



**Office for People With  
Developmental Disabilities**

# Family Care Manual

Revised 2021

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## **Section 1: Overview of Family Care Team**

## Overview of Supports

### Section 1.1

Each individual living in a Family Care Home will have the support of a team including, but not limited to, the Family Care Provider (FCP), Care Manager, family members and friends, as well as the Family Care Coordinator (FCC), Home Liaison (HL), and Registered Nurse (RN).

FCPs are the heart of the program and function as independent private contractors. FCPs provide care with activities of daily living, deliver the Residential Habilitation service and assist the individual with getting to necessary appointments. FCPs attend training and participate in service plan meetings for the individuals living in their home.

The FCC is responsible for overseeing the operations of the Sponsoring Agency's Family Care program and may also be involved with quality assurance activities. The Developmental Disabilities State Operations Office (DDSOO) FCC also serves as the liaison between the DDSOO Family Care program, Agency Sponsored Family Care programs, and the Central Office Family Care unit. FCCs are typically the first line of contact for FCPs when concerns or issues arise that cannot be addressed by the HL.

The HL acts as a direct link between the FCP and the Sponsoring Agency. The HL conducts monthly home visits and walkthroughs of the home, completing a checklist at each visit. The HL may also write the Staff Action Plan and monthly summary note, and the safeguard summary plan.

The RN has primary oversight responsibilities of the individual's health and must conduct, at a minimum, visits to the Family Care Home every 90 days. The RN participates in the coordination of health services and writes the nursing plan of care to address the healthcare needs of individuals living in Family Care Homes.

Family Care Substitute Providers provide temporary relief for the FCP. They provide a break from the primary care responsibilities of the FCP. Substitute Providers receive similar training as the FCP.

## Family Care Providers

### Section 1.2

Family Care Providers (FCP) are independent private contractors. A FCP's home is certified by the New York State Office for People With Developmental Disabilities (OPWDD) to provide person-centered services for individuals with intellectual and developmental disabilities. The responsibilities of the FCP are outlined in Title 14 New York Codes, Rules and Regulations (NYCRR) Part 687.8 and also in Section 1.3 of the OPWDD Family Care manual.

These policies recognize that the FCP is a crucial member of the team and that the Residential Habilitation service delivered by the FCP remains an essential part of each Life Plan. As a member of the team, each FCP is to be treated with the same respect and professional courtesy offered to any other team member.

A FCP will:

1. Receive from the Sponsoring Agency, comprehensive information on any individual being referred to their home, prior to the placement occurring
2. Have the opportunity to accept or deny enrollment of an individual being referred, based upon their ability to meet the needs of the individual
3. Participate in orientation programs and trainings made available through the Sponsoring Agency
4. Receive prior notification of planning meetings concerning the individual(s) in their home and be provided the opportunity attend and participate in those meetings
5. Maintain a copy of the Family Care manual
6. Receive prompt notification of changes in OPWDD policies or regulations affecting Family Care
7. Receive information on provider payments and individual entitlements and be provided with notice in advance of any changes to payments or entitlements
8. Receive clinical and administrative support as needed, to help maintain the individual's placement in the Family Care Home
9. Have access to Sponsoring Agency staff to discuss concerns about decisions or actions believed to unfairly affect the home or the individual(s) served
10. Have representation on the Family Care Advisory Council to address issues and concerns
11. Be provided with reasonable notice of routine visits, excluding required unannounced visits discussed in Subsection 3.6, cancellations, meetings, and trainings
12. Be notified when there is an incident or allegation of abuse/neglect
13. Be treated by all Sponsoring Agency staff in a manner that assures personal, legal, and civil rights while respecting their religion, race, culture, diversity, gender, and age

These statements provide the foundation for the working relationship between the FCP and the Sponsoring Agency's Family Care staff. The Sponsoring Agency's Family Care staff are expected to communicate clearly and promptly with the FCP on issues affecting the certification of the Family Care Home or the individuals residing in the home. FCPs are expected to inform the Sponsoring Agency's Family Care Coordinator or designee of any infringement of this policy

## Duties of a Family Care Provider

### Section 1.3

The following section contains an overview of the expectations, roles, and duties of Family Care Providers (FCP). All Family Care Providers must comply with the provisions of Title 14 New York Codes, Rules, and Regulations (NYCRR) section 687.8, other applicable regulations of the Commissioner, and applicable state and federal laws.

Family Care Providers must:

1. Provide for an individual's needs, including but not limited to:
  - a. A safe and clean home environment
  - b. A reasonable degree of privacy in sleeping and bathing areas
  - c. Adequate storage for the individual's personal belongings that is easily accessible to the individual
  - d. Appropriate meals and snacks according to dietary needs and preferences, and not altered or denied for disciplinary purposes
  - e. Supporting individuals in making personal choices
  - f. Providing any necessary assistance to an individual with personal hygiene and activities of daily living
  - g. Ensuring adequate, individually owned grooming and personal hygiene supplies are available as well as supplies that are commonly purchased for the family's use (e.g., shampoo, facial/toilet tissue, toothpaste, bandages)
  - h. Adequate bedding including clean sheets, pillowcases, pillows, blankets, mattress pads and bedspreads
  - i. Adequate supply of clean towels and washcloths
  - j. The cost of basic cable service, if available and used by the provider, the provider's family, and individuals receiving services
  - k. Assisting with washing and drying an individual's clothing. Note: If an individual chooses to purchase an item that requires dry cleaning per manufacturer's instruction, the individual is required to pay for the dry cleaning. If the FCP chooses to purchase a dry clean only item, the FCP is responsible for the cost of dry cleaning
  - l. Encouragement to participate in and access to preferred activities within the home
  - m. A family atmosphere of acceptance, kindness, and understanding
2. Complete all training requirements and additional training when needed
3. Ensure that each individual receiving services has a sufficient supply of individually owned clothing that fits properly, is maintained properly, and is age, season, and activity appropriate. Provide each individual with opportunities to be involved in the selection of their clothing
4. Ensure that the members of the household have an interest in, and an acceptance of, each individual residing in the home, as well as a desire to help each individual achieve personal growth, which involves integrating the care of the individual with the normal routine of family life
5. Ensure the individual is allowed to have visits from family members and/or friends in keeping with the same rights of other members of the Family Care Home (FCH)
6. Ensure that outside employment does not conflict with to the ability to deliver services to individuals in the home
7. Refrain from supervising individuals while under the influence of alcohol or prescribed or over-the-counter medication that may impair ability to provide effective supervision
8. Refrain from using illegal substances
9. Ensure that any firearms or weapons in the home are safely secured in a locked cabinet/safe without ammunition to prevent accidents or misuse. Ammunition must be stored in a separate secured location
10. Report any conditions in the home or on the surrounding property that may affect an individual's health and safety (e.g., insect or animal infestation, problems with septic system, loss of power, shut off notices, hazardous spills) to the Sponsoring Agency as soon as the problem is identified

11. Ensure that all pets living in the household are properly vaccinated per state and local requirements, are compatible with the individuals living in the home, and all dogs living in the home are licensed annually
12. Ensure that no animals and/or reptiles that have been taken from the wild, or are poisonous, or are on the Federal Endangered or Threatened Species list are allowed in the FCH
13. Reside in the same FCH as the individuals supported
14. Notify the Sponsoring Agency of any outside licensing the FCP currently holds or prior to seeking any certifications with other authorities (e.g., day care license, certification through the Department of Social Services for foster care)
15. Participate as a team member in developing and reviewing person-centered service plans, Staff Action Plans, and the Personal Expenditure Plan (PEP) to the extent desired by the individual and assist the individual in meeting the objectives set forth in each plan
16. Be accessible to the Sponsoring Agency to discuss information about and/or activities involving an individual receiving Family Care services and work collaboratively and respectfully with team members or community supports
17. Plan and secure Sponsoring Agency approval for:
  - a. Determining if an individual can function without supervision for periods of time and ensuring the determination and relevant details are included in the individual's Life Plan
  - b. Ensuring that the individual's supervision needs are met at all times
  - c. Providing an OPWDD approved Substitute Provider who meets all the requirements of the Family Care policy and is knowledgeable of the individual's needs, when emergencies and/or outside employment necessitate the FCPs absence from the home
18. Ensure that any respite services provided in the home do not exceed the certified capacity of the FCH
19. Develop and implement a fire evacuation plan, practice monthly fire drills, and document fire drills on the OPWDD approved form
20. Assist individuals in making purchases in accordance with the PEP and maintain required documentation of such expenditures
21. Maintain an individual's personal allowance account for individuals receiving applicable Social Security benefits, in conformance with the requirements set forth in the Social Services Law and Title 14 NYCRR section 633.15
22. Permit an authorized representative of OPWDD to inspect the FCH and all books and records, including financial records, on individuals that are kept by the FCP
23. Provide or arrange for, in conjunction with Sponsoring Agency staff, the transportation of individuals to their preferred religious, social, and recreational activities as well as routine and emergent medical and dental appointments and other necessary appointments
24. Arrange for and accompany the individuals to any routine or emergency appointments for medical, dental, clinical, or other needed services
25. Seek emergency medical treatment for any individual who requires it by calling 911 or other local emergency numbers and ensuring all medical recommendations are followed
26. Report significant events in the lives of individuals living in the FCH, regardless of where they occur, to Sponsoring Agency staff. Such events include, but are not limited to, illness, injury, absences from day services/employment, unexplained absences, incidents, death, increased behavioral problems, and medication changes
27. Cooperate with the Sponsoring Agency staff in their inquiry and/or investigation of information obtained from the Justice Center for the Protection of People with Special Needs (Justice Center), OPWDD Office of Investigations and Internal Affairs, law enforcement, or any other entity with the authority to investigate
28. Maintain confidentiality of an individual's information and use this information in a professional manner at all times. If FCPs obtain HIV-related information concerning an individual in their care, this information must be kept confidential as required by Title 10 of the NYCRR Part 63 and the provisions of Title 14 NYCRR section 633.19
29. Notify the Sponsoring Agency of an individual's death as soon as possible, using the Sponsoring Agency's emergency number, if after hours or on a weekend or holiday
30. Notify the Sponsoring Agency of any events in the FCPs life that would affect the ability to deliver services to the individuals in the home. Such events include, but are not limited to, illness, injury,



separation, divorce, or anyone new moving into the home. If these events impact the ability to provide adequate care to the individuals receiving Family Care services, the Developmental Disabilities State Operations Office (DDSOO) must assess whether this will impact the operating certificate

31. Notify the Sponsoring Agency of any changes to the number of individuals living in the home within 72 hours, including those under the auspices of another agency (e.g. Foster Care placement)
32. Notify the Sponsoring Agency within 72 hours of any household member turning 18 years old or if anyone age 18 or older moves into the home, to enable the Sponsoring Agency to obtain background checks, as required
33. Notify the Sponsoring Agency and OPWDD if the FCP or any household member has been placed under arrest or is charged with a crime within 72 hours of the event
34. Notify the Sponsoring Agency of any legal involvement, actions, or proceedings about or affecting any member of the household. This includes, but is not limited to, any arrests, criminal investigations, restraining orders, orders of protection, lawsuits, separation, or divorce agreements, as well as any phone calls to police or visits made to the home by any law enforcement agency
35. Comply with all relevant law, regulation, and policy.

## Family Care Coordinator

### Section 1.4

The Family Care Coordinator (FCC) is designated by the Sponsoring Agency as having administrative and/or quality assurance responsibility for the agency's Family Care program. This staff may act as liaison between the Developmental Disabilities State Operations Office (DDSOO) Sponsored Family Care program, the Agency Sponsored Family Care program (ASFC), Central Office Family Care unit, and/or other applicable service organizations with relation to the Family Care program. The FCC also may serve as a central entry point where Family Care Providers (FCP) may raise concerns or issues regarding services to the individuals or issues impacting the family.

Responsibility of the Family Care Coordinator (FCC) includes, but is not limited to:

1. Ensuring compliance with written policies and procedures relative to obtaining, reviewing, evaluating, and verifying background of, and information provided by applicants on *Form LS-22 Application for Family Care Home Certification*
2. Ensuring that FCPs receive copies of all essential policies and procedures, a copy of the Family Care manual, updates to policies, a copy of their operating certificate, and other information pertinent to the Family Care program
3. Ensuring that the FCP satisfies all requirements for training, physical plant, fire safety, the State Central Registry, and all required background checks
4. Ensuring that the Family Care Home Liaison completes all monthly home visits and that visits are documented on the Office for People With Developmental Disabilities (OPWDD) approved *Form 239 Family Care Program Monthly Checklist* and reviewed by supervisory staff. All issues identified during visits must be accompanied by a specific plan and deadline to address the issue(s)
5. Ensuring coverage for monthly home visits and Residential Habilitation documentation is in place in the event the Home Liaison is unable to complete them due to vacation, illness, or other unexpected scenario
6. Ensuring, as required by Title 14 New York Codes, Rules and Regulations Part 687, that at least two (2) home inspections are made each calendar year; one being scheduled using the OPWDD approved *Form 236 Family Care Home Evaluation and Survey*; one being unannounced using the OPWDD approved review instrument
7. Ensuring that a nursing visit is completed at the home at least once every 90 days
8. Ensuring timely recertification of all Family Care Homes
9. Monitoring and approving trial visits
10. Reviewing and approving Substitute Provider applications and reapprovals
11. Ensuring that a current record is maintained by the Sponsoring Agency for each FCP under their auspices and ensuring that the record is accurate and updated as needed, as per Section 6.5 of the OPWDD Family Care manual
12. Ensuring that a current record is maintained by the FCP, as per Section 6.4 of the OPWDD Family Care manual
13. Ensuring that incidents, including reports of abuse or neglect, are managed in accordance with Title 14 NYCRR Part 624
14. Ensuring that events and situations involving individuals receiving Family Care Services, but that do not occur under the auspices of the Family Care program, are managed in accordance with Title 14 NYCRR Part 625
15. Monitoring and ensuring payments are made to FCPs or investigating inquiries regarding late or missing payments
16. Working with the local Developmental Disabilities Regional Office (DDRO) to request environmental modifications/adaptive technologies and ensuring that payments for modifications and other reimbursements are made in a timely manner
17. Ensuring that each prospective FCP receives all required training prior to issuance of the operating certificate. This includes training based on the specialized needs of the individual and/or Provider

18. Ensuring that the Staff Action plan is updated as needed and is focused on the positive aspects of the individual, as well as identifying specific behavioral and/or medical needs and concerns and in all respects, conforms to the requirements of ADM #2019-08, *Family Care Residential Habilitation Billing and Documentation Requirements*, or any updated replacement ADM
19. Ensuring that the goals, objectives, outcomes, and preferences of the individual as outlined in the Staff Action plan are carried out accordingly

## Family Care Home Liaison

### Section 1.5

The Family Care Home Liaison (HL) is the staff person who has primary responsibility for ensuring that all program and environmental requirements related to the Family Care Home (FCH) are being met and maintained. This staff acts as a direct link between the Family Care Provider (FCP) and the Sponsoring Agency. The HL must conduct a monthly home visit and full walkthrough of the FCH, completing the Office for People With Developmental Disabilities (OPWDD) approved *Form 239 Family Care Program Monthly Checklist* at each visit and documenting the notifications and/or remedial actions taken to correct issues identified during the visit. The HL must review relevant Family Care records each month, as required, when completing the *Form 239 Family Care Program Monthly Checklist*.

If the HL is unable to complete a monthly visit, a monthly visit to the home must be conducted by a designated staff (e.g., another HL, Family Care Coordinator, or other staff involved in the Family Care program). If in the rare event an unanticipated emergency such as inclement weather or closures prevent a monthly visit from occurring, the next monthly visit should occur as early in the next month as possible. The reason the visit was not able to occur the prior month should be clearly noted on the next completed *Form 239 Family Care Program Monthly Checklist*.

The HL plays an important role in identifying, reporting, and remedying any issues identified during the monthly visit. The HL has responsibility to notify the Family Care team about concerns including, but not limited to, the care and treatment of the individuals receiving services, the performance of the FCP, and the condition of the home. The HL also plays a key role in ensuring an FCP is remedying issues identified during safety inspections.

There are issues that may require immediate action (e.g., imminent danger, to the health and safety of the individuals receiving services) and follow up if discovered during a monthly visit. These are situations where the HL must ensure a solution or appropriate protections are implemented prior to leaving the home. These situations may warrant contact with the Family Care Coordinator or other designated administrators immediately, to discuss the situation and need for protections.

The HL must be knowledgeable in the areas including, but not limited to:

1. New York Codes, Rules and Regulations (NYCRR) Parts 635 Administrative Requirements; 633 Protection of Individuals; 624 Reportable incidents, 625 Events and Situations, and 687 Family Care Homes, and all other regulations as relevant to the Family Care Program
2. The Home and Community Based Services Waiver (HCBS)
3. Provider payments
4. The Family Care Manual
5. Personal Allowance regulations
6. Medicaid compliance

The HL must be able to:

1. Support diverse personalities, ethnic groups, and cultural and religious preferences
2. Intervene/mediate when there are unresolved issues between the FCP and the individual or the individual's family member
3. Communicate with the Family Care Coordinator and administrative staff on any issues within the Family Care program that might compromise the individual's safety or operation of the home
4. Communicate with the team including the Care Manager, regarding recommendations to address the individual's needs, safeguards, and Life Plan
5. Ensure the FCP receives updates for regulations, policies and procedures, as well as any other changes made to the Family Care Manual
6. Work with the individual, FCP, and the team, including the Care Manager, to develop the Staff Action Plan and safeguard summary, consistent with the Life Plan
7. Ensure the FCP receives and understands the current Staff Action Plan

8. Ensure the FCP is able to carry out the Staff Action Plan as identified and that the safeguard summary accurately addresses the supervision and support needs of individuals
9. Ensure the FCP understands the importance of the 22-day rule and the impact it has on payment
10. Ensure the FCP is made aware of any changes in payments or benefits received on behalf of the individual
11. Ensure the FCP understands how to complete the HCBS Waiver service documentation as required

# Care Manager

## Section 1.6

The new era of People First Care Coordination has its foundation in the creation of Care Coordination Organizations (CCOs). Also known as Health Homes, CCOs will coordinate a variety of healthcare, wellness, and developmental disabilities (DD) services to achieve a holistic and integrated approach to meeting the full range of needs. Care Managers will work with individuals with intellectual and developmental disabilities (I/DD), their families, and team members to bring together health care and developmental disability service providers. They will develop an integrated, comprehensive care plan (known as a "Life Plan") that includes health and behavioral health services, community and social supports, and other services.

Individuals with I/DD who wish to receive HCBS but choose not to enroll in the robust service supports of a Health Home will instead receive Basic HCBS Plan Support services.

Care Managers will continue to visit individuals in the Family Care Home as determined by the individual's needs and CCO program requirements. It will be important for the Family Care Provider and Family Care team to work closely with the Care Manager on plan development and ongoing communication around the individual's goals and safeguards.

For Willowbrook Class members, Care Managers are responsible for completing the Case Management Observation Report (CMOR) twice per year.

## Qualified Intellectual Disabilities Professional (QIDP)

### Section 1.7

In the delivery, management, or supervision of Residential Habilitation services, the Sponsoring Agency must be able to demonstrate the involvement of a Qualified Intellectual Disabilities Professional (QIDP).

A QIDP must have at least one (1) year experience working directly with individuals with intellectual disabilities or other developmental disabilities and be one of the following:

1. A Doctor of Medicine or osteopathy
2. A registered nurse
3. An individual who holds at least a bachelor's degree in a human services field (see 42 Code of Federal Regulations 483.430(b))

A Family Care Home Liaison, for example, may be designated as the QIDP, given their role with the development and oversight of the Residential Habilitation services, provided they meet the requirements of the regulation.

QIDP Responsibilities:

1. Ensures that each individual receives services in accordance with the Life Plan and the Staff Action Plan by reviewing or ensuring the review of the plan on a semi-annual basis or as frequently as necessary
2. Ensures that information on the Staff Action Plan is accurate, signed, and dated
3. Ensures that the individual's Staff Action Plan is integrated, coordinated and monitored
4. Completes the annual Level of Care Eligibility Determination (LCED) redetermination

## Family Care Registered Nurse

### Section 1.8

The Family Care Registered Nurse (RN) is responsible for oversight of health care provided to individuals receiving Family Care services. The RN coordinates each individual's health care in partnership with the Family Care Provider (FCP). The RN is responsible for the completion of a nursing assessment and the development and monitoring of plans of care to address the individual's health care needs. The RN must be able to:

1. Effectively communicate and coordinate with other caregivers including day program providers and other healthcare providers
2. Participate in the assessment of the FCP's skills and abilities relative to addressing the needs of the individual
3. Provide training and education to the FCP and the individual receiving services regarding health care issues and preventative healthcare strategies
4. Participate in the development of recommendations for home modifications and adaptive equipment, as appropriate, to meet the needs of the individual receiving services

Prior to the placement of an individual in Family Care, the RN must:

1. Participate in the planning process by assessing the health care status of the individual and assisting the team to determine whether the individual's needs can be safely and adequately met in the Family Care Home (FCH)
2. Review health care documentation to establish that necessary examinations, immunizations, and/or assessments are completed or scheduled and to determine if there is a need for additional assessments or evaluations. These include but are not limited to:
  - a. Physical and dental examinations
  - b. Specialty medical consults
  - c. Behavior Support Plan and Informed Consent, if applicable
  - d. Smoking Cessation, if applicable
  - e. Assessment for falls, bedrails, etc.
  - f. Immunizations/screenings
  - g. Medical Immobilization/Protective Stabilization Plan (MIPS), if applicable
  - h. Medical and contact information on the individual for medical appointments and urgent or emergent medical care
  - i. Health Care Proxy and/or Advanced Directives

### After Admission to Family Care

Within 30 days of permanent placement, the RN will collaborate with the individual, the individual's advocate, the FCP, and members of the interdisciplinary team to complete the individual's nursing assessment.

### Nursing Assessment

The Family Care RN must complete a nursing assessment for each individual receiving Family Care services that includes, but is not limited to:

1. Demographic information
2. All medical conditions and diagnoses
3. Relevant family history
4. Allergies or sensitivities
5. Medications and reason for each medication
6. Adaptive equipment required, if applicable



## Plans of Nursing Services (PONS) and Training for Family Care Providers

The Family Care RN must ensure the FCP has received training and direction to address the medical needs of the individual receiving services and, on any tasks, delegated by the RN. It is recommended that the PONS be used to provide this instruction and direction to the FCP. The RN must ensure the FCP demonstrates the skills and competence to provide needed care and any delegated nursing services. Documentation of training must be maintained by the Sponsoring Agency.

## Nursing Oversight Activities

The RN, in consultation with the Family Care team, will determine the frequency of nursing visits to a FCH based on the needs of the individual(s) served. However, in no case will the RN visit the FCH less than once every 90 days. Nursing visits must occur in the FCH at a time when the individuals can be present for at least a portion of the visit.

Every 90 days, at least one face-to-face nursing visit with the individual and FCP must occur. The RN will review the following with the FCP:

1. Medication Administration Records (MARs)
2. Medication storage practices to ensure safe storage in accordance with the safety needs of the individual and any others in the home
3. Monitoring/counting of controlled substances
4. Verification of medication orders
5. Bowel Management, Seizure, Menses, Vital Signs, Blood Sugar, and other charts, as applicable
6. Physician/Practitioner Orders
7. Pertinent medical information for medical appointments and urgent or emergent medical care, including the *Ready to Go Form* and *Ready to Go Packet* and, for Willowbrook Class Members, the *Ready to Go Checklist*
8. Medical appointment reports to ensure follow up on health care provider instructions including diagnostic procedures, laboratory work, specialty referrals, and dental care
9. Consult notes and evaluation of follow-up
10. Nursing assessment and training to the FCP including review of instructions when there is a change in the individual's healthcare needs
11. Review of the PONS, if in use, to ensure the PONS is updated and consistent with individual's needs
12. Observation of the individual and discussion of the individual's overall health, noting any changes and/or concerns
13. Review of changes and concerns related to:
  - a. The safety of the home environment
  - b. The FCP skills and abilities
  - c. The health and well-being of the individual
  - d. Any areas in which the FCP may need additional training or retraining
14. Other areas as the RN deems appropriate

## Documentation of Visits

During every 90-day visit, nursing documentation should address nursing oversight activities completed, including but not limited to following:

1. Face to face contact with individuals present at the time of the visit
2. Documentation of specific trainings that were provided to the FCP
3. Review of appointments and practitioner visits completed since the last 90-day review
4. Notation of follow-up activities completed or to be completed
5. Review of nursing assessment and PONS for any updates or changes
6. Identification of concerns related to the FCP or the home, along with a plan to address the concern(s). Notification to the Home Liaison is required for concerns related to the FCP, such as changes in the condition of the home or the FCP abilities
7. Count of controlled substances, where applicable

If an individual receives a visit more than once every 90 days from the RN, it is required that the RN keep documentation of each visit, so it is clear what was monitored or addressed during each contact.

### **Additional Nursing Activities**

The Family Care RN is also responsible for the following:

1. A Self Administration of Medication Evaluation annually and as needed
2. An immunization record review to include a specific emphasis on tetanus, influenza, and pneumovax
3. A Tardive Dyskinesia Evaluation (such as the Abnormal Involuntary Movement Scale or Dyskinesia Identification System-Condensed User Scale) at least every six months, if indicated and if not completed by the prescriber
4. A Medication Regimen Review to be completed at least annually, with more frequent review for contraindications of newly introduced medications, unless either has been done by a pharmacist or physician
5. Assistance to obtain Informed Consent, as needed or requested
6. Training for the FCP and Substitute Provider on medication administration, PONS, and other areas, as necessary
7. Assessment of the FCP's and Substitute Provider's ability to properly administer medication through observed medication pours to be conducted at initial certification and any time the RN and/or treatment team deems additional support or monitoring is necessary (e.g., medication errors)
8. Monitoring of controlled substances consistent with the Sponsoring Agency's policy and procedures and New York State Controlled Substances regulations. This will include at a minimum counting the controlled substances at every 90-day visit. This count will be documented as part of every 90-day visit

### **Ready to Go Packet/Form**

It is the responsibility of the FCP to ensure that important medical information accompanies an individual to the hospital or other health care facility for routine, urgent, or emergent care. This information can be found on the *Ready to Go Form*. This form, completed by the RN and FCP, is a valuable tool which provides current medical information based on the specific needs of the individual who will be receiving care. This form accompanies a packet of information known as the Ready to Go Packet (usually kept in a folder or binder) to ensure practitioners are provided sufficient information when an individual goes to a hospital or other health care facility.

If an individual receiving Family Care services is also a Willowbrook Class member, the RN and FCP must complete the *Ready to Go Checklist* in conjunction with the *Ready to Go Form*.

The *Ready to Go Form* and checklist are available on the Office for People With Developmental Disabilities (OPWDD) website.

### **Admissions to Hospitals/Other Sub-Acute Health Care Facilities:**

The FCP must notify the Sponsoring Agency's RN and Family Care Home Liaison when an individual is hospitalized or evaluated in an Emergency Room or urgent care facility. If an individual is admitted to the hospital, the RN is responsible for:

1. Establishing and maintaining contact with appropriate hospital personnel to review the individual's health and safety needs, medication regimen, and other needs specific to the individual
2. Making the initial contact with hospital personnel within 24 hours (or next business day) of receiving notification that the individual has been hospitalized
3. Conducting visits to the hospital at least once a week; frequency of visits may increase when deemed appropriate, or at the request of the hospital
4. Contacting the hospital's discharge planning staff to request participation in discharge planning activities and notification to the Sponsoring Agency of discharge planning activities
5. Assessing the individual prior to discharge, to determine, in conjunction with the team, if the healthcare needs of the individual can continue to be adequately addressed in the FCH

Once an individual has been temporarily admitted to a sub-acute facility (e.g., nursing home or rehabilitation), the RN is responsible for:

1. Conducting visits consistent with the individual's needs, as long as the discharge plan is for the individual to return to the FCH
2. Ensuring that required services, adaptive equipment, and/or environmental modifications to the FCH that are necessary for health and safety are in place prior to the individual's discharge home
3. Contacting the FCP within 24 hours (or next business day) of discharge to review the individual's healthcare status and ask the FCP about any supports or assistance that may be needed to facilitate a smooth transition
4. Reviewing the discharge instructions, cross referencing medications to ensure all medications are in order, ensuring prescriptions and medications are available upon discharge, and ensuring diet orders are correct
5. Ensuring follow up or specialty appointments are made

## **Employees as Family Care Providers**

### **Section 1.9**

Sponsoring Agency employees can be certified as Family Care Providers (FCPs). All requirements for certification and recertification will apply to the Sponsoring Agency employee requesting to be a FCP. The Sponsoring Agency must not give preferential treatment to its employee.

The Sponsoring Agency employee, as a FCP, must participate in the development of the individual's Life Plan. The employee's conduct in each role (Sponsoring Agency employee or FCP) may impact the continued certification of the Family Care Home and/or their employment with the Sponsoring Agency. The Sponsoring Agency should refer to its agency specific personnel policies that are in place when considering this arrangement.

### **Conflicts of Interest**

Sponsoring Agencies of Family Care should consider job responsibilities when determining which employees can become Family Care Providers. Examples of conflicts of interest include an employee whose role includes policy making, certification, administration, or oversight of the Family Care program.



## **Section 2: Standards for Family Care Homes and Fire Safety**

# Requirements for Design, Space, and Equipment in Family Care Homes

## Section 2.1

Every Family Care Home (FCH), including those approved only to provide respite services, must meet certain standards to ensure the health and safety of individuals living in the home. Once an operating certificate is issued by OPWDD or a provider is approved to provide respite services, it is the responsibility of the Sponsoring Agency to ensure that the established safety standards are maintained throughout the duration of the operating certificate/provision of respite.

### General Maintenance and Safety Standards

To ensure the safety and welfare of individuals living in FCHs, the following requirements must be met:

1. A fire and safety inspection must be completed annually by an OPWDD Safety & Security Officer (SSO). The inspection must be completed using the OPWDD approved review instrument
2. Homes must be sufficient in size to provide adequate and proper living accommodations for all parties in the household (See Space Standards section below)
3. The overall household composition and living accommodations will be evaluated to determine any impact on an individual receiving services in a FCH. This may include but is not limited to impacts on fire evacuation and on the quality of care and supervision provided to an individual receiving Family Care services
4. No individual's bedroom can be in the attic, hallway, or a room used for other than bedroom purposes
5. Primary access and exit from the individual's bedroom must be to a hall, corridor, or other general activity area and not through a bathroom or another bedroom
6. Adequate bathing and toileting facilities must be provided and kept sanitary and in working order. These areas must provide for personal privacy
7. Dining space must be adequate in size and equipped to adequately provide for the family group to be seated during meals
8. Any bedroom occupied by an individual receiving services should have natural light and insect screens
9. Each individual's bedroom must afford privacy and be sufficient in size to contain the following furnishings, provided by the Family Care Provider (FCP):
  - a. A suitable bed. Cots, futons and convertible sleep furniture may not be used
  - b. A dresser that is accessible to the individual for personal articles
  - c. A closet or wardrobe space
10. The home must have and maintain active telephone service so that both the FCP and the individual have access to a phone, especially for emergencies. Cellular and/or landline services may be used. If cellular service is unreliable at a location, landline phone service will be required. If only landline service is used, the landline must function during a power outage
11. The home must have safe, continuous and unobstructed exits from the interior of the home to the exterior of a street or to a yard, courtyard, or passageway leading to an open public area. A landlocked courtyard must have unrestricted access to a location which is at least 30 feet away from the building. There must be safe, continuous, and unobstructed access to the designated meeting place as identified in the fire evacuation plan
12. All ramps, doors, handrails, elevator controls, telephones, and similar devices installed for use by individuals with physical disabilities must be maintained in an operable/useable condition
13. All door handles must be properly installed to allow for privacy and prevent locking from the outside
14. The home must be clean and well maintained
15. The use of portable or temporary space heaters as a sole source of heat is prohibited. Temporary use must be approved in advance by the Developmental Disabilities State Operations Office (DDSOO) Director or designee
16. Any hazardous conditions (e.g., overloaded power strips, loose flooring, electrical connections/wiring, generator transfer switches) that present a threat to an individual's safety or welfare must be repaired in a timely manner

17. The FCP must ensure the annual maintenance and cleaning of any heating, alternative heating (such as wood stoves), cooling, or air filtration system. A record of the maintenance and cleaning must be available to verify inspection
18. All equipment used for heating, lighting, and cooking must be safe, appropriate, and be Underwriters Laboratory (UL) approved
19. All dangerous household products, flammable liquids, chemicals, toxic items, and highly combustible material must be stored in a safe manner
20. The FCP must notify the Sponsoring Agency immediately of the anticipated or actual termination of any service vital to the continued safe operation of the home or health of the individuals living in the home. This includes, but is not limited to: telephone, electricity, gas, fuel, water, septic system, heating, air conditioning, smoke or heat detectors, or sprinkler system
21. Homes certified after May 21, 2019 must have mechanical or natural ventilation
22. All mechanical appliances that require venting must be vented to the outside (e.g. dryer vents, range hoods, fireplaces)
23. Dryer vents must be metal or flexible metal and UL approved for its use
24. For emergency purposes, house numbers must be visible from the street

The FCP must promptly apply remedial measures to correct any issues and to remain in compliance with standards described in this policy.

## Space Standards

At the initial certification of a FCH, minimum building code space standards will apply for bedrooms intended to be used by individuals receiving services. The minimum square footage for a single bedroom is 70 square feet or 120 square feet if two individuals receiving services will share a bedroom. The DDSO must review and approve requests to:

- A) Serve additional individuals at the FCH; or
- B) Change the individual's bedroom location.

## Bedroom Sharing

An individual receiving Family Care services may share a bedroom with one other individual (of the same gender) receiving Family Care services if the room meets minimum requirements as described above. An individual receiving Family Care services may never share a bedroom with a FCP.

Individuals receiving Family Care services cannot share a bedroom with the FCP's family members. The only exception that may be approved at the discretion of the DDSO Director (or authorized designee) is for children under age 18 to share a bedroom with one other child of similar age and of the same gender.

## Modifying and Remodeling of Family Care Homes

If a FCP plans to make any physical plant modifications to the home that are subject to building codes in effect at the time the permit is issued for the modification, the FCP must notify the Sponsoring Agency in writing of the proposed changes and provide documentation that these changes will be in compliance with all applicable building codes. A valid building permit, if required, must be maintained at the home during the modifications/remodeling of the home. The Sponsoring Agency should review the renovation plans to ensure there is no impact on the health and safety needs of an individual receiving services in the FCH.

## Equipment Standards

### Fire Extinguishers

The FCP must ensure that fire extinguishers are readily accessible—either mounted on the wall, on a shelf for easy access or in a labeled cabinet. One fire extinguisher must be maintained in or near the kitchen. A trained OPWDD SSO will determine if conditions exist that would necessitate the installation of additional fire extinguishers in a home. For example, if a home were equipped with a wood stove in the basement, an additional fire extinguisher would be required. It is recommended that fire extinguishers are on each level of a

Family Care Home. The SSO will periodically monitor by visual inspection that the extinguisher(s) is available, in its designated space, and has not been tampered with.

Fire extinguishers must meet the requirements of National Fire Protection Association (NFPA) 10 and be UL labeled and approved.

1. Fire extinguishers must be provided to newly certified FCHs by the Sponsoring Agency at no cost to the Provider
2. Maintenance, repairs, and replacement will be the financial responsibility of the FCP
3. Fire extinguishers must be maintained as recommended by NFPA requirements

## Smoke Detection

All FCHs must comply with requirements for smoke detection equipment in accordance with current regulation and building codes.

1. A smoke detector must be installed in each corridor adjacent to sleeping areas, no farther than 15 feet from each bedroom. In corridors or adjacent open areas such as living rooms, dining rooms or recreation rooms, smoke detectors must be installed at a maximum of 30 feet on center and no more than 15 feet from a wall
2. A smoke detector must be installed at the head of each open stairway located within the home or a smoke detector must be installed within six (6) feet of the bottom opening of a stairway that is enclosed at the top
3. At least one smoke detector must be installed in basements. Additional detectors may be required for basements and attics subdivided by partitions
4. A smoke detector must be installed in every bedroom
5. The testing, maintenance, replacement, and upkeep are the responsibility of the FCP. It is required that smoke detectors be replaced every ten (10) years
6. All smoke detectors must be tested monthly and remedied if not operational
7. FCHs providing services to individuals with special needs, such as visual or hearing impairments, must be equipped with smoke detection devices designed specifically for these impairments. The Sponsoring Agency is responsible for acquiring these devices, ensuring installation, and replacing devices, as needed
8. A trained OPWDD SSO must ensure proper placement of any smoke detection devices and inspections for compliance with regulations and policy. These devices should not be moved without prior consultation with the SSO

## Steam Pipes and Radiators

Steam pipes and steam radiators with which individuals may come in contact must be shielded. Hot water radiators that may present a burn hazard must also be shielded.

## Anti-Scald Devices

The FCH must be equipped with anti-scald devices on all faucets/showers that are routinely used by the individuals regardless of the assistance that the individual requires. The FCP may choose to have a tempering (mixing) valve installed if it is more feasible. The tempering valve may be installed at any point in the hot water line to any faucet or directly off the hot water tank. The temperature of the hot water from the faucet/showerhead must be tested monthly by the Family Care Home Liaison to ensure that the temperature is within appropriate limits. Any water temperature above 120 degrees Fahrenheit will require a discussion of protections. Any water temperature above 139 degrees Fahrenheit is considered imminent danger and will require an immediate action plan to address this issue. The action plan must ensure adequate protections for the individuals receiving services. Water temperatures should be comfortable for an individual's bathing needs. Cold water temperatures that may present discomfort while bathing should also be addressed by the Sponsoring Agency staff and FCP.

Antiscald devices offer the greatest protection for individuals and all efforts should be made to ensure their installation. In rare circumstances, a DDSOO Director, acting as the Commissioner's Designee may consider



granting an exemption. The exemption should be requested by the FCP and Sponsoring Agency in writing. Consideration of whether to grant an exemption, should include a review of the reasons an antiscald device cannot be installed, any documentation that supports the reasons (statement from the plumber, landlord letter etc.) and a review of a plan for safeguards for the individual(s) signed by the FCP. If the FCP is only able to obtain a verbal statement from the landlord (indicating that antiscald devices cannot be installed), the FCP shall document this in writing and provide to the Sponsoring Agency and DDSOO at the time of the request for exemption.

If an exemption is granted, there should be protections implemented to ensure the safety of the individuals receiving services, including but not limited to: having the FCP do weekly readings of the water temperature, having the Family Care Home Liaison do the required monthly temperature readings and ensuring the FCP is trained on and implementing needed safeguards for individuals while bathing or using the faucets. The capabilities of individuals and their supervision needs should be assessed by the team initially, during each six-month plan review, and anytime an individual's needs change. Safeguards related to bathing and ability to control water temperature should be documented in the Life Plan/Staff Action Plan.

### **Ground Fault Circuit Interrupters**

The home must be equipped with Ground Fault Circuit Interrupters (GFCI) at electrical outlets within six (6) feet of bathroom or kitchen sink locations.

