



Office of Temporary and Disability Assistance

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Local Commissioners Memorandum

Section 1

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| Transmittal: | 23-LCM-02 |
| To: | Social Services District Commissioners |
| Issuing Division/Office: | Employment and Income Support Programs |
| Date: | January 6, 2023 |
| Subject: | OTDA Contract with Medical Providers for Consultative Medical and Psychological Examinations and Intelligence Assessments |
| Contact Person(s): | General Contact: Susanne Haag (518) 486-6291; Susanne.Haag@otda.ny.gov Fiscal Questions Regions 1-5: Justin Gross (518) 473-9164; otda.sm.field_ops.I-IV@otda.ny.gov Fiscal Questions Regions 6: Michael Simon (212) 961-8250; Michael.Simon@otda.ny.gov |
| Attachments: | Attachment A – Provider Service Locations Attachment B – Provider Fee Schedule Attachment C – Statement of Work Template Attachment D – Revenue Intercept Template Attachment E – Consultative Examination Appointment Letter Template Attachment F – Consultative Examination Quarterly Report |

Section 2

I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to notify social services districts (districts) of the availability of medical providers, under contract with the Office of Temporary and Disability Assistance (OTDA), to provide consultative medical and psychological examinations and/or intelligence assessments for district clients. These examinations are to be used when assisting districts with determining the employability status of persons who are applying for, or receiving, Temporary Assistance (TA) or Supplemental Nutrition Assistance Program (SNAP) benefits. These examinations also may be used to make recommendations regarding referrals to the Social Security Administration (SSA) for federal disability benefits, primarily Supplemental Security Income (SSI), to determine disability for Medical Assistance (MA) recipients and/or evaluation of medical/psychological impairments affecting the ability of an individual or family to comply with an Independent Living Plan in the case of homelessness.

II. Background

Section 336 of the Social Services Law requires nonexempt applicants and recipients of TA, including those individuals who are concurrently receiving SNAP benefits, to participate in work activities, up to 40 hours per week unless determined exempt consistent with 18 NYCRR §385.2 for

temporary assistance and 18 NYCRR §385.3 for SNAP. Individuals with documented physical or mental health impairments may only be assigned to work activities consistent with the individual's limitations. In addition, applicants/recipients of Family Assistance (FA) or Safety Net Assistance (SNA) who appear to be eligible for federal disability benefits must, as a condition of TA eligibility, apply for and cooperate with all requirements set forth by SSA for making a determination of eligibility for federal disability benefits.

If an applicant/recipient indicates they have a medical condition that limits their ability to participate in work activities, the district shall notify the individual, in writing, of the opportunity to present to the social services official any medical documentation to support the claim of disability or limitation. The medical documentation provided by the individual must contain a specific diagnosis and prognosis resulting from any medically appropriate tests and specify any work limitations of the individual. In instances where the district determines either that the documentation is insufficient to support an exemption/limitation from the requirement to participate in work activities or that further medical evaluation is appropriate, the district may refer the individual to a practitioner selected by the district for an independent examination of the individual's employability. Please see [16-ADM-05](#) for additional information about this process.

To assist districts with obtaining timely independent medical information to make appropriate employability/disability determinations, OTDA has contracted with Industrial Medicine Associated (IMA) to perform consultative examinations. See Attachment A for the listing of IMA provider locations. The provider's fee schedule for services is listed on Attachment B, which is effective October 1, 2022 through September 30, 2027.

III. Program Implications

OTDA has contracted with IMA to conduct consultative medical examinations for applicants/recipients referred to them by participating districts. Districts that have an interest in using the services of the contracted medical providers, but are not currently participating, should contact Susanne Haag at OTDA's Division of Employment and Income Support Programs (EISP) at: (518) 486-6291 or Susanne.Haag@otda.ny.gov. EISP staff will notify the approved contractor(s) of district interest and provide district contact information.

A. District responsibilities include the following:

1. Advise OTDA that the district wants to participate in the OTDA Consultative Examination (CE) contract.
2. Complete and submit the Statement of Work (Attachment C):
 - a. Identifying the target population(s) the district determines need a consultative examination with estimates of initial and ongoing referrals per month.
 - b. Outlining the criteria used for identification/referral.
 - c. Listing staff and referral process.
 - d. Outlining the districts scheduling process with the contractor(s).
 - e. Indicating process of handling additional examinations or ancillary testing.
 - f. Providing the method used to receive reports from the contractor.
 - g. Verifying the services received and the need to provide outcome reports to OTDA on a quarterly basis.
 - h. Providing current district contact information to OTDA.
3. Submit a completed and signed Revenue Intercept Letter (Attachment D) to OTDA to pay for the examinations/testing.

