

**New York State Office For People With Developmental Disabilities  
(OPWDD) Liability Forms**

**Instructions to Provider – Effective March 2010 (Revised 12/2010)**

**Liability Notice for Persons Applying for Services (OPWDD LIAB 05)  
(Rev. 12/2010)**

**2010 Preexisting Services Liability Notice (OPWDD LIAB 06)  
(Rev. 12/2010)**

**Limited Exception Notice for Persons Meeting Exception  
(OPWDD LIAB 07) (Rev. 12/2010)**

**Limited Exception Notice for Persons Applying for Other Services (to be  
given by supported employment or respite provider)  
(OPWDD LIAB 08) (Rev. 12/2010)**

**Limited Exception Notice for Persons Applying for Other Services (to be  
given by provider of other requested services) (OPWDD LIAB 09)  
(Rev. 12/2010)**

**Information About the Limited Exception for Persons Receiving  
Supported Employment or Respite Services (OPWDD LIAB 10)  
(Rev. 12/2010)**

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## **1. INTRODUCTION**

The liability forms listed above describe the obligations and rights of the provider, the individual and liable parties under the law and OPWDD regulations (14 NYCRR Subpart 635-12). The 2010 Preexisting Services Liability Notice (OPWDD LIAB 06) is for “pre-existing” services and the Liability Notice for Persons Applying for Services (OPWDD LIAB 05) is for “other than pre-existing services” as discussed in the regulations. Detailed instructions about these notices are in Section 4 of these instructions. There are also three notices (OPWDD LIAB 07, 08 and 09) for persons who are under the limited exception and an information document about the limited exception (OPWDD LIAB 10). Detailed instructions on the limited exception notices are in Section 5. Instructions on the information document are in are Section 6.

All of these forms can be found on the OPWDD website at [www.opwdd.ny.gov](http://www.opwdd.ny.gov). Look under “News & Publications,” then “Benefits Information.” Additional information about liability for services requirements can also be found there.

## **2. SERVICES COVERED BY THESE FORMS**

These forms are to be used by providers of services that are regulated by OPWDD. There are two groups of services covered by these forms. First, there are the five original services covered by the liability for services regulations which went into effect in 2009. These five original services are:

- 1) intermediate care facility for persons with developmental disabilities services (ICF/DD)
- 2) residential habilitation in an individualized residential alternative (IRA)
- 3) residential habilitation in a family care home
- 4) residential habilitation in a community residence
- 5) day habilitation

There are eight additional services that are covered by the 2010 amendments to the liability for services regulation. These eight additional services are:

- 1) Medicaid Service Coordination
- 2) day treatment
- 3) at home residential habilitation (now named community habilitation effective November 1, 2010)
- 4) prevocational services
- 5) supported employment services
- 6) respite services
- 7) blended services under the OPTS program
- 8) comprehensive services under the OPTS program

Medicaid Service Coordination includes Other Service Coordination, but not Plan of Care Support Services.

If you do not provide any of these original five or eight additional services, you should not use these liability forms.

Only services that are regulated by OPWDD are covered by these forms. Services that are regulated by other State agencies are not covered by these forms.

### **3. THE 2009 LIABILITY NOTICES (OPWDD LIAB 01 AND 02)**

There are two other liability notices, OPWDD LIAB 01 and OPWDD LIAB 02. If you are a provider of ICF/DD, IRA, community residence, family care or day habilitation services, you should be familiar with these notices.

#### **A. You will not need OPWDD LIAB 01 after March 14, 2010.**

On March 15, 2010, you should **stop** using OPWDD LIAB 01. You should use the Liability Notice for Persons Applying for Services (OPWDD LIAB 05) instead.

#### **B. Keep OPWDD LIAB 02. You may still need it.**

The deadline for giving out the OPWDD LIAB 02 notice was March 15, 2009. However, you will still need to give out OPWDD LIAB 02 if you discover that there is someone who should have received the notice (e.g., you learn that the individual has a trust, or that he or she has a court-appointed guardian with responsibility for the individual's money or resources) or circumstances change so that there is a new person who should get the notice (e.g., if the individual gets married or has a guardian appointed with responsibility for the individual's money or resources) In these cases, give the OPWDD LIAB 02 notice to the new person as soon as you can after you learn of the new information or changed circumstances. If you give an OPWDD LIAB 02 to a new person, you should update the fees if they have changed since you last gave out the form.

OPWDD LIAB 02 can still be found on the OPWDD website at [www.opwdd.ny.gov](http://www.opwdd.ny.gov). Look under "News & Publications," then "Benefits Information."

### **4. THE 2010 NOTICES**

#### **A. General**

You (the service provider) must give the 2010 Preexisting Services Liability Notice (OPWDD LIAB 06) for all persons receiving any of the eight additional services from you on a regular basis as of March 15, 2010.