A GFCI must also be installed in other areas that may pose a safety risk to individuals residing at the home, including outdoor outlets. In all cases the GFCI will be tested by the SSO during the fire and safety inspection.

### **Testing Standards for Private Wells**

Well-water testing is to be conducted annually for FCHs. The water is to be tested in accordance with the chemical and bacteriological quality standards for potable water set by the local Department of Health or authority having jurisdiction for private homes. The FCP is required to follow local recommendations as indicated by the test results. The Sponsoring Agency must maintain a copy of the report as part of the FCH record.

The Sponsoring Agency must ensure that retesting is completed in a timely manner. The costs of the initial and ongoing testing are the responsibility of the FCP, since correcting any problems is a benefit to the entire home.

### **Carbon Monoxide Detectors**

All FCHs must comply with current building code requirements. Carbon monoxide detectors must be installed, operated, and maintained in accordance with the provisions of this section, or in accordance with the provisions of NFPA 720.

Carbon monoxide alarms must be provided at each of the following locations within each home:

1. On each story containing a sleeping area, within 15 feet of the sleeping area. More than one carbon monoxide alarm must be provided where necessary to assure that no sleeping area on such story is more than 15 feet away from a carbon monoxide alarm
2. On each story that contains a carbon monoxide source

Carbon monoxide alarms, carbon monoxide detectors, and alarm control units must be maintained in an operative condition at all times. Carbon monoxide alarms, carbon monoxide detectors, and alarm control units must be tested monthly. The battery or batteries used as the primary or backup power source must be replaced when low or when otherwise required by the manufacturer's instructions. Carbon monoxide alarms, carbon monoxide detectors, and alarm control units must be replaced or repaired when defective and must be replaced when they cease to operate as intended.

No carbon monoxide alarm, carbon monoxide detector, or alarm control unit can be removed or disabled, except for service, repair or replacement purposes.

### **Swimming Pools/Spas**

All local ordinances and manufacturers' instructions must be followed when installing a pool/spa. In addition, the FCP must contact the Sponsoring Agency prior to installing a pool/spa to ensure the safety of the individuals living in the home.

If the pool/spa has already been installed, the FCP may need to install an enclosure per local code. Additional alarms (pool or door) may be required based on an evaluation by a trained SSO or if determined necessary based on an individual's needs. Under no circumstance may an individual be left unsupervised in the swimming pool/spa for any amount of time. Individuals residing in homes with a swimming pool/spa must have a water safety assessment in place.

### **Mobile Homes**

All mobile homes must meet the guidelines specified in Title 14 New York Codes, Rules and Regulations Part 635.

### **Discontinuation of the Use of a Woodstove, Fireplace, or Fuel Burning Appliance**

A FCP can request to discontinue the use of a woodstove, fireplace or fuel burning appliance. This request should be made to the DDSOO and the OPWDD SSO. The FCP and the OPWDD SSO must sign the Family Care Provider Agreement for An Unused Woodstove, Fireplace or Fuel Burning Appliance. This agreement confirms that the FCP and household will not use or operate the device for any reason.

If a FCP would like to put the device back into service, the provider cannot do so until the following occurs: the product is serviced/and or inspected by a qualified contractor who can inspect the device and the exhaust, a copy of the service/inspection report has been provided to the SSO and DDSOO, and the Family Care Agreement for Unused Woodstove, Fire Place or Fuel Burning Appliance has been signed by both the FCP and the SSO.

The SSO will ensure the FCP receives a copy of the signed agreement as well as the local DDSOO and Sponsoring Agency. For those FCPs who have agreed not to operate a device, Sponsoring Agency staff should periodically monitor during the visits that the device is not in use.

## Fire Drill Evacuation Requirements

### Section 2.2

The Office for People With Developmental Disabilities (OPWDD) has standardized the required oversight, documentation practices, and minimum frequencies of fire drill evacuations for Family Care Homes (FCH).

### Oversight & Documentation Requirements

The following are minimum fire drill evacuation requirements:

1. At least one (1) fire drill evacuation must be completed each month
  - a. All household members that are home at the time of the fire drill must participate and evacuate the home
  - b. Drills must be conducted at different times of the day, varied days of the week, and using different exits, where applicable
  - c. Each year, Family Care Providers (FCP) must hold at least one (1) fire drill evacuation at nighttime when Family Care individuals are sleeping
  - d. The FCP should use varied methods for alerting individuals of the need for evacuation such as verbal prompts (i.e. Fire, Emergency) or the tone of a smoke alarm
2. All FCPs must use the *Fire Drill Evacuation Report Form* to document and detail the required monthly fire drill evacuation

### The Sponsoring Agency must:

1. Observe at least one (1) fire drill evacuation each year at each FCH. Observed drills can be conducted at a time when the Home Liaison is visiting the FCH
2. Participate in the development, updating, and review of Fire Evacuation Plans
3. Ensure the FCP receives adequate training on the implementation of the evacuation plan and maintain documentation of such training
4. Continue ongoing monitoring of the implementation of evacuation plans to confirm that the plan continues to meet the evacuation needs of the household
5. Ensure the Family Care Home Liaison is reviewing completed fire drill evacuation forms at the monthly home visit
6. Maintain copies of documented fire drill evacuations
7. Take immediate steps to address fire drill evacuations that are deemed problematic
8. Situations that constitute a problematic drill may include, but are not limited to, an accident resulting in injury; a behavioral episode on the part of an individual that slowed or prevented evacuation; a problem with adaptive equipment used by an individual during the drill; and or the unwillingness of an individual to exit during a drill
9. Some immediate steps to address problematic drills include but are not limited to:
  - a. Conducting an additional fire drill evacuation within 24 hours
  - b. Sponsoring Agency staff may want to observe the drill so that alternate strategies and guidance can be provided to overcome the problems identified
  - c. A person-centered team review to discuss reasons for the problematic drills and strategies to address the issues
10. After a second problematic fire drill evacuation occurs, the Sponsoring Agency must reconcile the problematic drill by developing and documenting a plan to address the issue and a timeframe for completion
11. Sponsoring Agencies must consider all options, including, but not limited to:
  - a. Environmental modifications
  - b. Relocation to an alternate residential opportunity



## **Notification to Sponsoring Agency**

In the event of a fire or other situation requiring an evacuation from the Family Care home, the Family Care Provider must contact the Sponsoring Agency as soon as it is safe to do so. The Sponsoring Agency must then make notifications as appropriate.

## Essential Elements of a Fire Evacuation Plan

### Section 2.3

All Family Care Homes (FCH) must have a Fire Evacuation Plan which considers the unique characteristics of the home and the needs of the individuals living there. The Fire Evacuation Plan should be reviewed monthly by the Family Care Home Liaison and Family Care Provider (FCP). An evacuation plan may not be limited solely to fire situations. Evacuation from a home may be required for other reasons such as a gas leak or an impending flood. Evacuation routes will be different for each FCH and these must be detailed in the Fire Evacuation Plan.

When a Fire Evacuation Plan is developed or updated, the FCP and all individuals living in the home must be trained on the new plan. A record of this training must be maintained by the Sponsoring Agency. Substitute Providers, if providing services in the FCH, must be trained on the new or updated Fire Evacuation Plan. It is recommended that adult household members over the age of 18 be familiar with the Fire Evacuation Plan and assist, if willing and able to, in the event of an emergency. During an evacuation drill, it is expected that all household members will evacuate in a timely manner. A sample Fire Evacuation Plan is attached.

For a FCH located within an apartment complex, evacuation plans should consider any emergency steps or evacuation plans identified by the landlord or local housing authority.

### Components of Acceptable Fire Evacuation Plans

At a minimum, each of the components below must be included in the written Fire Evacuation Plan:

1. The plan must detail the specific actions to be taken upon:
  - a. Actual discovery of the fire
  - b. Smelling smoke; and/or
  - c. Hearing the alarm
2. How to safely check and enter rooms during the evacuation process
3. How to evaluate evacuation priority
4. Provider's responsibilities during the evacuation process
5. An identified safe area for head count
6. Notification to the fire department
7. Other Information

#### 1a. Actions to be taken upon discovery of a fire

This is the most important aspect of the Fire Evacuation Plan. The FCP must react decisively, promptly, and in the correct sequence to assure maximum safety when they encounter a real fire situation.

The RACE acronym can be used to reinforce the important sequence of response to a fire event.

- R → Rescue and close the door to the room of the fire origin
- A → Alarm/Alert – sound the fire alarm or shout “FIRE” to alert the household
- C → Confine the fire by closing all doors when exiting
- E → Evacuate individuals using the closest exit and go to the designated meeting area; then notify the fire department

#### 1b. Actions to be taken upon smelling smoke

Immediately sound the alarm or alert household members and begin evacuating the home, while carefully checking doors to see if they are hot. Revert to RACE when the fire is found.

### **1c. Actions to be taken when alarm sounds**

Specific duties of FCP (and household family members over the age of 18 if they are willing and able to assist) will be clearly identified in the Fire Evacuation Plan.

### **2. How to safely enter rooms during the evacuation process**

All plans must have instructions on how to safely enter rooms during a fire emergency. It is important that the FCP is aware of the dangers of flash-over and how entering a room too quickly could be disastrous. The FCP must touch the door (using the back of their hand) to determine if it is hot. If it is, the FCP must not open the door and must proceed to the adjacent room.

### **3. How to evaluate evacuation priority**

Plans must reflect consideration given to the specific needs of the individuals (e.g. cognition, motor skills, ability to follow directions,) as well as their location within the house, proximity to exits, etc.

### **4. Identify FCP responsibilities during the evacuation process**

All plans must list the specific responsibilities of the FCP during the evacuation process. Family Care homes with two providers on the operating certificate may develop evacuation plans to reflect assignments by floor or area, if there are multiple individuals in the home.

### **5. Identified site for the safe area**

All plans must identify a specific location to gather after evacuating to determine if everyone evacuated safely. The “safe area” must be at a safe distance from the building, avoiding roads, fire hydrants and areas to which rescue equipment/personnel may need access.

### **6. Notifying the fire department**

During an actual fire or smoke event, the fire department should be contacted after everyone has been safely evacuated from the home. The fire department does not need to be contacted when the FCH is practicing a monthly fire drill evacuation.

### **7. Other information**

Identify any other information relevant to the needs of the individuals living in the home for their safe evacuation.



## **Section 3: Certification Requirements, Training, and Oversight**

## Required Background Checks and Code of Conduct

### Section 3.1

Before approval can be granted to provide Family Care services, all Family Care Provider (FCP) applicants, Substitute Provider applicants, and adult household members must complete a series of checks to ensure the safety of the individuals in the Family Care program as set forth in Title 14 of the New York Codes, Rules and Regulations (NYCRR) sections 633.5, 633.7, 633.22, 633.24 and 687.8.

#### Who Must Have a Background Check?

1. All FCP applicants
2. All Substitute Provider applicants
3. All current adult household members (18 years of age or older) who live in the Family Care Home (FCH) or Substitute Provider home
4. Prospective adults (18 years of age or older) who will move into a certified FCH or Substitute Provider home
5. Children living in a FCH or Substitute Provider home when they turn age 18

#### Who Does Not Need a Background Check?

Individuals receiving Office for People With Developmental Disabilities (OPWDD) services, or adult household members living in a Substitute Providers home when that home is not used for respite services.

#### Staff Exclusion List

The Staff Exclusion List (SEL) is a statewide register maintained by the Justice Center for the Protection of People with Special Needs (Justice Center). The register contains the names of people (e.g., employees, volunteers, Family Care Providers, interns, consultants, contractors) found responsible for serious or repeated acts of abuse and neglect involving individuals receiving services.

The SEL check must be completed before all other required background checks as persons on the SEL cannot become FCPs or Substitute Providers. Additionally, if an adult household member living in the potential FCH or Substitute Provider home is found to be on the SEL, the home/provider cannot be approved to provide Family Care services.

#### Criminal Background Check

After the SEL check is completed, a Criminal Background Check (CBC) must be done. Parties must be fingerprinted at a location approved by the Justice Center.

After receiving the fingerprints, the Justice Center Criminal Background Check Unit will review the criminal history and make an initial determination regarding suitability for certification/approval of the potential FCP/Substitute Provider.

The CBC "search and retain" function will alert the Sponsoring Agency to any subsequent felony offenses following the initial check for the FCP, Substitute Provider or adult household members.

Each Sponsoring Agency of Family Care must develop written policies and procedures related to conducting criminal background checks. These policies and procedures must include criteria for:

1. Designating one or more authorized parties who will submit the name, position, and contact information for the applicant to the Justice Center
2. Providing notifications to the Justice Center within 14 days of when a FCP or Substitute Provider ceases operation or transfers to a new Sponsoring Agency



3. Providing notification to the Justice Center within 14 days of when an adult household member no longer resides in the home of the FCP or Substitute Provider; evaluating and, if warranted, taking appropriate steps upon receipt of a notice about a conviction or pending criminal charge against a current FCP, Substitute Provider, or an adult household member living in the home of a FCP or Substitute Provider after the initial criminal history record check

### **State Central Register of Child Abuse and Maltreatment**

The State Central Register of Child Abuse and Maltreatment (SCR) is a statewide register maintained by the New York State Office of Child and Family Services (OCFS). The register contains information on all indicated reports of child abuse and maltreatment. If an applicant or adult household member is the subject of an indicated report of child abuse or neglect, the Sponsoring Agency must review the information on the report and document its decision about whether to recommend certification or approve the applicant to provide Family Care services.

After the initial check of the SCR, additional checks are only required if the FCP or Substitute Provider is the subject of a report of abuse or neglect. The Sponsoring Agency must submit a request for a check of the SCR to the Justice Center, using the form and format required by the Justice Center. If the Sponsoring Agency receives information that one or more indicated reports exist concerning the subject of the report, the Sponsoring Agency must take appropriate steps to gather information contained in the report, as specified by the Justice Center. This information must be submitted to OPWDD in accordance with requirements in Title 14 NYCRR subdivision 624.5(p).

### **Code of Conduct**

The *Code of Conduct for Custodians of People with Special Needs*, established by the Justice Center, sets forth a framework intended to assist custodians<sup>1</sup> to help people with special needs “live self-directed, meaningful lives in their communities, free from abuse and neglect, and protected from harm,” in addition to the specific guidance provided by the Sponsoring Agency’s policies and training.

All FCP and Substitute Provider applicants must read and sign the Code of Conduct at the time of initial certification/approval and annually thereafter. Adult household members who are not Co-Providers or Substitute Providers do not need to sign the Code of Conduct.

Family Care Home Liaisons must ensure that all providers sign the Code of Conduct as required. A copy of the signed Code of Conduct must be kept on file with the Sponsoring Agency.

### **Transitioning to a New Sponsoring Agency**

If a FCP or Substitute Provider would like to transition to a new Sponsoring Agency, the new Sponsoring Agency must complete all required checks as outlined above. The FCP or Substitute Provider must also sign the Code of Conduct again.

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<sup>1</sup> For purposes of 14 NYCRR 633.7(c) on the JC Code of Conduct the definition of custodian includes FCPs and substitute providers.

## Family Care Provider and Substitute Provider Training

### Section 3.2

The Office for People With Developmental Disabilities (OPWDD) requires Family Care applicants, Family Care Providers (FCP), and Substitute Providers to complete a training curriculum in accordance with Title 14 of the New York Codes, Rules, and Regulations (NYCRR) sections 633.8 and 687.8.

Sponsoring Agencies may require additional training for FCPs and Substitute Providers based on Sponsoring Agency policies, the needs of the individual, or the needs of the FCP. Sponsoring Agencies may, at their discretion, increase the frequency of required trainings to meet the needs of the program. However, trainings cannot be taken at a frequency that is less than what is indicated in the chart below. The Sponsoring Agency's Family Care Coordinator or designee is responsible for ensuring that all applicants, FCPs, and Substitute Providers complete all training in a timely manner. Documentation of all training must be maintained by the Sponsoring Agency. Unless otherwise noted, annual training requirements are based on calendar year and do not need to be completed within 365 days of the previous training.

Before providing care, FCP and Substitute Providers must complete all initial training as outlined below and must be provided with relevant information on the individuals they will support by the Sponsoring Agency.

This includes, but is not limited to:

1. The individual's goals, likes, and dislikes
2. Information regarding all diagnoses
3. Support and supervision needs
4. Medication information and medical needs

<b>Topic</b>	<b>Initial</b>	<b>By Recertification/Reapproval</b>
Rights and Responsibilities of Individuals Receiving Services	FCP	
Overview of Family Care Program (Benefits, Payments, Reimbursements)	FCP	
Home and Community Based Services, Overview of Life Plan, Person Centered Planning	FCP	
Residential Habilitation Service Delivery, Documentation, and Staff Action Plans	FCP	
Individual Rights	FCP	
Personal Allowance	FCP, Sub Provider	FCP, Sub Provider
Roles and Responsibilities of FCP and Team Members	FCP, Sub Provider	
Health Insurance Portability and Accountability Act (HIPAA)	FCP, Sub Provider	
Informed Consent	FCP, Sub Provider	

Topic	Initial	Annually	By Reapproval
Human Growth and Development	FCP		
Characteristics of Persons Served	FCP		
Promoting Positive Relationships *	FCP, Sub Provider	FCP	Sub Provider
Abuse Prevention, Identification, Reporting, and Processing of Allegations of Abuse*	FCP, Sub Provider	FCP	Sub Provider
Incident & Abuse Reporting and Processing, Laws and Regulations*	FCP, Sub Provider	FCP	Sub Provider
Incident Management*	FCP, Sub Provider	FCP	Sub Provider
Sponsoring Agency Policies and Procedures Governing Protection of Abuse	FCP, Sub Provider	FCP	Sub Provider
Safety and Security with Fire Safety	FCP, Sub Provider	FCP	Sub Provider
Control of Tuberculosis, Human Immunodeficiency Virus (HIV), Blood Borne Pathogens (BBP)	FCP, Sub Provider	FCP, Sub Provider	
Behavior Support Plans (BSP) and Challenging Behaviors (only required if individual has a BSP)	FCP, Sub Provider	FCP, Sub Provider	
Choking Prevention Initiative I	FCP, Sub Provider		
Choking Prevention Initiative II (only required if individual has diet order)	FCP, Sub Provider		
Life Threatening Emergencies**	FCP, Sub Provider		
Medication Administration***	FCP, Sub Provider	FCP, Sub Provider	

\*Covered by OPWDD PRAISE training curriculum. This training can be adapted to fit the needs of the Family Care program.

\*\*14 NYCRR 633.10(a)(5):

The agency/facility shall develop a plan for addressing the life-threatening emergency needs of the persons served. Such a plan shall be based on the needs of the persons in the facility, and shall address the availability of first aid, cardiopulmonary resuscitation (CPR) techniques and access to emergency medical services. Where staff training is part of the plan, there shall be provision to keep such training up to date. For family care homes, the relevant Sponsoring Agency shall be responsible for addressing this requirement and ensuring family care providers are aware of the plan for the individuals' they serve.

\*\*\*Medication Administration must be taken within one year of the date of the previous training. The Justice Center Code of Conduct must also be signed annually, within one year of the date of the previous signature.

## Family Care Home Initial Certification Requirements

### Section 3.3

#### Operating Certificates

The Commissioner of the Office for People With Developmental Disabilities (OPWDD) or their designee is responsible for certifying all Family Care Homes (FCHs). An operating certificate is a written document conveying to the public the authorization by the Commissioner of OPWDD for a Family Care Provider (FCP) to operate a FCH. Once the operating certificate is issued by the Division of Quality Improvement (DQI), the FCP is authorized to provide services to individuals.

There are many initial certification requirements to be met prior to obtaining an operating certificate. These requirements and steps are described in more detail below.

#### Standard Requirements

All the following are required for initial certification:

1. Applicant(s) is age 21 or older
2. Applicant has not been convicted of a Class A, B, or C felony
3. Applicant cannot be the spouse or natural/adoptive parents of an individual who will receive Family Care services in the home (except for Willowbrook Class Members)
4. Applicant must have a valid Driver's license or access to consistent transportation for appointments and community integration
5. Applicant must enroll in the *NYS Department of Motor Vehicles License Event Notification System (LENS)* by the Sponsoring Agency
6. Applicant must complete an *LS-22 Application for Family Care Home Certification* with three (3) references
7. Applicant must submit a physician's statement indicating the applicant is in good health and is emotionally and physically able to provide care to individuals
8. Applicant, and anyone else age 18 or older, residing in the home, must be cleared through the Justice Center Staff Exclusion List (SEL) and the State Central Register of Child Abuse and Maltreatment (SCR), along with finger printing for a Criminal Background Check (CBC)
9. Applicant must be cleared through the Medicaid Exclusion List
10. Applicant must submit a NYS Justice Center signed *Code of Conduct Form*
11. Applicant has received the required initial training prior to certification
12. Applicant must have adequate financial resources available to meet the needs of the household
13. Applicant must own, rent, or lease a house, apartment, or mobile home
14. If renting, applicant must submit a letter from the landlord acknowledging they are aware of the application to operate a Family Care Home
15. Applicant must disclose and provide evidence of any existing certification or licensure granted by another government agency or other authority to provide services in the home, including but not limited to daycare or foster care services
16. Applicant must provide confirmation that the home meets building code requirements by producing a certificate of occupancy or equivalent. If this cannot be obtained, a signed report from a New York State licensed architect or engineer that describes the home's compliance must be provided.
17. Applicant does not operate any other Family Care Homes
18. Sponsoring Agency must complete an initial home study and interview
19. Home must meet standards of the OPWDD Fire and Safety Inspection
20. Applicant must provide proof of all pet vaccinations, dog licenses, well-water testing for private water sources, and furnace inspection

#### Initial Steps in Applying to Become a Family Care Provider

Anyone interested in becoming a Family Care Provider should first reach out to a Sponsoring Agency. The agency representative should provide an overview and outline the expectations of the Family Care program.

If the prospective applicant remains interested in the program, the Sponsoring Agency will arrange to meet with them at their home. The Sponsoring Agency will ensure the prospective applicant understands the expectations of the program and interview them and members of their household. If there is interest in proceeding towards certification, the *LS-22 Application for Family Care Home Certification* can be submitted. The prospective applicant and all members of the household age 18 and over residing in the home must complete and pass the required background checks.

As part of the certification process, it is necessary to ensure the property is safe and will meet the required standards of the Family Care program. A Fire and Safety Inspection will be completed by an OPWDD Safety & Security Officer. Based on this review, there may be items in the home that require changes to meet the standards for Family Care certification. Certification cannot move forward until these issues have been remedied.

## Approval Process

The designated Family Care representative from the Sponsoring Agency will gather and review the initial application and all supporting documentation. Each Sponsoring Agency must use the *Initial Certification Checklist* to ensure that all required steps are met.

For Agency Sponsored Family Care, the application and attachments must be forwarded to the designated staff at the Developmental Disabilities State Operations Office (DDSOO).

All applications for initial certification will be reviewed by designated staff within the DDSOO. If all required standards are met and a recommendation is made to support the certification of the home, the designated DDSOO staff will sign the *DDSOO Family Care Attestation: Readiness for Initial Certification* and forward the packet to the DDSOO Director for final review. If the DDSOO Director supports the certification of the home, they will sign the *DDSOO Family Care Attestation: Readiness for Initial Certification*.

The attestation will be forwarded along with the application and supporting documents to the OPWDD Division of Quality Improvement (DQI) for issuance of the operating certificate.

## Coordination with Tracking and Billing System and Cost and Revenue Solutions

Designated staff in the DDSOO must complete the *Family Care Certification Request Form* and forward it to DQI at least 30 days prior to anticipated opening.

## Issuance of Operating Certificates

Operating certificates may be issued for up to but no longer than three years. The certified capacity of the FCH is listed on the operating certificate and cannot be exceeded without approval by OPWDD.

Operating certificates are not transferable to other persons or locations. If a FCP moves, the new home must be certified before the provider can begin providing services at the new location.

## Denial of Operating Certificates

After review of the application, if the applicant(s) is denied an operating certificate, the DDSOO Director or designee will send a Notice of Intent to Deny the application. The Notice contains a written justification for the denial and provides ten (10) days from the date of service for the applicant to request a hearing. A copy of this letter must be sent to the Office of Counsel, the Division of Quality Improvement, and the Sponsoring Agency. The date of service is defined as the date that: (i) the notice was hand delivered to the Family Care Provider applicant; (ii) the date the notice was accepted if sent by certified mail return receipt requested; or (iii) the fifth day after mailing the notice by ordinary mail to the Family Care Provider applicant, in that order.

If the applicant wants a hearing, they must send a request in writing to OPWDD's General Counsel and a copy to the Director who issued the Notice of Intent to Deny. This must be done within 10 days of the date of service (see above). The applicant's request for a hearing must include a copy of OPWDD's Notice of Intent

to Deny. If the applicant does not request a hearing within 10 days of receipt of the Notice, the DDSOO Director or designee will serve a Notice of Denial as described above.

For suspension and revocation of operating certificates see Subsection 3.11.

## License Event Notification System Enrollment

### Section 3.4

It is the responsibility of the Office for People With Developmental Disabilities (OPWDD) to ensure that individuals being transported by Family Care Providers (FCP) or Substitute Providers are safe and protected to the fullest extent possible. OPWDD requires each FCP and Substitute Provider that holds a New York State (NYS) Driver's license to enroll in the NYS Department of Motor Vehicles' (DMV) License Event Notification System (LENS).

For providers that do not hold a valid NYS Driver's License, but do hold a license from another state, it is the responsibility of the Sponsoring Agency to obtain the following information: the license number, the class of license, the issuing state, and the expiration date. On at least a semi-annual basis, the Sponsoring Agency must obtain an abstract of the provider's license.

LENS will notify Sponsoring Agencies via an automated email of the following events:

1. Accidents (reportable)
2. Convictions
3. Expirations
4. Point and Insurance Reduction Program completions
5. License status changes
6. Suspensions and revocations

Upon notification of revocation or suspension of a driver's license, the Sponsoring Agency must ensure that the provider does not drive individuals that are enrolled in the Family Care program. It is the responsibility of the provider along with the Sponsoring Agency to make necessary alternative arrangements for transportation to programs, services, and community inclusion activities.

It is the responsibility of the provider to notify the Sponsoring Agency when their license has been reinstated. The Sponsoring Agency must verify this information with the state issuing the license.

## Adequacy of Resources

### Section 3.5

In accordance with Title 14 New York Codes, Rules and Regulations (NYCRR) Part section 687.4, the Office for People With Developmental Disabilities (OPWDD) must ensure the adequacy of financial supports and stability of future revenues of a Family Care Provider. This must be done prior to issuing an operating certificate, as well as at recertification. This not only provides stability for any individuals living in the home, but also for the Family Care Provider and their family.

Prior to approval of an application, an applicant's income and expenses must be reviewed to ensure that all financial obligations can be met without the funds generated by Family Care payments for an individual living in the home. Income from all sources must be considered, including but not limited to salaries, disability benefits, rental income, and retirement benefits.

If there are concerns about a Family Care Provider's resources at any time during the Family Care certification period, including but not limited to, utility termination notices, eviction notices, disrepair of the home, or lack of adequate food supply, the Family Care team should further assess these circumstances to determine what remedy is needed.



## Inspections and Investigations

### Section 3.6

#### Inspections

In accordance with New York State Mental Hygiene Law Sections 16.11 and 16.23 and Title 14 of the New York Codes, Rules, and Regulations (NYCRR) Section 687.7, the Office for People With Developmental Disabilities (OPWDD) must provide for the periodic visitation and inspection of each Family Care Home (FCH). Inspections will be made as frequently as OPWDD may deem necessary, but in any event these inspections must be made on at least two occasions during each calendar year.

1. One inspection will be completed without prior notice by the Sponsoring Agency's Family Care staff using the OPWDD approved review instrument
2. One inspection will be announced and conducted by the OPWDD Safety and Security Officer using the OPWDD approved *Form 236 Family Care Home Evaluation and Survey*

All inspections (unannounced and announced) must be made by staff knowledgeable about conducting these activities.

Whenever possible, the unannounced inspection should be made when the individuals are home or just prior to their arrival. The purpose of the unannounced visit is to conduct an evaluation of the home based on the OPWDD approved review instrument. Reviewer observations, concerns, or deficiencies, as well as the recommendations made to the Family Care Provider (FCP), must be noted on the review instrument. The completed review instrument must be maintained as part of the Sponsoring Agency's file for the FCP.

#### Inspections During Recertification Years

When a FCH is due for recertification, Sponsoring Agency staff must inspect the home using the OPWDD approved review instrument, as outlined in the Family Care Manual Section 3.8, Recertification Requirements for Family Care Homes. This recertification inspection can be completed with or without prior notice to the FCP.

#### Deficiency Report and Verification of Correction

Inspections might identify deficiencies that require corrective action by the Sponsoring Agency and FCP. Staff completing the OPWDD approved review instrument must provide verbal notification to the FCP and the Family Care Coordinator, or designee, of all findings noted during these inspections. When remedial action is needed, a *Deficiency Report and Verification of Correction Form* must be completed by the Sponsoring Agency.

In these circumstances, staff completing the OPWDD approved review instrument must ensure the Sponsoring Agency and FCP receive a copy of the *Deficiency Report and Verification of Correction Form* within ten calendar days of the review. The Sponsoring Agency must ensure any party with responsibility for follow up is notified of what needs to be corrected and the time frame for completion.

If a situation or condition in the home that poses imminent danger is identified during the inspection, before leaving the site the staff completing the OPWDD approved review instrument must notify the designated staff at the DDSOO and Sponsoring Agency (where applicable) so that immediate protections can be put in place. Imminent danger is defined as any situation, condition, or practice that exists which, if it is allowed to continue, has a high probability of causing serious harm to a person's health or safety if the threat is not removed. If a situation or condition in the home poses imminent danger to the health or safety of individuals receiving Family Care services, they must be transferred to another setting if there are no other protections that can immediately remove the threat.

## **Investigations**

OPWDD has the authority to conduct investigations into the operations of any program or service that is certified by OPWDD. In conducting an investigation, an authorized representative of OPWDD is authorized to inspect the FCH, conduct interviews with individuals in the home, interview other parties residing in the home, examine and copy all records including an individual's financial and medical records, and obtain any other information required to ensure compliance with applicable requirements. Investigations may also identify deficiencies that require corrective action by the Sponsoring Agency.

When conducting an inspection or investigation, the Commissioner or designee is authorized to subpoena witnesses, require their attendance, administer oaths to witnesses, examine witnesses under oath, and require the production of any books, papers, or other documentation deemed relevant to the investigation, inspection or hearing. Information obtained by OPWDD during an inspection or investigation must be kept confidential in accordance with the provisions of the Mental Hygiene Law and other applicable provisions of the law.

## **Routine Visitation of Family Care Homes**

### **Section 3.7**

Each Sponsoring Agency must provide routine oversight to its Family Care Homes (FCH) in accordance with Title 14 of the New York Codes, Rules and Regulations (NYCRR) applicable sections of Parts 624, 625, 633, 635, 636, and 687 as well as any relevant Administrative Directive Memorandums (ADM) as issued by the Office for People With Developmental Disabilities (OPWDD).

#### **Visitation by a Home Liaison**

A Family Care Home Liaison (HL) designated by the Sponsoring Agency must visit each FCH at least once per month to ensure that individuals receive services and safeguards in the home and community in accordance with their needs. The HL must complete a monthly summary of Residential Habilitation services in accordance with any applicable ADM and complete the *Form 239 Family Care Program Monthly Checklist* during the monthly visit.

#### **Visitation by a Registered Nurse**

A Registered Nurse (RN) designated by the Sponsoring Agency must visit each Family Care Home at least once every 90 days to ensure individuals receive appropriate services and treatment to address their health care needs. Nursing responsibilities, particularly those involving medication administration, are addressed in Sections 1.8 and 5.3 of the Family Care Manual.

#### **Visitation by a Safety and Security Officer**

Each FCH must have an annual Safety inspection completed by an OPWDD Safety and Security Officer (SSO) using the *Form 236 Family Care Home Evaluation and Survey*. Any identified deficiencies must be remedied in a timely manner.

#### **Required Visitation When No Individuals Live in the Family Care Home**

It is not necessary to complete a monthly visit to a FCH when there are no individuals receiving services in the home. However, the Sponsoring Agency must designate a staff member to visit the home once per year to review the home in accordance with applicable requirements using the *Form 238 Family Care Home Evaluation and Survey*. An additional visit must be completed before an individual is enrolled in the FCH to ensure that the Family Care Provider is adequately prepared to provide services to the new individual and the home continues to meet current safety standards.

## Recertification Requirements for Family Care Homes

### Section 3.8

The Commissioner of the Office for People With Developmental Disabilities (OPWDD) or their designee is responsible for recertifying all Family Care Homes (FCHs). The operating certificate for a FCH must be renewed prior to the expiration of the current operating certificate. Operating certificates may be issued for up to but no longer than three years.

Individuals may remain in a FCH only if there is a current and valid operating certificate or if there has been a timely and sufficient application for renewal of the operating certificate.

No operating certificate may be renewed by the Commissioner (or designee) unless all the requirements listed below are met.

#### Recertification of a Family Care Home

The Family Care Provider (FCP) must:

1. Complete all required trainings
2. Complete the *Reaffirmation Statement for Recertification*, or if there have been significant structural changes made to the home (i.e. renovations) or additions to the household composition since last certification, complete the *Initial Application for Family Care Home Certification*
3. Submit the physician's statement and the results of any medical testing required by the Sponsoring Agency's policy
4. Allow an OPWDD Safety & Security Officer into the home to complete a Fire and Safety inspection and cooperate with the Sponsoring Agency to remedy any issues found during this inspection
5. Allow Sponsoring Agency staff or designee to complete a comprehensive recertification review using the OPWDD approved review instrument and cooperate with the Sponsoring Agency to remedy any issues found during the review
6. Have a written Fire Evacuation Plan and documentation that fire drills were conducted on at least a monthly basis and at different times of the day and varied days of the week
7. Sign the NYS Justice Center *Code of Conduct Form*
8. Request the Sponsoring Agency to submit for background checks (Staff Exclusion List, Criminal History Background, and Statewide Central Register of Child Abuse and Maltreatment checks in accordance with 14 NYCRR subdivision 687.8(p), when any adult (other than an individual receiving family care services) moves into the home and when any child residing in the home turns 18 years old
9. Provide documentation of all pet vaccinations, dog licenses, well-water testing for private water sources, and annual furnace inspection
10. Make arrangements with assistance from the Sponsoring Agency, with other providers of services for the provision of health, habilitation, day services, education, employment, transportation or other services
11. Not have been convicted of a class A, B, or C Felony

#### Designated Family Care Staff Responsibilities

The Sponsoring Agency must work with the FCP to ensure that required recertification documents are submitted to the designated staff in the Developmental Disabilities State Operations Offices (DDSOO) prior to the expiration date listed on the current operating certificate. The recertification packets with required attachments should be submitted by at least the 15<sup>th</sup> of the month prior to the expiration date on the operating certificate. For example, if an operating certificate expires on March 30<sup>th</sup>, the recertification packet should be submitted to the DDSOO by February 15<sup>th</sup>. Any issues identified during the recertification process must be remedied. This is especially important for the required background checks and the fire and safety inspection.

Each Sponsoring Agency must have a process in place to track FCHs coming due for recertification so that at least three months in advance of the expiration of the operating certificate, the Sponsoring Agency is notifying the FCP of the recertification date and working with the FCP to ensure all required elements are completed. If there is an unexpected circumstance that prevents the recertification packet from being completed by the 15<sup>th</sup> of the month prior to expiration date on the operating certificate, the Sponsoring Agency must submit the application and all the documents that are complete to the designated DDSOO Family Care contact, with an explanation of what is outstanding and a plan for resolution. This may only occur in situations that are unexpected or unforeseen. For example, failure to obtain required training cannot be attributed to unexpected circumstances. This is something that is avoidable with proper planning by the Sponsoring Agency and FCP.

The Sponsoring Agency will use the *Family Care Home Recertification Checklist* to document the agency's completion of required recertification activities. The checklist must be completed by an agency representative other than the Family Care Home Liaison who conducts monthly visits. The Sponsoring Agency representative will confirm that the recertification review included at a minimum the following:

1. Verification that the FCP completed all required trainings
2. Verification that the FCP submitted a completed application form: either the *Reaffirmation Statement for Recertification* or if significant structural changes were made to the home (i.e. renovations) or if there were additions to the household composition since last certification, the *Initial Application for Family Care Home Certification*
3. Verification that the updated physician's statement indicated the FCP is in good health and emotionally and physically able to continue care for the individuals supported in the home
4. Verification that an OPWDD Safety and Security Officer completed an in-person review of the home using the OPWDD approved *Fire and Safety Inspection Form* and the home was found to be safe
5. Verification that a written Fire Evacuation Plan is in place that meets the needs of the individual(s) supported in the home
6. Verification that at a minimum six months of fire drill forms were reviewed to ensure completeness and adherence to policy
7. Verification that the NYS Justice Center *Code of Conduct Form* is signed and reviewed by the FCP annually
8. Verification that all required background checks were completed on any household member age 18 or older, if not previously completed (Staff Exclusion List, State Central Register of Child Abuse and Maltreatment, Justice Center Criminal Background Check)
9. Verification that Sponsoring Agency staff completed an in-home recertification visit using the OPWDD approved review instrument and any identified issues have been remedied
10. Verification that all incidents involving individuals in the home since the last certification date were reviewed (Note: A review is directed toward ensuring that all incidents were properly reported, investigated and reviewed and that appropriate protections were provided to individuals upon discovery and in response to the investigation and committee review recommendations)
11. Verification that all current plans (Staff Action Plans, Behavior Support Plans, Life Plans, Plans of Nursing Services etc.) were reviewed. (Note: A review is directed toward ensuring the plans were properly implemented and monitored, that they were appropriate for the individual's needs and that they are updated in accordance with changes in the individual's needs.)
12. Verification that all required consents and committee reviews were obtained for Behavior Support Plans including restrictive or intrusive interventions and for any use of medication to modify behavior or treat a psychiatric condition
13. Verification that health care services provided to an individual during the last year were reviewed. (Note: A review is directed towards ensuring the individual received all required and practitioner recommended health care services in a timely manner and that treatment, including medication, was provided as ordered)
14. Verification that at a minimum six months of the *Family Care Program Monthly Visit forms (Form 239)* were reviewed to ensure monthly visits were completed and any identified issues were remedied
15. Verification that a minimum of six months of Personal Allowance ledgers were reviewed and the Provider complied with Personal Allowance requirements

16. Verification that the FCP continues to have adequate financial resources to meet the needs of the individuals in the household
17. Verification that the FCP has not been convicted of a class A, B, or C felony

## Recertification of State Sponsored Family Care Homes

Designated State Sponsored staff must complete recertification activities in accordance with this policy. This includes completion of the OPWDD approved review instrument and the *Family Care Home Recertification Checklist*. The designated State Sponsored staff must work with the FCP to remedy any identified issues. Once all requirements are satisfied, the application and supporting documents must be sent to the designated contact for review and approval. The designated State Sponsored staff will review the recertification packet to ensure completeness and remedy of outstanding issues. Once internal reviews have occurred, the designee should sign the *DDSOO Family Care Attestation for Recertification Attestation* and forward it along with the packet to the DDSOO Director for a final review. If a recommendation is made by the DDSOO Director to support the recertification of the home, the DDSOO Director will sign the *DDSOO Family Care Attestation: Readiness for Recertification Attestation*. The attestation along with the required attachments must then be forwarded to the OPWDD Division of Quality Improvement for issuance of the operating certificate. Required attachments must include: Reaffirmation Statement or LS-22 Application, Recertification Checklist, copy of the OPWDD approved review instrument, copy of the OPWDD approved Fire and Safety inspection, and any statements of deficiencies and plans of corrective action associated with the recertification.