4. Use the Consultative Examination Appointment letter template (Attachment E) or submit an equivalent for OTDA review and approval. Provide this appointment letter, unless mailed by IMA, advising the client of the reason for the referral for the consultative examination and of the consequences of failing to attend scheduled appointments. A TA applicant/recipient who fails to attend a consultative examination may be subject to case denial or closing for non-compliance. The letter must include the appointment date, time and location, and describe arrangements 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 district notify the client they may present any documentation available from their treating practitioner or other sources to the independent practitioner who is conducting the examination for consideration no later than four (4) business days after the examination, provided that in no instance shall such time period exceed ten (10) calendar days. Information regarding the right to submit medical documentation for consideration, as described above may be included in the same letter that is used to inform the individual of the date and time of the appointment, as described above.
Note: A SNAP applicant or recipient who claims an exemption from work requirements due to a medical or non-medical reason and who fails to provide documentation verifying their claimed exemption becomes a work registrant and may be required to meet the requirements of a work registrant including participation in a work activity assignment. Districts are advised, when making an assignment, to make accommodations for the alleged limitation. Failure to comply with the assigned work activity may result in a durational sanction of the individual who failed to comply in accordance with 18 NYCRR 385.12 (e).
5. Ensure the use of LDSS-4863 *Medical Information Release Form* for client's medical release pursuant to the requirements described in [06-INF-17](#), including that the district must use either the LDSS-4863 or an approved local equivalent.
6. Evaluate information provided by the applicant/recipient to determine if the individual had good cause for missing an examination. Good cause may include, but not be 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 childcare.
7. Provide transportation assistance and childcare when needed to enable the client/applicant to attend the consultative appointment(s).
8. Provide pertinent medical and case file information to the consultative examination provider subject to the requirements of [06-INF-17](#).
9. Review and verify the examinations/testing and receipt of reports from the contractor(s) on a monthly basis.
10. Review and revise, as necessary, the local biennial TA and SNAP Employment Plan to ensure that the plan includes the use of independent medical evaluations, as described in 3.E.2 below.
11. Submit Consultative Examination Quarterly Reports to OTDA on the outcomes of the referrals (Attachment F).

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

1. Examine clients referred by the district and arrange for ancillary testing when specifically authorized by the district. The most frequent ancillary testing includes: X-rays, resting and exercise treadmill EKG's, pulmonary function tests, and laboratory tests.
2. Schedule appointments for timely examinations based upon the referral date of the district. Contractors will notify clients by mail, unless the appointment letter is provided directly by the district or agreed upon method of their scheduled appointment using demographic information provided by the district. Appointment letters 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 district.
4. Complete and submit an examination report to the district, using forms provided by OTDA, within ten (10) business days of the examination. The contractor will review and consider all information and records provided by the district or individual from his/her treating health care practitioner. The report must include all requested test results and interpretations as specified by the district and an explanation if their opinion differs from the treating practitioner. 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. Opinions such as "*client is unable to work*" or "*client is disabled*" must be included only when requested by the district.
5. Have the physicians and/or psychologists performing the examinations available during the district's normal working hours for telephone discussions to clarify or to answer any district questions regarding the report. Responses must be received within 48 hours from the district's request.
6. Maintain complete confidentiality of all client information consistent with applicable federal and state law.
7. Provide access requested by OTDA staff to records and service locations pursuant to the provisions of the contract.
8. Submit a voucher for review and payment to OTDA no more than once a month per participating district.

C. OTDA's responsibilities include the following:

1. Respond to all district inquiries regarding the Consultative Examination (CE) contracts.
2. Assist districts in the development of a consultative examination statement of work.
3. Reimburse contractors for services provided using the contractually agreed upon rate between OTDA and the contractor (see Attachment B).
4. Receive and process standard vouchers (AC-3253s) from the contractors 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 district. OTDA will verify the accuracy of the contractor's list and costs with district staff before processing a voucher for payment.

5. Notify the district when payments reach 75% of the authorized intercept amount so that the district can establish a revised intercept amount by submitting a new revenue intercept letter.
6. Monitor and evaluate contractor and district performance.

