



**NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY
ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NY 12243-0001
Andrew M. Cuomo
Governor**

Local Commissioners Memorandum

Section 1

Transmittal:	12-LCM-06
To:	Local District Commissioners
Issuing Division/Office:	Center for Employment and Economic Supports
Date:	July 6, 2012
Subject:	Continuation of OTDA Contract with Medical Providers for Consultative Medical and Psychological Examinations and Intelligence Assessments
Contact Person(s):	Program Related Questions: Susanne Haag, OTDA Employment and Advancement Services Bureau: (518) 486-6291; Susanne.Haag@otda.ny.gov Claiming Related Questions: <u>Regions 1-5:</u> Edward Conway (518) 474-7549 or 1-800-343-8859, ext 4-7549; Edward.Conway@otda.ny.gov <u>Region 6:</u> Michael Simon (212) 961-8250; Michael.Simon@otda.ny.gov
Attachments:	Attachment A-Approved Contractors, Consultative Examinations Attachment B-Revenue Intercept Letter Attachment C-Consultative Examinations Statement of Work Attachment D-Consultative Examinations Quarterly Report Attachment E-Division of Disability Determinations (DDD) Statewide CE Fee Schedule
Attachment Available On – Line:	Yes

Note: As of August 29, 2012, any reference to the Food Stamp Program in this document shall mean the Supplemental Nutrition Assistance Program (SNAP) and any reference to Food Stamp benefits or Food Stamps (FS) shall mean SNAP benefits.

Section 2

I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to notify social services districts (SSDs) of the continued availability of a qualified medical provider, under contract to OTDA, to provide consultative medical and psychological examinations and/or intelligence assessments, for SSD clients. These examinations support SSD efforts to determine the employability status of persons who are applying for, or receiving public assistance benefits (PA), Food Stamps (FS) or Medicaid. These examinations also may be used to make recommendations regarding referrals to the Social Security Administration (SSA) or Veterans Administration (VA) for federal disability benefits, or to determine disability for Medicaid recipients for Aid to Disabled.

II. Background

SSDs provide a range of employment services to help recipients of benefits participate in work preparation activities and secure employment. Section 335-b of the Social Services Law (SSL) requires that SSDs meet federal and State participation rate requirements and engage all adult PA recipients in work activities as soon as practicable. SSDs must inquire at application and recertification if there is any physical or mental health impairment that may prevent the individual from working or participating in work preparation activities and also must review employability whenever there is reason to believe an individual might have an impairment that prevents or limits participation in work activities, including employment. In these instances, SSDs must make a determination regarding the individual's ability to work resulting in a determination that the individual is either exempt from work requirements, not exempt from work requirements, but with work limitations or not exempt from work requirements with no medical limitations (see SSL §332 (b) and 18 NYCRR §385.2(d)). In addition, applicants/recipients of PA who appear to be eligible for SSI must, as a condition of PA eligibility, apply for and cooperate with all requirements set forth by SSA for making a determination for federal disability benefits.

Many applicants/recipients report medical and/or psychological issues which may affect their ability to participate in work activities and/or which may qualify them for SSI. Historically, a number of SSDs have encountered problems with obtaining independent medical information to make appropriate employability/disability determinations. To address this problem, OTDA has contracted with qualified medical providers since October 2006 to perform consultative examinations for SSDs. See Attachment A for the currently approved contractor, the services they provide, and the counties in which they provide services. OTDA will issue an update to this LCM if additional qualified medical providers are approved to provide consultative examinations. Some SSDs may not have an approved contractor facility close enough to their population centers to make referrals practical, or may wish to use another provider. In such cases, SSDs may work with a local medical provider and OTDA staff to have them added to the approved contractor list.

These OTDA contracts are for a five-year term set to expire September 30, 2016.

III. Program Implications

OTDA has contracted with a qualified medical provider to conduct consultative medical examinations for applicants/recipients of PA, FS, and Medicaid referred to them by participating SSDs.

SSDs that are currently participating in OTDA's Consultative Examinations agreement should submit an updated statement of work using the template attached to this LCM. The updated statement of work should be completed and submitted to OTDA by **August 30, 2012**. The updated statement of work should be submitted to Susanne Haag at Susanne.Haag@otda.ny.gov or by mail at:

Susanne Haag
Employment and Advancement Services
New York State Office of Temporary and Disability Assistance
40 N. Pearl Street, 11th Floor – Section A
Albany, NY 12243

SSDs that are not currently participating, but have an interest in using the services of the contracted qualified medical provider should contact Susanne Haag at OTDA's Employment and Advancement Services Bureau (EAS) at (518) 486-6291. If, after this initial contact, a SSD wants to further explore the possibility of using the contracted services, OTDA staff will, at the discretion of the SSD, arrange an introductory meeting between the SSD, OTDA and the contractor staff to discuss the mechanics of the contract and program operations. If, after this meeting, the SSD decides to use the contract it will be required to complete a statement of work outlining the specific responsibilities, arrangements and procedures between the SSD and the contractor.

