fiscal Intermediary Level 3 additional duties was performed.**

The level three payment level is billed by the FI when the participant and/or family has opted to have the FI act as the employer of record. It is considered fraudulent billing if the FI has documentation of expenditures and splits the claiming to cross months, as it is perceived as having billed Medicaid for FI services more months than was necessary.

Note, the documentation showing the verification and processing of requests may be the same as the expenditure report.

Fiscal Intermediary Service Documentation:

Medicaid rules require that service documentation be contemporaneous with the service provision. Expenditure reports, as described in the Fiscal Intermediary Documentation Standard section above, must include the following elements:

1. Individual's name and Medicaid number (CIN);
2. Name of the agency providing FI Services;
3. Identification of the category of waiver service provided (e.g., FI or Fiscal Intermediary);
4. A summary of expenses paid on behalf of the participant. The Expenditure report should include a list of expenses paid on behalf of the participant, the date paid, and the amount paid. The report should be accessible, easily understandable and in plain English (or the language that is understood by the participant and/or family);
5. The time period that the expenditure report covers; and
6. Date that the expenditure report was created.

The FI must maintain documentation showing that the (s)he has verified and processed requests for payments and tracked and disbursed funds. This documentation must include:

1. The individual's name;
2. The name of the agency providing FI Services;
3. The dates that payments were made and when funds were disbursed; and
4. Information about which services and supports were paid.

Fiscal Intermediary Service for Stand-Alone Community Transition Services and Moving Assistance

If the FI administers Community Transition Services (CTS) and Moving Assistance payments and CTS and Moving Assistance is the only service the FI provides to an individual, then the FI is exempt from the Fiscal Intermediary Documentation Standard and Service Documentation Requirements above.

The individual does not have to be self-directing or have a self-directed budget to receive CTS and Moving Assistance (i.e., CTS and Moving Assistance may be a stand-alone service). In these cases, the FI reimburses and bills for allowable expenses as the CTS and Moving Assistance, and may bill a single monthly FI fee to cover the costs of administering CTS and Moving Assistance. When administering CTS and Moving Assistance payments is the only service the FI is providing to an individual, the CTS and Moving Assistance service documentation alone is sufficient to support billing for the FI fee and the remainder of the FI documentation requirements do not apply.

Life Plan Documentation Requirements

In addition to the documentation described above for FI and IDGS claims, the agency providing these services must maintain a copy of the participant's Life Plan, developed by the participant's Care Manager.

For FI, the following elements must be included in the individual's Life Plan:

1. Identification of the FI category of Waiver service (i.e., Fiscal Intermediary);
2. Identification of the agency providing FI;
3. Specification of an effective date for FI that is on or before the date of service for which the agency bills FI for the participant. The effective date is the effective date of the Life Plan, not the enrollment date of the person in the service;
4. Specification that the frequency for FI is "monthly;" and
5. Specification that the duration for FI is "ongoing."

Documentation Retention

All documentation specified above, including the Life Plan and service documentation, must be retained for a period of at least **ten (10)** years from the date the service was delivered or when the service was billed, whichever is later.

For additional information on the documentation requirements contact
Self.direction.redesign@opwdd.ny.gov.