If a FCP is not willing to make changes necessary to support recertification or if there have been any issues or concerns about the care and treatment of the individuals in the home, the DDSOO Family Care team must discuss them, implement protections, and ensure these issues are addressed and remedied during the recertification process. During recertification or anytime during operation, the DDSOO Director and the Office of Counsel should be consulted if there are concerns or issues that may require the suspension or revocation of the operating certificate, as described in the Family Care Manual Section 3.11 Suspension and Revocation Actions on Family Care Operating Certificates.

## Recertification of Agency Sponsored Family Care Homes

It is required that Agency Sponsored Family Care staff and FCPs complete recertification reviews and activities in accordance with this policy. This includes completion of the required OPWDD approved Family Care review instrument and the *Family Care Home Recertification Checklist*. Once requirements are satisfied the agency Executive Director or an authorized designee must review and sign the *Affirmation of Recertification Actions*. It is expected that the recertification activities are completed prior to the expiration of the operating certificate to prevent lapses. The application with required attachments must be submitted by the 15<sup>th</sup> of the month prior to the expiration of the operating certificate. For example, if an operating certificate expires on March 30<sup>th</sup>, the recertification packet should be submitted to the DDSOO by February 15<sup>th</sup>.

The Sponsoring Agency must submit the following information to the DDSOO designated Family Care Staff for recertification:

1. Copy of the *Application for Family Care Home Initial Certification* or, if no significant household changes, the *Reaffirmation Statement for Recertification*
2. Verification of the Family Care Provider's address and Social Security number
3. Copy of the *Affirmation of Agency Sponsored Recertification Actions* with any plan of corrective actions
4. Copy of OPWDD approved review instrument completed by Sponsoring Agency Staff
5. Copy of the fire and safety inspection completed by OPWDD Safety and Security Officer
6. Copy of *Family Care Home Recertification Checklist* signed and verified by Sponsoring Agency Family Care Staff
7. Any statements of deficiencies and plans of corrective action issued as part of the recertification

DDSOO staff must ensure the documents listed above are included in the recertification packet. The DDSOO must confirm that the agency completed and signed the affirmation and recertification checklist which verify

reviews have occurred, any identified issues have been remedied, and the agency Executive Director or an authorized designee is supporting recertification of the home. Once these steps have been completed and verified the DDSOO staff will sign the *DDSOO Family Care Attestation: Readiness for Recertification Attestation* and forward the recertification packet to the DDSOO Director for review. If a recommendation is made by the DDSOO Director to support the recertification of the home, the Director will sign the attestation and submit it along with the attachments listed above to the OPWDD Division of Quality Improvement for issuance of the operating certificate.

If a FCP is not willing to make changes necessary to support recertification or if there have been any issues or concerns about the care and treatment of the individuals in the home, the Sponsoring Agency Family Care team must discuss them, implement protections, and ensure these issues are addressed and remedied during the recertification process. It is the responsibility of the Sponsoring Agency to inform the designated DDSOO Family Care contact if there are incidents or unsafe conditions in a Family Care Home that may warrant action against the operating certificate as described the Family Care Manual Section 3.11 Suspension and Revocation Actions on Family Care Operating Certificates. During recertification or anytime during operation, the DDSOO Director (or designee) and the Office of Counsel should be consulted if there are concerns or issues that may require the suspension or revocation of the operating certificate.

### **Survey Sample of Agency Sponsored Family Care**

During each review cycle the DDSOO will complete a comprehensive review of a sample of recertification packets submitted by Sponsoring Agencies. The sample will include at least one recertification packet from each Sponsoring Agency that has homes due for recertification. As part of this sample, the DDSOO staff will arrange a time to complete a file review at the Sponsoring Agency offices. During this review, the DDSOO will review records for at least one individual who resides in the FCH. If issues are identified during the review, the DDSOO reserves the right to broaden the sample.

## Family Care Substitute Provider Approval and Reapproval

### Section 3.9

A Family Care Substitute Provider is a person who is approved by a Sponsoring Agency to provide non-waiver respite services to individuals living in a Family Care Home (FCH) when a Family Care Provider (FCP) is temporarily not available to provide services. These respite services may be provided in a FCH certified by the Office for People With Developmental Disabilities (OPWDD), in the community, or in the Substitute Provider's own home (if use of that home is approved by an OPWDD Safety and Security Officer and the Developmental Disabilities State Operations Office (DDSOO) or Sponsoring Agency Director).

If a person is interested in becoming a Substitute Provider for the OPWDD Family Care program, the person should first reach out to a Sponsoring Agency. The Sponsoring Agency will arrange to meet with the interested person to provide an overview and identify agency expectations for Substitute Providers participating in the Family Care program.

#### Standard Requirements

All applicants must:

1. Be at least 18 years of age
2. Complete the *Form LS-22A Substitute Provider Application for Approval/Reapproval*
3. Have no history of a Class A, B, or C felony conviction
4. Enroll in the Department of Motor Vehicle's License Event Notification System (LENS) through the Sponsoring Agency (if the Substitute Provider will transport individuals in a personal vehicle)
5. Provide a physician's statement indicating the applicant is in good health and is emotionally and physically able to provide care to individuals receiving services
6. Read and sign the New York State Justice Center's *Code of Conduct Form*
7. Be cleared through the New York State Justice Center Staff Exclusion List (SEL) and Criminal Background Check (CBC), the Medicaid Exclusion List, and the State Central Register of Child Abuse and Maltreatment (SCR). These background checks must be submitted to the proper authority by the Sponsoring Agency
8. Receive all required initial training in accordance with the Family Care Manual and agency policy from the Sponsoring Agency

#### Additional Requirements for Applicants Interested in Providing Respite Services in Their Own Homes

1. An OPWDD Safety and Security Officer must conduct an inspection of the applicant's home using the *Form 236*. This includes but is not limited to:
  - a. The home must be equipped with a mixing valve or an anti-scald device on any faucet that will be routinely used by an individual receiving respite services to ensure the water temperature does not exceed 120 degrees Fahrenheit
  - b. The home must be equipped with smoke detectors, carbon monoxide detectors, and fire extinguishers as determined by the OPWDD Safety and Security Officer
2. Anyone age 18 or older, residing in the applicant's home, must be cleared through the Justice Center Staff Exclusion List (SEL) and Criminal Background Check (CBC), and the State Central Register of Child Abuse and Maltreatment (SCR)
3. The applicant must provide proof of all pet vaccinations and dog licenses, if applicable
4. The applicant must provide proof of well-water testing, if applicable

#### Approval Process for Substitute Providers

Sponsoring Agencies must establish procedures and designate staff responsible for the Substitute Provider review and approval process. Once an applicant is approved as a Substitute Provider, the DDSOO Director or designee (for State Sponsored Family Care) or Sponsoring Agency Director or designee (for Agency



Sponsored Family Care) must review and sign a *Family Care Substitute Provider Certificate of Approval*. This certificate must be maintained in the Substitute Provider's record at the Sponsoring Agency and a copy must be sent to the Substitute Provider.

Agency Sponsored Family Care (ASFC) programs must provide a copy of the certificate to the DDSOO Director or designee to serve as notification of the approval. The DDSOO will be responsible to forward a copy of both ASFC and State Sponsored Family Care (SSFC) Family Care Substitute Provider Certificate of Approvals to the OPWDD Division of Quality Improvement (DQI).

A *Family Care Substitute Provider Certificate of Approval* is valid for a maximum of three years and is not transferable to other persons or other locations.

### **Substitute Providers Providing Respite for Multiple Agencies**

If a Substitute Provider applicant is interested in providing respite services for more than one Sponsoring Agency, the applicant must apply separately to each Sponsoring Agency. Substitute Providers cannot be approved by one Sponsoring Agency to provide respite services for another Sponsoring Agency. Each Sponsoring Agency must obtain required background checks. A *Family Care Substitute Provider Certificate of Approval* must be issued by each Sponsoring Agency where the applicant wishes to provide respite services.

### **Provision of Substitute Provider Services**

The Sponsoring Agency must ensure that an approved Substitute Provider is given sufficient information to address the needs of the specific individuals receiving respite services.

Before a Substitute Provider provides respite services, the Sponsoring Agency must review with the Substitute Provider any information on the specific supports, supervision, and safeguards the individual needs. Documentation of this review must be maintained by the Sponsoring Agency. The review may include, but is not limited to:

1. Health care supports
2. Ready to Go Packet, including emergency contacts
3. Medication needs and documentation requirements
4. Nutritional and mealtime supports
5. Supervision and behavioral supports
6. Self-care, grooming, and hygiene supports
7. Management of personal allowance funds
8. Fire evacuation plan and the actions required during an evacuation
9. Other clinical information and specialized care identified by the Sponsoring Agency

### **Evacuation Plans and Fire Drills**

If a Substitute Provider is approved to provide respite services in their own home, a written Fire Evacuation Plan must be developed identifying evacuation routes and exits, location of the meeting area, and the Substitute Provider's responsibilities during an evacuation. The Substitute Provider must also implement and document a minimum of one fire drill evacuation using the *Family Care Home Fire Drill Evacuation Report Form* for each individual who receives respite services while at the Substitute Provider's home. Additional fire drills may be required at the discretion of the Sponsoring Agency.

If a Substitute Provider provides respite services in a certified FCH, the Substitute Provider must be knowledgeable of the home's Fire Evacuation Plan and the supports needed to evacuate all individuals safely to the designated meeting area. Substitute Providers are encouraged to participate in a minimum of one fire drill evacuation annually at each FCH in which the Substitute Provider provides respite services.

## Visitation and Documentation

When respite services are provided for an extended period of time, regardless of the location, a staff person from the Sponsoring Agency's Family Care program must visit the individual(s) to ensure their health and safety needs are being met. At least one visit must occur once respite services have been provided for five consecutive days. Thereafter, frequency of visits must be determined by the Sponsoring Agency based on the needs of the individual(s) receiving respite services.

## Reapproval of Substitute Providers

A Substitute Provider cannot provide services without a valid *Family Care Substitute Provider Certificate of Approval*. Certificates are valid for a maximum of three years. Prior to reapproval, the Sponsoring Agency must ensure that the Substitute Provider has:

1. Completed all required training
2. Obtained an updated physician's statement and other required medical information deemed necessary by the Sponsoring Agency
3. Signed the Justice Center *Code of Conduct Form*
4. Completed the *Form LS-22A Substitute Provider Application for Approval/Reapproval* if there have been any demographic changes (e.g., name change, address change, phone number change)

## Additional Requirements for Reapproval of Substitute Providers Using Their Own Home for Respite Services

1. An OPWDD Safety and Security Officer must conduct an inspection of the home using the *Form 236* to verify that the home continues to meet the standards of the OPWDD Fire and Safety Inspection
2. A written Fire Evacuation Plan continues to be in place for the home, identifying evacuation routes and exits, location of meeting area, and the Substitute Provider's responsibilities during an evacuation
3. Anyone age 18 or older, residing in the Substitute Providers' home, has been cleared through the Justice Center Staff Exclusion List (SEL) and Criminal Background Check (CBC) and the State Central Register of Child Abuse and Maltreatment (SCR)
4. Substitute Provider has provided proof of all pet vaccinations, dog licenses, and well-water testing, if applicable

Once the Substitute Provider is reapproved, the Sponsoring Agency will issue an updated *Family Care Substitute Provider Certificate of Approval* to the Substitute Provider. Agency Sponsored Family Care (ASFC) programs must provide a copy of the certificate to the Developmental Disabilities State Operations Office (DDSOO) Director or designee to serve as notification of the approval. The DDSOO must forward a copy of all reapprovals, for both ASFC and SSFC, to DQI.

## Denial of a Family Care Substitute Provider Certificate of Approval

If an applicant or Substitute Provider is denied a *Family Care Substitute Provider Certificate of Approval*, the Sponsoring Agency will inform the applicant or Substitute Provider in writing using the Sponsoring Agency's letterhead. The reason for the denial must be included in the letter along with recommendations for remediation to be considered, if remediation is possible. The Sponsoring Agency must maintain a copy of the denial letter with the applicant's file.

If the applicant or Substitute Provider addresses the issues identified and provides documentation to support the claim, the Sponsoring Agency may resume the approval or reapproval process.

## Amendments to Family Care Operating Certificates

### Section 3.10

Although an Office for People With Developmental Disabilities (OPWDD) Family Care Home (FCH) operating certificate is not transferable to other people or other locations, certain changes can be made by amendment. Any request to amend a Family Care operating certificate must be reviewed by the Developmental Disabilities State Operations Office's (DDSOO) Family Care Coordinator (FCC) or designee.

For all amendments, the DDSOO FCC or designee must complete the *Family Care Certification Request Form* and forward it to the Division of Quality Improvement (DQI). DQI will issue an amended operating certificate to the Family Care Provider (FCP) and the Sponsoring Agency.

Circumstances that will require an amendment to the operating certificate include:

1. Increase in capacity
2. Decrease in capacity
3. Addition or removal of a Co-Provider
4. Other demographic change

#### Increase in Capacity

A FCP must submit a written request to increase the capacity of the FCH to the Sponsoring Agency's FCC for their review. An OPWDD Safety and Security Officer (SSO) must visit the home to evaluate whether the space meets required standards as outlined in the Family Care Manual Section 2.1 Requirements for Design, Space, and Equipment in Family Care Homes. The SSO will complete a *Request for Family Care Increased Capacity Form* and submit the results to the FCC.

The Sponsoring Agency's FCC must review the increase in capacity request and the results of the SSO's evaluation, taking into account the competence, performance history, and quality of the FCP's service. Agency Sponsored Family Care FCCs must submit the provider's request to increase the capacity of the FCH and the SSO's evaluation to the DDSOO FCC or designee for review.

The DDSOO FCC or designee will submit the SSO *Request for Family Care Increased Capacity Form* and the *Family Care Certification Request Form* to the DDSOO Director or designee for approval and signature.

An individual cannot move into a Family Care Home until the increase in capacity has been approved by the DDSOO Director (or designee) and certified by DQI. However, if there is an emergency situation and the increased capacity is needed prior to issuance of an updated operating certificate, the DDSOO Director may authorize the move once the *Family Care Certification Request Form* has been submitted and all other requirements met.

An increase in capacity of a FCH that results in a certified capacity of more than four individuals requires the support of the DDSOO Director and the approval of the Associate Deputy Commissioner of OPWDD's State Operations Office.

#### Decrease in Capacity

A FCP may request a decrease in the capacity of the FCH for a variety of reasons. A written request must be submitted to the Sponsoring Agency's FCC indicating the reason for the decrease. If the request to decrease the capacity will result in an individual needing to move out of the FCH, a minimum of 60 days' notice is required to ensure the individual is able to be relocated to an alternate residential setting that will continue to meet the individual's needs.

## Addition or Removal of a Co-Provider

A FCH can have up to two FCPs listed on the operating certificate. If an adult residing in the Family Care Home would like to be added to the operating certificate, a request must be submitted in writing to the Sponsoring Agency FCC. The potential Co-Provider must meet all standard requirements in accordance with the Family Care Manual Section 3.3 Family Care Home Initial Certification Requirements. The Sponsoring Agency is responsible to check the Medicaid Exclusion List for the prospective Co-Provider and ensure other background checks and all required training are completed, including training on the specific supports, supervision, and safeguards individuals in the FCH need. A prospective Co-Provider cannot provide any billable services to any individuals living in the home until the DDSOO Director approves and DQI issues an amended operating certificate to the FCP and Sponsoring Agency.

If a Co-Provider wants to be removed from the operating certificate, they must submit a request in writing to the Sponsoring Agency FCC. A Co-Provider will no longer be able to provide any Family Care billable services (e.g., residential habilitation) on or after the effective date of the amendment.

## Other Demographic Changes

Other demographic changes to an operating certificate that can be made by amendment are limited to:

1. A change in the legal name of the FCP or Co-Provider
2. A change in the FCH address due to changes made by the county or locality (e.g., a street is renamed, or homes are renumbered)

A request for a demographic change must be submitted in writing to the Sponsoring Agency FCC for the review as soon as possible after the change occurs. Proof of the demographic change may be required.

**NOTE:** A change in address resulting from a move to a new location (even if the move is in the same community, apartment building, or street) will require a new operating certificate and the FCP must follow the process for an initial certification in accordance with Section 3.3 of the Family Care Manual.

## Suspension and Revocation Actions on Family Care Operating Certificates

### Section 3.11

The processes below are described in Mental Hygiene Law (MHL) section 16.17 and applicable regulations of the Commissioner, found at Title 14 New York Codes, Rules, and Regulations (NY-CRR) sections 687.5, 602.2, and 602.5. The processes in this section apply to both State Sponsored and Agency Sponsored Family Care.

#### The Commissioner of the Office for People With Developmental Disabilities (OPWDD) or their designee may:

1. For State Sponsored and Agency Sponsored Family Care, suspend a Family Care Home (FCH) operating certificate on an emergency basis without notice and an opportunity to be heard, if there is reason to believe that the health and/or safety of an individual receiving services is in imminent danger
  - a. The Family Care Provider (FCP) may subsequently appeal this action
2. For State Sponsored and Agency Sponsored Family Care, revoke an operating certificate or suspend it and/or impose a limitation or fine of up to \$1000, upon a determination that the FCP has failed to comply with the terms of the operating certificate or with any applicable law or regulation governing FCHs
  - a. OPWDD must give the FCP notice of the intent to take such action which includes the opportunity to request a hearing to appeal the determination

#### Quality Assurance of Family Care Homes

Each Developmental Disabilities State Operations Office (DDSOO) has designated staff who investigate allegations of neglect and abuse of individuals receiving services in State Sponsored FCHs and Safety and Security Officers who ensure the home is safe. In the event of an allegation of abuse/neglect or unsafe conditions in a State Sponsored FCH, the designated DDSOO staff and/or the Safety and Security Officer conduct an initial review to assess the health and safety of all individuals receiving services in the home.

In the event of an allegation of abuse/neglect or unsafe conditions in Agency Sponsored Family Care (ASFC) homes, the Sponsoring Agency conducts the initial review to assess the health and safety of all individuals receiving services in the Family Care Home. It is the responsibility of the Sponsoring Agency to inform the designated DDSOO Family Care contact if there are incidents or unsafe conditions in a FCH that may warrant action against the operating certificate as described in this section. The Sponsoring Agency must provide the DDSOO all requested information necessary to make determinations about whether suspension, revocation, or other actions are needed.

All reports of abuse, neglect and other incidents, occurrences, events, and situations must be reported, investigated, reviewed and monitored in accordance with the provisions of Article 11 of New York Social Services Law and OPWDD regulations at Title 14 NYCRR Parts 624 and 625.

Reports of abuse and neglect in State Sponsored and Agency Sponsored FCHs may be investigated by the NYS Justice Center or the Justice Center may delegate responsibility for the investigation to the DDSOO or the Sponsoring Agency. Reports of abuse or neglect in State Sponsored Family Care may be investigated by the OPWDD Office of Investigations and Internal Affairs if the Justice Center does not assume responsibility for the investigation.

In all abuse and neglect cases, an incident is not considered closed until the Justice Center provides the DDSOO or Sponsoring Agency written notice that it approves the investigation or if the Justice Center is conducting the investigation notice they have completed their investigation.

Upon the preliminary report of health or safety issues affecting individuals receiving services or any time thereafter, the Director of the applicable DDSOO, as designee of the Commissioner, may decide that action should be taken on an emergency basis to suspend, or on a non-emergency basis, to temporarily or permanently limit, suspend, and/or revoke the FCH operating certificate for State Sponsored and Agency Sponsored FCP.

### **Temporary Emergency Suspension of Operating Certificate**

Upon a determination that there is reasonable cause to believe that the health and safety of an individual receiving Family Care services is in imminent danger, the DDSOO Director may suspend a FCH operating certificate on an emergency basis for up to 60 days.

1. Prior to issuing a Notice of Emergency Temporary Suspension, the designated DDSOO staff must contact the attorney in Counsel's Office, Bureau of Service Delivery, Provider Compliance and Fair Hearing to discuss the reason for the proposed temporary suspension
2. If time does not permit contact with Counsel's Office, the DDSOO Director in consultation with key staff, should use professional judgment and if needed remove the individual(s) from the FCH and suspend the operating certificate to prevent imminent danger to the health or safety of the individual(s). In such cases, the designated DDSOO staff must provide notice to Counsel's Office of the temporary suspension as soon thereafter as possible
3. DDSOO serves the FCP with a Notice of Emergency Temporary Suspension of the FCH operating certificate, by hand delivery or by certified mail (return receipt requested), and by regular mail. The DDSOO must ensure the Sponsoring Agency is aware of and copied on the Notice
4. The Emergency Temporary Suspension is effective immediately upon service and lasts up to 60 days. The date of service is the date that the Notice was hand delivered to the FCP; or the date the Notice was accepted, if sent by certified mail, return receipt requested and return receipt is signed; or the fifth day after mailing the Notice by ordinary mail to the FCP
5. Upon issuance of the Notice of Emergency Temporary Suspension, the DDSOO may act to prohibit, limit or suspend placement of individuals in the FCH, and/or limit/suspend payment to the FCP
6. An emergency temporary suspension is limited to 60 days and the law permits no extension
7. Copies of any formal notifications that are sent to a FCP must also be forwarded to OPWDD's Office of Counsel, Bureau of Service Delivery, Provider Compliance and Fair Hearings
8. A copy of the Notice must be sent to the Division of Quality Improvement within one business day by emailing: [opwdd.sm.family.care.review@opwdd.ny.gov](mailto:opwdd.sm.family.care.review@opwdd.ny.gov)

### **Hearing Process for Emergency Temporary Suspension**

The Notice of Emergency Temporary Suspension served on the FCP includes notice of the right to a hearing.

If the FCP wants a hearing, the Provider must:

1. Send a request for a hearing in writing to OPWDD's General Counsel and a copy to the DDSOO Director who issued the Notice of Emergency Temporary Suspension
2. This must be done within 10 days of the date of service of the Notice of Temporary Suspension
3. Request for a hearing must include a copy of OPWDD's Notice of Emergency Temporary Suspension

When a hearing is requested, Counsel's Office will schedule a hearing within 10 days of the date of service of the FCP's hearing request, unless the FCP requests or agrees to a later date.

The Commissioner will issue a decision within approximately 10 days of receipt of the hearing officer's report. The standard of review for such hearings is whether, at the time the temporary suspension, there was reasonable cause to believe that the health or safety of a person receiving services was in imminent danger. The DDSOO does not need to prove that the health or safety of the service recipient(s) was in jeopardy or that the alleged neglect or abuse occurred to prevail on a determination to temporarily suspend an operating certificate.

## Notice of Reinstatement or Notice of Intent to Revoke

Within 60 days of the Notice of Emergency Temporary Suspension being served, the DDSOO Director must serve the FCP either a Notice of Reinstatement, which will reinstate the operating certificate or a Notice of Intent to Revoke. Where there are matters that will not be resolved within 60 days, the DDSOO Director must determine in consultation with Counsel's Office, from the overall circumstances whether to reinstate or revoke the operating certificate.

Notice of Reinstatement, which will reinstate the operating certificate:

1. Decisions to reinstate a FCH operating certificate may occur if the information gathered during an investigation does not support the existence of imminent risk of harm to health or safety, and/or does not indicate any other reason for revocation
2. Notice of Reinstatement may be served in the same way as the Emergency Temporary Suspension. The DDSOO must ensure the Sponsoring Agency is aware of and copied on the notice
3. A determination to reinstate an operating certificate does not preclude future revocation based upon the outcome of any unresolved or new matters
4. Copies of any formal notifications that are sent to a FCP must also be forwarded to the Office of Counsel Bureau of Service Delivery Provider Compliance and Fair Hearings
5. A copy of the Notice must be sent to the Division of Quality Improvement within one business day by emailing: [opwdd.sm.family.care.review@opwdd.ny.gov](mailto:opwdd.sm.family.care.review@opwdd.ny.gov)

Notice of Intent to Revoke: With or without an Emergency Temporary Suspension, the Commissioner or her/his Designee may permanently revoke an FCH operating certificate based upon the FCP's failure to comply with the terms of the operating certificate or any applicable law or regulation.

Notice of Intent to Revoke may be served in the same way as the Emergency Temporary Suspension. The DDSOO must ensure the Sponsoring Agency is aware of and copied on the notice.

1. If the Notice of Intent to Revoke is served within 60 days of the date of service of a Notice of Emergency Temporary Suspension the temporary suspension continues until the operating certificate is revoked
2. The revocation is final unless the FCP sends a request for a hearing in writing to the Commissioner within 30 days of the service of the Notice of Intent to Revoke. The request must include a copy of OPWDD's Notice of Intent to Revoke, a declaration of the issues alleged to be involved, and documentation of the FCP's position as to each identified issue
3. If the Family Care Provider does not request an appeal within the 30 days as outlined above, the DDSOO Director should sign a Notice of Revocation and have it hand-delivered to the Family Care Provider or have it sent by certified mail, return receipt requested and by regular mail
4. Copies of any formal notifications that are sent to a FCP must also be forwarded to the Office of Counsel Bureau of Service Delivery Provider Compliance and Fair Hearings
5. A copy of the Notice must be sent to the Division of Quality Improvement within one business day by emailing: [opwdd.sm.family.care.review@opwdd.ny.gov](mailto:opwdd.sm.family.care.review@opwdd.ny.gov)

## Hearing Process for Revocation

The Notice of Intent to Revoke served on the FCP includes notice of the right to a hearing. If the FCP wants a hearing, the Provider must:

1. Send a written request for a hearing to the Commissioner within 30 days of the service of the notice
2. The request must include a copy of OPWDD's Notice of Intent to Revoke, a declaration of the issues alleged to be involved, and documentation of the FCP's position as to each identified issue

If the FCP makes a valid request for a hearing, revocation of the operating certificate will not be final until after a hearing and the Commissioner's determination.

When an FCP appeals a revocation notice, a Notice of Hearing and Statement of Issues is drafted by Counsel's Office and is served on the parties at least 10 days prior to any scheduled hearing date.

At the hearing, OPWDD must present evidence that the FCP failed to operate the FCH in compliance with the terms of the operating certificate or any relevant laws/regulations.

## **Notice of Suspension**

A DDSOO Director, acting as the Commissioner's designee, may decide to suspend a FCH operating certificate in accordance with Mental Hygiene Law 16.17(a) upon determination that the holder of the certificate has failed to comply with the terms of its operating certificate or with applicable statute, rule, or regulation. This is distinguished from an emergency temporary suspension discussed above. Typically, a suspension under MHL 16.17(a) is for correctable physical plant or program deficiencies. For example, the FCP may need retraining or may need to make repairs to the home or premises. The DDSOO Director must sign a Notice of Intent to Suspend and either have it served on the FCP by hand delivery or have it sent by certified mail, return receipt requested, and by regular mail to the FCP. Note that a suspension pursuant to MHL 16.17(a) cannot be used to extend an Emergency Temporary Suspension. There must be a separate basis for the suspension, such as those correctable circumstances noted above. If the FCP does not request an appeal within the 30 days as outlined above, the DDSOO Director should sign a Notice of Suspension and have it hand-delivered to the FCP or have it sent by certified mail, return receipt requested and by regular mail.

## **Notice of Reinstatement or Revocation after Suspension**

If the circumstances that led to the suspension are resolved, the DDSOO Director may issue a Notice of Reinstatement to the FCP. If the issues are unable to be remedied and there is reason to pursue a revocation, the Director in consultation with the Office of Counsel may, decide to permanently revoke the operating certificate and issue a Notice of Intent to Revoke. These notices are issued as previously described in this section and the FCP may appeal the Notice of Intent to Revoke as described above.

## **Hearing Process for Suspensions**

Following the issuance of a Notice of Intent to Suspend, suspension of the operating certificate is implemented unless the FCP sends a request for a hearing to the General Counsel and the DDSOO Director within 30 days of service of the Notice. The FCP request for a hearing must be in writing and must include a copy of OPWDD's Notice of Intent to Suspend. The FCP request also must include a declaration of the issues alleged to be involved and documentation of the FCP position as to each identified issue. If the FCP makes a valid request for a hearing, suspension of the operating certificate will not be implemented until after a hearing and the hearing officer's determination.

When a FCP appeals a suspension notice, a Notice of Hearing and Statement of Issues is served on the parties at least 10 days prior to any scheduled hearing date.

At the hearing, OPWDD must present evidence that the provider failed to operate the family care home in compliance with the terms of the operating certificate or any relevant laws or regulations.

If a suspension becomes final, the Director must sign a Notice of Suspension and have it hand-delivered to the FCP or have it sent by certified mail, return receipt requested and by regular mail.

## **Limitations or Fine**

There may be circumstances when the DDSOO Director may decide to limit a FCH operating certificate (such as permitting only one individual to reside in the home) rather than revoke it. The DDSOO Director may



also decide to fine a FCP up to \$1000 a day or \$15,000 per violation. Such decisions should be discussed with the Office of Counsel prior to issuing a notice of a limitation or fine. A FCP may appeal and request a hearing in response to these notices.



## **Section 4: Provider Payments and Individual's Benefits**

## Provider Service and Reimbursement Payments

### Section 4.1

#### Difficulty of Care Payments

Family Care Providers (FCP) are eligible to receive a monthly payment based on the support needs of the individuals in their homes. These payments are funded through Residential Habilitation under the Home and Community Based Services (HCBS) waiver and are called Difficulty of Care (DOC) payments.

#### 22 Day Payment Rule

The DOC payment is a monthly payment calculated on daily services. A FCP is entitled to a full month's payment if the individual is permanently enrolled in the certified Family Care Home (FCH) for at least 22 days and the FCP delivers and documents Residential Habilitation services to that individual based on the Staff Action Plan.

If the FCP delivers and documents 22 days of Residential Habilitation services during the month, a full month's DOC payment will be made to the FCP.

If the FCP delivers and documents less than 22 days of Residential Habilitation services during the month, the DOC payment will be prorated. The prorated payment is based on the number of days that the individual received Residential Habilitation services from the FCP.

If an individual moves permanently to another FCH during the month, the DOC payment is prorated for the number of days Residential Habilitation services are provided by the FCPs. The new FCP is paid for the day of admission.

#### Room and Board Payments

Room and board payments are funded through various sources including the individual's Supplemental Security Income (SSI), wages, or other benefits. FCPs are eligible to receive payment for all individuals living in the home receiving Residential Habilitation services regardless of the individual's eligibility for HCBS Waiver or Medicaid services.

Individuals enrolled in Family Care are required to apply for and maintain Medicaid and HCBS waiver enrollment, as outlined in Title 14 New York Codes, Rules and Regulations Subpart 635-12. Individuals who choose not to do so are responsible for the cost of their Residential Habilitation services as well as any other services they may receive that are covered by liability regulations.

If an individual moves permanently to another FCH during the month, the room and board payment is prorated for the number of days the individual was living in the FCH. The new FCP is paid for the day of admission.

If an individual living in Family Care passes away, the FCP may retain the unspent portion of the room and board funds that have been paid on behalf of that individual. The Sponsoring Agency may require documentation of costs incurred by the FCP for the individual's care that month. If an individual passes away before the Sponsoring Agency issues the room and board payment, the payment may be prorated for the actual number of days the individual spent in the FCH.

#### Return of Unspent Funds

The FCP must return any unspent funds from the clothing allowance or Supplemental Nutrition Assistance Program (SNAP) to the Sponsoring Agency as determined by the Home Liaison and the Business Office (for

Agency Sponsored Family Care) or by the Revenue Support Field Office (RSFO) for State Sponsored Family Care.

If an individual relocates to another FCH, any unspent funds must be transferred with the individual to the new FCH. The Sponsoring Agency is responsible for ensuring that the individual's funds are collected and provided to the appropriate party.

The FCP must return any unspent portion of the personal allowance funds to the Sponsoring Agency, unless the FCP can validate those purchases with receipts and notations in the personal allowance ledger.

## Transportation Reimbursement

### Section 4.2

#### Transportation to Medicaid Billable Programs and Services

Family Care Providers (FCP) and Substitute Providers may be reimbursed by their Sponsoring Agency for transportation expenses when taking an individual receiving Family Care services to a Medicaid billable program or service (e.g., doctor, clinic, etc). Mileage can be claimed for transporting an individual to one of these locations and for the return trip home after dropping off the individual. Mileage associated with the provider's return trip back to pick up the individual is also reimbursable.

1. Providers are reimbursed for transporting individuals to the following locations:
  - a. Medical Services (included but not limited to):
    - i. Physician's services
    - ii. Inpatient and outpatient hospital care
    - iii. Clinic services
    - iv. Dental services
    - v. Physical or occupational therapy sessions
    - vi. Eye care
    - vii. Speech Pathology and or Audiology services
    - viii. Trips to the pharmacy
  - b. Day Programs (only if transportation is not included in the day service rate):
    - i. Day treatment services
    - ii. Day Habilitation and other waiver services
    - iii. Other Medicaid day services (i.e. Medicaid funded adult medical day care, Office of Mental Health Continuing Day Treatment)
2. Mileage to and from a hospital may be claimed when:
  - a. The individual is admitted to or discharged from the hospital
  - b. The individual is to receive a service as an outpatient
  - c. The individual is in the hospital and the doctor has requested the provider's presence at the hospital
  - d. It is necessary to go to the hospital to consult with the hospital staff about the individual's medical care and services.

**NOTE:** A social visit to the hospital to see the individual is not reimbursable transportation.
3. Travel expenses other than mileage are reimbursable including the cost of tolls and parking. The number of individuals transported in the vehicle is not a factor in reimbursement.
4. The use of a taxi may be approved by the Family Care Coordinator or designee under certain exceptional circumstances. Dated receipts must be attached to the claim form. The circumstances include:
  - a. The provider does not have access to a vehicle at the time the trip needs to be made;
  - b. There is no transportation provided by the program or service that the Family Care individual is attending; or
  - c. No other mode of transportation is available that is suitable for the individual's use.
5. Claims for mileage reimbursement, tolls, and/or parking will be processed and paid only when the appropriate Office for People With Developmental Disabilities (OPWDD) form is completed in accordance with OPWDD requirements. Mileage reimbursement will be made at the approved rate at the time the trip was made.

#### Transportation to Routine Activities

It is expected that each FCP will include the individual(s) living in the home in the typical activities of a family/household. Reimbursement is, therefore, not available for routine shopping outings or recreational activities such as bowling, movies, museums, restaurants, or visiting friends and family of the FCP.

## **Transportation to Activities in the Service Plans**

Reimbursement is available when individual(s) must be transported to activities identified in their Life Plan or the Staff Action Plan. For example, if the service plan indicates the individual wants to learn to swim, transportation to and from swimming lessons would be reimbursable. The plans must specifically state what the activity is in order for it to be reimbursable. The FCP, Family Care Home Liaison, and Care Manager must reach an understanding as to the activities that are eligible for reimbursement.

## Requesting Reimbursement for Damages

### Section 4.3

In accordance with Title 14 New York Codes, Rules and Regulations Section 635-9.1, a Sponsoring Agency is responsible for the cost of damage caused by an individual living in a Family Care Home (FCH) other than the portion of the expense:

1. Covered by insurance, or
2. Received from the individual as part of a meaningful restitution process as described in the OPWDD Personal Allowance Manual (Section IV, j.)

If personal or real property at the FCH is damaged by an individual living in the home, the Sponsoring Agency must be notified of the damage on the day the damage occurred or, if damage occurred during the weekend or holiday, notification must be made on the next business day.

Each Agency Sponsored Family Care (ASFC) program should outline a process that determines how damage claims are verified, reviewed, approved, and reimbursed. Family Care Providers should ensure they are following their Sponsoring Agency process and have received approval prior to purchasing replacement items. If the damage was caused by the individual's actions, the Sponsoring Agency should seek to address the individual's challenging behavior.

## **Home Size Differential (Respite Supplement)**

### **Section 4.4**

Family Care Providers (FCP) receive a home size differential payment based on the number of individuals living in the home on permanent status. These funds are to be used to pay for respite services so the FCP may take necessary breaks from providing routine care to the individuals residing in their Family Care Home.

#### **State Sponsored Family Care**

State Sponsored FCPs will receive a semi-annual payment, typically included in the Difficulty of Care payment that is distributed in March and October.

If an FCP receives a payment for an individual who subsequently leaves the home, the Developmental Disabilities State Operations Office (DDSOO) will not ask for the return of any portion of the payment. However, if an individual moves into the home after the home size differential payment has been made, the FCP will not be eligible for payment until the next scheduled home size differential payment.

#### **Agency Sponsored Family Care**

Agency Sponsored Family Care programs may choose to make these payments to providers monthly or semi-annually.



## Payment for Respite or “Sitter Services”

### Section 4.5

There may be situations when a Family Care Provider (FCP) needs either short term or ongoing respite services from an approved Substitute Provider for reasons other than routine respite needs. These are commonly referred to as “sitter services.”

Situations when a FCP may request sitter services might include, but are not limited to:

1. An individual does not attend day services, attends less than full-time, or there is a gap between the time the individual returns from day services and the FCP returns home from their place of employment
2. The Sponsoring Agency requests the FCP to visit or attend to the needs of an individual who is hospitalized and the individuals remaining at the FCH require supervision and support

Each Sponsoring Agency should have a procedure in place to approve and track requests for sitter services. Requests for sitter services must be submitted to the Sponsoring Agency. The cost of sitter services are paid for by the Sponsoring Agency and are not an entitlement to the FCP. The services and payments are intended to be worked out in an arrangement between the Sponsoring Agency and FCP.

Sitter services may be authorized for up to 60 hours per month at the discretion of the Sponsoring Agency. A FCP may request more hours (up to an additional 30 hours per month) if they are caring for an individual who does not attend day program.

Payment for sitter services cannot be made to the FCP’s spouse or significant other.

## Emergency Respite Services

### Section 4.6

There may be times when a Family Care Provider (FCP) needs time-limited emergency respite services due to unexpected circumstances, including but not limited to:

1. Death of a co-provider or a death in the immediate family of the FCP
2. Serious illness or injury to the FCP or to a member of the FCP's immediate family
3. Emotional instability or severe stress of the FCP
4. Serious illness or injury to an individual who resides in the Family Care Home (FCH)
5. Behavioral or medical concerns with the individual or an individual's discharge from a hospital

The Sponsoring Agency has primary responsibility to identify and fund a plan to support the FCP and individuals during short-term emergency situations. The Sponsoring Agency should establish a plan for how it will handle emergencies within the Family Care program to ensure continuity of care. The Sponsoring Agency should identify current vacancies and Family Care Substitute Providers or natural supports the individual may have. If after extensive efforts by the Sponsoring Agency, no immediate safe plan is identified and an emergency exists, the Sponsoring Agency should work with the Care Manager, local Developmental Disabilities State Operations Office (DDSOO), and the Certified Residential Opportunities contact person at the Developmental Disabilities Regional Office (DDRO) to identify a plan.