A. SSD responsibilities include the following:

1. Advise OTDA that the SSD wants to participate in the OTDA Consultative Examination (CE) contract and provide a completed statement of work.
2. Identify clients the SSD determines need a consultative examination.
3. Provide a written notice to advise the client of the reason for the referral for the consultative examination and of the consequences of failing to attend scheduled medical appointments. A public assistance applicant/recipient who fails to attend a consultative examination generally is subject to denial of the public assistance application or discontinuance of public assistance benefits for non-compliance without good cause. The notice must include the appointment date, time and location, and describe the arrangement and acceptable circumstances for rescheduling. In addition, the process must be consistent with the requirements included in 18 NYCRR §385.2(d) including that the SSD notify the client that he/she may present any documentation available from his/her practitioner for consideration no later than four (4) business days after the examination, provided that the SSD has given the individual ten (10) calendar days to submit medical documentation. SSDs may opt to use the notice developed by OTDA or submit a local equivalent to OTDA for approval.
4. Evaluate information provided by the applicant/recipient to determine if the individual had good cause for missing an examination. Good cause may include, but is not limited to, circumstances beyond the individual's control including: documented

illness or household emergency; required meetings with caseworkers; school, court or medical appointments; or lack of adequate child care.

5. Provide transportation assistance and child care when required and needed to enable the applicant/recipient to attend the consultative appointment(s).
6. Secure client authorization to release medical information pursuant to the requirements described in 06-INF-17, including that the SSD must use either the LDSS-4863 or an approved local equivalent.
7. Provide pertinent medical and case file information to the consultative examination provider subject to the requirements of 06-INF-17.
8. Review and revise, as necessary, the local biennial Temporary Assistance and Food Stamp Employment Plan to ensure that the plan includes the use of independent medical evaluations, as described in III.E.2 of this LCM.
9. Provide a letter signed by the Commissioner (see Attachment B) authorizing OTDA to intercept funds (SSD fills in the maximum dollar amount) from the SSD's RF-2 or RF-2A federal or state settlement to cover the SSD's share of the cost of the examinations. The funds intercepted will be the gross costs which the SSD will then claim for reimbursement. SSDs must track the claiming category of clients referred so that the SSD will know how to appropriately claim the costs. Please see III.D of this LCM for more information on costs and claiming.
10. Provide quarterly reports to OTDA regarding examinations outcomes (see Attachment D).
11. Develop a statement of work with the medical provider as follows:
 - a. An estimate of the number and case type of monthly referrals (no minimum or maximum required).
 - b. A statement of the type(s) of examinations needed.
 - c. A detailed description of how referrals will be made.
 - d. A plan to assist clients, when necessary, with travel arrangements to and from the contractor's facility, and to arrange for child care when needed.
 - e. A statement committing the SSD to provide the contractor with all pertinent medical documentation in the referred client's case file consistent with the release provided by the participant.
 - f. A statement committing the SSD to maintaining a list of the clients referred to the contractor, the type of examination(s) they received and the client's category of assistance. OTDA will need to confirm with the SSD the clients referred, the ancillary testing authorized by the SSD and examination(s) reports received, before OTDA will authorize the payment of a voucher received from a contractor.
12. Keep track of when reports are due and follow up with the contractor immediately if a report is not provided timely, is incomplete, or if there are any questions or clarifications needed regarding a report. SSDs should document issues and follow up communications with the contractor and contact Susanne Haag at OTDA if there are concerns related to the completion of examinations or reports.

B. Qualified medical providers who have contracted with OTDA will be required to:

1. Examine clients referred by the SSD and arrange for ancillary testing when specifically authorized by the SSD. The most frequent types of ancillary testing include: X-rays, resting and exercise treadmill EKG's, pulmonary function tests, and laboratory tests. Occasionally the contracted provider may suggest an alternate examination/evaluation for the client (i.e. the client was referred for psychological evaluation, but the psychologist may indicate a medical examination may be needed to determine employability).
2. Schedule appointments for timely examinations based upon the referral date of the SSD. Contractors will notify clients by mail or an agreed upon method of their scheduled appointment using demographic information provided by the SSD. The appointment letter will include specific directions to the contractor's examination site.
3. Reschedule appointments for clients who fail to appear for the referred examinations as instructed by the referring SSD.
4. Complete and submit an examination report to the SSD, using forms provided by OTDA, within 10 business days of the examination. The contractor will review and consider all information and records provided by the individual or his/her treating health care practitioner within 4 business days of the examination. Generally, the report should be completed and submitted to the SSD within 5 business days. However, the completion and submission period will be extended up to an additional 5 business days to address the information provided by the client and/or results of ancillary tests. The report must include all requested test results and interpretations as specified by the SSD. In addition to the actual medical facts, the report must include a statement that describes the individual's ability to perform work related activities based on the findings of the examination.
5. Have the physicians and/or psychologists performing the examinations available during the SSD's normal working hours for telephone discussions to clarify or to answer SSD questions regarding the report. Responses must be provided within 48 hours from the SSD's request.
6. Maintain complete confidentiality of all client information consistent with applicable federal and state law.
7. Provides access by OTDA staff to records and service locations pursuant to the provisions of the contract.