D. Costs and Claiming Instructions

Districts may claim the examination costs using the Flexible Fund for Family Services (FFFS), local funds, SNAP Administrative funds or MA Administrative Funds, depending on the claiming category of the client/applicant as noted below.

| Claiming Category | Schedule | Funding |
|--|-----------------|--|
| FA-Eligibility related | D1 | FFFS |
| SNA/MOE & SNA/Non-MOE Eligibility related | D1 | Local Funds (No State Funding) |
| FA-Employment related | D3 | FFFS |
| SNA-Employment related only (Individual is not SNAPE&T eligible) | D3 | Local Funds (No State Funding) |
| SNA-SNAP client or SNAP only E&T evaluation | D7 | Federal SNAP program administrative funds (No State Funding) |
| MA-disability determination | D4 | Federal MA Admin State MA Admin |
| Independent Living Plan | None | Local Funds (No State Funding) |

To claim these expenditures districts should use the following guidelines. Examination costs incurred to determine employability should be claimed on the Schedule D-3 Allocation and Claiming of Administrative Costs for Employment Programs LDSS-2347-B1 as TANF funded program (as a screening activity) or Non-Federal Employment depending on the case type. No SNAP Employment and Training funds may be used to pay for medical examinations on the Schedule D-3. As described in [06-LCM-07](#), SNAP 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 SNAP employment requirements. Examination costs incurred for SNAP employability purposes may be claimed on the Schedule D-7 Distribution of SNAP Expenditures to Activities LDSS-2347E. However, this federal reimbursement is strictly limited to the costs of medical screening to establish an exemption from SNAP employment and training requirements. Medical screenings or medical determinations for other purposes, such as determining disability, as defined in the Food Stamp Act (7 USC 2012), are not reimbursable as a SNAP administrative cost.

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. MA 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 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 TA and NTA SNAP applicants or recipients are reimbursable as a supportive service or from the FFFS, based on the eligibility of the TA or NTA SNAP applicant or recipient.

E. Additional Information

1. The approved OTDA/Provider contracts are for the period October 1, 2022 – September 30, 2027.
2. District Biennial Temporary Assistance and SNAP Employment Plan Amendments.

Districts that did not include independent evaluations as part of their disability determination process will need to submit an amendment to the district biennial Temporary Assistance and SNAP Employment Plan. In order to make an amendment, the district must notify their OTDA Employment Services Advisor (ESA) to let them know they will be making a change and which sections are being modified. Districts must submit any amended attachments with their Plans at this time as well. Districts should also work with their ESA to make these changes. OTDA will fill out the Amendments tab in BEPS, which lists the sections amended. District staff granted the District User or District Submitter role may access BEPS to make updates, and the District Submitter(s) may resubmit the Plan. Districts must also remember to put their amended Plans out for a 30-day public comment period after the change has been made.

Districts must notify their ESA if any changes from the public comment period have been added to the Plan. Once OTDA has reviewed and approved the amended Plan, the district will receive written notification of its approval.

3. Best Practice suggestions when using a consultative medical provider are included below:
 - District identifies appropriate clients for referral. Identifying appropriate clients can be done at in-take, at recertification, or during any other client/staff interface. Districts should review all cases that are currently exempt from employment requirements and all cases in which an individual's application for SSI or SSDI benefits have been denied and the district has determined that an appeal is appropriate for possible referral.
 - Districts must ensure that clients understand that the district is referring them for a medical examination to determine, or re-determine, their employability status or potential eligibility for SSI/SSDI and that they must appear for the examination as a condition of TA eligibility. To avoid confusion/misunderstanding, this information/notification should be provided both verbally and in writing.
 - Whenever possible, try to arrange the client's appointment when explaining the referral to the client (providers may have on-line scheduling and all should be readily available by phone).
 - After scheduling the appointment, a referral which includes the client's name, address and phone number, CIN#, case number and category of assistance should be completed. Current accurate contact information needs to be provided. The referral should be sent to the contractor with any relevant medical information/documentation previously provided to the district by the client, as well as other pertinent information from the client's case file.

- A copy of the appointment letter (Attachment E) is given/sent to the client that: indicates the appointment date and time; provides directions to the contractor's facility; advises the client to contact the district prior to the date of the examination if transportation or childcare assistance is needed; and advises the client that keeping the appointment is required as a condition of TA eligibility. The contractor also sends the client a letter notifying him/her of the appointment along with any additional instructions deemed appropriate by the contractor.
- Prior to scheduling the first appointment, the district and the contractor must agree on the criteria for rescheduling clients who do not appear for their examination.

Issued By:

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Title: Deputy Commissioner

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