If an individual requires more than five days of emergency respite within a thirty-day period, it is the responsibility of the Family Care Home Liaison (HL) to review the situation with the Family Care Coordinator (or designee) and the Care Manager, where applicable, before the Sponsoring Agency's Director authorizes funding for additional emergency respite. The purpose of this review is to determine if additional emergency respite is in the best interest of the individual and to determine if emergency respite services will be discontinued in a reasonable period of time. There should be a discussion about whether the circumstances require a time limited or permanent move to another setting, such as admission to another FCH, Individualized Residential Alternative (IRA), or other options available to the individual.

The Sponsoring Agency must verify that the Substitute Provider meets all requirements in accordance with Section 3.9 of the Family Care Manual. The Sponsoring Agency must also ensure that the Substitute Provider has received all required training including information on individual specific service plans and safeguards to safely support the individual during the respite stay.

### Visitation During Emergency Respite

At least one visit must be made by Sponsoring Agency Family Care staff (e.g., the HL or Registered Nurse) once respite services have been provided for five consecutive days by a Substitute Provider. Thereafter, frequency of visits should be determined by the team based on the needs of the individual(s) receiving respite services.

If the individual is receiving emergency respite in a community residence or IRA, then the individual will receive at minimum, a monthly face to face visit by the HL. The Sponsoring Agency must ensure that the staff have the training and service plans/safeguards they need to safely support the individual during the respite stay. Billing for IRA respite or IRA Residential Habilitation cannot occur for an individual who is permanently enrolled in a Family Care program.

### Reimbursement to Substitute Providers Who Provide Emergency Respite

The Sponsoring Agency has the primary responsibility to fund short-term emergency respite services provided by Substitute Providers.

The HL should provide written justification with documentation to the Family Care Coordinator (or designee) with a copy provided to the Care Manager, summarizing the circumstance requiring emergency respite,

including the projected cost and the amount of time required. It is the Sponsoring Agency's decision to determine the rate of reimbursement. The Substitute Provider must be informed of the rate of reimbursement prior to starting the service.

## Respite for Education and Training

### Section 4.7

A Family Care Provider (FCP) may request respite services when attending training required by the Sponsoring Agency or when attending workshops, seminars, conferences, or other training opportunities applicable to the services they provide. The Sponsoring Agency should make every effort to provide required trainings at times that are convenient for the FCP. If a required training is provided at a time when the FCP must provide care for the individual(s) in their Family Care Home, payment for respite services should be paid by the Sponsoring Agency. The home size differential should not be used to pay for respite services while a FCP attends required trainings.

Arrangements for optional trainings that a FCP chooses to attend are to be worked out between the Sponsoring Agency and FCP. Requests for optional training are not entitlements and are at the discretion of the Sponsoring Agency.

An FCP may receive educational respite services from an approved Substitute Provider under the following circumstances:

1. The FCP needs training for recertification
2. The training is a new requirement by the Office for People With Developmental Disabilities (OPWDD)
3. The training meets the needs of the individual(s)
4. The training cannot be provided during a time when the individual is at work, day program, or have other supervision available to meet their needs
5. The training is preapproved by the Family Care Coordinator or designee

## Overview of Benefits and Entitlements

### Section 4.8

Supplemental Security Income (SSI), Medicaid, and Supplemental Nutritional Assistance Program (SNAP) are the primary benefits received by most individuals residing in Family Care. Other forms of support may include Social Security Disability Insurance (SSDI), Veterans Administration benefits, and Medicare, however, these benefits are dependent upon each person's needs and circumstances. Not all individuals are entitled to all benefits. Designated staff at the Sponsoring Agency can assist with the application process to determine if an individual is eligible for these additional benefits.

#### Representative Payee

A Representative payee is a person or organization appointed by the Social Security Administration (SSA) to receive an individual's SSI or SSDI payments when the individual is not capable of handling the payments themselves. OPWDD regulations addressing the designation and role of a representative payee for individuals residing in OPWDD certified residential programs, including Family Care Homes, are in Title 14 of the New York Codes, Rules and Regulations Section 633.9.

Due to inherent conflicts of interest, it is recommended that a FCP not serve as a representative payee for an individual residing in their FCH. There are several management and reporting responsibilities that the SSA requires of representative payees for the individual's benefits to be maintained. Sponsoring Agencies can provide the representative payee service free of charge.

#### Supplemental Security Income (SSI)

Supplemental Security Income (SSI) is a federal program designed to help people who are aged or blind and people with disabilities who have little or no income. SSI provides a monthly payment to the individual to assist with meeting basic needs for food, clothing, and shelter. Room and board payments to Family Care Providers (FCPs) are often derived from SSI funds.

If an individual does not have SSI prior to being enrolled in Family Care, the Care Manager should assist the individual in applying for that benefit. The effective date of the SSI payment is the first day of the month following the application date. When retroactive benefits are paid, it is not possible to reimburse for the partial month of the Family Care placement.

#### Medicaid

Residential Habilitation services provided as part of the Family Care program are billed to Medicaid. The Sponsoring Agency must assist individuals to apply for Medicaid benefits if they are not eligible for SSI. Individuals authorized to receive SSI are automatically enrolled in Medicaid.

The Office for People With Developmental Disabilities (OPWDD) Revenue Support Field Office (RSFO) acts as Medicaid District 98 and is the district of fiscal responsibility for all State and Agency Sponsored Family Care Medicaid cases. The local RSFO must be contacted with any questions or concerns about an individual's Medicaid case.

#### Supplemental Nutrition Assistance Program (SNAP) benefits

SNAP (formerly known as food stamps) helps low-income individuals buy the food they need for good health. SNAP benefits are provided on an electronic card that operates like a debit card to buy food at most grocery stores.

Depending on the individual's income and assets, an individual residing in a FCH may be eligible for SNAP. If an individual does not have SNAP benefits upon enrollment in a Family Care program, the individual's care manager may assist with an application for SNAP benefits.

In many cases, where individuals living in Family Care receive SNAP benefits, the FCP will receive an Authorized Representative Card that will have the FCP's name and the name of the individual on it. A Personal Identification Number (PIN) will be mailed separately. The FCP may call the customer service number to change the PIN, as needed. Some Developmental Disabilities State Operations Offices (DDSOO) Business Offices may be also able to assist with this. The card must be kept in a secure location and the PIN should not be shared. In some cases where an individual is capable of managing the SNAP benefits, the individual may receive and maintain the benefit card and PIN number.

The FCP is only allowed to use a prorated amount of the SNAP benefit before the 16th of each month. If an individual moves out of the home before the 15th, the remainder of the benefit must be available for the individual at the new location.

If the SNAP card is lost or stolen, the FCP must immediately call the customer service phone number to freeze the account. The FCP must also notify the Home Liaison, who must then notify the Sponsoring Agency to request a new card. If in State Sponsored Family Care, the RSFO will request the information to obtain a new card for the individual or the FCP. If in Agency Sponsored Family Care, the designated staff at the Sponsoring Agency will contact the local DSS for a replacement card and provide any needed documentation.

If the SNAP card is stolen, the Sponsoring Agency must complete an incident report in accordance with the regulations in Title 14 NYCRR Parts 624 or 625 and the incident must be reported to the New York State Justice Center for the Protection of People with Special Needs.

## Procedural Guidelines for Benefits and Entitlements

### Section 4.9

Individuals residing in Family Care Homes (FCHs) must apply for and maintain Medicaid and Home and Community Based Services (HCBS) waiver enrollment, in accordance with Title 14 New York Codes, Rules and Regulations Section 635-12 Liability for Services requirements. Individuals who choose not to do so are responsible for the cost of their Residential Habilitation services as well as any other services they receive that are covered by liability regulations.

If an individual is not eligible for any benefits due to immigration status, waiver ineligibility, Medicaid ineligibility, or other circumstances, the designated staff at the Sponsoring Agency should explore all possible options to resolve the ineligibility, including obtaining the pro bono services of an immigration attorney to represent an individual. The local State Operated Revenue Support Field Office (RSFO) may be able to help. As a last resort, the Developmental Disabilities Regional Office (DDRO) can be contacted for a discussion of the individual's specific circumstance and whether any other funding options exist.

Each Sponsoring Agency must have a process to designate responsibility for the benefits and processes described below.

#### Before Moving into the Family Care Home

Before moving into a FCH, each individual's financial eligibility must be reviewed. Each Sponsoring Agency must have detailed, internal procedures designating staff responsibilities including, but not limited to:

1. Timely notification to benefits staff of the anticipated enrollment date of an individual in the Sponsoring Agency's Family Care program. The notification must include the individual's name, Social Security number and advise whether it is a permanent, temporary, or trial placement
2. Review of the individual's Medicaid status
  - a. If the individual's Medicaid status is unknown and the Department of Social Services (DSS) is unable to assist, the local RSFO can be contacted for this information
  - b. If the individual does not have Medicaid, designated staff will assist the individual to apply. If the individual is not approved, a fair hearing should be requested
  - c. If the individual has appropriate Medicaid coverage, the designated staff at the Sponsoring Agency will notify the local DSS and RSFO of the individual's enrollment in the FCH
3. Review of the individual's HCBS Waiver eligibility
  - a. If eligibility information is not in CHOICES, this information should be requested from the designated Waiver staff person at the DDRO
4. Review Supplemental Security Income (SSI) benefits and advise the individual regarding possible benefit changes due to enrollment in an FCH
  - a. If the person does not have SSI, the designated staff at the Sponsoring Agency must gather required documents and complete a protective filing with the Social Security Administration (SSA) the day the person moves into the FCH
  - b. Review the individual's need for a representative payee in accordance with Title 14 NYCRR section 633.9
  - c. If the individual does not require a representative payee or if a party other than the director of the Sponsoring Agency serves as representative payee, designated Sponsoring Agency staff will offer the individual or payee assistance with management of the individual's funds in accordance with Title 14 NYCRR section 633.15
5. Advise the individual that they may need to make Room and Board payments if they earn income as wages paid for employment while at the FCH
6. Review the individual's eligibility for Supplemental Nutrition Assistance Program (SNAP). If an application is needed, the Sponsoring Agency will gather the needed documents

## While Living in a Family Care Home

Each Sponsoring Agency must have policies and procedures to address the following:

1. Notification to the local DDRO/Developmental Disabilities State Operations Office (DDSOO) of all residential moves, to ensure prompt entries into the Tracking and Billing System (TABS) and/or CHOICES
2. Resolution of issues regarding room and board payments by the individual to the Family Care Provider (FCP)
3. If SSI payments and other sources of income are not sufficient to cover both the personal allowance and the room and board payment, the individual must first receive their personal allowance from the various sources of funding available. Sponsoring Agency staff must make arrangements for supplemental payments from agency funds to make the FCP whole
  - a. For State Sponsored Family Care, RSFO staff will be involved in the computations and supplemental payments
  - b. For Agency Sponsored Family Care, the designated staff at the Sponsoring Agency will assist in computations and may be involved in the provision of agency funds
  - c. Supplemental funds can be repaid by SSI if it is received at a later date and the SSI payment covers the time period when the SSI application was pending. SSI funds can also be used to repay the agency if the SSI payment was for a time period when the agency brought up to the statutory minimum either the FCP or personal allowance amount. Sponsoring Agencies must follow established Social Security Administration requirements in regard to paybacks
4. Direct deposit of SSI payments to the Sponsoring Agency's representative payee account, where applicable
5. Replacement of a lost or stolen Medicaid card
6. Evaluating the individual's need for a representative payee for benefits administered by SSA
7. If acting as representative payee, there must be timely notification of any changes that may affect SSI, SNAP, or Medicaid benefits to the appropriate benefit paying agencies, and the treatment team. The types of changes that need to be reported include:
  - a. An increase or decrease in an individual's income
  - b. A change in an individual's employment status, including a temporary hiatus
  - c. A change in an individual's address or living arrangements
  - d. An improvement in an individual's disability
  - e. An increase or decrease in an individual's assets (including any resource available for an individual's own use which are in cash or payable in cash on demand such as savings accounts, stocks, bonds, and mutual funds)
  - f. A new bank account
  - g. A change in school attendance of a minor
  - h. A change in marital status due to the death of a spouse, separation for more than 6 months, an annulment, divorce, or marriage
  - i. A change in a spouse's eligibility for SSI benefits
  - j. Financial recovery for personal injury
  - k. Death of an individual
8. If representative payee, designated staff at the Sponsoring Agency must notify SSA and Office of Temporary and Disability Assistance (OTDA) of changes (as referenced above) that could affect SSI within 10 days of the close of the month in which changes occurred. Failure to notify SSA in a timely manner will result in an overpayment or underpayment. The Sponsoring Agency is responsible for repaying an overpayment caused by failure to report.
9. Designated staff at the Sponsoring Agency must notify the RSFO of any changes (as referenced above) that could affect Medicaid as soon as possible after the changes have occurred
10. Proper usage of the individual's SNAP benefits
11. Transfer of the person's conserved funds, benefit cards and 16.23 funds upon a move from one FCH to another
12. Per diem reimbursement for room and board to the FCP when someone switches FCH (the provider is not paid for the day the individual leaves the home). The per diem rate is equal to the monthly SSI room and board payment divided by 30 days



## **After Moving Out of the Family Care Home/Death of an Individual**

When an individual permanently moves out of the Family Care program or passes away, the Sponsoring Agency must have detailed policies and procedures for the following:

1. Notification to the DDSOO/DDRO (including entry into TABS or CHOICES) and to any benefit paying agencies of the discharge or death of the person
2. If the Sponsoring Agency acts as representative payee, return of any payments made after discharge/death to the benefit paying agency
3. Payment to the FCP for room and board for the prorated number of days the person spent in Family Care, or if a death occurs while the individual is living in Family Care, the provider may retain the unspent portion of the room and board funds that have been paid on behalf of that individual
4. Collection of benefit cards from the FCP
5. Collection and disposition of funds held in the FCH, including an audit of those funds. The FCP must return any unspent portion of the personal allowance funds to the Sponsoring Agency, unless the provider can validate with receipts and notations in the ledger those expenditures
6. Collection and disposition of the individual's personal property. If the individual is deceased, a notification process must be in place to inform relatives of their ability to claim these items. Items purchased under the group purchase process are excluded

## Clothing Allowance/Section 16.23(e) Funds

### Section 4.10

In accordance with Mental Hygiene Law Section 16.23(e) funds (commonly referred to as the clothing allowance) are available to individuals enrolled in Family Care for the replacement of clothing, personal and incidental needs, and for recreational and cultural activities. These funds may be accessed if the individual meets current eligibility criteria as determined by their Medicaid eligibility or by the Office for People With Developmental Disabilities (OPWDD) Personal Needs Eligibility Worksheet.

The Family Care Home Liaison (HL) working with the individual, the Family Care Provider (FCP), and the Sponsoring Agency determines eligibility and need for the payment. For all eligible individuals, the payments are made to the Family Care Provider in two semi-annual installments. If an individual does not need the clothing allowance funds, or does not need the full amount, the HL should notify the Developmental Disabilities State Operations Office's (DDSOO) Family Care Coordinator so a payment is not made.

Clothing allowance funds cannot be comingled with the personal allowance funds of the individual. A separate ledger and receipts must be kept for purchases that are made using clothing allowance funds.

Sponsoring Agencies must have detailed procedures to accomplish the following:

1. All clothing allowance purchases must be documented in an expenditure log
2. Receipts must be obtained and recorded for all purchases with the exception of recreational items under \$15
3. The HL must review the expenditure log at least quarterly to ensure that all purchases are consistent with the individual's Life Plan and Personal Expenditure Plan
4. The HL must review the expenditure log before determining the individual's need for the next semi-annual clothing allowance payment
5. The Sponsoring Agency should notify OPWDD Central Office of any lost or missing clothing allowance funds
6. If the individual moves to another Family Care Home (FCH) or other certified residential setting during the fiscal year, any unspent clothing allowance funds must be transferred to the new Family Care Provider or residential provider by the Sponsoring Agency. The HL is responsible for removing the unspent funds from the FCH prior to the individual's departure and returning them to the designated staff at the Sponsoring Agency
7. If the individual moves out on their own or to an uncertified setting, the HL should audit the remaining funds and contact OPWDD's Central Operations for further instruction
8. If the individual passes away and clothing allowance funds are unspent, the funds should be returned to OPWDD's Central Operations

## Personal Allowance

### Section 4.11

Each individual's personal allowance must be used and managed in accordance with the individual's preferences, needs, and with the Office for People With Developmental Disabilities (OPWDD) regulations in Title 14 New York Codes, Rules and Regulations (NYCRR) Sections 633.9, 633.15, 633.99, and 635-9.1; and in accordance with the requirements of benefit paying organizations.

Sponsoring Agencies must develop and implement policies and procedures in conformance with the above listed regulations.

When a Sponsoring Agency is responsible for the management of an individual's funds in accordance with 14 NYCRR sections 633.9 and 633.15, the Family Care Provider (FCP) must:

1. Provide adequate identification of the personal allowance belonging to each individual
2. Provide a secure place in the home for the personal allowance of each individual and ensure safeguards when funds are taken out of the home
3. Maintain receipts to verify expenditures of the individual's personal allowance
4. Maintain a personal allowance ledger for each individual in the home (an electronic ledger may be used)

If the individual does not have adequate personal allowance funds, then 16.23(e) clothing allowance funds may be used for certain purposes with Family Care Home Liaison (HL) approval. Available 16.23 funds must be exhausted for clothing purchase before personal allowance funds are used for clothing purchases.

If there is not enough money to cover both the individual's personal allowance and the FCP payment for room and board, the individual must be given the full personal allowance due to the individual. The FCP must notify the Family Care Home Liaison and the designated staff at the Sponsoring Agency for support and guidance. For State Sponsored Family Care, the designated staff is the local Revenue Support Field Office (RSFO). Agency Sponsored Family Care programs must designate staff at their agency to accomplish this task.

### Responsibilities of the Family Care Provider

The FCP must not:

1. Withhold an individual's personal allowance for any reason
2. Demand, require, or contract for all or any part of an individual's personal allowance to pay for operating expenses, supplies, or services which the FCP or Sponsoring Agency is required to provide
3. Use an individual's personal allowance for any medical supplies or services for which payment is available under Medicaid, Medicare, other health insurance, or through the Sponsoring Agency
4. Use an individual's personal allowance for any items or supplies for which local, State, or Federal funds are provided. This includes educational services mandated for children per State Education Law
5. Use an individual's personal allowance for restitution purposes for damages caused by that individual unless restitution is an integral part of the Life Plan and conforms with regulations regarding behavior support plans and Home and Community Based Settings (HCBS) waiver requirements
6. Borrow from or pledge any personal allowance
7. Co-mingle personal allowance funds or clothing allowance funds (16.23e) with any funds belonging to the FCP or others who reside in the household
8. Use the individual's personal allowance to pay for expenses that day program is responsible for; however, it may be appropriate to use personal allowance for personal expenditures during day program activities

The FCP must ensure:

1. The individual's personal allowance is used for the individual's personal benefit based on the individual's preferences, choice, and needs
2. Purchases made with personal allowance are respected as the personal property of the individual
3. Personal allowance accumulates only if the individual does not have any unmet needs and the accumulation does not exceed the Supplemental Security Income (SSI) resource limits (if the individual is a SSI recipient) or Medicaid resource limit (if the individual is a Medicaid recipient and the SSI limit does not apply)
4. The expenditure planning for personal allowance is conducted on at least an annual basis for each individual and the documentation is incorporated into a Personal Expenditure Plan (PEP)
5. The amount of personal allowance the individual can carry and spend independently is determined by the Money Management Assessment (MMA)

### **Using Personal Allowance for a Group Purchase**

Individuals should be encouraged to use their personal allowance to pursue individual interests, and/or fulfill personal needs. Personal allowance is typically used to purchase items for exclusive use by a single individual. Per Title 14 NYCRR paragraph 633.15(b)(31), a group purchase is defined as the purchase of an item for the collective benefit of the contributing persons by the pooling of their personal allowance money.

If an item is to be routinely used by more than one individual receiving Family Care services over a period of time, the item may be purchased through a group purchase in accordance with the requirements of the Social Security Administration (SSA). When a group purchase is made, the FCP must ensure that the amount contributed by each individual is roughly equal to the personal use or the advantage that individual is expected to gain from the purchase.

Since a group purchase requires prior approval, the FCP must notify the HL that the individuals living in their home are interested in a group purchase. The HL will contact the designated staff at the Sponsoring Agency for assistance on completing the necessary forms and verifying that each individual has enough funds to participate in a group purchase.

### **Auditing Personal Allowance**

In addition to the HL's monthly review of personal allowance as outlined on *the Form 239 Family Care Program Monthly Checklist*, each Sponsoring Agency must conduct an annual internal audit of at least 10 percent of the personal allowance accounts in their Family Care programs. These audits must demonstrate compliance with the requirements of Title 14 NYCRR Section 633.15.

## Individual's Choice in Spending

### Section 4.12

Each individual in the Family Care program should be allowed to spend their money on items of the individual's choice. Every year, a Personal Expenditure Plan (PEP) and Money Management Assessment (MMA) must be completed with the individual and team (Care Manager, Family Care Provider, family, etc.) based on personal allowance regulations in Title 14 New York Codes, Rules and Regulations (NYCRR) Section 633.15.

This plan must detail:

1. The individual's ability to manage funds independently
2. The amount of funds the individual can manage independently
3. The frequency with which the funds should be provided (e.g., \$10 per week)

The Family Care Provider (FCP) must monitor items purchased by the individual and ensure that any money spent is in line with the PEP. If an individual requests more money than what is outlined in the PEP, the FCP must discuss this with the individual and the team. The PEP and MMA should be updated as needed to reflect any changes based on this discussion.

### Credit Cards and Credit Monitoring

If an individual requests to open a credit card account, the team must meet to discuss this topic. If the MMA (or other financial evaluation) determined that the individual cannot independently manage their funds, a credit card should not be explored.

If an individual can safely manage their own money, a credit card account could be explored.

The individual should be provided with an overview of how a credit card works, interest charges, late payment fees, cash advance fees, and/or any other relevant information that the individual may not have considered. If the team feels that the individual has the ability to manage a credit card account, this should be documented in the PEP and reviewed at each Life Plan meeting. This documentation should include how much can be spent each month as well as how the individual will pay the balance of the credit card each month.

If an individual would like to view their credit report, the team should support the individual in doing so by providing the information for a free annual credit report in accordance with the Fair Credit Reporting Act issued by the Federal Trade Commission.

### Other Expenses

When living in a Family Care Home, the individual is responsible for the purchase of:

1. Combs, hairbrushes, hair spray, oils, hair products
2. Deodorant, lotion or moisturizers that are not ordered by a medical practitioner, razors
3. Perfume, nail polish, cosmetics
4. Haircuts, perms, manicures, pedicures, facials
5. Long distance telephone calls or a private phone line/cell phone, if desired by the individual
6. Specialty cable services that require additional subscriptions, if other persons in the household will not be viewing it
7. Postage for personal correspondence

**NOTE:** If day services require that the individual bring a personal care item (i.e., toothbrush, razor, etc.), then the day program should fund the purchase of that item.

The FCP is responsible for purchasing basic hygiene and grooming products, customarily shared by a family. There may be situations where the individual does not like the brand or type of product offered by the FCP. In these situations, the individual can purchase their own preferred brand of supplies for personal use.

## Recreational Trips and Activities

### Section 4.13

The Family Care Provider (FCP) must ensure that each individual living in the Family Care Home has opportunities to participate in a variety of recreational and leisure activities on a regular basis, both inside and outside of the home. The FCP must contribute toward the development and implementation of the Life Plan for each individual in the Family Care Home. The Life Plan of each individual must describe the types of recreational and leisure activities in which the individual is interested and will participate based on the individual's preferences, needs, and goals.

The individual's integration into the family can include day and overnight recreational trips with the family. It is appropriate for the individual to share equally in the cost of these trips. The individual's share will be determined by dividing the cost of the trip by the number of participants, including the FCP and the FCP's family. These expenses should be reflected in the Personal Expenditure Plan (PEP) of each individual. Expenses may include gas, lodging, tolls, and admission to recreational events (e.g., museum, concert, amusement park).

The individual cannot share in incidental costs such as vehicle repairs or fines. The FCP will not be reimbursed for these items.

The FCP must notify the Sponsoring Agency Family Care Home Liaison of an intent to take an individual on a recreational trip that requires the individual to spend a significant amount of personal allowance (\$50 or more) and request approval to use personal allowance and/or 16.23(e) clothing allowance funds for the expenses of the trip. If the individual has other needs that must be met, the clothing allowance funds may not be used for recreational trips.

## Vacation Planning

### Section 4.14

In keeping with the concept of “family life” which is integral to the Family Care program, the Office for People With Developmental Disabilities (OPWDD) considers it appropriate for individuals living in Family Care to accompany the Family Care Provider (FCP) on family vacations, if the individual so chooses. FCPs who are caring for school age individuals are discouraged from taking individuals on vacation while school is in session.

If an FCP plans to take an individual on vacation, the FCP must notify the Family Care Home Liaison (HL) and the Care Manager prior to the intended date of departure. The Sponsoring Agency must document the following information in the individual’s record:

1. The name (if applicable), address, and telephone number of the vacation site
2. The dates of the vacation
3. The consent of parent/guardian, if applicable
4. The plan for emergency situations including contact information for local hospitals, urgent care centers, and law enforcement

The FCP must submit to the Sponsoring Agency an emergency plan that will be put in action should the FCP become unable to provide the necessary care for the individual or if the individual’s condition becomes such that the FCP is unable to adequately meet the individual’s needs. The plan must indicate that the Sponsoring Agency will be notified immediately should the need arise.

The Care Manager, HL, Family Care Registered Nurse, and FCP must discuss the financial arrangements for the trip consistent with the Personal Expenditure Plan (PEP) and address any issues regarding medical needs, such as a need for prescriptions and medical coverage while on vacation. Benefits through Medicare and New York State Medicaid may not cover the individual in the case of a medical emergency while in another state or country. If the individual does not have any additional medical coverage, the Sponsoring Agency will be responsible for the cost of medical expenses incurred during travel. Prior to international travel, Sponsoring Agency staff need to explore whether travel insurance for medical coverage during the trip is available.

**NOTE:** If a FCP owns a second home where the individuals will stay for vacation, the FCP must submit to the Sponsoring Agency documentation that the home meets the required environmental and fire safety standards by providing a Certificate of Occupancy (COO) or a signed report by a licensed architect or engineer that describes the home’s compliance.

### Vacations Exceeding 30 Days

If a vacation exceeds 30 days and a home visit cannot be made to the vacation site during the month to verify Residential Habilitation documentation, the Sponsoring Agency must discontinue the Difficulty of Care (DOC) payments to the FCP.

DOC payments can only continue if there is verification that Residential Habilitation services are being delivered in accordance with the individual’s Staff Action Plan. This can occur if the HL conducts a monthly visit to the vacation site or if there is a written agreement in place with an agency or professional in the field of intellectual and developmental disabilities that assures face to face visits will occur at least once a month. This agreement must include that the agency/professional will provide a signed written verification of the visit indicating that adequate Residential Habilitation services are being provided on either the *Family Care Program Monthly Checklist Form* or a form used by the agency/professional to the Sponsoring Agency on a monthly basis. The Sponsoring Agency staff must maintain telephone contact with the individual and the FCP on at least a monthly basis to determine if there are any issues to be addressed.



The cost for verification of these services is the responsibility of the FCP. The Sponsoring Agency staff may provide technical assistance or contacts in other states. Under no circumstances will DOC checks be sent to an out of state address.

## Responsibilities

### Family Care Provider:

1. Submits a written request prior to departure date to the HL and Care Manager
2. Indicates information on the intended dates, as well as vacation accommodation information (name, address and telephone number of vacation site)
3. Submits emergency plan to the Sponsoring Agency
4. Works with the RN to make arrangements to ensure that the individual's medical needs will be addressed

### Family Care Home Liaison:

1. Reviews the vacation plans with the team
2. If it is decided that it is not in the best interest of the individual, assists in arranging alternative residential arrangements for the period of time identified
3. Notifies family, guardian, and any day services of the extended vacation
4. For State Sponsored Family Care, notifies local Revenue Support Field Office of extended vacation and all fiscal issues. For Agency Sponsored Family Care, notifies designated staff at the Sponsoring Agency of extended vacation and all fiscal issues due to the possible impact on an individual's benefits
5. Reviews the emergency medical plan with the RN
6. Plans with FCP, Care Manager, and individual the use of personal allowance funds

## Out of State and Out of Country Travel

If an FCP intends to travel out of state or out of country on an overnight trip with an individual receiving Family Care services, additional steps must be taken. Please refer to the Administrative Directive Memorandum (ADM) #2019-02R *Permissible Out-of-State or Country Home and Community-Based Services (HCBS) Waiver Services Delivery* located on the OPWDD website for further information.

## **Section 5: Medical Related Information**

# **Assistive Technology/Adaptive Devices and Environmental Modifications**

## **Section 5.1**

The Office for People With Developmental Disabilities (OPWDD) continuously strives to improve the quality and availability of services for individuals with developmental disabilities. Assistive Technology/Adaptive Devices and Environmental Modification services are services that may be available to promote independence and improve quality of life for individuals residing in Family Care Homes.

Assistive Technology/Adaptive Devices are items, pieces of equipment, or product systems, whether acquired commercially, modified, or customized, that are used to increase, maintain, or improve the functional capacities of individuals. These might include, but are not limited to, augmentative communication devices and devices to promote independent self-administration of medication.

Environmental Modifications are physical adaptations to the home to address an individual's physical ability, allowing safe and improved access or functioning within the home, without which the individual would require an alternate residential placement.

Any need that may require an Assistive Technology/Adaptive Device or Environmental Modification must be clearly identified in an individual's Life Plan and be accompanied by documentation providing clinical justification for the provision of the services. Assistive Technology/Adaptive Devices and Environmental Modifications are 100% state funded for individuals residing in Family Care Homes. Requests for these services must be submitted to the local Developmental Disabilities Regional Office (DDRO) for approval. Individuals in Family Care cannot request funding through the Home and Community Based Services (HCBS) Waiver for funding of assistive technology.

If the services will involve installation of equipment or modification of the home, and the Family Care Provider does not own the home, the homeowner's approval must be obtained prior to the installation or modification. Once the installation or modification is completed, OPWDD is not responsible for the cost of restoring a site to its original condition or configuration.

## Health Care Decisions

### Section 5.2

It is important for Family Care Providers (FCP) to know about the responsibilities placed on them by the Office for People With Developmental Disabilities (OPWDD) regulations in Title 14 New York Codes, Rules and Regulations (NYCRR) Sections 633.10 and 633.11 pertaining to the health care of individuals residing in Family Care homes (FCH). These responsibilities are critical to maintaining the health, safety, rights, and dignity of the individuals served.

#### What is informed consent?

The OPWDD regulation in Title 14 NYCRR subsection 633.99(y) defines “informed consent” as the effective knowing consent by an individual with capacity to consent (or the individual’s legally authorized surrogate) and so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress or other form of constraint or coercion.

The basic elements of information necessary to such informed consent include:

- (i) a fair explanation to the person or surrogate of the procedures to be followed, and their purposes, including identification of any procedures which are experimental;
- (ii) a description of any attendant discomforts and risks reasonably to be expected;
- (iii) a description of any benefits to the participant or others which may reasonably be expected;
- (iv) a disclosure of any appropriate alternative procedures or courses of treatment, if any; and
- (v) an instruction that the person or surrogate is free to withdraw their consent at any time without prejudice.

No informed consent shall include any language through which the person or surrogate waives, or appears to waive, any legal right, including the release of any party, institution, agency, or any agents thereof, from liability from negligence.

Information must be presented in a manner permitting a knowledgeable evaluation and decision to be made. It must be presented in whatever language the party giving informed consent reads or understands most easily and clearly (e.g., English, Spanish, Mandarin) and in whatever manner they understand most easily and clearly (e.g., sign language, communications board, computer assisted technology, Braille). Consent, when given by a surrogate, should only be given if, in doing so, this will be in the person’s best interest and takes into consideration, to the extent possible, the person’s opinions, beliefs, and wishes.

#### When is informed consent needed?

The law requires informed consent for professional (i.e., major) medical treatment, which the OPWDD regulation in Title 14 NYCRR subsection 633.99(da) defines as a medical, dental, surgical, or diagnostic intervention or procedure in which a general anesthetic is used or which involves a significant invasion of bodily integrity requiring an incision or producing substantial pain, discomfort, debilitation or having a significant recovery period, or any professional diagnosis or treatment to which informed consent is required by law. Whether informed consent is needed for specific medical treatment is generally a determination made by the treating practitioner

Some examples of professional medical treatment are surgery, chemotherapy, radiation, some dental extractions, colonoscopy, bronchoscopy, and diagnostic scans that include the use of contrast dyes.

There is an exception to informed consent when there is a need for emergency medical treatment. See “Emergency Medical Treatment” below.

Routine medical treatment does not require informed consent but the individual or someone authorized to speak on the individual's behalf may object to the treatment and must be specifically advised at the time of the objection of the right to a formal appeal as described in OPWDD regulations in Title 14 NYCRR Section 633.12.

The use of medical immobilization, protective stabilization (MIPS) and sedation during medical or dental appointments to facilitate the comfort and cooperation of a person receiving services in a Family Care Home is addressed in ADM # 2010-02, requires written informed consent, and may only be used in accordance with the ADM.

### **When can an individual provide their own consent?**

To provide their own consent, the individual must be at least 18 years old and able to understand the nature and consequences of the proposed medical treatment. This includes the benefits, risks, and alternatives to such treatment. Individuals are presumed to have the capacity to consent to medical decisions, on their own or through the help of supported decision making, unless contraindicated.

### **If an individual is deemed not capable of providing informed consent, who is authorized to provide informed consent for them?**

An authorized surrogate may provide informed consent on the individual's behalf if it has been determined that the individual lacks the necessary capacity to make an informed decision with respect to the proposed professional medical treatment.

If the individual is at least 18 years old informed consent must be obtained from one of the surrogates in the following order:

1. A guardian lawfully empowered to give such consent or the person's duly appointed health care agent or alternate agent
2. An actively involved spouse
3. An actively involved parent
4. An actively involved adult child
5. An actively involved adult sibling
6. An actively involved adult family member (related by blood, marriage, adoption)
7. The Consumer Advisory Board for the Willowbrook Class
8. A surrogate decision-making committee or a court of competent jurisdiction

Actively involved means significant and ongoing involvement in a person's life so as to have sufficient knowledge of the person's needs.

If the individual is a minor (under 18 years old), the following surrogates, in the order stated, are authorized to provide informed consent:

1. A legal guardian with authority to consent to health care
2. An actively involved spouse
3. A parent
4. An actively involved adult sibling
5. An actively involved adult family member
6. A local commissioner of social services with custody over the person pursuant to the social services law or family court act (if applicable), or
7. A surrogate decision-making committee or a court of competent jurisdiction

### **What happens if the authorized surrogate is not available?**

If the first surrogate on either list is not reasonably available and willing, and that surrogate is not expected to become reasonably available and willing to make a timely decision given the individual's medical circumstances, application must be made to the next surrogate on the list, in the order of priority stated.

Caution is advised in determining that a legal guardian or health care agent is not reasonably available or willing.

### **What if there is more than one surrogate in a category?**

If more than one party exists within a category on either list using the standard of active involvement, consent must be sought first from the party with a higher level of active involvement. When the parties within a category are equally actively involved, consent must be sought from any such parties.

### **What if the authorized surrogate objects to the proposed treatment?**

If the first reasonably available and willing surrogate listed objects to the proposed treatment, consent must not be sought from other surrogates on the lists. If the agency considers the proposed treatment to be in the best interests of the individual, application may be made to a court or, if the surrogate does not object, to the Surrogate Decision-Making Committee. Notices of any such application must be given to the objecting party.

### **Emergency Medical Treatment**

Informed consent is not required when, in the physician's judgment, an emergency exists creating an immediate need for medical attention. Section 2504(4) of the Public Health Law defines "emergency" as "the person is in immediate need of medical attention and an attempt to secure consent would result in delay of treatment which would increase the risk to the person's life or health." In such cases, the supplier of the proposed professional medical treatment may accept the authorization of the chief executive officer of the individual's residential facility (defined to include a FCH) to render such professional medical treatment. Thus, the Sponsoring Agency Director or designee may authorize treatment in a medical emergency for an individual receiving services in a FCH.

### **How will a Family Care Provider know who should be contacted to provide informed consent?**

OPWDD's *Ready-To-Go Form* is used to provide necessary medical and contact information for individuals in OPWDD certified FCHs who are brought to the hospital or other health care facility, for scheduled, urgent, or emergent medical care. Sponsoring Agencies are responsible for preparing a *Ready-To-Go Form* for each individual in the FCHs it sponsors and ensuring that its FCPs are familiar with the *Ready-To-Go Form* of each individual receiving services in the FCH, including whether the individual has the capacity to consent or the identity of the surrogate decision-maker(s).

The *Ready-To-Go Form* is a valuable tool that also provides information about who should be contacted in situations where informed consent is required. FCPs should contact the Sponsoring Agency if for some reason it is not known whether an individual has the capacity to provide informed consent, or whether there is an authorized surrogate decision-maker if the individual lacks capacity.

For Willowbrook Class Members, the *Ready-To-Go Checklist* must be available in addition to the *Ready-to-Go Form*.

### **Life-Sustaining Treatment (LST)**

Life-sustaining treatment (LST) means medical treatment which sustains life functions and without which, according to reasonable medical judgment, the patient will die within a relatively short time period. Examples of life-sustaining treatment include cardio-pulmonary resuscitation (CPR) and nutrition and hydration provided by means of medical treatment. CPR is presumed to be life sustaining treatment without the need of a medical judgment by an attending physician.

Unless an individual receiving services in a FCH has a valid health care proxy appointing a health care agent to make health care decisions (see below), a decision to withdraw or withhold life sustaining treatment must be made in accordance with the Health Care Decisions Act for Persons Who Are Intellectually Disabled

(HCDA) as set forth in the OPWDD Medical Order for Life Sustaining Treatment (MOLST) Legal Requirements Checklist for Individuals with Developmental Disabilities, available on the OPWDD website. There is a specified list of surrogate decision-makers if an individual is deemed not capable of providing informed consent to withdraw or withhold life sustaining treatment who have an affirmative obligation to advocate for the full and efficacious provision of health care, including life-sustaining treatment. Among other requirements, life-sustaining treatment may only be withheld or withdrawn if the attending physician, with the concurrence of another physician, determines to a reasonable degree of medical certainty that certain criteria are met as set forth in the HCDA and as stated on the OPWDD Checklist.

An explanation of the HCDA, downloadable checklist, MOLST forms, and instructions for completing them can be found on the OPWDD website at <https://opwdd.ny.gov/providers/health-care-decisions>.

The FCP should notify the Sponsoring Agency Registered Nurse (RN) whenever it appears that a medical order to withhold or withdraw an LST will be or has been proposed. During non-business hours, the FCP should follow the Sponsoring Agency's procedures for emergency contacts.

## Health Care Proxy/Appointing a Health Care Agent

A health care proxy is a document created by an individual that names another person as their health care agent and gives the agent authority to make decisions if the individual is determined to lack the capacity to make medical decisions for him/herself.