C. OTDA's responsibilities include the following:

1. Respond to all SSD inquiries regarding the Consultative Examination (CE) contracts.
2. Assist SSD in the development of a consultative examination statement of work.
3. Reimburse contractors for services provided using OTDA's Division of Disability Determinations (DDD) fee schedule rate (see Attachment E) which is subject to periodic revision.

4. Receive and process claims from the contractor for payment of the examinations. The contractors will be required to include a list detailing the names of the clients examined, the type of examination they received, and any ancillary testing authorized by the SSD. OTDA will verify the accuracy of the contractor's list and costs with SSD staff before processing a voucher for payment.
5. Notify the SSD when payments reach 75% of the authorized intercept amount so that the SSD can establish a revised intercept amount by submitting a new revenue intercept letter.
6. Monitor and evaluate contractor and SSD performance.

D. Cost and Claiming Instructions

SSDs may claim the examination costs using the Flexible Fund for Family services (FFFS), FS Administrative funds, Medicaid Administrative funds or local (non-reimbursable) funds, depending on the claiming category of the client/applicant as noted below.

Claiming Category	Schedule	Funding
FA-Eligibility related	D-1	FFFS/local
SNA/MOE & SNA-Eligibility related	D-1	local
FA-Employment related	D-3	FFFS/local
SNA-Employment related	D-3	local
SNA-Food Stamp client or Food Stamp only work exemption determination	D-7	FS Administrative Funds/local
Medicaid-Aid to disabled determination	D-4	Medicaid Administrative Funds

SSDs should use the following guidelines to claim these expenditures. Examination costs incurred to determine employability should be claimed on the Schedule D-3 Allocation of Claiming of Administrative Costs for Employment Programs LDSS-2347-B1 as TANF Program (as a screening activity) or Non-Federal Employment depending on the case type. Food Stamp Employment and Training funds (or the local funds used to support the non-federal share of the FSET 50% funds) cannot be used to pay for medical examinations. As described in 06-LCM-07, FS program administrative funds may be used to reimburse the costs associated with the completion of medical screenings which are done to evaluate whether or not an individual is exempt or non-exempt from FS employment requirements. Examination costs incurred for Food Stamp employability determinations may be claimed on the Schedule D-7 Distribution of Food Stamp Expenditures to Activities LDSS-2347E. However, FS program administrative funds cannot be used for medical screenings or determination for other purposes, such as determining disability, as defined in the Food Stamp Act (7 USC 2012).

Examination costs incurred to determine eligibility for federal disability benefits (SSI/SSDI) should be claimed for reimbursement on the Schedule D-1 Claiming of Intake/Case Management Expenditures LDSS-2347A. Medicaid costs are claimed on Schedule D-4, Calculation for Medical Assistance Eligibility Determination/Authorization/Payment Cost Shares LDSS-2347 B-2. Instructions for completing these schedules are contained in Volume 3 (Volume 4 for New York City) of

the Fiscal Reference Manual in chapters 8 (Schedule D-1), 10 (Schedule D-3), 11 (Schedule D-4) and 14 (Schedule D-7) respectively.

Transportation costs for consultative examinations for public assistance applicants or recipients are reimbursable as a supportive service or from the FFFS or local funds based on the eligibility of the public assistance applicant or recipient.

E. Additional Information

1. The approved OTDA/Provider contracts are for the period October 1, 2011 – September 30, 2016. Additional qualified contractors may be added to the approved contractor list during the contract period. OTDA will notify SSDs by issuing a Local Commissioners Memorandum if additional providers are added to the contract.
2. Local Biennial Temporary Assistance and Food Stamp Employment Plan Amendments.

SSDs that did not include independent evaluations as part of their disability determinations process described in Section 6 of the Local Employment plan should submit a plan amendment to their 2012-13 Local Biennial TA and FS employment plan. Specifically, the SSD will need to amend the checkboxes in the first part and modify the description of the disability determination process used by the SSD in the second part of the Disability Determination section to include the use of independent evaluations.

The amendment is needed to ensure that the local biennial employment plan accurately reflects the SSD's procedures. Local biennial employment plan amendments should be submitted to Barbara Guinn at BarbaraC.Guinn@otda.ny.gov or to the following address:

Barbara C. Guinn
Director
Employment and Advancement Services
New York State Office of Temporary and Disability Assistance
40 N. Pearl Street, 11th Floor – Section A
Albany, NY 12243

Issued By

Name: Phyllis Morris

Title: Acting Deputy Commissioner

Division/Office: Center for Employment and Economic Supports