### **No one may execute a health care proxy for another person.**

Even though the FCP may be approached by a healthcare provider to complete a health care proxy, the FCP should never complete a health care proxy for an individual receiving services in the FCH. All decisions pertaining to a health care proxy are to be made only with the consultation of the Family Care team. An individual creating their own health care proxy does not need to have the capacity to understand all of their own medical care decisions but does have to understand that they are giving another person the authority to make medical care decisions for them when they are not able. The person assigned as health care agent must be at least 18 years old.

The health care proxy must be developed in accordance with OPWDD regulations in Title 14 NYCRR Section 633.20, which includes specific witness requirements for individuals in an OPWDD certified residence, such as an FCH. If the individual has an existing valid health care proxy, the Sponsoring Agency will provide a copy to the FCP. The health care proxy should be attached to the Ready-to-Go Packet. The health care proxy should be reviewed annually as part of the individual's planning process.

## Notification of Health Care Problems

The FCP must notify the RN, parent/guardian/advocate of an individual receiving services in the FCH if the individual has a health problem which results in being:

1. served in an emergency room or urgent care center
2. admitted to a hospital
3. unable to participate in scheduled activities (e.g., day program, employment, etc.) for seven or more days, or fewer days if the individual or their parent/guardian/advocate so requests, unless the individual is a capable adult person and objects to earlier notification

Notification must not be made if:

1. the individual is a capable adult person and objects to the notification; or
2. there is a written notice from the guardian or parent that they do not want to be notified.

## Medication Administration

### Section 5.3

Office for People With Developmental Disabilities (OPWDD) regulations in Title 14 New York Codes, Rules and Regulations (NYCRR) section 633.17 include requirements for the prescription, administration, storage, documentation, receipt, and disposal of medications in Family Care Homes (FCHs). This policy includes details for implementation of these requirements and ensuring that medications are administered and maintained in the safest manner possible by Family Care Providers (FCPs) and Substitute Providers.

Who can Administer Medication in a Family Care Home?

1. An individual who has been assessed by the Family Care RN and is found capable of taking their own medication
2. An individual's own natural family member
3. A nurse with a current license and registration from New York State
4. A FCP whose name appears on the operating certificate for the FCH and who has successfully completed the OPWDD approved training curriculum
5. An approved Substitute Provider who has successfully completed the OPWDD approved training curriculum. Substitute Providers who are approved by more than one Sponsoring Agency must have their competency to administer medications assessed by the RN at each Sponsoring Agency

If an FCP is required to give medication via a feeding tube or administer medications by injection such as insulin, additional training must be provided by the RN on each separate route of administration.

### Training

All FCPs and Substitute Providers must receive training on medication administration at the time of the initial certification of the FCH or initial approval of the Substitute Provider, and annually thereafter, using the OPWDD approved medication administration curriculum and post-test. Providers must score 80 percent or above on the post-test to pass the medication administration training. If the Provider scores below 80, the RN may provide additional one-on-one training and allow the Provider to retest. If the Provider does not pass the test a second time, the Provider will need to repeat the full medication administration training curriculum. Training records, including the post-test, must be maintained by the Sponsoring Agency in accordance with record retention requirements.

### Medication Pours

An RN must observe, in person, each new FCP pour and administer medications to an individual receiving services after the FCP's successful completion of the OPWDD approved training curriculum and post-test. A supervised pour may also be required any time the RN and/or treatment team determines additional support or monitoring is necessary (e.g., significant change in medication routine, medication errors). The pour should occur before the first individual moves into the FCH, while the individual is completing a trial visit. If a supervised pour cannot be completed prior to the move (e.g., emergency admission or trial visit only occurred over one weekend), it will need to be completed within 30 days of the individual's admission.

Supervised medication pours are also required for newly approved Substitute Providers. Supervised pours may also be required at any time the RN and/or treatment team deems additional support or monitoring is necessary. A supervised pour must be conducted by the RN within 30 days of the start of providing respite services.

For Substitute Providers who may support different individuals throughout the year, a supervised medication pour is NOT required for each specific individual. Substitute Providers who are approved to provide respite services through multiple Sponsoring Agencies must have their competency evaluated and documented by the Family Care RN at each Sponsoring Agency.



For new FCPs and Substitute Providers, mock pours cannot substitute for a supervised pour. Mock pours are included as part of the initial training and may be used to provide supplemental training to FCPs and Substitute Providers, as needed.

## Prescriptions

All medications administered by a FCP or Substitute Provider must be prescribed, ordered, or authorized by a Physician, Nurse Practitioner, Physician's Assistant, Dentist, or other licensed medical professional who is authorized to prescribe medication.

Prescriptions, orders, or approvals for medications must be written at least once a year or more frequently as required. This includes medications that can be purchased over the counter (OTC) such as vitamins, herbal medications, aspirin, Tylenol, cold preparations, allergy medications, cough syrup, and topical ointments/creams.

The FCP must keep the most current order in the FCH.

Orders or authorizations are written directions from the practitioner that may not always be written on an official New York State prescription form but are found on other written forms. These written forms may include a consult sheet, a hospital discharge sheet from an emergency room, or a form used by the Sponsoring Agency and signed by a Physician, Physician's Assistant, Nurse Practitioner, or other licensed professional who can prescribe medication.

Any time a new medication is prescribed during a medical or emergency room visit, the FCP must obtain a copy of the order that clearly identifies the name of the medication and administration instructions, before leaving the visit.

## Medication Information

It is important that a FCP and individuals receiving services in a FCH have information about the medications administered in the home. The FCP should be aware of the following information before administering any medication to an individual in Family Care:

1. Name of each medication
2. The reason the individual is taking the medication
3. The expected effects of the medication and common side effects
4. The common interactions, such as with other drugs, supplements, food, and alcohol
5. Any special ways the medication needs to be taken or stored
6. Any special monitoring that may be needed
7. What to report to the Family Care RN and prescriber including any unusual changes in the individual

The FCP must carefully read the medication information sheet supplied by the pharmacy or the individual specific medication information sheet provided by the RN for every medication prescribed for the individuals in the home. The FCP must be aware of all adverse effects that any medication may have on the individual receiving services. Any observed changes in the individual must be reported promptly to the prescriber and RN.

## Medication Changes

The FCP must notify the RN of any medication changes such as:

1. New medication
2. New dosage
3. New frequency of medication administration
4. Discontinued medication

The RN will review information about the medication changes with the FCP including what issues or changes would be important to call and report to the RN and/or prescriber. In addition to this review, the RN will also review medication changes during the next visit to the home.

Any medications that are intended to modify behaviors or to address psychiatric conditions require special approval/consent before administration. These include medications ordered for daily administration and medication specifically prescribed to help a person relax before going to a medical or dental appointment. The FCP must speak directly with the RN before administering the first dose of any of these medications.

### **After Hours Notification**

If a medication change occurs after business hours or on a weekend or holiday, the FCP must notify the Sponsoring Agency in accordance with the Sponsoring Agency's established policy. The Sponsoring Agency must train the FCP on the Sponsoring Agency's policy for after-hours notification. This training should be provided during initial and annual medication administration training and any other times deemed necessary.

### **Non-Prescription Medications also known as 'Over-The-Counter' (OTC) Medications**

Approval for a specific individual to use a non-prescription medication must be received in writing from that individual's healthcare practitioner on an annual basis. It must include the condition for which the medication is to be used, the dosage, frequency, and any specific instructions related to the medication.

An individual who is capable of self-medication management may obtain and use non-prescription medication at their discretion. However, the individual must be given appropriate guidance relative to obtaining, storing, and self-administering non-prescription medications.

The administration of OTC medications for illness or injury should not exceed two (2) days unless specified by a prescribing practitioner. Exceptions are certain vitamins and OTC medication that a practitioner instructs to be given daily.

If there is an adverse reaction, a significant change in behavior, or any other significant indication of a problem, this needs to be reported immediately to the individual's primary physician/prescriber and the Sponsoring Agency RN. The medication should be suspended, and the prescriber or physician will direct the FCP on how to proceed.

If at any time the FCP is concerned that symptoms being experienced by an individual may require more immediate attention or could be life threatening, 911 should be used as an emergency response. The prescriber, physician, and RN should be notified of the symptoms and outcome after emergency treatment is sought.

### **Medication Administration Records (MAR)**

The FCP must maintain a separate record of the administration of medication for each individual in the FCH who receives medication (including non-prescription medication, vitamins, etc.).

If a Substitute Provider will be administering medications in the FCP home during respite services, the Substitute Provider must document all medications given on the MAR. The full name and initials of the Substitute Provider must be noted on the MAR as well.

If an individual is receiving respite services outside of the FCH, the Substitute Provider must still document all medications administered to individuals in the Family Care program. The FCP can choose to give the original MAR from the FCH to the Substitute Provider or the FCP can choose to create a separate MAR that the Substitute Provider can complete. If a second MAR is used, it must be attached to the original MAR and follow all guidelines as indicated below.

The MAR must include at least the following information:

1. The name of the individual receiving the medication
2. The name of the medication, the dose, how often it is to be given, and how it is to be given
3. The time and date the medication was given
4. The signature or initials of the person who gave the medication. (When using initials, there must be a way to identify the initials of the person who administered the medication)

There should never be any blanks on a MAR. If an individual is out of the home, a code must be used to explain the reason for the missed medication.

If an individual in Family Care can take their own medication (as determined by the annual evaluation of the individual's ability to self-administer medications), it is the responsibility of the FCP to make sure that the individual is taking it correctly. The FCP and the Family Care RN must discuss this for each individual and develop a plan to monitor the self-administration of the medication. Some examples include occasional verbal checks or checking the amount of medication that is remaining.

While an individual who is capable of taking their own medications is not required to have a MAR, the MAR is a good tool to assist the individual to accurately take the medications. An individual who self-administers medication and uses a MAR can document self-administration using a mark or other method, (e.g., sticker), as long as the mark is known to represent that individual.

## Storage of Medication

All medication must be stored so that it cannot be accessed by any unauthorized person. Internal and external medication must be stored separately, either on separate shelves or separate storage units. Medication removed from the storage area should never be left unattended.

Controlled medications must be kept in a locked container. The locked container for controlled medications that are used for emergencies must be stored in a way that makes the medications easily accessible to the FCP or individual who self-administers medication in an emergency, but not accessible to other people.

Medication that must be stored in the refrigerator should be placed in a covered container and should be labeled "medication." The medication container should not resemble a container used for food storage. Controlled substances that are stored in the refrigerator must be in a locked container.

Only the FCP, approved Substitute Provider, the RN, and an individual who is capable of self-administration are authorized to have access to medications.

## Medication must be kept in its original container with the following exceptions:

1. Medications may be placed in a pill organizer or medication bar when an individual is capable of self-administering medication, or when an individual is being taught to self-administer medication. The day minder must be labeled with the individual's name
2. When insulin is pre-drawn into syringes for an individual to self-administer. The insulin syringe must be labeled with the individual's name, the strength and dose of the insulin, and the date it was drawn
3. When the medication is packaged for administration away from the Family Care Home. One dose of each medication may be placed in an envelope by the person authorized to administer the medication. The envelope must be labeled with the individual's name, the medication name, strength, dose, route, and time it is to be given

When *more than one dose* of a medication is to be given away from home, the following applies:

1. The entire supply of medication in its original container must go with the individual
2. The pharmacy can pre-package that portion of the prescription needed by the individual away from home
3. When an individual is going on home leave or vacation with their own family, it may be acceptable to place up to a full week supply of medication in a pill organizer/med bar that is labeled with the individual's name. A list must accompany the medication containing the name, strength, and

physical description of each medication, as well as the frequency, dose, time, and route of administration. The signature of the person preparing the medication is also required on the list

4. For medication administered by injection, (e.g., insulin, if an insulin pen is not used), up to a seven-day supply of the medication may be pre-drawn into a syringe that is labeled with the individual's name, along with the name, strength and dose of the medication

**NOTE:** If more than a 7-day supply is needed, the entire supply of medication (in its original container) must be sent with the individual.

## Medication Counts for Controlled Substances

All FCP must ensure that controlled substances are carefully monitored so they are not accessed by anyone other than those people allowed to have access to medications in the home.

If an individual is prescribed a controlled substance, the RN will count the medication to ensure accuracy at each 90-day visit. This count must be documented by the RN.

## Labels

Original medication containers for prescription medication must be labeled clearly and legibly with the individual's name, the name and strength of the medication, directions for use including the amount and frequency, the name of the prescribing practitioner, pharmacy, and the prescription number.

Containers for non-prescription medications must have the original manufacturer's label.

## Syringes, Needles, and Lancets

Syringes and needles must be kept in a secure, locked container (not including epi-pens or other emergency medications given by injection or insulin pens without the needle attached). Although not required, it is best practice to keep lancets in a locked container as well.

Needles, lancets, and syringes are to be placed in approved sharps containers immediately after use. When not in use, the container should be kept in a secure location that is easily accessible to the FCP and any individual who self-administers medications, when needed. The RN will instruct the FCP in the proper use and disposal of sharps containers.

Emergency medications given by injections (like epi-pens used for allergic reactions) are to be stored in a way that makes them easily accessible in an emergency but safe from other persons. This should be discussed with the RN for each individual situation.

## Disposal of Medication

Outdated medications should not be kept by the FCP. Discontinued medications should not be kept by the FCP unless the prescribing practitioner has provided written guidance to keep the medication for possible future use.

Medication that is **not** controlled must be destroyed per the Sponsoring Agency's policy.

Controlled medications must be disposed of by two people. This includes the FCP along with either a:

1. Sponsoring Agency Registered Nurse (RN)
2. Sponsoring Agency Licensed Practical Nurse (LPN)
3. Physician or Physician's Assistant
4. Pharmacist
5. Approved Medication Administration Personnel (AMAP) from the Sponsoring Agency

**NOTE:** FCP and Substitute Providers are not AMAP

Documentation of the disposal must be completed and signed by both parties disposing of the controlled medication. All medication that is either going to be disposed of or retained for future use should be kept separate from the current medications.

## Medication Administration Errors

All Medication Administration Errors and Procedural Medication Errors must be reported immediately upon discovery and must be managed in accordance with Sponsoring Agency policy.

There are two types of errors involving medications:

1. Medication Administration Errors: When a medication is not given the way it was ordered (i.e., the wrong medication was given; the wrong amount was given; the wrong route; the wrong time; the wrong individual, or the medication was not given at all)
2. Procedural Medication Error: When the established procedures for administering and/or securing medication are not followed (e.g., not signing for medications on the MAR; not storing or locking medications as required)

The FCP and Sponsoring Agency staff must also report medication related incidents in a timely manner in accordance with Part 624 regulations and the Sponsoring Agency's incident reporting policy and procedures.

## Sponsoring Agency Policy

Sponsoring Agencies must ensure that all FCP and Substitute Providers are trained on any Sponsoring Agency policies and procedures that may impact the Provider's ability to safely and effectively administer medication and treatment (e.g., Sponsoring Agencies policy for after-hours notifications for medication changes or Emergency Room visits).

## Oversight

Medication records must be reviewed monthly. The Family Care Home Liaison must review the questions on the *Form 239 Family Care Program Monthly Checklist* each month and the Family Care Registered Nurse (RN) must complete a comprehensive review at least once every 90 days, or more often as needed. A qualified medical professional must review each individual's medication regimen annually.

## Infection Control and Prevention

### Section 5.4

It is critical that Family Care Providers (FCP) maintain good hand hygiene practices in the Family Care Home (FCH) to prevent the spread of germs and illnesses. FCPs must be sure to clean areas under their fingernails if they are visibly dirty. Special attention should be paid to these areas when washing hands or using alcohol-based hand sanitizer.

FCPs must wash their hands with soap and water:

1. When hands are visibly dirty
2. Before eating
3. Before preparing food
4. Before administering medication
5. Before assisting another with personal hygiene
6. After touching raw meat such as chicken, fish, seafood, or beef
7. After contact with body fluids such as blood, urine, or vomit
8. After changing a diaper
9. After removing medical gloves
10. After using the bathroom
11. After coughing, sneezing, smoking, or blowing your nose

It is important that FCPs wash their hands correctly. The following steps must be taken to ensure proper hand hygiene:

1. Wet hands with water
2. Apply soap to hands (liquid soap is best; germs can live on bar soap)
3. Rub hands vigorously together for at least 20 seconds (saying ABC's or singing the 'Happy Birthday' song twice helps to make sure you have washed long enough)
4. Rinse hands well to remove soap
5. Dry hands gently using soft paper towels; if using cloth towels, remember that damp towels may harbor germs
6. Use a paper towel to turn off the faucet

If soap and water are not readily available, FCPs should use an alcohol-based hand sanitizer. The hand sanitizer should be labeled with at least 60% alcohol as active ingredient. Hand sanitizer should be used:

1. For routine cleaning of hands anytime they are not visibly dirty
2. After contact with contaminated objects in the environment
3. Before and after providing care for or having contact with someone who is very sick, elderly, or very young
4. After touching another person's intact skin (shaking hands, holding hands, especially when the other person has a cold or other illness)
5. To decontaminate hands

To properly use hand sanitizer, the following steps should be taken:

1. Apply product to the palm of one hand (about ½ tsp) and rub hands together
2. Cover all surfaces of hands and fingers
3. Rub until hands are dry
4. When using hand sanitizer, you have used enough if it takes 25-30 seconds to dry on your hands

### Communicable Diseases\*

There are germs that can cause different types of illnesses such as the flu and food borne illnesses. These germs can spread from one person to another. It is important for the FCP to notify the RN of any suspected or confirmed cases of communicable/infectious diseases.

\*Listed below are common communicable conditions but note that OPWDD also issues specialized guidance to address certain conditions as they emerge, such as COVID-19. Sponsoring Agencies must ensure FCPs receive all additional infection control information in a timely manner.

### **Skin Lesions**

Individuals and/or FCPs who have broken skin, wounds, rashes, cuts, scrapes, skin lesions, or other skin conditions must keep those areas clean and covered with a dressing that will contain any drainage, such as a nonstick sterile Telfa dressing, at all times until healed. FCPs with wounds or lesions that cannot be covered or drainage that cannot be contained, should avoid direct contact with individuals and food preparation for others unless disposable gloves are worn. Severe cuts or wounds and rashes caused by an infection must be reported to the sponsoring agency.

### **Respiratory Illnesses**

Some illnesses such as the flu, whooping cough, and chickenpox are spread by coughing, sneezing, or unclean hands. To help stop the spread of germs, it is important to:

1. Cover your nose and mouth with a tissue every time you cough or sneeze
2. If tissues are not available, sneeze or cough into your sleeve
3. After coughing or sneezing, wash your hands or use an alcohol-based hand sanitizer, as directed
4. Contact the RN and healthcare provider if you suspect that any member of the household has flu-like symptoms which includes fever, cough, sore throat, body aches, headache, chills, and fatigue

### **Gastrointestinal Illnesses (GI Illnesses)**

Nausea, vomiting, and diarrhea can be caused by infectious or non-infectious agents. All cases of GI illness should be regarded as infectious. If an individual is sick with GI illness, or if a FCP is providing care to the sick individual, they can help stop the spread of germs by:

1. Hand washing with soap and water. This is the most important factor in preventing the spread of GI illnesses
2. Disposing of excretions and spoiled material: If commodes, urinals, or bedpans are used, the FCP must use disposable gloves and wash hands thoroughly after providing care. Commodes, urinals, and bed pans must be emptied and flushed in a toilet, then washed with hot water and detergent, rinsed, and dried
3. Soiled clothing and linens must be washed and dried separately from other laundry, on the hottest cycles possible
4. Use a commercial household disinfectant according to product directions, to clean/disinfect environmental surfaces after contact
5. Contact the RN and/or healthcare provider to report GI illnesses

### **Blood Borne Pathogens**

Blood borne pathogens are organisms that may be transmitted from one individual to another through contact with another individual's blood or certain body fluids (e.g., semen, vaginal secretions, or other body fluids containing visible blood such as vomit, urine, feces, respiratory secretions, sputum, saliva, and mucous). Examples of blood borne pathogens are HIV (virus that causes AIDS), Hepatitis B, and Hepatitis C.

Because it is not always known if an individual is a carrier of a blood borne organism, it is essential that FCPs follow standard infection control precautions when providing care that may involve contact with blood, body fluids, or visibly bloody body fluids.

Elements of Standard Precautions when applied to contact with blood or certain body fluids include:

1. All broken skin, blood, and body fluids should be treated as if it could carry a contagious disease. If there are any open wounds or breaks in the skin, there is both an increased opportunity for germs to enter the body or to spread germs to others
2. Wear disposable gloves at all times for expected contact with non-intact skin such as cuts, wounds, or other open skin, or with any possible contact with blood and body fluids
3. There may be times when other types of personal protective equipment (PPE) may be needed such as gowns/protective clothing/face shields and eye protection, if blood or body fluid is expected to make contact with clothing or splatter near face/eyes
4. Gloves labeled for examination or medical use should always be available in the home. Consult the RN for help in choosing and obtaining gloves. It is preferable to choose non-latex gloves
5. Ensure gloves are properly removed immediately following completion of the task and discarded into a lined waste container
6. Wash hands with soap and water for at least 20 seconds or decontaminate hands with alcohol-based hand sanitizer immediately after removal of gloves
7. To clean up a blood spill or body fluid from a surface such as countertops, linoleum, or tile flooring:
  - a. Wearing disposable gloves, absorb as much of spill as possible with paper towels. Discard gloves/towels in double-bagged waterproof plastic bags, then wash hands
  - b. Use a commercial household disinfectant according to product directions or prepare a 1:10 solution of bleach and water. Wearing disposable gloves, clean the area with disinfectant or bleach solution and allow it to air dry. If using a mop, soak mop head in clean bleach-water solution for at least 10 minutes. Wash mop head in the washing machine using hot water, detergent and bleach, or discard if possible. Discard remaining bleach solution; do not reuse
8. If clothing or fabric has been contaminated with blood or body fluids, remove immediately, being careful not to have the contaminated fabric come in contact with anything, and machine wash with detergent (and bleach if possible) using the hottest setting. Dry completely on the hottest setting possible
9. Blood or body fluids spilled on carpets or fabric furniture can be cleaned using carpet cleaner followed by a steam cleaning
10. Sharp objects including needles, lancets, and disposable razors (especially those contaminated with blood) must be disposed of immediately following use, into a puncture-resistant container such as a sharps disposal box. The RN can provide guidance for the use of proper containers and disposal instructions
  - a. Don't put sharps directly into the trash
  - b. Don't flush sharps down the toilet
  - c. Don't clip, bend, or put covers back onto sharps
  - d. Don't put used sharps in soda cans, milk cartons, glass bottles, or containers that can be broken or punctured. Coffee cans are not safe because the plastic lids come off easily and the cans may leak
11. Never share personal items such as nail clippers, toothbrushes, razors (disposable or electric), towels, dishes, or utensils
12. Toothbrushes should be replaced at least every 3-4 months and after an individual has an upper respiratory or GI illness

### Post Exposure Information

Exposure to someone else's blood or body fluid can occur through needle sticks, human bites, or cuts from sharps that are contaminated with blood or by a splash to the eye, nose, mouth, or skin.

1. Immediately wash needle sticks and cuts with soap and water
2. Flush blood splashes to the nose, mouth, or skin with water
3. Rinse eyes with clean water for 5 minutes

If FCPs or individuals in the home are exposed to blood in this manner it is important that a health care provider is contacted immediately.



## Immunizations

Each Sponsoring Agency is required to train FCPs on a vaccine's efficacy, safety, administration, and benefits. There are many diseases that can be prevented with immunizations. Some of the most common are: Influenza, Pneumonia, Hepatitis A, Hepatitis B, Measles, Mumps, Rubella, Chickenpox (Varicella), Herpes Zoster (Shingles), Tetanus, and Diphtheria Pertussis (Whooping cough).

### Influenza Vaccine

FCPs should be offered an annual influenza vaccination.

### Pneumococcal Vaccine

FCPs should be offered pneumococcal vaccination per CDC guidelines.

Recommendations for immunizations are updated on a regular basis. Additional information and updates can be found at the Centers for Disease Control and Prevention (CDC) at [www.cdc.gov](http://www.cdc.gov) and at the New York State Department of Health at [www.health.ny.gov](http://www.health.ny.gov).

## Procedures for the Control of Tuberculosis (TB)

Initial Testing for TB:

1. All FCPs and Substitute Providers must have TB testing completed prior to their first day of service provision
2. All individuals should be assessed by a medical professional for signs and symptoms of active pulmonary tuberculosis prior to their first day of Family Care services and should have the TB test, if indicated, carried out within seven (7) days of receipt of service
3. FCPs, Substitute Providers, and individuals may select testing by their own health care provider. The results of the TB testing and any necessary follow up evaluation must be documented and shared with the service provider or Sponsoring Agency prior to the first day of service provision or receipt of services
4. If a Tuberculin Skin Test (TST) is performed, it should be conducted with a two-step PPD unless the person has documented evidence of a negative TST within the last twelve (12) months

## Exposure Testing for TB

Testing must be conducted for all FCPs, Substitute Providers, and individuals who are exposed to someone with a suspected or confirmed case of active pulmonary tuberculosis.

Refusal by an FCP or Substitute Provider to be tested or evaluated for active pulmonary tuberculosis will be considered incompatible with the initial and/or continued certification of the Family Care Home or the approval of the Substitute Provider. The only exclusions which must be documented are:

1. Prior significant reaction to the PPD (Mantoux) testing, adequate treatment for active tuberculosis disease, or completion of adequate preventative therapy
2. A physician's statement of other contraindication will be considered acceptable as long as the statement includes a recommendation as to when and if testing would be appropriate in the future and how the FCP should be evaluated for active tuberculosis

FCPs and Substitute Providers must receive annual education by the RN on the signs and symptoms of active pulmonary tuberculosis.

## Food Safety

There are steps that should be practiced every day to keep individuals safe from getting food borne bacteria illness.

**Clean hands and surfaces**

1. Germs that cause food borne illness can be spread throughout the kitchen and get onto hands from cutting boards, utensils, countertops, and food
2. Clean your hands with warm water and soap for at least 20 seconds before and after handling food
3. Wash cutting boards, dishes, utensils and counter tops with hot soapy water after preparing each food item and before you prepare food
4. Consider using paper towels to clean up kitchen surfaces. If you use cloth towels, wash them often using the hot cycle of your washing machine and dry fully in the dryer on the hottest cycle possible. If using a sponge to clean up, microwave it each evening for 30 seconds or place it in the dishwasher
5. Rinse all fresh fruits and vegetables under running tap water. This includes those with skins and rinds that are not eaten. For firm-skin fruits and vegetables, rub with your hands or scrub with a clean vegetable brush while rinsing

**Practice safe food storage and equipment use**

1. Separate raw meat, poultry, seafood, and eggs from other food in your grocery cart, bags, and refrigerator
2. Use one cutting board for fresh produce and a different one for raw meat, poultry, and seafood. Use a non-porous cutting board
3. Never place cooked food on a plate that previously held raw meat, poultry, seafood, or eggs
4. Don't allow juices from meat, seafood, poultry or eggs to drip on other foods in the refrigerator. Use containers to keep these foods from touching other foods
5. Never re-use marinades that were used on raw food

**Cook food thoroughly and avoid spoilage**

1. Cook foods to the proper internal temperature
2. Check for meat and poultry for doneness with a clean food thermometer
3. Cook meat and poultry throughout, until no longer pink and juices run clear
4. Leftovers should only be kept for 3 days

## Other Medical Situations

### Section 5.5

#### Choking Prevention

Choking occurs when a person's airway becomes blocked by food or other objects, or when liquids enter the airway during swallowing. It is very important for Family Care Providers (FCP) to be aware of choking hazards and to know how to prevent choking and respond in a choking emergency.

Individuals with developmental disabilities should be assessed by an appropriate professional to determine if they are at risk for choking and if they need food and fluid consistency modifications, or other supports, to prevent choking. However, even if an individual is not determined to be at risk for choking, it is important to be aware of choking prevention and intervention guidance, because anyone can choke accidentally. Awareness is critical to choking prevention.

FCPs should be trained in:

1. Choking prevention and intervention
2. Preparing food and beverages in accordance with an individual's assessed dietary and consistency needs
3. Using any practitioner recommended adaptive equipment appropriately and maintaining equipment in good repair
4. Following individualized eating and drinking plans, where applicable
5. Ensuring that individuals are seated upright while eating or drinking, and not eating or drinking while in a moving vehicle
6. Providing appropriate supervision to individuals while they are eating or drinking
7. Remembering that certain foods such as meat (especially hot dogs), white bread, popcorn, grapes, and peanut butter are difficult to swallow and can increase the likelihood of a choking emergency

Choking can occur very rapidly, but potential incidents of choking can be avoided using proper supervision, observation, and training. All FCPs and Sponsoring Agency staff must receive the OPWDD Choking Prevention Initiative training prior to doing meal prep for the individual.

#### Aspiration

Aspiration is defined as the inhalation of food, fluid, saliva, medication or other foreign material into the trachea and/or lungs. This can occur during swallowing, choking, or if stomach contents reflux back into the throat.

Factors that place individuals at risk for aspiration:

1. Aging, being fed by others, poor chewing/swallowing skills
2. Inattention to individualized eating and drinking plan guidelines
3. Weak or absent coughing, and/or gag reflexes, commonly seen in persons with neurological dysfunction such as cerebral palsy and muscular dystrophy
4. The return of partially digested food or stomach contents to the esophagus/throat due to gastro-esophageal reflux disease (GERD)
5. Food stuffing, rapid eating/drinking, and pooling of food in the mouth
6. Medication side effects that cause drowsiness and/or relax muscles causing delayed swallowing and suppression of gag and cough reflexes
7. Muscular-skeletal impairments that may leave individuals unable to sit upright while eating
8. Nutrition, hydration, and medication administered by feeding tube
9. Providing fluid and/or food consistencies that are not part of an individual's eating or drinking plan
10. Seizures that may occur during eating and/or drinking

FCPs should notify a physician, RN, and/or clinician if any of the signs and symptoms above are observed or identified as they may indicate aspiration risk:

1. Eating slowly, fear or reluctance to eat/drink, gagging/choking during meals
2. Persistent coughing during or after meals
3. Irregular breathing, turning blue, moist respirations, wheezing or rapid respirations
4. Eating in unusual positions (e.g. head back, hyper extended neck, slumped over, etc.)
5. Food or fluid falling out of the person's mouth, or drooling
6. Intermittent fevers
7. Vomiting, regurgitation, rumination and/or odor of vomit or formula after meals
8. Chronic dehydration; unexplained weight loss

### **Immediate Interventions for Signs of Aspiration**

1. Stop feeding/eating immediately
2. Keep individual in an upright position and allow for coughing
3. Call 911 if the individual has difficulty or stops breathing and/or has no pulse. Start rescue breathing or CPR as appropriate. Once immediate protections are in place, contact the Family Care RN as soon as possible

### **Bowel Management**

Decreased mobility, certain medications, laxative dependency, and diseases affecting the bowel put many individuals at an increased risk for constipation, fecal impaction, and bowel obstructions. These conditions can cause pain, increased seizure activity, nausea, bowel perforation, and possibly death.

Developing and implementing an individualized bowel management program is vital for individuals at risk for these conditions.

If the individual is having abdominal pain, loose stools, distension of the abdomen, vomiting or fever, a healthcare professional should be contacted immediately to assess the individual. These symptoms may indicate a serious medical problem.

Not everyone needs a bowel management program. A thorough history of the individual's bowel pattern, dietary intake, and medications, along with a physical examination will help healthcare professionals to identify individuals who may be at risk for developing constipation and who may consequently require a bowel management program. The Family Care RN will review the bowel management program and train the provider on the protocol.

For individuals who have been determined by a health care professional to need a bowel management program, the following are components of an effective program:

1. Natural measures can help to prevent episodes of constipation:
  - a. Maintaining a well-balanced diet
  - b. Drinking fluids
  - c. Treating underlying disorders
  - d. Increasing exercise and mobility
2. Physicians' orders for bowel management medications must identify the drug, the dose, the route, the frequency and the time of administration. The regimen may need to specify steps to be taken if the medication is not effective
3. To comply with physicians' orders for medications, accurate tracking of individuals' bowel movements is critical. For individuals with a bowel management program, accurate monitoring and recording of bowel status must be maintained 24 hours a day. Adequate communication among service providers, including day services and substitute providers, is essential
4. When a PRN (as needed) medication is given, there must be adequate follow up to evaluate the effectiveness of the medication. If the medication is ineffective, the FCP must know what further steps to take
5. As with any intervention, an individual's bowel management program must be periodically reviewed for effectiveness by a health care professional and changed if needed

## Seizures/Epilepsy

An individual diagnosed with seizures or epilepsy has seizures (or convulsions) that occur when the electrical system of the brain malfunctions. Instead of the brain cells firing electrical impulses in a highly concentrated manner, the electrical impulses all fire continuously or in an abnormal pattern.

Seizures may produce a variety of effects including, but not limited to: a momentary loss of awareness, a block in normal communication, a loss of consciousness, and a variety of undirected, uncontrolled and unorganized movements. Afterwards, there can be a period of confusion and fatigue.

There are different types of seizures. Individuals may experience one or more. The seizure activity should be documented and described and then reported to the Family Care RN.

Seizure disorders are usually treated with medication and the avoidance of seizure triggers when possible. Follow up with the appropriate health care provider is very important. It is the responsibility of the Family Care RN to provide training in all areas of seizure management including but not limited to:

1. Overview of the individual's seizure disorder
2. Seizure precautions
3. Seizure triggers
4. Care during and after a seizure
5. Status epilepticus, including when to call 911
6. Documentation of seizure presentation
7. Routine follow up with health care providers

## Hot Weather Precautions

Heat-related illnesses and deaths are preventable. People suffer heat-related illness when their bodies are unable to cool down properly, especially in high temperatures and high humidity.

People at greatest risk for heat-related illness are the elderly, the very young, people with acute/chronic illness, those with cognitive impairments, and people taking certain medications.

1. Be aware of the heat and modify or reschedule outdoor activities accordingly
2. Stay in air-conditioned areas when possible and stay in the shade when outdoors
3. Drink plenty of fluids
4. Wear loose fitting, lightweight, and light-colored clothing

Heat Exhaustion is a milder form of a heat-related illness. Signs and symptoms include:

1. Heavy sweating, paleness, skin may feel cool
2. Muscle cramps, fatigue, weakness
3. Dizziness, headache, fainting, nausea or vomiting
4. Pulse rate may be fast and weak, and breathing may be fast and shallow

Heat Stroke is a medical emergency. When body temperature rises to a dangerous level, it can lead to vital organ damage and death. Signs and symptoms include:

1. An extremely high body temperature (above 103 °F)
2. Red, hot, dry skin, and absence of sweating
3. Rapid, strong pulse rate, throbbing headache, dizziness, nausea, or vomiting

Immediate steps to take:

1. If heat stroke is suspected or the individual is exhibiting extreme symptoms of heat exhaustion, contact 911 immediately
2. Get the individual to a cool, shady area, and attempt to cool them down with cool water applied to the skin
3. Give fluids if the individual is alert and able to swallow

## Cold Weather Precautions

Hypothermia and frostbite are always a concern especially for the elderly, the very young, people with acute/chronic illness, those with cognitive impairments, and people taking certain medications. Individuals that have conditions/circumstances predisposing them to hypothermia/frostbite, should have a plan of care in place, provided by the RN.

1. Dress in layers of loose dry clothing
2. Be sure to have heavy winter or water/wind resistant coat and boots
3. Be sure to cover hands, feet, face, nose and head very well. (A warm hat is critical as up to 40% of the body's heat is lost if your head isn't covered)
4. Wear a hat, scarf, and mittens/gloves

## Hypothermia and/or Frostbite

When exposed to cold temperatures, the body starts to lose heat faster than it can be produced. Prolonged exposure to the cold will eventually use up the body's stored energy resulting in hypothermia. Hypothermia is most likely to occur at very cold temperatures, but it can occur even at cool temperatures (above 40 degrees Fahrenheit) if a person becomes chilled from rain, sweat, or submersion in cold water.

Frostbite is an injury to the body caused by exposure to cold temperatures. At the first sign of redness or pain in any skin area, get out of the cold and protect any exposed skin.

Immediate steps to take if you suspect hypothermia and/or frostbite:

1. Contact 911 immediately and get the individual into a warm room or shelter
2. If the individual has on any wet clothing, remove it
3. Warm the center of the body first: chest, neck, head, and groin using blankets. Or use skin to skin contact under loose, dry layers of blankets, clothing, towels, or sheets. If there is frostbite, but no sign of hypothermia, immerse the affected area into warm water (not hot water) or warm the affected area using body heat
4. Warm beverages can help increase the body temperature. Do not try to give beverages to an unconscious person
5. Once body temperature has increased, keep the person dry and wrapped in a warm blanket, including head and neck

## Diabetes

FCPs must be trained by the Family Care Registered Nurse to perform procedures such as blood glucose monitoring and subcutaneous injections of medications used to treat diabetes.

Diabetes is a group of diseases that involve the hormone insulin. Insulin helps the body to properly store and use blood glucose, also known as blood sugar. When a person eats carbohydrates, the body breaks them down into glucose (sugar). Glucose is necessary because it is an important source of energy. Insulin which is produced in the pancreas helps the glucose move from the blood into the different cells of the body. The energy created allows the cells to function properly.

Diabetes occurs when the pancreas cannot produce enough insulin or stops producing insulin all together. In some cases of diabetes, the body does not respond to insulin properly. This is known as insulin resistance. Diabetes is a lifelong disease. Overall management requires weight control, exercise, and diet modification. Depending on the cause, type and severity of the diabetes, medication may be required. Medication may be given orally (by mouth) or by injection.

Diabetes must be managed and closely monitored by a health care provider. Frequent laboratory work may be ordered along with frequent medical appointments. Diabetes, left unattended, can lead to dangerously low or dangerously high blood glucose levels. Over the course of time, high blood glucose levels can lead to blood vessel and nerve damage causing a stroke, blindness, heart attack, kidney damage and nerve pain/

numbness (especially in the feet). Diabetes is the leading cause of blindness and amputation in the United States.

The Family Care RN is responsible for training the FCP in all aspects of the individual's diabetic care. This includes, but is not limited to, diet, exercise, weight control, blood glucose monitoring, signs and symptoms of low and high blood sugar, medication administration, foot care, medication administration, proper storage of insulin, and required healthcare follow up.

### **Tube Feeding (G-Tube/J-Tube)**

FCPs must be trained by the Family Care Registered Nurse to perform procedures such as Gastrostomy (G-Tube or J-Tube) feedings. Tube feedings are administered to those individuals who cannot eat and/or drink foods and liquids by mouth. A special liquid formula is administered by a G-Tube that is inserted through the abdominal wall directly into the stomach or a J-Tube which is inserted through the abdominal wall directly into the jejunum (part of the small intestine).

It is the responsibility of the RN, based on the services to be performed, the skill and experience of the persons involved, the needs of the individual, and any other relevant facts, to ensure that the FCP/Substitute Provider has been trained to perform G-Tube or J-Tube feedings. The RN must determine the level and frequency of oversight, monitoring, and observation needed prior to the initial start of the G or J Tube feedings by the provider. The RN also must ensure that a written procedure is present. Each written procedure must also address how the care will be delivered in the absence of the FCP.

## **Section 6: Incident Reporting and Record Keeping**



# Notification to Sponsoring Agency of Incidents and Events Affecting the Safety and Welfare of Individuals Receiving Services

## Section 6.1

The Family Care Provider must immediately notify the Sponsoring Agency, and in certain cases the Office for People With Developmental Disabilities (OPWDD) and the Justice Center, of incidents and other events or conditions that affect the health, safety, and welfare of an individual receiving services. Notification must be made after taking necessary action to ensure the safety and welfare of the individual.

### Reportable Incidents

These are incidents that occur while the provider and/or Sponsoring Agency is responsible for an individual's care. These incidents must be reported immediately to the Sponsoring Agency, OPWDD, and the Justice Center in accordance with Title 14 NYCRR Part 624 and Sponsoring Agency policies and procedures.

1. Physical abuse
2. Sexual abuse
3. Psychological abuse
4. Deliberate inappropriate use of restraints
5. Use of aversive conditioning
6. Obstruction of reports of reportable incidents
7. Unlawful use or administration of a controlled substance
8. Neglect
9. Significant incidents:
  - a. Conduct between individuals receiving services of a type listed in incidents a-h
  - b. Failure to provide services, resulting in:
    - i. A medication error with adverse effects to the individual
    - ii. Use of seclusion or unauthorized use of time out or restraints
    - iii. Mistreatment
  - c. Unauthorized absence, including missing person at risk for injury
  - d. Choking
  - e. Self-abusive behavior with injury
  - f. Injury requiring hospital admission
  - g. Theft or financial exploitation, involving funds or items worth \$100 or more or any theft of credit, debit, or benefit cards
  - h. Other significant incident with potential to result in harm to the health, safety, or welfare of an individual receiving services

### Serious Notable Occurrences

These are incidents that occur while the provider and/or Sponsoring Agency is responsible for an individual's care. These incidents must be reported immediately to the Sponsoring Agency and OPWDD.

1. An individual's death (Notes: A death that occurred as the result of another incident must be reported as both. Death is not reported as a reportable incident to the Justice Center, but the agency must report the death to the Justice Center death reporting line)
2. Sensitive situations, including possible criminal acts committed by an individual receiving services and other events identified as sensitive situations in the Sponsoring Agency's policies and procedures

### Minor Notable Occurrences

These are incidents that occur while the provider and/or Sponsoring Agency is responsible for an individual's care. These incidents must be reported within 48 hours to the Sponsoring Agency.

1. Theft or financial exploitation involving funds or items with values of \$15 to \$100
2. Injury requiring treatment beyond first aid that does not meet the definition of a reportable incident

## **Other Incidents and Events Specified in Sponsoring Agency Policy and Procedure as Required by Part 624**

Part 624 requires agencies to identify in policy and procedure other incidents, typically identified as minor events or non-reportable incidents, the agency wants reported for monitoring, tracking and trending purposes. These may include but are not limited to procedural medication errors and falls and injuries that do not require treatment beyond first aid.

## **Part 625 Events and Situations**

These are incidents that occur when a provider and/or Sponsoring Agency is not responsible for an individual's care but becomes aware of an event or situation with the potential to affect the health, safety, or welfare of the individual receiving services. (These incidents might occur during times when an individual is visiting or under the care of family members or when an individual who is capable of independent travel is in the community.) These incidents must be reported to the Sponsoring Agency and OPWDD upon discovery in accordance with Title 14 NYCRR Part 625.

1. Physical abuse
2. Sexual abuse
3. Emotional abuse
4. Active neglect
5. Passive neglect
6. Self-neglect
7. Financial exploitation

## **Other Family Care Program Notification Requirements**

These are other circumstances not defined as incidents, but with potential to affect the health, safety, and/or welfare of individuals receiving services. A Family Care Provider must immediately report these circumstances to the Sponsoring Agency, after providing individuals with needed protections and care, in accordance with agency policies and procedures.

1. An individual's health emergency, including events that required 911 calls
2. A significant change in an individual's behavior, including events that required 911 calls
3. Any need to evacuate the home (e.g., weather, smell of gas or gas leak, fire, flood, invasion, etc.)
4. Any criminal activity at the home, or criminal charges involving people who reside at the home
5. Other events not addressed in this section in accordance with Sponsoring Agency policy and procedure

Individuals' families, correspondents, and other providers of services must also be notified of incidents and events in accordance with Parts 624 and 625 and agency policies and procedures.

Contact information must be available to Family Care Providers to reach all parties requiring notification during and after business hours and on weekends and holidays.

## Incident Management

### Section 6.2

The Office for People With Developmental Disabilities (OPWDD) requires all service providers in the OPWDD service delivery system to comply with incident management regulations in Title 14 New York Codes, Rules, and Regulations Parts 624 and 625.

Part 624 identifies incident management requirements applicable to incidents that occur under the auspices of programs and services operated, certified, or funded by OPWDD, including Family Care Homes. An incident under the auspices of a Family Care Home is an incident that occurs while a Family Care Provider, Substitute Provider, and/or Sponsoring Agency staff, volunteer or contractor is responsible for providing Family Care services. (See Family Care Manual, Section 6.1 regarding events that are Part 624 incidents).

Part 624 identifies:

1. Reporting requirements (what to report, how, when, and to whom)
2. Individual protections (immediate protections and subsequent protections)
3. Investigation requirements
4. Notification and information sharing requirements (including “Jonathan’s Law” requirements)
5. Incident Review Committee requirements
6. Monitoring and follow up requirements

Part 625 identifies incident management requirements applicable to certain events and situations that the provider or Sponsoring Agency becomes aware of but that did not occur under the auspices of a program or service operated, certified, or funded by OPWDD. (See Family Care Manual, Section 6.1 regarding events that are constitute Part 625 incidents)

Part 625 identifies:

1. Reporting requirements (what to report, how, when, and to whom)
2. Agency intervention on behalf of an individual
3. OPWDD involvement in events and situations

OPWDD issued and periodically updates The Part 624 and Part 625 Handbook, which provides detailed guidance to service providers on how to meet OPWDD incident management requirements. Please refer to the OPWDD website for this publication.

## Protection of Individual Rights

### Section 6.3

Each individual living in a Family Care Home must be given respect and dignity regardless of race, religion, national origin, creed, age, gender, ethnic background, sexual orientation, developmental disability, other disability, or human immunodeficiency virus (HIV infection). There must be no discrimination for these or any other reasons.

In addition, no individual can be denied:

1. The right to select one's own Care Manager and the right to participate in developing a Life Plan
2. The right to object to one's own care and treatment and express grievances or suggestions
3. Communication regarding care, treatment, and service plans in the language preferred by the individual
4. The opportunity to have visitors, and to have privacy when visited
5. The opportunity to socialize with others and to communicate freely inside/outside of the Family Care Home
6. The opportunity to send and receive letters, packages, and email without restriction
7. A safe and sanitary environment
8. Freedom from physical, psychological and verbal abuse; freedom from corporal punishment and neglect; freedom from use of mechanical restraining devices unless medically prescribed or used in accordance with Title 14 New York Codes, Rules and Regulations (NYCRR) Section 633.16; freedom from unnecessary or excessive medication; and freedom from isolation
9. A balanced and nutritious diet, with meals served at appropriate times. (Meals cannot be altered for disciplinary/punishment purposes, for the convenience of the Family Care Provider, or for behavior modification)
10. Protection from commercial or other exploitation
11. Confidentiality of all information in the individual's record
12. Appropriate and humane care and the opportunity to lead the person-centered planning process, and/or have input through a parent, guardian, or advocate
13. Observance and participation in the religion of the individual's choice, through the means of their choice, including the right not to participate
14. The opportunity to register and to vote, as well as the opportunity to participate in activities that educate the individual in civic responsibilities
15. The receipt of information, on or prior to admission to Family Care, regarding supplies and services that the home will provide or for which additional charges will be made
16. Access to clinically sound instructions on the topic of sexuality and family planning services and information about these services including access to medication or devices to regulate conception, when clinically indicated
17. Opportunity to request alternative residence or room arrangement
18. Other rights in accordance with Title 14 NYCRR Parts 602-690

It is the responsibility of the Sponsoring Agency to ensure that rights are not arbitrarily denied. Rights limitations must be documented and must be on an individual basis, for a specific period of time, and for clinical purposes only. See also Title 14 NYCRR sections 633.4, 633.16, and 636-1.4 for requirements specific to modification and limitation of individuals' rights.

## Family Care Provider Record Keeping

### Section 6.4

Family Care Providers (FCP) are required to maintain certain documents for each individual living in their Family Care Home (FCH). The documents should be organized and must be made available for review upon request by the Sponsoring Agency, the Office for People With Developmental Disabilities (OPWDD), the New York State Justice Center for the Protection of People with Special Needs, and any other authorized representatives of OPWDD.

The documents that a FCP must keep in the FCH include, but are not limited to, the following:

1. Operating certificate
2. Fire Evacuation Plan
3. *Family Care Home Fire Drill Evacuation Report Form(s)*
4. Inspection reports, as needed (furnace, well water, etc.)
5. Emergency contact numbers (local emergency numbers, Sponsoring Agency, family, advocates, service providers)
6. After hours on-call procedures for the Sponsoring Agency

The following documents are required to be onsite for each individual living in the FCH:

1. Life Plan with all attachments
2. Staff Action Plan
3. Safeguards (e.g., Individualized Plan of Protective Oversight, Safeguard Summary)
4. Residential Habilitation Daily checklist
5. Clinical consultations (e.g., reports from Primary Care Physician, Nurse Practitioner, Physician's Assistant, Psychiatrist, Dentist, Nutritionist, Occupational, Physical, or Speech Therapist, etc.)
6. Medication Orders
7. Diet Orders
8. Medication Administration Record (MAR)
9. Medication Self Administration Assessment
10. Nursing plans of care (e.g., Plan of Nursing Services, Nursing Assessment, Plan of Nursing Services)
11. *Ready-to-Go Packet*
12. Other plans, as required (e.g. Behavior Support Plan with associated consents)
13. Personal Expenditure Plan
14. Money Management Assessment
15. Personal Allowance Ledger
16. Clothing Allowance Ledger
17. Other documents, as required by the Sponsoring Agency

When clinical records are updated, copies must be given to the FCP by the Sponsoring Agency. The Sponsoring Agency is responsible for storing and/or disposing of any outdated records in accordance with established policies for record retention and management of confidential records.

## Sponsoring Agency Record Keeping

### Section 6.5

Each Sponsoring Agency must establish and maintain a current record of each Family Care Provider (FCP) and a current record of each individual enrolled in their Family Care program.

#### Family Care Provider Record

The Sponsoring Agency must establish and maintain a record of information pertaining to the FCP and the operation of the certified Family Care Home (FCH). The record must be maintained in accordance with Sponsoring Agency policy, applicable regulations, and the clinical record retention schedule. When a home closes, the reason for the FCH closure must become part of the record.

Records pertaining to the FCP must be available for review by the FCP, who is to be given the opportunity to submit written comments regarding the contents.

Documents that a Sponsoring Agency must maintain include but are not limited to:

1. *Form LS-22: Application for Family Care Home Certification* with required attachments
2. *Reaffirmation Statement for Recertification of an OPWDD Family Care Home*
3. Certificate of Occupancy or equivalent, indicating the home meets applicable building code requirements
4. Initial and current Family Care operating certificate
5. Family Care Home Study (initial)
6. Current signed *Justice Center Code of Conduct*
7. Updated Physician's statement and other medical information as required by the Sponsoring Agency
8. Verification of pet immunizations
9. Verification that the FCP and all household members age 18 and older, residing in the home, were fingerprinted and cleared through the Justice Center Criminal Background Check, Staff Exclusion List, and State Central Register of Child Abuse and Maltreatment
10. Verification that FCP has been checked and cleared through the Medicaid Exclusion List
11. Copy of the most recent License Event Notification Service report
12. Documentation regarding approved Substitute Provider(s) such as Substitute Provider application, initial/recent training
13. Current safety inspection (*Form 236*)
14. Evacuation plan
15. Monthly fire drill forms
16. Verification of furnace inspection and, if applicable, well-water test
17. A copy of the Case Management Observation Report (CMOR); as required for Willowbrook Class Members
18. Office for People With Developmental Disabilities (OPWDD) Approved Annual Review Instrument
19. *Form 239 Family Care Program Monthly Checklist*
20. Training records
21. Records of adverse actions against the operating certificate and Plans of Corrective Action (if any)
22. Reimbursement forms such as emergency respite/Substitute Provider services
23. Mileage claims
24. Offline payments
25. Representative Payee information and individual account records, where applicable
26. Other reimbursements

## Clinical Record

The Sponsoring Agency must maintain clinical information for each individual enrolled in their Family Care program. The documents the Sponsoring Agency maintains must include, but are not limited to:

1. Identification Form
2. Individual Rights
3. Consent for Services
4. Level of Care Eligibility Determination (LCED)
5. Developmental Disabilities Profile-2 (DDP-2) or Coordinated Assessment System (CAS)
6. Summary of Rights of Willowbrook Class Members
7. Health Care Proxy
8. Life Plans and addendums
9. Staff Action Plans
10. Family Care Residential Habilitation Services checklists
11. Monthly Summary Notes
12. Semi/Annual Note
13. Plans of Nursing Service
14. Bed Rail Assessment
15. Water Safety Assessment
16. Other assessments, where applicable
17. 16A-MED Physical Diagnosis Summary Sheet
18. Community Health Provider Visit/Consultation Records
19. Annual physical and dental exams
20. Physician's Orders
21. Immunization Record
22. Annual Medication Regimen Reviews
23. Medical Charts (e.g., weight, blood pressure, seizure, bowel monitoring)
24. Lab reports
25. Medication Administration Records (MAR)
26. Information on Individual's Ability to Give Informed Consent
27. Risk Assessment checklist
28. Behavior Support Plan
29. Human Rights Committee and Informed Consent documentation
30. Symptom Monitoring Plan for an Individual Receiving Psychotropic
31. Medications for a Co-Occurring Psychiatric Condition
32. Progress Statement
33. PRN medication criteria for Behavior/Psychiatric Symptoms
34. Correspondence Sheet
35. Pre-arranged Funeral and Burial Plans Form
36. Personal Expenditure Plan
37. Money Management Assessment

## Accounting for Individual's Personal Belongings

### Section 6.6

Individuals living in a Family Care Home (FCH) should have adequate personal supplies and clothing. Upon admission to an FCH, the Sponsoring Agency should ensure that an inventory is completed to track personal belongings and clothing. An annual review should occur, so the inventory list is kept current. This inventory should also be reviewed when the individual is discharged from the FCH to ensure all belongings are accounted for and taken by the individual.

The Family Care Provider must:

1. Conduct annual reviews of an individual's clothing and personal belongings in order to maintain an updated inventory of items
2. Ensure that the individual's clothing is in good repair and appropriate in size
3. Notify the Sponsoring Agency when an individual's valuable possessions are lost, destroyed, or stolen
4. Provide the individual and/or Sponsoring Agency access to the Family Care Home to gather the individual's possessions following discharge or death

If an individual living in Family Care passes away, the Sponsoring Agency must ensure that all personal property of the individual is collected and stored in a secure location until appropriate action can be determined. The Sponsoring Agency must have a notification process in place to inform relatives of their ability to claim these items. Items purchased under the personal allowance group purchase process in Section 4.11 are excluded from this process.



## Advisory Councils for Family Care

### Section 6.7

#### Commissioner's Advisory Council on Family Care

The Commissioner's Advisory Council on Family Care (CACFC) was established in March 1991 to make recommendations to the Commissioner of the New York State Office for People With Developmental Disabilities (OPWDD) regarding the planning, operating, administering, and managing of the Family Care program.

Function of the Council:

1. To review and comment on proposed Family Care regulations, policies and procedures
2. Discuss issues, identify training needs, raise/recommend resolutions for specific concerns with statewide significance
3. Serve as the representative body of Family Care Providers (FCP) statewide and to participate at the local Developmental Disabilities State Operations Office (DDSOO) Family Care Advisory Council

To establish FCP membership on the CACFC, the DDSOO Director (or designee) will nominate FCPs that are actively involved with the DDSOO's Family Care Advisory Council. Nominated members must be approved by the Commissioner's Office or designee.

In addition to Central Office Family Care staff, the CACFC is generally comprised of:

1. Commissioner of OPWDD
2. Executive Deputy Commissioner of OPWDD, or designee
3. An FCP and a Family Care Coordinator from each of the DDSOOs
4. Central Office Divisional Representation
5. Two DDSOO Directors
6. One Developmental Disabilities Regional Office (DDRO) Director
7. Two Directors of Agency Sponsored Family Care

#### Family Care Advisory Council

Each DDSOO should form a Family Care Advisory Council (FCAC) that meets on a routine basis. All Sponsoring Agencies of Family Care are encouraged to participate in the FCAC.

Functions of the Council:

1. To make recommendations to the DDSOO Director with regards to planning, operating, administering, and managing the Family Care Program
2. To review and comment on proposed Family Care regulations, policies and procedures to increase the effectiveness of the Family Care Program
3. To raise issues and/or recommend resolutions for provider-specific concerns
4. To identify and recommend training needs in specific program areas
5. To serve as the representative body for Family Care Providers (FCP) in that region and seek to bring resolution to Family Care issues at the local level

An FCP may volunteer or be nominated by the Sponsoring Agency or by other Providers. The nominee must be in good standing in the Family Care program. The DDSOO Director or designee, will make the final decision regarding all participants. It is recommended that each council member serve a two-year term, however a member may be reappointed to serve on the committee.

Council members may include:

- |                                 |                               |
|---------------------------------|-------------------------------|
| 1. DDSOO Director (or designee) | 5. Registered Nurses          |
| 2. Family Care Coordinators     | 6. Safety & Security Officers |
| 3. Family Care Providers        | 7. Quality Assurance staff    |
| 4. Home Liaisons                |                               |



## Appendix: Family Care Forms

## Affirmation of Agency Sponsored Recertification Actions

The following is to be completed by the Sponsoring Agency Executive Director or an authorized designee to affirm that the agency has completed the recertification actions listed below for:

Family Care Provider(s):

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Operating Certificate Number:

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1. Qualified Agency staff have completed a comprehensive review of at least the last six months of required OPWDD approved monthly visit forms. Based on review of these visits, any identified issues have been remedied.

Sponsoring Agency

Affirms

Does not affirm

2. Qualified Agency staff have completed a comprehensive review of all incidents in the home from the last certification period to current. Provider is meeting the health and safety needs of the individual(s) receiving services.

Sponsoring Agency

Affirms

Does not affirm

3. Qualified Agency staff have completed an in-home recertification visit using an OPWDD approved review instrument. Any issues found during the visit have been remedied and recertification is supported.

Sponsoring Agency

Affirms

Does not affirm

4. If a Behavior Support Plan is in use, qualified Agency staff have completed a comprehensive review of the plan. (If there is no Behavior Support Plan, check N/A for not applicable.)

N/A

This review concluded that (1) the plan is appropriate for the individual, (2) that it has been implemented as written, (3) that it has been revised as needed, and (4) that it adheres to regulations at 14 NYCRR § 633.16

Sponsoring Agency

Affirms

Does not affirm

5. Qualified Agency staff have completed a comprehensive review of consents and required committee reviews for Behavior Support Plans including restrictive or intrusive interventions and for any use of medication to modify behavior or treat a psychiatric condition. Consents and committee reviews were obtained in accordance with 14 NYCRR § 633.16. (If plans do not include restrictive interventions and/or no medication is used to modify behavior or to treat a psychiatric condition, check N/A for not applicable.)

N/A

Sponsoring Agency

Affirms

Does not affirm

6. Sponsoring Agency has requested the relevant authorities to perform the required background checks for the Provider and any household members 18 and over (excluding individuals receiving services) if not already completed. The Family Care Home complies with all background check requirements in 14 NYCRR § 687.8(p)-(t).

Sponsoring Agency

Affirms

Does not affirm

7. Qualified Agency staff have reviewed the Life Plan, Residential Habilitation goals, and related billing activity for each individual receiving services. The Habilitation services are being delivered in accordance with each individual's Life Plan and are being billed appropriately.

Sponsoring Agency

Affirms

Does not affirm

8. Qualified Agency staff have completed a comprehensive review of the Provider's compliance with Personal Allowance regulations. The funds for each individual receiving services were managed in accordance with 14 NYCRR § 633.15.

Sponsoring Agency

Affirms

Does not affirm

9. Qualified Agency staff have reviewed the Provider's required trainings from the last certification date to the present. Provider is up to date on all required trainings.

Sponsoring Agency

Affirms

Does not affirm

10. Qualified Agency staff have completed a comprehensive review of at least the last six months of fire drill/evacuation reports. Provider is in good standing with required fire safety protocols in accordance with an OPWDD approved fire drill form and fire safety policies referenced in the Family Care Manual.

Sponsoring Agency

Affirms

Does not affirm

11. Qualified Agency staff have completed a comprehensive health care record review for each of the individuals receiving services residing in the Family Care Home. The health and medical needs of the individual(s) in the Provider's care are being met.

Sponsoring Agency

Affirms

Does not affirm

12. An OPWDD Safety and Security Officer has completed an in-person review of the home for physical plant/maintenance deficiencies using an approved OPWDD form. Any identified issues have been remedied and the physical plant/maintenance of the home is in good standing.

Sponsoring Agency

Affirms

Does not affirm

13. Qualified Agency staff have reviewed the Provider's physician statement. The physician has indicated that Provider is in good health and physically and emotionally capable of providing Family Care services to the individual(s) receiving services currently residing in the home.

Sponsoring Agency

Affirms

Does not affirm

COMPLETE 1, 2, 3, or 4 BELOW.

(1) Based upon affirming each of the above statements, \_\_\_\_\_ (Agency) hereby affirms that it has found the Provider qualified for recertification without limitations as a Family Care Home by OPWDD.

Attach a Statement of Deficiencies and Plan of Corrective Action (identifying issue- specific and systemic corrective actions) if any deficiencies resulted from this recertification review.

\_\_\_\_\_  
Agency Representative

\_\_\_\_\_  
Title and Date

\_\_\_\_\_  
Print Name of Agency Representative

(2) Based upon affirming each of the above statements, \_\_\_\_\_ (Agency) hereby affirms that it has found the Provider qualified for recertification as a Family Care Home by OPWDD with the following limitations for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attach a Statement of Deficiencies and Plan of Corrective Action (identifying issue-specific and systemic corrective actions) if any deficiencies resulted from this recertification review.

\_\_\_\_\_  
Agency Representative

\_\_\_\_\_  
Title and Date

\_\_\_\_\_  
Print Name of Agency Representative

(3) Based upon affirming each of the above statements except for numbers \_\_\_\_\_, \_\_\_\_\_ (Agency) makes the following recommendations: (Please attach an explanation of all statements that were not affirmed; a Statement of Deficiencies and Plan of Corrective Action (identifying issue-specific and systemic corrective actions) that resulted from this recertification review; details of any protective measures that you have implemented; and other relevant supporting documents.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Agency Representative

\_\_\_\_\_  
Title and Date

\_\_\_\_\_  
Print Name of Agency Representative

(4) Based upon not affirming the following above statements \_\_\_\_\_, \_\_\_\_\_ (Agency) hereby declines to affirm that it has found the Provider qualified for recertification as a Family Care Home by OPWDD.

At this time, there are persistent issues or corrective actions needed as follows:

(Please include documentation of any protective measures you have taken to support the individual(s) receiving services residing in the home, including emergency removal. Please also attach an explanation of all statements that were not affirmed; a Statement of Deficiencies and Plan of Corrective Action (identifying issue-specific and systemic corrective actions) that resulted from this recertification review; and other relevant supporting documents.)

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\_\_\_\_\_  
Agency Representative

\_\_\_\_\_  
Title and Date

\_\_\_\_\_  
Print Name of Agency Representative

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The Agency will submit the following items to the DDSOO liaison by the 15<sup>th</sup> of the month prior the expiration of the operating certificate:

- This signed Affirmation of Agency Sponsored Recertification Actions
- The Statement of Deficiency and Plan of Corrective Action issued as a result of this recertification review
- The OPWDD *Reaffirmation Statement for Recertification* or if significant changes (renovations to the household, change in household composition etc.) the *Application for Family Care Home Certification*
- The OPWDD approved review instrument completed by the Agency for this recertification review
- The fire and safety inspection completed by the OPWDD Safety and Security Officer for this recertification review
- The signed and reviewed Recertification Checklist
- If the Agency is choosing option 2, 3, or 4 above, please include any supporting documents requested
- Verification of the Family Care Provider's address and Social Security number



This agreement is between the Office for People With Developmental Disabilities (OPWDD) and \_\_\_\_\_ (Agency) referred to in this agreement as the “Sponsoring Agency.”

Upon execution and approval of this Agreement, the Sponsoring Agency is approved to be a Sponsoring Agency of OPWDD certified Family Care Homes, provided that it is and remains a provider of services under the Home and Community Based Services (HCBS) Comprehensive Waiver operated by OPWDD.

Sponsoring Agency agrees to comply with all the following provisions to continue as a Sponsoring Agency under this agreement.

## **I. Establish Family Care Program**

Sponsoring Agency recognizes that the purpose of a Family Care Home is to provide a residential environment that approximates, as closely as possible, a family setting which enables and encourages individuals receiving services to participate in family and community life on an equal status with other members of the household and agrees to operate its Family Care program in a manner that achieves this purpose.

Sponsoring Agency acknowledges that it is responsible for overseeing its Family Care Providers, and therefore agrees that it must:

- (1) Designate a staff member to serve as coordinator of the agency’s entire Family Care program. The staff person will be given the role of Family Care Coordinator (FCC). The FCC is responsible for ensuring that the Sponsoring Agency and the Family Care Providers it oversees comply with all applicable OPWDD regulations and follow OPWDD policies and procedures.
- (2) Institute policies and procedures that address the conduct of employees, volunteers, and Family Care Providers while functioning in a work-related capacity in accordance with OPWDD regulations at 14 NYCRR §§ 633.5 and 633.7.
- (3) Document that Family Care Providers have been advised of conduct expectations in writing by the Sponsoring Agency and have received training regarding the safety and prevention of abuse of individuals receiving services in accordance with OPWDD regulations at 14 NYCRR § 633.8.
- (4) Review Code of Conduct for Custodians of People With Special Needs prior to exercising any responsibilities and have all Family Care Providers read and sign the



most recent Justice Center Family Care Providers and on at least an annual basis in accordance with OPWDD regulations at 14 NYCRR § 633.7.

## **II. Criminal History Record Checks, SEL and SCR Checks**

Sponsoring Agency agrees to comply with OPWDD regulations at 14 NYCRR §§ 633.22 and 687.8 regarding criminal history checks of its Providers and all parties age 18 and older who are to reside in the Family Care home (except for individuals receiving Family Care services) and OPWDD regulations at 14 NYCRR § 633.24 regarding checks of the Staff Exclusion List (SEL) and the Statewide Central Register of Child Abuse and Maltreatment (SCR) and ensure that they are successfully completed prior to the initial certification or recertification (if applicable) or when a new adult moves into the home.

## **III. Protection of Individuals' Rights**

Sponsoring Agency agrees to protect the rights of individuals receiving services in its Family Care homes as set forth in OPWDD regulations at 14 NYCRR § 633.4, ensure that those rights are not arbitrarily denied and that its Family Care Providers protect those rights. Sponsoring Agency agrees to ensure that any Behavior Support Plan including a limitation on an individual's rights is developed, approved, and monitored in compliance with OPWDD regulations at 14 NYCRR § 633.16. Sponsoring Agency agrees to develop policies and procedures that establish mechanisms to resolve objections to services in conformance with OPWDD regulations at 14 NYCRR § 633.12.

## **IV. Provision of Care and Treatment**

Sponsoring Agency agrees to ensure that there is a current record containing information on the examination and treatment for each individual receiving services, including a plan of care in compliance with OPWDD regulations at 14 NYCRR § 633.10. Sponsoring Agency agrees to develop policies and procedures relative to prescribed and over-the-counter medications in compliance with OPWDD regulations at 14 NYCRR § 633.17 and ensure that its providers adhere to these policies and procedures.

## **V. Duties of Family Care Providers**

Sponsoring Agency agrees to apprise Family Care Providers of their duties set forth in OPWDD regulations at 14 NYCRR § 687.8 and ensure that they fulfill these duties.

## **VI. Visitation, Inspection, and Investigation of Family Care Homes**

Sponsoring Agency agrees to cooperate with OPWDD in the completion of annual and recertification Family Care Home reviews, in the form and format required by OPWDD, and to cooperate with OPWDD when OPWDD conducts visitation, inspection, and investigation of Family Care Homes as set forth in OPWDD regulations at 14 NYCRR § 687.7. Sponsoring Agency agrees to apprise Family Care Providers of their duties to cooperate with OPWDD as set forth in its regulations at 14 NYCRR § 687.7.

## **VII. Reportable Incidents and Notable Occurrences**

Sponsoring Agency agrees to develop policies and procedures in conformance with 14 NYCRR § 624.5 regarding the reporting, recording, investigation, review, and monitoring of reportable incidents and notable occurrences as defined in Part 624 and the reporting and management of events and situations as defined in Part 625 and make them known to Family Care Providers, including their duty to report reportable incidents to the Vulnerable Person's Central Register.

## **VIII. Financial Reporting Requirements**

Sponsoring Agency agrees to comply with all requirements of 14 NYCRR Subpart 635-4 regarding the maintenance and filing of its own financial reports and statistical data and to submit to audits.

## **IX. Management of Personal Funds**

Sponsoring Agency agrees to comply with the requirements of 14 NYCRR § 633.15 in its management of the personal funds of individuals receiving services in the Family Care Homes it sponsors and ensure that all Family Care Providers comply with personal allowance requirements applicable to them.

## **X. Fire Safety and Maintenance of the Physical Plant**

Sponsoring Agency agrees to apprise Family Care Providers of their duties regarding fire safety in the home as set forth in the Family Care Manual and ensure that they fulfill these duties. Sponsoring Agency also agrees to comply with its oversight responsibilities regarding fire safety in its Family Care Homes as set forth in the Family Care Manual. Sponsoring Agency agrees to apprise Family Care Providers of their duties regarding the OPWDD general

safety and welfare regulations at 14 NYCRR § 635-7.4.

## **XI. Provision of Home and Community Based Waiver Services (HCBS)**

Sponsoring Agency agrees to ensure that HCBS Residential Habilitation services are provided to individuals in compliance with OPWDD regulations at 14 NYCRR § 635-10 and applicable OPWDD Administrative Memoranda. Sponsoring Agency agrees to apprise Family Care Providers of their duties regarding the delivery of Residential Habilitation services.

## **XII. Provision of Required Supplies and Services**

Sponsoring Agency agrees to assume the cost of all items required by 14 NYCRR 635- 9.1(3)(i) for Family Care Providers and each individual receiving services and agrees to ensure that its Family Care Providers assume the cost of all items required by OPWDD regulations at 14 NYCRR § 635-9.1(3)(ii).

## **XIII. Obligations to Family Care Providers**

Sponsoring Agency agrees to supply its Family Care Providers with necessary resources, information, and supports as follows:

- (1) With consent from the individual, the Sponsoring Agency will make sufficient information available to a new or existing Family Care Provider about an individual who will be referred for placement at the provider's Family Care Home, to enable the provider to determine if the Family Care Home can meet the individual's needs.
- (2) The Sponsoring Agency will provide sufficient clinical and administrative support to maintain appropriate Family Care Home placements for individuals receiving services in accordance with the OPWDD Family Care Manual, applicable OPWDD regulations, and State Mental Hygiene Law.
- (3) The Sponsoring Agency will provide its Family Care Providers with current information on payments to the Family Care Providers as providers of services and on the personal allowance, benefits, and entitlements for individuals receiving services.
- (4) The Sponsoring Agency will ensure that Family Care Providers are provided with prior notification of and opportunity to attend and participate in planning meetings for each individual receiving services, unless an individual objects to such notification,

attendance, or participation of the Family Care Provider.

- (5) The Sponsoring Agency will supply each Family Care Provider with a copy of the OPWDD Family Care Manual.
- (6) The Sponsoring Agency will provide each Family Care Provider with prompt notice of any changes in OPWDD policies or regulations affecting Family Care Homes and supply each provider with updated copies of those policies or regulations.
- (7) The Sponsoring Agency will provide Family Care Providers with reasonable notice of visits (except those required to be unannounced by 14 NYCRR § 687.7(b)), cancellations, meetings, and trainings.
- (8) The Sponsoring Agency will make Sponsoring Agency staff available to discuss with a Family Care Provider concerns about Sponsoring Agency decisions or actions that the provider believes have or will negatively affect the home or the individuals receiving services.
- (9) The Sponsoring Agency will ensure that its Family Care Providers are sufficiently represented on the Family Care Advisory Council to address the providers' issues and concerns.
- (10) The Sponsoring Agency will communicate clearly and promptly with Family Care Providers on issues affecting the certification of their Family Care Homes or affecting the individuals receiving services to the extent permitted by any ongoing investigation.
- (11) The Sponsoring Agency will treat Family Care Providers respectfully regardless of religion, race, color, national origin, sex, sexual orientation, disability, or age. Sponsoring Agency agrees that the Board of Directors will review this Agreement for compliance with each provision on an annual basis.

OPWDD may cancel this Agreement without cause upon at least 60-day written notice to the Sponsoring Agency. Such notice shall be sent by certified mail, return receipt requested.

In the event that OPWDD cancels this Agreement for cause, OPWDD will provide a notice of cancellation.

In the event that the Sponsoring Agency terminates this Agreement, the Sponsoring

Agency will provide to OPWDD a written 60-day notice of cancellation.

In the event of cancellation of this Agreement, the Sponsoring Agency shall cooperate with OPWDD to develop an acceptable transition plan that ensures the safe and appropriate placement of the individuals being served in its Family Care Homes.

\_\_\_\_\_  
Name of Sponsoring Agency

\_\_\_\_\_  
Signature of Agency Representative

\_\_\_\_\_  
Print Name of Agency Representative

\_\_\_\_\_  
Address (please print)

\_\_\_\_\_  
Title of Agency Representative

\_\_\_\_\_  
Agency Phone Number

\_\_\_\_\_  
Date



This agreement is between the Office for People With Developmental Disabilities (OPWDD) and \_\_\_\_\_(DDSOO) referred to in this agreement as the “Sponsoring Agency.”

Upon execution and approval of this Agreement, the Sponsoring Agency is approved to be a Sponsoring Agency of OPWDD certified Family Care homes, provided that it is and remains a provider of services under the Home and Community Based Services (HCBS) Comprehensive Waiver operated by OPWDD.

Sponsoring Agency agrees to comply with all the following provisions to continue as a sponsoring agency under this agreement.

### **I. Establish Family Care Program**

Sponsoring Agency recognizes that the purpose of a Family Care home is to provide a residential environment that approximates, as closely as possible, a family setting which enables and encourages individuals receiving services to participate in family and community life on an equal status with other members of the household and agrees to operate its Family Care program in a manner that achieves this purpose.

Sponsoring Agency acknowledges that it is responsible for overseeing its Family Care providers, and therefore agrees that it must:

- (1) Designate a staff member to serve as coordinator of the agency’s entire Family Care program. The staff person will be given the role of Family Care Coordinator (FCC). The FCC is responsible for ensuring that the Sponsoring Agency and the Family Care providers it oversees comply with all applicable OPWDD regulations, and follow OPWDD policies and procedures.
- (2) Institute policies and procedures that address the conduct of employees, volunteers and Family Care providers while functioning in a work-related capacity in accordance with OPWDD regulations at 14 NYCRR §§ 633.5 and 633.7.
- (3) Document that Family Care providers have been advised of conduct expectations in writing by the Sponsoring Agency and have received training regarding the safety and prevention of abuse of individuals receiving services in accordance with OPWDD regulations at 14 NYCRR § 633.8.

- (4) Have all Family Care providers read and sign the most recent Justice Center Code of Conduct for Custodians of People With Special Needs prior to exercising any responsibilities as Family Care providers and on at least an annual basis in accordance with OPWDD regulations at 14 NYCRR § 633.7.

## **II. Criminal History Record Checks, SEL and SCR Checks**

Sponsoring Agency agrees to comply with OPWDD regulations at 14 NYCRR §§ 633.22 and 687.8 regarding criminal history checks of its providers and all parties age 18 and older who are to reside in the Family Care home (except for individuals receiving Family Care services) and OPWDD regulations at 14 NYCRR § 633.24 regarding checks of the Staff Exclusion List (SEL) and the Statewide Central Register of Child Abuse and Maltreatment (SCR) and ensure that they are successfully completed prior to the initial certification, recertification (if applicable) or a new adult moving into the home.

## **III. Protection of Individuals' Rights**

Sponsoring Agency agrees to protect the rights of individuals receiving services in its Family Care homes as set forth in OPWDD regulations at 14 NYCRR § 633.4, ensure that those rights are not arbitrarily denied and that its family care providers protect those rights. Sponsoring Agency agrees to ensure that any behavior support plan including a limitation on an individual's rights is developed, approved and monitored in compliance with OPWDD regulations at 14 NYCRR § 633.16. Sponsoring Agency agrees to develop policies and procedures that establish mechanisms to resolve objections to services in conformance with OPWDD regulations at 14 NYCRR § 633.12.

## **IV. Provision of Care and Treatment**

Sponsoring Agency agrees to ensure that there is a current record containing information on the examination and treatment for each individual receiving services, including a plan of care in compliance with OPWDD regulations at 14 NYCRR § 633.10. Sponsoring Agency agrees to develop policies and procedures relative to prescribed and over-the-counter medications in compliance with OPWDD regulations at 14 NYCRR § 633.17 and ensure that its providers adhere to these policies and procedures.

## **V. Duties of Family Care Providers**

Sponsoring Agency agrees to apprise Family Care providers of their duties set forth in OPWDD regulations at 14 NYCRR § 687.8 and ensure that they fulfill these duties.

## **VI. Visitation, Inspection and Investigation of Family Care Homes**

Sponsoring Agency agrees to cooperate with OPWDD in the completion of annual and recertification Family Care home reviews, in the form and format required by OPWDD, and to cooperate with OPWDD when OPWDD conducts visitation, inspection and investigation of Family Care homes as set forth in OPWDD regulations at 14 NYCRR

§ 687.7. Sponsoring agency agrees to apprise Family Care providers of their duties to cooperate with OPWDD as set forth in its regulations at 14 NYCRR § 687.7.

## **VII. Reportable Incidents and Notable Occurrences**

Sponsoring Agency agrees to develop policies and procedures in conformance with 14 NYCRR § 624.5 regarding the reporting, recording, investigation, review and monitoring of reportable incidents and notable occurrences as defined in Part 624 and the reporting and management of events and situations as defined in Part 625 and make them known to Family Care providers, including their duty to report reportable incidents to the Vulnerable Person's Central Register.

## **VIII. Financial Reporting Requirements**

Sponsoring Agency agrees to comply with financial reporting requirements in accordance with all state and federal regulations/agreements. The Sponsoring agency will maintain and file financial reports and statistical data and will submit to audits.

## **IX. Management of Personal Funds**

Sponsoring Agency agrees to comply with the requirements of 14 NYCRR § 633.15 in its management of the personal funds of individuals receiving services in the Family Care homes it sponsors and ensure that all Family Care providers comply with personal allowance requirements applicable to them.

## **X. Fire Safety and Maintenance of the Physical Plant**

Sponsoring Agency agrees to apprise Family Care providers of their duties regarding fire safety in the home as set forth in the Family Care Manual and ensure that they fulfill these duties. Sponsoring Agency also agrees to comply with its oversight responsibilities regarding fire safety in its Family Care homes as set forth in the Family Care Manual. Sponsoring Agency agrees to apprise Family Care providers of their duties regarding the OPWDD general safety and welfare regulations at 14 NYCRR § 635-7.4.

## **XI. Provision of Home and Community Based Waiver Services (HCBS)**

Sponsoring Agency agrees to ensure that HCBS Residential Habilitation services are provided to individuals in compliance with OPWDD regulations at 14 NYCRR § 635-10 and applicable OPWDD Administrative Memoranda. Sponsoring Agency agrees to apprise Family Care providers of their duties regarding the delivery of Residential Habilitation services.



## **XII. Provision of Required Supplies and Services**

Sponsoring Agency agrees to assume the cost of all items required by 14 NYCRR 635-9.1(3)(i) for Family Care providers and each individual receiving services and agrees to ensure that its Family Care providers assume the cost of all items required by OPWDD regulations at 14 NYCRR § 635-9.1(3)(ii).

## **XIII. Obligations to Family Care Providers**

Sponsoring Agency agrees to supply its Family Care providers with necessary resources, information, and supports, as follows:

- (1) With consent from the individual, the Sponsoring Agency will make sufficient information available to a new or existing Family Care provider about an individual who will be referred for placement at the provider's Family Care home, to enable the provider to determine if the Family Care home can meet the individual's needs.
- (2) The Sponsoring Agency will provide sufficient clinical and administrative support to maintain appropriate Family Care home placements for individuals receiving services in accordance with the OPWDD Family Care Manual, applicable OPWDD regulations, and State Mental Hygiene Law.
- (3) The Sponsoring Agency will provide its Family Care providers with current information on payments to the Family Care providers as providers of services and on the personal allowance, benefits and entitlements for individuals receiving services.
- (4) The Sponsoring Agency will ensure that Family Care providers are provided with prior notification of and opportunity to attend and participate in planning meetings for each individual receiving services, unless an individual objects to such notification, attendance or participation of the Family Care provider.
- (5) The Sponsoring Agency will supply each Family Care provider with a copy of the OPWDD Family Care Manual.
- (6) The Sponsoring Agency will provide each Family Care provider with prompt notice of any changes in OPWDD policies or regulations affecting Family Care homes and supply each provider with updated copies of those policies or regulations.
- (7) The Sponsoring Agency will provide Family Care providers with reasonable notice of visits (except those required to be unannounced by 14 NYCRR § 687.7(b)), cancellations, meetings and trainings.

- (8) The Sponsoring Agency will make Sponsoring Agency staff available to discuss with a Family Care provider concerns about Sponsoring Agency decisions or actions that the provider believes have or will negatively affect the home or the individuals receiving services.
- (9) The Sponsoring Agency will ensure that its Family Care providers are sufficiently represented on the Family Care Advisory Council to address the providers' issues and concerns.
- (10) The Sponsoring Agency will communicate clearly and promptly with Family Care providers on issues affecting the certification of their Family Care homes or affecting the individuals receiving services to the extent permitted by any ongoing investigation.
- (11) The Sponsoring Agency will treat Family Care providers respectfully regardless of religion, race, color, national origin, sex, sexual orientation, disability or age.

OPWDD may cancel this Agreement without cause upon at least 60-day written notice to the Sponsoring Agency. Such notice shall be sent by certified mail, return receipt requested.

In the event that OPWDD cancels this Agreement for cause, OPWDD will provide a notice of cancellation.

In the event that the Sponsoring Agency terminates this Agreement, the Sponsoring Agency will provide to OPWDD a written 60-day notice of cancellation.

In the event of cancellation of this Agreement, the Sponsoring Agency shall cooperate with OPWDD to develop an acceptable transition plan that ensures the safe and appropriate placement of the individuals being served in its Family Care homes.

\_\_\_\_\_  
Name of Sponsoring Agency

\_\_\_\_\_  
Agency Representative

\_\_\_\_\_  
Print Name of Agency Representative

\_\_\_\_\_  
Address (please print)

\_\_\_\_\_  
Title of Agency Representative

\_\_\_\_\_  
Agency Phone Number

\_\_\_\_\_  
Date



Consent for Release of Employment Information for OPWDD Family Care Program

Date:

Dear \_\_\_\_\_:

Your employee, \_\_\_\_\_, has submitted an application to provide services to individuals with intellectual or developmental disabilities as part of the Office for People With Developmental Disabilities' (OPWDD) Family Care program.

Please assist us in evaluating this potential applicant by completing the attached form and returning it in the enclosed envelope. This information will be held in confidence.

Your prompt attention and assistance is greatly appreciated.

Sincerely,

I, \_\_\_\_\_, hereby authorize and consent to the release of  
(Applicant/Provider)

confidential information by \_\_\_\_\_,  
(Employer's Name) (Employer's Phone Number)

\_\_\_\_\_  
(Employer's Address)

to \_\_\_\_\_  
(Sponsoring Agency)

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date



Applicant's Name: \_\_\_\_\_

1. Is the applicant currently employed by your organization? \_\_\_\_\_

a. If not currently employed, list date of separation: \_\_\_\_\_

2. How long has the applicant been employed by your organization and in what capacity?

3. Has the applicant's attendance been satisfactory? Please explain.

4. Would you consider the applicant reliable? Please explain.

5. Does the applicant work well with others? Please explain.

6. If there is any other information you would like us to consider, please explain below.

\_\_\_\_\_  
Printed Name/Title of Person Completing Form

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Person Completing Form

\_\_\_\_\_  
Phone Number

# DDSOO Family Care Attestation: Readiness for Initial Certification

## I. Family Care Home Information

Sponsoring Agency: DDSOO Voluntary Agency Sponsored

Sponsoring Agency Name:

Family Care Provider(s) Name:

Family Care Home Address:

Operating Certificate Number:

Operating Certificate Period:

## II. Initial Certification Attestation

State Sponsored	Voluntary Agency Sponsored
<p>I have reviewed the <b>Family Care Home Initial Certification Checklist</b> completed by assigned DDSOO staff and</p> <p style="text-align: center;"><input type="checkbox"/> <b>accept</b>      <input type="checkbox"/> <b>do not accept</b></p> <p>it as validation that all required initial certification activities and oversight have been competently completed.</p>	<p>I have reviewed the initial certification packet, including the <b>Family Care Home Initial Certification Checklist</b> and attachments submitted by the Sponsoring Agency and</p> <p style="text-align: center;"><input type="checkbox"/> <b>accept</b>      <input type="checkbox"/> <b>do not accept</b></p> <p>it as validation that initial certification activities have been competently completed.</p>

## III. Initial Certification Document Confirmation

DDSOO designated staff reviewed and verified the application for initial certification includes all required documents. DDSOO designated staff also reviewed the Initial Certification Checklist and attachments as validation of all required initial certification activities.

\_\_\_\_\_  
DDSOO Designated Staff Date \_\_\_\_\_

## IV. Attestation and Approval

Based upon the above statements, I hereby attest that the Provider is qualified to operate a Family Care Home and that the home is qualified for initial certification as a Family Care Home by OPWDD. I approve the initial certification for the period noted above.

\_\_\_\_\_  
DDSOO Director Date \_\_\_\_\_

# DDSOO Family Care Attestation: Readiness for Recertification

## I. Family Care Home Information

Sponsoring Agency: DDSOO Voluntary Agency

Sponsored Sponsoring Agency Name:

Family Care Provider(s) Name:

Family Care Home Address:

Operating Certificate Number:

Operating Certificate Period:

## II. Recertification Attestation

State Sponsored	Voluntary Agency Sponsored
<p>I have reviewed the <b>Family Care Home Recertification Checklist</b> completed by DDSOO staff and</p> <p style="text-align: center;">Accept                      Do Not Accept</p> <p>It as validation that all required recertification activities and oversight have been competently completed.</p>	<p>I have reviewed and</p> <p style="text-align: center;">Accept                      Do Not Accept</p> <p>The <b>Affirmation of Agency Sponsored Recertification Actions</b> completed by the Executive Director or authorized designee of the Voluntary Agency sponsoring the Family Care Home.</p>
	<p>I have reviewed the <b>Family Care Home Recertification Checklist</b> completed by Sponsoring Agency staff and</p> <p style="text-align: center;">Accept                      Do Not Accept</p> <p>It as validation that all required recertification activities and oversight have been competently completed.</p>

## III. Voluntary Agency Sponsored Document Confirmation

DDSOO designated staff have confirmed the materials submitted for recertification include all required documents. DDSOO designated staff have also confirmed that the Agency Sponsored program completed and signed the affirmation and recertification checklist which verifies reviews were completed, any identified issues were remedied, and the agency Executive Director or authorized designee supports recertification of the home.

\_\_\_\_\_  
DDSOO Staff

\_\_\_\_\_  
Date

## IV. Attestation and Approval

Based upon the above statements, I hereby attest that the above referenced Family Care Home is qualified for recertification by OPWDD and I approve recertification for the period noted above.

\_\_\_\_\_  
DDSOO Director

\_\_\_\_\_  
Date



Instructions: The Developmental Disabilities State Operations Office (DDSOO) will use this form to request an operating certificate (OC) for a new Family Care Home (FCH), to amend an existing OC, or to close a FCH. For new FCHs, this form must be sent to the Division of Quality Improvement (DQI) at least 30 days prior to the anticipated opening. Amendment requests must be submitted in advance of the change and closure requests should be submitted at the time of the closure or soon thereafter. The DDSOO will complete Section I and submit the form to DQI by email at: opwdd.sm.family.care.review@opwdd.ny.gov. DQI will submit the completed form to opwdd.sm.Help.TABS@opwdd.ny.gov for assignment of a new OC number.

I. PROGRAM INFORMATION

Action (check one):

- Form fields for Action: New Program, Increase Capacity\*, Decrease Capacity, Name Change, Address Change, Add/Remove Co-Provider, Closure/Revocation\*\*, Other Demographic Change

Effective Date of Action: \_\_\_\_\_

Program Type (check one): [ ] State Sponsored FC [ ] Agency Sponsored FC

DDSOO: \_\_\_\_\_ County: \_\_\_\_\_

OSC/AGENCY Code and Name: \_\_\_\_\_

Operating Certificate # (if existing program): \_\_\_\_\_

Family Care Provider(s) Name (Last, First, Middle Initial):

Name: \_\_\_\_\_ SS#: \_\_\_\_\_

Name: \_\_\_\_\_ SS#: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_-\_\_\_\_\_ Email (if applicable): \_\_\_\_\_

Family Care Provider Address:

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Mailing Address (if different from above):

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

\*Current Certified Capacity (including respite beds): \_\_\_\_\_ # Respite Beds: \_\_\_\_\_

\*New Certified Capacity (including respite beds): \_\_\_\_\_ # Respite Beds: \_\_\_\_\_

Name Change (Last, First, Middle Initial): \_\_\_\_\_

Address Change (Due to change made by the county/locality only. A physical move to a new location requires a new (initial) operating certificate):

New Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Add/Remove Co-Provider Name (Last, First, Middle Initial): \_\_\_\_\_

Other Demographic Change (explain):

Form Completed by (Name/Title): \_\_\_\_\_ Date: \_\_\_\_\_

\*DDSOO Director Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\*DDSOO Director's signature is only required for an increase in capacity request. A "Request for Family Care Increased Capacity" form must be completed by an OPWDD Safety and Security Officer and be submitted to DQI as an attachment to this form.

\*\*Closure Attachment: A signed statement from the Family Care Provider is required for a voluntary closure; a Notice of Revocation is required for a revocation.

II. TRANSACTION INFORMATION - NEW FAMILY CARE HOME

Operating Certificate #: \_\_\_\_\_ Issue Date: \_\_\_\_\_ Assigned By: \_\_\_\_\_

Print

Clear



**Family Care Home Address:**

---

**Plan Date:**

---

Actions to be taken upon actual discovery of a fire:
Actions to be taken upon smelling smoke:
Actions to be taken upon hearing the Alarm:
Describe how to safely check and enter rooms during an evacuation:
Evacuation priority: (Consideration should be given to the specific needs of the individuals (e.g. cognition, motor skills, ability to follow directions,) as well as their location within the home, proximity to exits, etc.)
Family Care Provider's responsibilities during an evacuation:
Safe area location:
Notification to Fire Department (to be made after evacuation):
Individual Specific Information: (describe what supports individual may need throughout evacuation)
Evacuation Routes/Exits:

The **RACE** acronym can be used to reinforce the extremely important sequence of rescuing, closing the door, pulling the alarm and then evacuating the home.

**R** – Rescue and close the door to the room of the fire origin.

**A** – Alarm – sound the nearest alarm or if there is none, alert everyone by shouting “fire” or another predetermined signal.

**C** – Confine the fire by closing all doors while exiting.

**E** – Evacuate the home using the closest exit and go to the designated meeting area.

**NOTE:** In the event of a fire or other situation requiring an evacuation from the Family Care Home, the Family Care Provider must contact the Sponsoring Agency as soon as it is safe to do so. The Sponsoring Agency does not need to be notified when the FCH is practicing a monthly fire drill evacuation.





Family Care Home Fire Drill Evacuation Report Form

Family Care Provider: \_\_\_\_\_

Address: \_\_\_\_\_

Operating Certificate #: \_\_\_\_\_ Sponsoring Agency: \_\_\_\_\_

Date of Drill: \_\_\_\_\_ Observed Drill: Yes  No  By Whom?
Sleep Drill: Yes  No

Table with 3 columns: Name of Family Care Individual, Location at Time of Drill, Exit Used to Evacuate. Multiple rows for data entry.

Time Drill Started: \_\_\_\_\_ AM PM Time Drill Ended at Safe Area: \_\_\_\_\_ AM PM

Method of Alarm Activation: Smoke Detector  Verbal  Other (Specify): \_\_\_\_\_

Participant Response:

No problems
 Issues noted as follows: \_\_\_\_\_

Did the evacuation proceed in accordance with the Fire Evacuation Plan? Yes  No\*

If no, please explain:

\*Notify Sponsoring Agency (Home Liaison or Family Care Coordinator) if evacuations do not proceed in accordance with the Fire Evacuation Plan so that plan adjustments and guidance can be provided.

\_\_\_\_\_  
(Signature of Family Care Provider)

Date: \_\_\_\_\_

Reviewed By: \_\_\_\_\_  
(Home Liaison)

Date: \_\_\_\_\_

\*At least one drill per year during sleep hours.
\*Drills must be conducted at varied times of the day, varied days of the week, using varied exits where applicable.
\*Every drill, regardless of weather, participant ability, or other factors, must end at the designated meeting place as noted in the Fire Evacuation Plan,



<b>Family Care Provider Applicant:</b>		<b>Date of Birth:</b>	
<b>Co-Applicant, if applicable:</b>		<b>Date of Birth:</b>	
<b>Physical Address:</b>		<b>City/Zip:</b>	
<b>Mailing Address (if different):</b>		<b>City/Zip:</b>	
<b>Phone #:</b>		<b>Email:</b>	
<b>Proposed Capacity:</b>		<b>Proposed Respite Beds:</b>	
<b>LIST POTENTIAL SERVICE RECIPIENTS THAT WILL MOVE INTO THE HOME, IF KNOWN:</b>		<b>LIST ALL HOUSEHOLD MEMBERS CURRENTLY LIVING IN THE HOME:</b>	
<b>Name</b>	<b>TABS ID</b>	<b>Name</b>	<b>Date of Birth</b>
<b><u>Initial Certification Requirements</u></b>			
<b>Verified By:</b>			
		Home visit completed to review the program expectations and interview members of the household.	
		Fire and safety inspection completed by an OPWDD Safety & Security Officer and the property was found safe.	
		Notarized <i>Application for Family Care Home Certification</i> along with a physician's statement, proof of tuberculosis testing, and any other medical information as required by the Sponsoring Agency was completed.	
		Applicant(s) read, reviewed, and signed the Justice Center's Code of Conduct form.	
		Applicant(s), as well as any other household member age 18 or older, residing in the home, were cleared through the Justice Center Staff Exclusion List.	

	Applicant(s), as well as any other household members age 18 or older, residing in the home, completed the Justice Center Criminal Background Check form and were finger printed.
	Applicant(s), as well as any other household members age 18 or older, residing in the home, were cleared through the State Central Register of Child Abuse and Maltreatment.
	Three (3) reference checks completed on the applicant(s).
	Applicant has been run through checks on the Medicaid Exclusion List.
	Applicant(s) has adequate financial resources available to meet the needs of their household.
	Applicant(s) is willing to make arrangements to meet the needs of the individuals supported, including but not limited to health, habilitation, transportation, or other services important to the individual.
	Applicant(s) successfully completed all trainings required for initial certification.
	Proof of licensure and vaccinations for any pet living in the home, if applicable.
	Furnace and well-water testing was completed.
	If renting, a letter from the landlord acknowledging they are aware of the application to operate a Family Care Home.
	Applicant is at least 21 years of age, lives in the home being certified, and does not operate any other Family Care Homes.
	Applicant provided a certificate of occupancy or equivalent indicating the home meets applicable building code requirements.
	Applicant has disclosed and provided evidence of any existing certification or licensure granted by another government agency or other authority to provide services in the home, including but not limited to day care or foster care services.
	Applicant has been enrolled in NYS Dept. of Motor Vehicles License Event Notification System, if applicable.
	Applicant has not been convicted of a Class A, B. or C felony.

**Signature**

**Date**



<b>Family Care Provider:</b>		<b>Family Care Co-Provider (if applicable):</b>	
<b>Operating Certificate #:</b>		<b>Operating Certificate Begin and End Dates:</b>	
<b>Physical Address:</b>		<b>City/Zip:</b>	
<b>Phone #:</b>		<b>Certified Capacity:</b>	<b>Respite Beds:</b>
<b>LIST ALL SERVICE RECIPIENTS IN THE HOME</b>		<b>LIST ALL OTHER HOUSEHOLD MEMBERS IN THE HOME</b>	
<b>Name</b>	<b>TABS ID</b>	<b>Name</b>	<b>Date of Birth</b>
<b><u>Recertification Requirements</u></b>			
<b>Verified By:</b>			
		The Family Care Provider continues to make arrangements to meet the needs of the individuals supported, including but not limited to health, habilitation, transportation, or other services important to the individual.	
		The Family Care Provider completed all required trainings.	
		The Family Care Provider read, reviewed, and signed the <i>Reaffirmation Statement for Recertification (Form 240)</i> .	
		An <i>Application for Family Care Home Certification (LS-22)</i> was completed if significant structural changes or changes to household composition took place in the home.	
		The Family Care Provider obtained an updated physician's statement indicating the Provider is in good health and physically and emotionally capable of continuing as a Family Care Provider.	
		Fire and safety inspection was completed by an OPWDD Safety & Security Officer, any issues have been remedied, and the property was found to be safe.	

	There is a written Fire Evacuation Plan that meets the needs of all individuals supported in the home and at least six months of fire drill forms were reviewed to ensure completion and adherence to policy.
	The Family Care Provider has read, reviewed, and signed the Justice Center's Code of Conduct form annually.
	The <i>State Central Register of Child Abuse and Maltreatment Clearance Form</i> was completed on any household member age 18 or older, residing in the home, if not previously completed.
	The Justice Center Criminal Background Check was completed on any household member age 18 or older, residing in the home, if not previously completed.
	The Staff Exclusion List background check was completed for any household member age 18 or older, residing in the home, if not previously completed.
	The Family Care Provider continues to have adequate financial resources to meet the needs of the household.
	An in-home recertification visit was completed using the OPWDD approved review instrument and any issues have been remedied.
	A comprehensive review of <u>all</u> incident reports filed since the last review was conducted and the provider is meeting the health and safety needs of the individual(s) being served.
	All current plans were reviewed for compliance including but not limited to, Residential Habilitation plans, Life Plans, Behavior Support Plans.
	All applicable consent forms and committee reviews were obtained for Behavior Support Plans including restrictive or intrusive interventions and for any use of medication to modify behavior or treat a psychiatric condition.
	A comprehensive healthcare review of at least one year of medical information was completed and there is evidence of appropriate follow up.
	A minimum of six (6) months of <i>Family Care Program Monthly Visit forms (Form 239)</i> was reviewed and any deficiencies corrected.
	A minimum of six (6) months of Personal Allowance ledgers was reviewed and it is verified that the Provider is complying with Personal Allowance Regulations.
	The Family Care Provider has not been convicted of a Class A, B, or C felony

Signature \_\_\_\_\_

Date \_\_\_\_\_



# Family Care Clothing Allowance Payment Authorization

<b>Part 1 Identification</b>	<b>Part II</b>	
Individual:	<b>Use this box ONLY if the individual is transferred during the fiscal year.</b>	
TABS ID:		
FCP Name:	New FCP Name:	
FCP Address:	New FCP Address:	
DDSOO:	<b>COMPLETE PART V BELOW</b>	
<b>Part III-A First Payment Authorization</b> April 1 through September 30	<b>PART IV-A Second Payment Authorization</b> October 1 through March 31	
I certify that the above-named individual is eligible to receive the following payment: \$ _____ (Enter amount from Part III of the Personal Needs Eligibility Worksheet)	I certify that the above-named individual is eligible to receive the following payment: \$ _____ (Enter amount from Part III of the Personal Needs Eligibility Worksheet)	
FCHL: _____ Date: _____	FCHL: _____ Date: _____	
FCC: _____ Date: _____	FCC: _____ Date: _____	
<b>Business Office Use Only</b> Check #:	<b>Business Office Use Only</b> Check #:	
Signature: _____ Date: _____	Signature: _____ Date: _____	
<b>Part III-B Certification of Expenditures</b> April 1 through September 30	<b>Part IV-B Certification of Expenditures</b> October 1 through March 31	
I certify that the funds requested above were used for clothing, personal and/or recreational needs of this individual and that all required documentation has been supplied.	I certify that the funds requested above were used for clothing, personal and/or recreational needs of this individual and that all required documentation has been supplied.	
FCP: _____ Date: _____	FCP: _____ Date: _____	
FCC: _____ Date: _____	FCC: _____ Date: _____	
<b>Part V Transfer</b> (Only complete this box if Part II is completed above)		
I certify that \$ _____ was spent for clothing, personal and/or recreational needs of this individual to date.	Date of Transfer: _____	
	Total amount received by original FCP:	\$ _____
FCP: _____ Date: _____	Total amount spent to date:	\$ _____
FCHL: _____ Date: _____	Balance:	\$ _____
FCC: _____ Date: _____	Amount received from original FCP:	\$ _____

**Family Care Provider Agreement for an  
Unused Fireplace, Woodstove, or Fuel  
Burning Appliance**

**Provider Information**

Provider Name:

Provider Address:

Contact Phone Number(s):

**Fireplace, Woodstove, or Fuel Burning Appliance Product Description and Location Within the Home**

**Family Care Provider Affirmation Statement:** Certifies that the product described above is being taken out of service and you are also notifying that inspections will no longer be conducted on this product. You are hereby entering into agreement with OPWDD that the above product will not be used again until an inspection/service has been conducted AND proper notifications have been made as stated below.

---

Family Care Provider/Applicant Signature Date

---

Safety/Security Officer Signature Date

**Instructions to Place Product Back into Service**

- The product must be serviced and/or inspected by a qualified contractor prior to being placed back into service. This includes an inspection of the actual device and any means of product exhausting.
- A copy of the inspection and/or service report shall be provided to the Safety/Security Officer prior to use for review and authorization for placement of service.
- The above two steps must be completed before the fireplace/woodstove or fuel burning product may be placed back into service.

---

Family Care Provider/Applicant Signature Date

---

Safety/Security Officer Signature Date

# Family Care Substitute Provider Certificate of Approval

Substitute Provider Name:		
Address:		
Phone Number:	Date of Birth:	
Sponsoring Agency:		
Approval Date:	Expiration Date:	Safety Inspection Date (if applicable):

Check all that apply.

This document authorizes the above named Substitute Provider to provide respite services

\_\_\_\_\_ in a certified Family Care Home or in the community

\_\_\_\_\_ in the Substitute Provider's home at the above listed address

in accordance with the rules, regulations, policies, and procedures made and established by the New York State Office for People With Developmental Disabilities (OPWDD).

By signing below, I hereby attest that the Substitute Provider named above is qualified to provide respite services and has completed all required approval activities including:

- Completion of the *Form LS-22A Substitute Provider Application for Approval/Reapproval*
- No history of a Class A, B, or C felony conviction
- Enrollment in the Department of Motor Vehicle's License Event Notification System (LENS), if applicable
- Submission of a physician's statement indicating the Substitute Provider is in good health and is emotionally and physically able to provide respite services
- Completion of the New York State Justice Center's *Code of Conduct* form
- Completion and clearance through the New York State Justice Center Staff Exclusion List (SEL) and Criminal Background Check (CBC), the Medicaid Exclusion List, and the State Central Register of Child Abuse and Maltreatment (SCR).
- Completion of all required training in accordance with the Family Care Manual and Sponsoring Agency policy

Additionally, if the Substitute Provider listed above is using their own home to provide respite services, I attest the following requirements have also been met:

- An OPWDD Safety and Security Officer has inspected the home and found it to be safe
- Anyone age 18 or older, residing in the applicant's home, has been cleared through the Justice Center SEL and CBC and the SCR
- Proof of all pet vaccinations and dog licenses, if applicable, was provided
- Proof of well-water testing, if applicable, was provided

\_\_\_\_\_  
DDS00 or Sponsoring Agency Director (or designee) Signature

\_\_\_\_\_  
Date

cc: DDS00 Director, or designee (for Agency Sponsored Family Care programs)

[opwdd.sm.family.care.review@opwdd.ny.gov](mailto:opwdd.sm.family.care.review@opwdd.ny.gov)





Date of Visit:	Operating Certificate Number:	Operating Certificate Expiration Date:
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Mark all that apply:  
 State Sponsored     Agency Sponsored     Announced Visit     Unannounced Visit  
 Recertification Visit

**I. Family Care Provider Information**

Provider Name:		Co-Provider Name:	
Address:		Telephone:	
Sponsoring Agency or DDSOO:		Telephone:	

Does the Provider own the home?  Yes  No, please explain:

Type of home: <input type="checkbox"/> Single Family <input type="checkbox"/> Multi-Family Is the home a trailer or mobile home? <input type="checkbox"/> Yes <input type="checkbox"/> No	General condition of the home: <input type="checkbox"/> Good <input type="checkbox"/> Needs Repairs <input type="checkbox"/> Other, please explain:
---	--

Family Composition:

Spouse:  Yes  No     Living in home     Living elsewhere

Children:  Yes  No     Living in home     Living elsewhere     Both

Others:  Yes  No    Please explain:

Have there been any significant changes in the home that may impact the individuals (e.g., divorce, job loss, loss of lease, new household members, etc.)?  Yes  No    If yes, please explain:

**II. Information on Family Care Individuals**

Name	Date of Birth

### III. Home and Environmental Information

A walk-through of the home must be conducted to ensure the safety of all individuals in the home. All safety equipment must be operational. Review of required documentation must occur and discussion with the Family Care Provider and the individuals present is required to determine compliance.

A. Characteristics of the Home		Yes	No	N/A	Comments
1a.	What is the certified capacity of the home? (Certified capacity includes the permanent beds AND respite beds)				Certified Capacity:
					Respite Beds:
1b.	Does the number of individuals receiving services in the home exceed the certified capacity?				
2a.	Is the provider licensed or certified by another agency to provide in-home care to others?				Name of Agency:
2b.	If yes, is there an agreement between the agencies and the provider, defining the terms and conditions of sharing the home?				
2c.	Do any of these individuals require personal care oversight from the Family Care Provider? If yes, explain under comments.				
2d.	Does this additional arrangement have any adverse impact to the care and treatment of the Family Care individuals?				
3.	Does the provider reside at the same address, within the same living unit, not a separate apartment?				
4.	Are furnishings and equipment adequate and safe for the size and needs of family members and individuals?				
5.	Is the interior of the home in acceptable condition? If no, explain. (Do walls need painting, flooring torn/soiled requiring replacement?)				
6.	Is the interior of the home clean and odor free?				
7.	Are kitchen supplies and food properly stored?				
8.	Are individuals' rooms adequately heated by a central heating source?				
9.	Are each individual's bed and furnishings in good condition with adequate linens?				
10.	Does the home meet the needs of those individuals with physical, sensory or behavioral disabilities? If no, explain under comments.				
B. Physical Plant		Yes	No	N/A	Comments
1.	Are smoke detectors installed in each corridor adjacent to bedrooms/sleeping areas?				
2.	Are smoke detectors installed in all bedrooms/sleeping areas?				
3.	Is there at least one smoke detector installed in the basement?				
4a.	Is the basement subdivided by partitions?				
4b.	If yes, are there additional smoke detectors installed?				

<b>B. Physical Plant (continued)</b>		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments</b>
<b>5.</b>	Are smoke detectors installed in corridors or in adjacent open areas, such as a living room, dining room or recreation room?				
<b>6.</b>	Is a smoke detector installed at the head of each open stairway located within the home or within six feet of the bottom opening of a stairway that is enclosed at the top?				
<b>7.</b>	Are carbon monoxide detectors installed within 15 feet of each sleeping area, regardless of level within the structure?				
<b>8.</b>	Are carbon monoxide detectors installed on every level with a carbon monoxide source and within a reasonable distance to the source?				
<b>9.</b>	Are all smoke detectors and carbon monoxide detectors in working order?				
<b>10.</b>	Are smoke detectors and carbon monoxide detectors tested monthly and remedied if not operational?				
<b>11.</b>	Is there at least one fire extinguisher in or near the kitchen area that meets the requirements of NFPA 10 and is UL labeled and approved?				
<b>12.</b>	If the structure has a basement with habitable space, is there a fire extinguisher on that level?				
<b>13a.</b>	Is there a fire evacuation plan in the home?				
<b>13b.</b>	Is a fire drill evacuation drill completed and documented monthly?				Date of last drill:
<b>13c.</b>	Is it rehearsed at different times of the day?				Date of last sleep drill:
<b>13d.</b>	Has a drill been observed by the Family Care Home Liaison?				Date of last observed drill:
<b>13e.</b>	Were there any identified problems during drills and if yes, were steps taken to address the problematic drill?				
<b>14a.</b>	Is there verification that no bedroom is in the attic, hallway or other non-inhabitable space?				
<b>14b.</b>	Are bedrooms adequate in size to provide a reasonable degree of privacy?				
<b>14c.</b>	Are bedrooms adequate in size to accommodate the individual(s), furnishings and possessions?				
<b>15a.</b>	Does the home utilize portable space heaters as the sole source of heating?				Location:
<b>15b.</b>	If yes, was the portable space heater approved by the Commissioner's Designee (DDSOO Director) for a time-limited period?				
<b>16.</b>	Is there evidence of vermin or insect infestation, etc. at the home?				

<b>B. Physical Plant (continued)</b>		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments</b>
<b>17.</b>	Are all dangerous household products, flammable liquids, chemicals, caustics, toxic items and highly combustible materials stored in a safe manner out of reach of the individuals?				
<b>18.</b>	Does the home contain clutter (piles of newspaper, magazines, old furniture, boxes, clothing, etc.) that may pose a fire, fire evacuation or ambulation hazard to individuals?				
<b>19.</b>	Does the home contain any hazardous physical conditions (loose tile, loose handrails, worn stair treads, loose carpeting, burned out bulbs, exposed wiring, unvaccinated or unlicensed pets)?				
<b>20.</b>	Is trash/garbage kept in metal or plastic containers with properly fitted covers and disposed of on a regular basis?				
<b>21a.</b>	Are extension cords in use?				
<b>21b.</b>	If yes, are they overloaded, hot to the touch, in traffic areas which present a safety hazard, strung together to reach an outlet or otherwise used improperly? If yes, correct immediately and notify Family Care Team for follow up.				
<b>22.</b>	Is the home equipped with GFCI within 6 feet of bathroom and kitchen sinks, and other water sources (e.g. swimming pool)?				
<b>23a.</b>	Are there antiscald devices or a mixer valve in place as required? Antiscald Mixer valve ( <i>Test using water thermometer</i> )				Water temperature(*F): _____ Location: _____
<b>23b.</b>	If no, is an exemption approved by the DDSOO Director or designee? Are protections/safeguards documented for the individual(s)?				
<b>24a.</b>	Is the provider making or planning to make any modifications to the home? If yes, what modifications are planned?				
<b>24b.</b>	Are modifications free of hazardous physical conditions?				
<b>24c.</b>	Will the modifications have an adverse impact on the individuals?				
<b>24d.</b>	Has a building permit been issued for this work?				
<b>25.</b>	Are there firearms kept in the home? Locked up? Is ammunition secured in a separate location?				
<b>26a.</b>	Was an annual Safety Inspection completed by an OPWDD Safety & Security Officer?				Safety Inspection Date:
<b>26b.</b>	Are all issues identified during the annual Safety Inspection remedied? If not, explain in comments.				

<b>B. Physical Plant (continued)</b>		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments</b>
<b>27a.</b>	Date of Annual Furnace Inspection:				
<b>27b.</b>	Date of Alternate Heat Source Inspection:				
<b>27c.</b>	Date of Family Care Provider Agreement for an Unused Fireplace/Woodstove or Fuel Burning Appliance:				
<b>27d.</b>	Date of Central Air Inspection:				
<b>27e.</b>	Date of Annual Well Water Testing:				
<b>C. Services and Oversight</b>		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments</b>
<b>1.</b>	Has a Care Manager (CM) visited the home?				Date of Last CM Visit:
<b>2.</b>	Are current Life Plans with approvals in the home?				
<b>3.</b>	Is the Family Care service listed correctly in the Life Plan?				
<b>4a.</b>	Is there a current list/reference to required safeguards in the home for each individual? Are they being implemented as written?				
<b>4b.</b>	Are current Staff Action Plans in the home?				
<b>5a.</b>	Are Staff Action Plans understood and implemented by the provider?				
<b>5b.</b>	Is a daily Residential Habilitation checklist available for each individual in the home?				
<b>6.</b>	Are checklists maintained by the provider on a daily basis?				
<b>7.</b>	Is supervision of each individual's activities provided as required?				
<b>8.</b>	Are individuals who require help in activities given assistance by the provider?				
<b>9.</b>	Does each individual have leisure activities and appropriate equipment for such activities?				
<b>10.</b>	Is the provider knowledgeable of the whereabouts of the individuals when they are away from home and their expected time of return?				
<b>11.</b>	Are leisure/recreational activities consistent with the individual's Life Plan/Staff Action Plan?				
<b>12.</b>	Is transportation available by the provider or others to support all components of the Life Plan/Staff Action Plan?				
<b>13.</b>	Do individuals receive appropriate personal hygiene such as tooth brushing, hair grooming, etc. with the assistance of the provider as necessary?				
<b>14.</b>	Are there adequate personal hygiene supplies for each individual?				

<b>C. Services and Oversight (continued)</b>		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments</b>	
<b>15a.</b>	Were Family Care individuals present during the visit? If yes, list names in Comments.					
<b>15b.</b>	If present, were the individuals clean and well groomed? If no, explain in Comments.					
<b>16.</b>	Is clothing clean and appropriate to age, season, and selected by the individual?					
<b>17.</b>	Do individuals have sufficient and appropriate clothing for a weeks' wear?					
<b>18a.</b>	Do any individuals have dietary/food modifications, supervision needs, and/or adaptive equipment for meal time? If yes, indicate names in Comments.					
<b>18b.</b>	If yes, has a meal/snack been observed by a member of the team during the past year to verify diet orders/items are carried out as recommended? <i>*If no diet plan, no observation is needed</i>					
<b>19.</b>	Is there a Personal Expenditure Plan (PEP) for each individual in the home? If no, explain in Comments					
<b>20a.</b>	Does the provider maintain an updated personal allowance record with receipts as necessary for individual's expenditures of funds?					
<b>20b.</b>	Is there a Money Management Assessment (MMA) for each individual in the home? If no, explain in Comments					
<b>20c.</b>	Is the PEP consistent with the MMA?					
<b>Individual</b>		<b>Cash on Hand</b>		<b>Does individual have a personal bank account? (Y/N)</b>		<b>Bank Account Balance</b>

<b>C. Services and Oversight (continued)</b>		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments</b>
<b>21.</b>	Has the provider completed all required trainings in the past year? If no, explain in comments.				
<b>22a.</b>	Is an approved substitute provider available for the primary provider's absence? If no, explain.				
<b>22b.</b>	Has the substitute provider received training based on the needs of the individuals?				
<b>22c.</b>	Has respite been provided since the last visit?				Emergency: Planned:
<b>22d.</b>	Was the respite provided in the home or at another approved location?				Home:
<b>22e.</b>	How long were respite services provided?				Other location:
<b>22f.</b>	If longer than 5 consecutive days, did staff visit the home to ensure health, safety, etc?				Dates:
<b>23.</b>	Has a nursing visit occurred at least every 90 days or more often based on individual(s) needs?				Date of visit:
<b>24a.</b>	Is there a current Medication Administration Record (MAR) in the home for each individual?				
<b>24b.</b>	Is the MAR maintained on a daily basis by the provider?				
<b>24c.</b>	Are all medications listed on the MAR present in the home?				
<b>24d.</b>	Is the dosage and frequency listed on the MAR consistent with the pill bottle?				
<b>25.</b>	Are individual specific medication information sheets available for each medication in the home?				
<b>26.</b>	Is a Self-Medication Assessment in the home?				
<b>27.</b>	Is supervision of medication administration appropriate to meet the individual's needs as documented in the IPOP/safeguards?				
<b>28.</b>	Is appropriate storage provided for medication?				
<b>29.</b>	Are prescriptions filled in a timely manner?				
<b>30a.</b>	Any medication changes this month?				
<b>30b.</b>	Is the nurse aware of the medication change?				
<b>30c.</b>	Has the change been initiated?				
<b>30d.</b>	Did the individual experience any side effects?				
<b>30e.</b>	Does the provider feel knowledgeable with the new medications, instructions and side effects?				
<b>31.</b>	Is informed consent being implemented as required?				

<b>C. Services and Oversight (continued)</b>		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments</b>
<b>32a.</b>	Are individual's medical needs being met (appointments being made and kept, follow up being provided)? If no, explain in comments.				
<b>33.</b>	Any instances of individual illness in the past 3 months? Explain in comments.				
<b>34.</b>	Does the Sponsoring Agency have a written plan for how the provider will address life-threatening emergencies?				
<b>D. Rights</b>		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments</b>
<b>1.</b>	Is there any indication that any of the individuals are abused or neglected or isolated from other individuals? If yes, explain:				
<b>2.</b>	Has an incident report been completed within the past year? Were appropriate protections implemented?				
<b>3.</b>	Have any rights been limited for disciplinary purposes or for the convenience of the provider?				
<b>4.</b>	Are individuals allowed to access family planning services?				
<b>5.</b>	Are individuals allowed to attend religious services of the individual's choice?				
<b>6.</b>	Are individuals allowed to contact their Care Manager?				
<b>7a.</b>	Do any individuals share a bedroom?				
<b>7b.</b>	If yes, are there more than 2 individuals in a room?				
<b>8a.</b>	Have any changes in sleeping arrangements been reported?				
<b>8b.</b>	Is there evidence that individual sleeping arrangements have been changed since the last visit?				



<b>E. HCBS Settings Compliance Standards</b>		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments</b>
1.	Has an occupancy agreement been signed by the individual enrolled in Family Care (or their parent/guardian)?				
2.	Does the FCP facilitate, support, and encourage individuals to have full access (scheduled and unscheduled) to the broader community?				
3.	Are individual's schedules and routines personally determined by the individuals' needs, interests, and preferences (not by the FCP)?				
4.	Can individuals have visitors of their choosing at any time?				
5.	Does each individual have access to food and can eat when/where and with whom they choose (in the same manner as people who do not receive HCBS)?				
6.	Does the FCP offer individuals keys to be able to independently enter the Family Care Home?				Date Offered (Month/Year): _____
7.	Does the FCP offer individuals keys to their bedrooms so they can lock their bedroom door when they choose to?				Date Offered (Month/Year): _____
8.	Does the home optimize, but not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact?				
9.	Are individuals afforded privacy in all aspects of their lives (e.g., telephone/e-mail communication, people knock before entering their living space, privacy in the bathroom and there is a lock on the door, ADL assistance is provided in private, etc.)?				
10.	Do FCPs interact and communicate with individuals in a respectful and dignified manner?				
11.	Do individuals control their own personal resources and decide how to spend their personal discretionary funds?				
12.	Does each individual have full, unrestricted access to living spaces in the home in the same manner as people who do not receive HCBS (e.g., kitchen with cooking space in the home; laundry in the home; dining areas; etc.)?				
13.	Do individuals' personal living space(s) reflect their individualized interest and tastes?				
14.	Are all common areas of the home physically accessible to individuals living there?				
15.	Are individuals happy with their living arrangement and/or roommates?				
16.	Do the FCP and Sponsoring Agency work to address individuals concerns and, if requested, will work to find alternative living arrangements?				

**IV. General Comments**

**V. Recommendations**

<hr/>	<hr/>	<hr/>
<b>Print Name/Title of Person Completing this form</b>	<b>Signature of Person Completing this form</b>	<b>Date completed</b>
<hr/>	<hr/>	<hr/>
<b>Print Name/Title of Person Reviewing this form</b>	<b>Signature of Person Reviewing this form</b>	<b>Date reviewed</b>

**FAMILY CARE HOME EVALUATION AND SURVEY  
DEFICIENCY REPORT & VERIFICATION OF CORRECTION FORM**

**INSTRUCTIONS:**

1. Deficiencies must be reviewed with the Family Care Provider during the visit.
2. Within 10 business days of the visit, the Family Care Provider must receive a copy of the *Family Care Home Evaluation & Survey Deficiency Report and Verification of Correction*.

Family Care Provider:

Date of Visit:

**[ ] CHECK IF THERE ARE NO DEFICIENCIES DURING VISIT**

Section	Item #	What is the deficiency? Please describe the issue. Provide examples, when applicable.	If <u>Imminent Danger</u> , list immediate protective measures and notifications made.	What is the plan to correct the deficiency? Include plan to prevent similar future deficiencies.	Date corrective action was/will be completed (month/day/year)	Title of person who will verify corrective action completed and how it will be verified (e.g. home visit, record review)

Family Care Provider Signature:

Date:

Signature/title of person writing report:

Date:

**PLEASE ANSWER THE FOLLOWING QUESTIONS FOR  
WILLOWBROOK CLASS MEMBERS ONLY**

QUESTION	YES	NO	COMMENTS
A.) Does the Class Member have a Care Manager who is a Qualified Intellectual Disabilities Professional (QIDP)? If no, please explain under comments.			
B.) Is the Care Manager meeting with the individual monthly?			
C.) Does the Care Manager case ratio meet the guidelines of the Willowbrook Permanent Injunction? (1:20 for Family Care) If no, please explain under comments.			
D.) Is the Willowbrook Class Member, who is non correspondent or who is lacking active participation by a correspondent, receiving "active representation by co-representation by Community Advisory Board?" If no, please explain under comments.			
E.) Does the Willowbrook Class Member's permanent file contain the "Notice of Rights" statement describing individual's rights and entitlements under the Permanent Injunction? If no, please explain under comments.			
Recommendations:			
Completed by:			Date:
Reviewed by:			Date:



# Form 239 Family Care Program Monthly Checklist

Date of Visit:		Time of Visit:		Individuals Present: ___ Yes ___ No	
Operating Certificate Number:				Operating Certificate Expiration Date:	
Provider Name:		Co-Provider Name:			
Address:		Telephone:			
Sponsoring Agency or DDSOO:		Home Liaison Name:			

List Names of Individuals in Family Care Home


**I. Physical Plant**  
 A walk-through must be conducted to ensure the safety of all individuals in the home. All safety equipment must be operational. Review of required documentation must occur and discussion with the Family Care Provider and the individuals present is required to determine compliance.

		Yes	No	Comments
<b>1a.</b>	Are smoke detectors present and in working order; in each bedroom, in each corridor adjacent to the bedrooms, in corridors adjacent to open areas such as living areas/dining rooms, at the head of each stairwell and in the basement? If no what corrective action was taken.			
<b>1b.</b>	Are there working carbon monoxide detectors present and operational on every level with a CO source and near each sleeping area?			
<b>1c.</b>	Have the smoke detectors and carbon monoxide detectors been tested monthly? Remedied if not operational?			
<b>2a.</b>	Is there a fire extinguisher in or near the kitchen?			
<b>2b.</b>	If the structure has a basement with habitable space, is there an extinguisher on that level?			

Physical Plant (continued)		Yes	No	Comments
2c.	Do the fire extinguishers appear in operable condition (i.e gauge in green zone, no outward sign of damage)?			
3a.	Are there any space heaters in use as the sole method of heating? If yes, indicate location in Comments.			Location:
3b.	Has the use of these space heaters as the sole method of heating been approved for a time limited period by the Commissioner's Designee (DDSOO Director)? If no, explain in Comments.			
4a.	Were there any recommendations made during the last Safety Inspection?			
4b.	If yes, have all recommendations been remedied? If no, what is the action plan to address?			
5a.	Are extension cords or power strips in use?			
5b.	If yes, are they overloaded, in traffic areas which present a safety hazard, strung together to reach an outlet, hot to the touch or otherwise used improperly?			
5c.	If 5b is yes, list immediate action steps to remedy the situation.			
6.	Are dangerous household products and flammable liquids stored properly to avoid safety hazards? If no, list immediate action steps to remedy the situation.			
7a.	Is the Evacuation Plan current?			
7b.	Does the Evacuation Plan address the needs of all individuals in the home?			
7c.	Was a fire drill completed within the last month? List date in the Comments.			Date of last drill:
7d.	In reviewing the last fire drill, were there any identified problems? If yes, what follow up was done? List names of people spoken to, date/time, etc.			
7e.	One fire drill must be conducted while individuals are asleep. Has this drill been conducted this year? If yes, list date and time in Comments.			Date of last sleep drill: Time of last sleep drill:
7f.	One fire drill must be observed each year. Has this drill been conducted? If yes, list date in Comments.			Date of last observed drill:
8a.	Date of annual Furnace inspection:			
	Date of annual Well-water test (if applicable):			
	Date of annual Central Air inspection (if applicable):			

Physical Plant (continued)		Yes	No	Comments
8b.	Were any issues identified during the above inspections? If yes, indicate plan to correct in Comments.			
9a.	Water Temperature: _____ *F <i>Test during each monthly visit using water thermometer</i>			
9b.	Was water temperature above 120°F? If yes, indicate protections in comments.			
10.	Does the home contain any hazardous conditions (e.g. loose tiles, loose handrails, worn stair threads, loose/torn carpet, burned out bulbs, garbage not properly contained, unlicensed or unvaccinated pets, etc.)? If yes what is the response/protection?			
11.	Does the home contain clutter, (e.g. piles of newspapers, magazines, old furniture, boxes, clothing, etc.) that may pose a fire, fire evacuation or trip hazard to individuals? If yes what is the response/correction?			
12.	Is the overall appearance of the home and grounds acceptable?			
13a.	Is there evidence of modifications or renovations to the home? If yes, have they been reported to and reviewed by the Sponsoring Agency?			
13b.	Is there a building permit in place for the modifications/renovations?			
13c.	Do the modifications/renovations pose a risk or adverse impact to the Family Care individuals? If yes what action was taken?			
14a.	Are there any firearms present in the home?			
14b.	If yes, are they secured in a locked cabinet/safe?			
14c.	If firearms are present, is ammunition secured in a separate location?			

## II. Individual Services

A review of individual services and overall wellbeing is important to the functionality of a Family Care Home. Discussions with Family Care Providers and individuals as well as documentation review are required.

		Yes	No	Comments
1.	Are individuals clean, well-groomed, and given the opportunity of choice on clothing selections?			
2a.	Are individuals assisted with personal hygiene and grooming, as necessary?			
2b.	Are Residential Habilitation/Staff Action Plans understood and implemented by the provider?			
2c.	Is a daily Residential Habilitation/Staff Action Plan checklist available for each individual in the home?			

Individual Services (continued)		Yes	No	Comments
3a.	Is there a current Life Plan (with approvals) for each individual in the home?			
3b.	Is the Family Care service listed correctly in the Life Plan?			
4.	Are individual's furnishings in good condition, with adequate sheets, pillowcases, and blankets on hand?			
5.	Are individuals' bedrooms personalized and/or based on their preferences?			
6.	Are bed rails being used? If so, is their use reflected in the individuals plan of services?			
7.	Is there any indication that any of the individuals are isolated, abused, or neglected?			
8a.	Were any incident reports completed this month? If yes, explain in Comments.			
8b.	Were sufficient protections put in place in regards to the incident?			
9.	Do individuals and the Provider interact as a family (e.g. dining, community activities)?			
10.	Are community inclusion goals being met? (Review of outings)			
11a.	Are supervision levels of individuals reflected in Safeguards section of the Staff Action Plan, Life Plan?			
11b.	Are these supervision levels and safeguards being followed?			
11c.	Are dietary/food modifications, supervision needs, and adaptive equipment used as recommended? (Observation of a meal/snack should occur at least once each year, see Form 238)			
12.	Were there any unusual changes in bus schedule or problems with day services or employment? If yes, explain in Comments.			

### III. Health Care Considerations

Medical oversight is extremely important to the health and safety of all individuals. Verification should be done through discussions, record review, and inventory. Medication Administration Records (MAR) must be checked against all medications in the home. Issues identified must be reported to the Family Care Registered Nurse (RN) for appropriate corrective actions.

		Yes	No	Comments
1.	List dates of medical appointments (physician, dental or medical specialist visits) this month. Are individual's medical needs being met? (Appointments being made/kept by provider?) If more space is needed, list this information in Notes on page 9.			
2.	Any instance of illness or hospitalization? If yes, explain in Comments.			



Health Care Considerations (continued)		Yes	No	Comments
3a.	Any medication changes this month?			
3b.	If yes, has the RN been notified?			
4a.	Are the Medication Administration Records (MAR) completed accurately to show when medications were given?			
4b.	Are all medications present in the home as listed on the MAR?			
4c.	Do all medications and dosages listed on the MAR match the prescription container?			
5.	Are all medications stored properly?			
6.	Are diets appropriate to the individual's needs and implemented as written?			

#### IV. General

A review of the overall monthly status of a Family Care Home is important to ensure proper day to day operations. This must occur through discussion with the Family Care Provider and individuals in the home as well as record reviews.

		Yes	No	Comments
1a.	Has respite been required this month?			
1b.	If yes, has Family Care staff met the approved/certified Substitute Provider?			
1c.	Where was respite provided? Specify in Comments.			
1d.	How long was respite provided? Specify in Comments.			_____ day(s)
1e.	If longer than 5 consecutive days, did Family Care staff visit the home to ensure health & safety?			
2.	Has the Family Care Provider provided overnight respite in the home this month?			
3.	Has the home's certified capacity been exceeded? (Certified capacity includes the permanent beds AND respite beds)			
4a.	How many people, including individuals and family members, are living in the home?			#: _____
4b.	If any household changes, list name(s) and age(s):			
4c.	Have appropriate parties been notified of these changes?			
4d.	Have the household changes impacted the care and treatment of the individuals receiving Family Care services? Please comment.			
5.	Were/are there long-term guests that have regular contact with the individuals in the home? If yes, explain in Comments.			

6.	Have all adults (18 and over) been fingerprinted? *This does not include service recipients.* If no, explain in Comments.			
7.	Have all adults (18 and over) been cleared through the State Central Register and Staff Exclusion List?			
8.	Is the Family Care Provider current with all training? If no, please explain in Comments.			
9.	Have there been any significant changes in the home that may affect the individuals (e.g. divorce, health issues, loss of income, legal involvement, household changes, actions or proceedings)? If yes, explain in Comments.			

### V. Fiscal

A review of individuals finances should be performed to maintain program integrity. All money should be accounted for with receipts, ledgers, or cash on hand. A careful review of all records must occur.

		Yes	No	Comments
1.	Does the Family Care Provider maintain accurate deposit/expenditure records that are updated as needed, with receipts as necessary for each individual?			
2.	Do Personal Allowance ledgers reflect the correct monthly personal allowance?			
3.	Are expenditures based on individual choice and/or need?			
4.	Is an updated inventory of personal items/belongings kept for each individual?			
5.	Does cash on hand match the ledger balance? Were calculations checked?			
6.	If cash on hand exceeds \$ _____, what is the spend-down plan?			
7.	Date of Personal Expenditure Plan (PEP):			
8.	Date of Money Management Assessment (MMA):			
9.	Does each individual have their own bank account? Is it in their name?			
10.	Are all bankbooks up to date?			
11.	Do any individuals have credit cards or gift cards? If so, where are they kept?			

**Bank Account Balance**  
(Individual's Name Only)

Individual	Cash on Hand	Earned Income (Verify Source & Frequency)	Amount	Statement Date
	\$		\$	
	\$		\$	
	\$		\$	
	\$		\$	
	\$		\$	

**Fiscal Comments:**

**VI. Community Inclusion Activities During the Month**  
List the individual's names and activities:

**VII. Issues Identified, Corrective Actions Taken, Follow Up Needed**

**VIII. Comments**

**Note: The Family Care Home Liaison should promptly report any concerns about the condition of the home and/or the care and treatment of the individual's receiving Family Care services, as required.**

Family Care Provider Signature:	Date:
Family Care Home Liaison Signature:	Date:
Family Care Coordinator/Designee Signature:	Date:
Other Staff Signature (if applicable):	Date:

## Family Care Inspection Report Action Plan to Correct Identified Issues

Family Care Provider:
Operating Certificate #:
Address:
Inspection Date:

Section	Question #	Action Plan to Correct Identified Issues	Planned Completion Date	Actual Completion Date

Signature of Family Care Provider:	Date:
Signature of Family Care Home Liaison:	Date:
Signature of Family Care Coordinator:	Date:
Other Staff Signature (if applicable):	Date:

**NOTES**



# LS-22 Application for Family Care Home Certification

**Instructions for Initial Certification:**

This application must be completed in its entirety by the applicant who is seeking initial certification to become a Family Care Provider.  
The applicant must complete, sign and have notarized one (1) copy of this application.

**Instructions for Recertification:**

If there have been changes in the household composition or structural changes made to the home, Sections I, IV, V, and VI of this form must be completed.

\*If there have been no changes to the household composition or structural changes made to the home, do not complete this form. Complete the Reaffirmation Statement.

**Sponsoring Agency Information**

Agency Sponsored	Sponsoring Agency or DDSOO Name:
State Sponsored	

**Section I: Applicant Information**

Primary Applicant Information	Co-Applicant Information
Name of Applicant:	Name of Co-Applicant:
Employed by Sponsoring Agency? Yes    No	Employed by Sponsoring Agency? Yes    No
Source of Income:	Source of Income:
Annual Income: \$	Annual Income: \$
*Attach an employment history with a signed release for employment verification.	
Address: _____ <div style="display: flex; justify-content: space-between; width: 100%; font-size: small;"> <span>Street</span> <span>City</span> <span>State</span> <span>Zip</span> <span>County</span> </div>	
Mailing Address: _____ <div style="display: flex; justify-content: space-between; width: 100%; font-size: small;"> <span>(if different) Street</span> <span>City</span> <span>State</span> <span>Zip</span> <span>County</span> </div>	
Phone:	Phone:
Email Address:	Email Address:
Social Security #:	Social Security #:
Primary Language:	Primary Language:
Secondary/Other Language:	Secondary/Other Language:
Driver License #:	Driver License #:
Issuing State: _____	Issuing State: _____
Expiration Date:    /    /	Expiration Date:    /    /

**Section II: Personal References**

Name and Address of three (3) people NOT related to the applicant(s) who can attest to the applicant(s) character.

1. \_\_\_\_\_  
Name Phone Number  
\_\_\_\_\_  
Street City State Zip

2. \_\_\_\_\_  
Name Phone Number  
\_\_\_\_\_  
Street City State Zip

3. \_\_\_\_\_  
Name Phone Number  
\_\_\_\_\_  
Street City State Zip

**Section III: Additional Information**

1. Number of years at current address: \_\_\_\_\_ Own \_\_\_ Rent \_\_\_ Lease Expiration Date: \_\_\_\_\_  
If renting, name and phone number of landlord at which (proposed) Family Care Home will be located.  
\_\_\_\_\_  
Name Phone Number

2. Name and age of each person, including the applicant(s), living the in home and relationship to the applicant(s).

Name	Date of Birth	Relationship

3. Is anyone currently residing in the home eligible for OPWDD services?  
Yes \_\_\_ No \_\_\_ If yes, please include the name and TABS ID for each individual:

4. Have any individuals been identified to reside in this home, if approved for Family Care?  
Yes \_\_\_ No \_\_\_ If yes, please include the name and TABS ID for each individual:

5. Attach a Physician's statement indicating that the applicant(s) is in good health and physically and emotionally capable of providing Family Care services, along with all required medical testing per Sponsoring Agency policy.

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6. List any agencies (other than OPWDD or the Sponsoring Agency) from which individuals will be or have moved into the home:

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7. Please provide information regarding any moving violations, including alcohol and/or drug-related offenses. Indicate any suspension, revocation, or occurrence involving harm to any persons or property.

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8. Does applicant/co-applicant have any financial interest in any other agency subject to certification by OPWDD, such as a community residence, IRA, ICF/DD, Family Care, or any day services; or building(s) occupied by such a program?  
 Yes \_\_\_\_ No \_\_\_\_ If yes, please describe:

---

9. Has applicant or any member of your household been approved, denied, licensed, or certified under present or any other names by any state, county, or private agency to provide services in the home? Yes \_\_\_\_ No \_\_\_\_  
 If yes, please describe: Approved \_\_\_\_ Denied \_\_\_\_ Licensed \_\_\_\_ Certified \_\_\_\_

---

10. Has any member of your household ever been convicted of a crime (misdemeanor or felony)?

Applicant	Yes ____	No ____	
Co-Applicant	Yes ____	No ____	
Household Member	Yes ____	No ____	Name: _____
Household Member	Yes ____	No ____	Name: _____

If yes, please provide name and information on the crime, including date of conviction and court of jurisdiction. You may also supply information about your/their good conduct and/or rehabilitation.

\*Applicant(s), and anyone else age 18 or older, residing in the home, must be cleared through the Justice Center Staff Exclusion List (SEL) and a Criminal Background Check (CBC).

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11. Is any member of your household currently the subject of any pending criminal charges?

Applicant	Yes ____	No ____	
Co-Applicant	Yes ____	No ____	
Household Member	Yes ____	No ____	Name: _____
Household Member	Yes ____	No ____	Name: _____

If yes, please provide name, information on the crime, and date of charge.



12. Has any member of your household been the subject of an indicated case of child abuse or maltreatment?

Applicant Yes \_\_\_\_\_ No \_\_\_\_\_  
Co-Applicant Yes \_\_\_\_\_ No \_\_\_\_\_  
Household Member Yes \_\_\_\_\_ No \_\_\_\_\_ Name: \_\_\_\_\_  
Household Member Yes \_\_\_\_\_ No \_\_\_\_\_ Name: \_\_\_\_\_

If yes, please provide information on the child abuse or maltreatment and date.

\* Applicant(s), and anyone else age 18 or older, residing in the home, must be cleared through the State Central Register of Child Abuse and Maltreatment (SCR).

13. Does any member of your household possess any firearms? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, are they locked in a secure location so as not to be accessed by unauthorized persons? Yes \_\_\_\_\_ No \_\_\_\_\_

Is ammunition secured separately? Yes \_\_\_\_\_ No \_\_\_\_\_

Please list firearms present in the home and secure location:

14. Has any member of your household ever been a Family Care Provider or Substitute Provider for OPWDD's Family Care program? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please indicate which Sponsoring Agency: \_\_\_\_\_

Please indicate the reason why you or your household member left the program.

15. Why do you want to become a Family Care Provider?

16. What life experiences do you have with individuals with developmental disabilities?

17. Describe any hobbies or interests that you and/or your family have.

18. In what types of activities, both in your home and in the community, do you currently participate?

19. How did you hear about the Family Care Program? Please be specific.

**Section IV: For Recertification Only**

1. Have there been any significant issues or structural changes made to the home since last certification?  
Yes \_\_\_\_ No \_\_\_\_ If yes, please explain:

2. Have there been changes to the household composition? Yes                  No                  If so, indicate below.

Name and age of each person, including the applicant(s) living the in home and relationship to the applicant(s).

Name	Date of Birth	Relationship

**Section V: Certification/Recertification**

I hereby request an Operating Certificate in accordance with Article 16 of the Mental Hygiene Law be issued in my/our name(s).

For purposes of initial certification, or if certified, I understand that this Family Care Home is subject to inspection by the Commissioner of OPWDD or his/her authorized representative(s) at any time, with or without notice.

If an Operating Certificate is granted, I agree:

1. To maintain the Family Care Home at the certified address, with the understanding that certification applies ONLY to this address.
2. To guarantee and protect the civil rights of all individuals in my home.
3. To not exceed the certified capacity.
4. To make all reports as required by the Commissioner.
5. To notify in writing and obtain approval of the Commissioner 60 days prior to voluntarily terminating operation of the Family Care Home.
6. To notify Sponsoring Agency in writing and include reason(s) for wanting individuals removed from my home.
7. To notify the Sponsoring Agency immediately (using the Sponsoring Agency's after-hours contact procedures when applicable) if the individual poses a threat of harm to himself/herself or others.
8. To operate the Family Care Home in accordance with all applicable laws, regulations, and policies.
9. To notify the sponsoring agency prior to making any renovations or environmental modifications to the Family Care Home.
10. To notify the sponsoring agency of any prospective household members who intend to move into the home including family members, boarders, and/or individuals placed by other agencies, prior to such move.
11. To provide Family Care services in such a manner as to assure that I will not discriminate against an individual because of his/her race, color, gender, sexual orientation, military status, creed, religion, age, disability, or national origin.
12. To notify the sponsoring agency of any legal involvement, actions, or proceedings concerning or affecting any member of the household. This requirement covers, but is not limited to, any arrests, criminal investigations, criminal convictions, restraining orders, orders of protection, income executions, lawsuits, separation agreements, and divorce proceedings involving or affecting any member of the household, and any calls made to the police, or visits made to the home by the police or other law enforcement officials. If I have requested a criminal history record check, I have read and signed the attached disclosure statement.
13. To obtain approval for scheduled absences from the Family Care Home (i.e. vacations).

I certify that all information included in this application is accurate and true to the best of my knowledge and understand that any untrue statement, knowingly given, is grounds for revocation, non-renewal, or denial.

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Applicant/Provider Signature

Print Name

Date

---

Co-Applicant/Provider Signature

Print Name

Date

**Section VI: Verification Under Oath**

State of New York

County of \_\_\_\_\_

\_\_\_\_\_  
Applicant Name

\_\_\_\_\_  
Co-Applciant (if applicable)

Being duly sworn, deposes, and says that he or she or they is/are the person(s) who has/have executed the above application that the statements in the forgoing application are true to the best of his or her or their own knowledge.

\_\_\_\_\_  
Applicant/Provider Signature

\_\_\_\_\_  
Co-Applciant/Co-Provider Signature

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ in the year of \_\_\_\_\_

\_\_\_\_\_  
Notary Public Signature

**Section VII: Summary (For Sponsoring Agency Use Only)**

Recommendation(s):

Other Comments:

Operating Certificate #:

Certified Capacity (Including Respite Beds): \_\_\_\_\_

# Respite Beds: \_\_\_\_\_

\_\_\_\_\_  
Print Name/Title of Person Reviewing Form

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date Reviewed

\*Application Denied? \_\_\_\_ Yes

Date of Denial: \_\_\_\_\_

\* If the applicant(s) is denied an operating certificate, the DDSOO Director or designee must send a Notice of Intent to Deny to the applicant(s). A copy of the Notice must be sent to the Office of Counsel, the Division of Quality Improvement, and the Sponsoring Agency. Please refer to the Initial Certification policy in the Family Care manual for more information.



LS-22A Application for Substitute Provider Approval/Reapproval

Instructions for Initial Approval:

This application must be completed in its entirety by the applicant who is seeking initial approval to provide respite services for the Family Care Program.

Instructions for Reapproval:

If there have been changes to the Substitute Provider's demographic information (e.g. name change, address change), Sections I and IV must be completed.

Sponsoring Agency Information

Agency Sponsored / State Sponsored checkboxes and Sponsoring Agency or DDSOO Name field.

Section I: Applicant Information

Name of Applicant and Date of Birth fields.

Address fields: Street, City, State, Zip, County.

Mailing Address fields: Street, City, State, Zip, County.

Phone Number:

Email Address:

Primary Language and Secondary/Other Language fields.

\*Attach employment history with a signed release for employment verification.

Applicant's Driver's License Information:

License #, Issuing State, and Expiration Date fields.

Please provide information regarding any moving violations, including alcohol and/or drug-related offenses. Indicate any suspension, revocation, or occurrence involving harm to any persons or property.

\*Attach a Physician's statement indicating that the applicant is in good health and physically and emotionally capable of providing substitute services, along with all required medical testing per Sponsoring Agency policy.

**Section II: Personal References**

Name and address of 3 people NOT related to the applicant who can attest to the applicant's character.

1. \_\_\_\_\_  
Name \_\_\_\_\_ Phone Number \_\_\_\_\_  
\_\_\_\_\_  
Street \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

2. \_\_\_\_\_  
Name \_\_\_\_\_ Phone Number \_\_\_\_\_  
\_\_\_\_\_  
Street \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

3. \_\_\_\_\_  
Name \_\_\_\_\_ Phone Number \_\_\_\_\_  
\_\_\_\_\_  
Street \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**Section III: Additional Information**

1. Name and age of each person, including the applicant(s), living the in home and relationship to the applicant(s).  
Name \_\_\_\_\_ Date of Birth \_\_\_\_\_ Relationship \_\_\_\_\_


2. Has any applicant or household members (age 18 or older) been approved, denied, licensed, or certified under present or any other names by any state, county, or private agency to provide services in the home? Yes \_\_\_\_\_ No \_\_\_\_\_  
If yes, please describe: Approved \_\_\_\_\_ Denied \_\_\_\_\_ Licensed \_\_\_\_\_ Certified \_\_\_\_\_

3. Has any applicant or household members (age 18 or older) ever been convicted of a crime (misdemeanor or felony)?  
Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please provide name and information on the crime, including date of conviction and court of jurisdiction. You may also supply information about your good conduct and/or rehabilitation.

\*Applicant/co-applicant must be cleared through the Justice Center Staff Exclusion List (SEL) and a Criminal Background Check (CBC). Adult household members (age 18 and over) must also be cleared through the SEL and CBS if respite will be provided in the Substitute Provider's home.

4. Is any applicant or adult household member or (age 18 or older) currently the subject of any pending criminal charges?  
Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please provide name, information on the crime, and date of charge.

5. Has any applicant or adult household members (age 18 or older) been the subject of an indicated case of child abuse or maltreatment? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please provide information on the child abuse or maltreatment and date.

\* Applicant(s) must be cleared through the State Central Register of Child Abuse and Maltreatment (SCR). Adult household members (age 18 and over) must also be cleared through the SCR if respite will be provided in the Substitute Provider's home.

6. Why do you want to become a Substitute Provider?

7. What life experiences do you have with individuals with developmental disabilities?

8. Has any applicant or member of your household ever been a Family Care Provider or Substitute Provider for OPWDD's Family Care program? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please indicate which Sponsoring Agency: \_\_\_\_\_

Please indicate the reason why you or your household member left the program.

**Section IV: Signatures**

I certify that all information included in this application is accurate and true to the best of my knowledge and understand that any untrue statement, knowingly given, is grounds for disapproval.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

**Section V: Summary (For Sponsoring Agency Use Only)**

Recommendation(s):

Other Comments:

Print Name/Title of Person Reviewing Form:

Signature of Reviewer: _____	Date Reviewed: ____/____/____
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Approved By: _____ (Signature/Title)	Date of Approval: ____/____/____
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Denied By: _____ (Signature/Title)	Date of Denial: ____/____/____
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\*If the Applicant is denied a Family Care Substitute Provider Certificate of Approval, the Sponsoring Agency designee must inform the applicant in writing. The reason for the denial must be included in the letter along with recommendations for remediation. The Sponsoring Agency must keep a copy of the denial letter in the applicant's file.







Family Care Substitute Provider Reimbursement for Individual Transportation (OPW-200)

1) Substitute Provider Name: \_\_\_\_\_

2) Substitute Provider Address: \_\_\_\_\_

3) Substitute Provider Social Security # or Vendor ID #: \_\_\_\_\_

INDIVIDUALS INFORMATION <small>(Please give the full name of all individuals in vehicle. TABS ID is only needed for first individual listed on each trip.)</small>		TRIP INFORMATION					REIMBURSEMENT INFORMATION					
4) Individual(s) Name	5) TABS ID	6) From: (address)	7) To: (name, title and address)	8) Trip Type <small>Check (X) one</small>		9) Date of Trip	11) Dollar Amount miles X _____ <small>cents per mile</small>		12) Other Costs*		13) Total Costs	
				Med	Day		Dollars	Cents	Dollars	Cents	Dollars	Cents
TRIP 1	[Grid]						10) Trip Miles					
TRIP 2	[Grid]						10) Trip Miles					
TRIP 3	[Grid]						10) Trip Miles					
TRIP 4	[Grid]						10) Trip Miles					

\* OTHER COSTS: Attach dated receipts for parking, tolls, taxi, or public transportation to this form 14) TOTAL COST OF ALL TRIPS

15) I certify that the above is just, true, and correct; that no part thereof has been paid except as stated and that the balance is actually due and owing, and that the amounts claimed were necessary and incurred for Family Care individual transportation expenses.

Substitute Provider Signature: \_\_\_\_\_ Date: \_\_\_\_\_

16) ADMINISTRATIVE REVIEW – I have reviewed the above for accuracy and attest to the fact that the services meet the criteria for transportation reimbursement and that the transporter is an approved Family Care Substitute Provider.

Reviewed by: \_\_\_\_\_ TABS STAFF ID#: \_\_\_\_\_ Mileage Approved \_\_\_\_\_ Mileage Denied \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Agency/DDSO: \_\_\_\_\_

Data Entered By:
Date:



Individual: \_\_\_\_\_ Medicaid #: \_\_\_\_\_

FCP Name: \_\_\_\_\_ Sponsoring Agency: \_\_\_\_\_

PART I- Supplemental Security Income and/or Medicaid Status

- 1. Is the individual currently receiving SSI? Yes No
If yes, skip to Part III and enter \$250. If no, answer question 2 below.
2. Is the individual currently enrolled in Medicaid? Yes No
If yes, skip to Part III and enter \$250. If no, complete Part II.

PART II- Asset/Income Evaluation

- 1. a. Evaluation is based on assets and/or income for (month/year).
2. a. Total assets from all sources: \$
b. Current Medicaid asset limit: \$
c. Excess assets (2a minus 2b; enter \$0 if negative) \$
d. If line 2c is \$250 or more, skip to Part III and enter \$0.
e. If line 2c is less than \$250, complete questions 3-6 below.
3. a. Total gross unearned income: \$
b. Income disregard: \$ 20
c. Net unearned income (3a minus 3b): \$
4. a. Total gross wages: \$
b. Income disregard (if not used in item 3 above): \$
c. Work related exemption: \$ 65
d. Sub-balance: \$
e. One-half sub-balance (net wages): \$
5. a. Total net income (3c plus 4e): \$
b. OPWDD allowance: \$
c. Adjusted net income (5a minus 5b): \$
d. Current provider payment: \$
e. Excess income (5c minus 5d; enter \$0 if negative): \$
f. Health insurance premiums paid by individual: \$
g. Adjusted excess income (5e minus 5f): \$
h. Semi-annual adjusted excess income (six times the amount of line 5g): \$
6. a. Full semi-annual payment: \$ 250
b. Total excess assets and income (2c plus 5h): \$
c. Payment due (6a minus 6b; enter \$0 if negative): \$
d. If line 6c is \$0, enter \$0 in Part III also.
e. If line 6c is greater than \$0, enter the amount in Part III.

Part III- Payment Amount

Enter amount in Part III-A or IV-A on the Family Care Payment Authorization form. \$

Print Name

Print Title

Signature

Date



## **Personal Reference for OPWDD Family Care Program**

Date: \_\_\_\_\_

Dear \_\_\_\_\_:

Your name has been given to us as a reference by \_\_\_\_\_ who has submitted an application to provide services to individuals with intellectual and developmental disabilities as part of the Office for People With Developmental Disabilities (OPWDD) Family Care program.

Please provide us with information to evaluate this candidate by completing the attached form and returning it in the enclosed envelope.

Your prompt attention to this matter is greatly appreciated.

Sincerely,





Family Care Consent for Release of Medical Information

Date: \_\_\_\_\_

Dear \_\_\_\_\_, (Physician's Name)

I, \_\_\_\_\_, hereby authorize and consent to the release of (Applicant/Provider)

confidential information by \_\_\_\_\_, \_\_\_\_\_ (Physician's Name) (Physician's Phone Number)

\_\_\_\_\_ (Physician's Address)

to \_\_\_\_\_ (Sponsoring Agency)

Applicant/Provider Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Date: \_\_\_\_\_



Physician Statement for OPWDD Family Care Program

Dear \_\_\_\_\_:
(Physician's Name)

Your patient \_\_\_\_\_, \_\_\_\_\_
(Provider/Applicant Name) (Date of Birth)

has requested certification as a Family Care Provider/Substitute Provider through the New York State Office for People With Developmental Disabilities. Please complete the following information as to the overall health and wellbeing of your patient.

Form with 7 sections: Date of last physical exam; Is the applicant currently under your care for any medical condition that would affect their ability to provide care to an individual with an intellectual or developmental disability? If yes, please explain.; Does the applicant have any medical condition that would make driving contraindicated? If yes, please explain.; Does the applicant take any prescription medication that would make driving contraindicated? If yes, please explain.; Does the applicant have any serious medical conditions or physical limitations (e.g. lifting) or a serious emotional/mental health condition that should be taken into consideration before providing Family Care?; Are there any concerns with the applicant's ability to provide care for an individual with an intellectual or developmental disability?; Other Comments:

Physician's Signature

Date

## Tuberculosis Testing for Family Care Applicants

A two-step PPD or IGRAs blood test is required of all Family Care Provider and Substitute Provider applicants for the Family Care program.

If your health care provider employed a two-step PPD, the following information must be provided to the Sponsoring Agency for each PPD:

<b>First PPD</b>	
Date placed:	
Results in millimeters of induration:	
Date read:	
Interpretation of results:	
Name of person reading and interpreting the test:	

<b>Second PPD</b>	
Date placed:	
Results in millimeters of induration:	
Date read:	
Interpretation of results:	
Name of person reading and interpreting the test:	

If your health care provider employed a whole blood interferon-gamma release assays (IGRAs) approved by the Food and Drug Administration (FDA) such as QuantiFERON-TB Gold, 2005; QuantiFERON-TB Gold In-Tube, 2007; and TSpot.TB, 2008 (or any other test approved by the FDA and/or CDC), the following information must be provided to the Sponsoring Agency:

<b>IGRAs</b>	
Date drawn:	
Results:	
Interpretation of results:	
Name of person interpreting the test:	

Note to applicants:

Results of the required TB testing and any necessary follow-up evaluation must be documented and shared with the Sponsoring Agency prior to beginning services as a Family Care Provider or Substitute Provider.



# Reaffirmation Statement for Recertification of an OPWDD Family Care Home

I hereby request an Operating Certificate in accordance with Article 16 of the Mental Hygiene Law be issued in my/our name(s).

For purposes of Recertification, I understand that this Family Care Home is subject to inspection by the Commissioner of the Office for People With Developmental Disabilities (OPWDD) or his/her authorized representative(s) at any time.

I hereby declare that I have sufficient resources to maintain my family and household. If an

Operating Certificate is granted, I agree to:

1. Maintain the Family Care Home at the certified address, with the understanding that the recertification applies only to this address.
2. Guarantee and protect the civil rights of all individuals in my home.
3. Not exceed the certified capacity.
4. Make all reports as required by the Commissioner of OPWDD or his/her authorized representative(s).
5. Notify in writing and obtain approval of the Commissioner or his/her representative(s) sixty (60) days prior to voluntarily terminating operation of the Family Care home.
6. Notify in writing and include reason(s) for wanting the individual(s) removed from the home.
7. Immediately notify the sponsoring agency if the individual(s) poses a threat to him or herself, or others.
8. Operate the Family Care Home in accordance with all applicable law(s), regulation(s), and policy(ies).
9. Notify OPWDD Family Care staff prior to making any environmental modifications (adaptive technology) or moving in any individuals from agencies other than OPWDD or the Sponsoring Agency, or in the case of making additions to the number of people in the household.
10. Provide Family Care services in such a manner as to assure that I will not discriminate against an individual in terms of his or her race, color, sex, creed, religion, age, disability or national origin.

I, \_\_\_\_\_

residing at \_\_\_\_\_

**certify that all information included in this application is accurate and true to the best of my knowledge. I understand that any untrue statement, knowingly given, is grounds for revocation.**

\_\_\_\_\_  
(FCP Signature) (Print Name) (Date)

\_\_\_\_\_  
(FCP Signature) (Print Name) (Date)

**Please complete this section using the space provided.**

A.) Do you have any financial interest in any other agency subject to certification by OPWDD?  YES  NO If YES, please explain:

B.) Have you or any member of your household been approved, denied, licensed, or certified under present or any other names by any state, county, or private agency to provide services in the home?  YES  NO If YES, please explain:

C.) Since the last recertification, have you or any member of your household ever been arrested or convicted of a crime (misdemeanor or felony)?  YES  NO If YES, please explain:

D.) Are you or any member of your household currently the subject of any criminal action?  YES  NO If YES, please explain:

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(Signature of staff reviewing form)

(Title)

(Date)