In addition, you (the service provider) must give the Liability Notice for Persons Applying for Services (OPWDD LIAB 05) whenever an individual is requesting or begins to receive any of the five original services or eight additional services from you on or after March 15, 2010.

Do not give either notice to anyone who is receiving or requests a service that is not regulated by OPWDD and a covered service (one of the five original or eight additional services). If a person is receiving or requesting a covered service and another service that is

not a covered service (such as family support services) or is not regulated by OPWDD (such as an Office of Mental Health family care program), give the notice, but only for the OPWDD-regulated covered services.

It is not necessary to have the person receiving the notice acknowledge receipt in writing, although you may do so, either on the notice itself or on a separate document.

## **B. How to fill in the blanks in the notices**

### **i. Provider name**

Put your (the provider's) name and address at the top of the notice.

### **ii. Date**

Put the date on which you gave the notice.

### **iii. Name of Individual**

In the Liability Notice for Persons Applying for Services, fill in the first and last name of the individual who is asking to receive services for him or herself. In 2010 Preexisting Services Liability Notice, fill in the first and last name of the individual who is receiving services. Do not put the name of any person or organization other than the individual requesting or receiving services. For example, do not put the name of a person accompanying or assisting the individual, an advocate, correspondent, parent, family member, guardian, trustee, representative payee or attorney.

### **iv. Fee**

Put your (the provider's) full fee for the service requested or received.

- Write the unit of service for the fee. For example, for an IRA, write \$ xx.xx per month.
- In the Liability Notice for Persons Applying for Services, write the fee that is in effect at the time the person is requesting services. If the person is requesting services for a future date, write the fee that will be in effect on the date as of which the person wishes to receive services. In the 2010 Preexisting Services Liability Notice, write the fee in effect on May 15, 2010.
- For services with a monthly unit of service, specify the entire monthly fee for the services the individual is expected to receive on an ongoing basis (even if the individual will only be receiving services for a partial month at first). For day habilitation, if the individual could receive either a full or half unit of service, list both fees.

Alternatively, you may attach a separate sheet listing the fee and put "see attached" in the blank space in the sentence "The full fee is \_\_\_\_\_." If you attach a list of fees for different services, the list must clearly identify the service to which each fee applies.

### **v. Check All the Applicable Services**

If you are using the Liability Notice for Persons Applying for Services (OPWDD LIAB 05), check the services that someone is requesting that you provide the individual. Do not check off any services the individual is requesting from another provider, even you also provide those services.

If you are using the 2010 Preexisting Services Liability Notice (OPWDD LIAB 06) check all the services you provide to the individual. Do not check off any services you do not provide the individual at the time you give the notice, even if you provide used to provide those services to the individual or provide those services to other persons.

Check Medicaid Service Coordination if you are providing or have been requested to provide Medicaid Service Coordination or Other Service Coordination, but not Plan or Care Support Services.

C. Which notice do you use?

If the individual	And the individual	Use This Notice
<p>was receiving any of the eight additional services from you on a regular basis as of March 15, 2010</p>		<p>2010 Preexisting Services Notice (OPWDD LIAB 06)</p>
<p>is requesting a covered service (either by him/herself or through someone else)</p>	<p>never received the service before from you or any other OPWDD provider</p>	<p>Liability Notice for Persons Applying for Services (OPWDD LIAB 05)</p>
<p>is requesting a covered service (either by him/herself or through someone else)</p>	<p>received the service before from you or another OPWDD provider, but not on a regular basis (e.g., there has been an interruption in service or the service was received intermittently)</p>	<p>Liability Notice for Persons Applying for Services (OPWDD LIAB 05)</p>
<p>is requesting a covered service (either by him/herself or through someone else)</p>	<p>never received the service before from you but did receive the services before from another OPWDD provider on a regular basis, <b>unless</b> the only reason the individual was receiving services from a different provider is that you and the different provider merged or consolidated, or you took over the other provider's operations</p>	<p>Liability Notice for Persons Applying for Services (OPWDD LIAB 05)</p>

**Notes:** If you convert a community residence to an IRA after February 15, 2009, **do not** give an Liability Notice for Persons Applying for Services to any individual who was residing in the facility on the date of the conversion. You should have already given the individual an OPWDD LIAB 02 by March 15, 2009.

If you convert a family support services program to a HCBS Waiver respite program between March 15, 2010 and May 15, 2010, **do not** give a Liability Notice for Persons Applying for Services to any individual who was receiving respite on a regular basis as of the date of the conversion. You should have already given the individual a 2010 Preexisting Services Liability Notice by May 15, 2010. If you convert a family support services program to a HCBS Waiver respite program after May 15, 2010, give a Liability Notice for Persons Applying Services (OPWDD LIAB 05) prior to the conversion. You should give this notice as soon as you can after you know about the conversion.

Some individuals will need to receive both a Liability Notice for Persons Applying for Services and either an OPWDD LIAB 01 or a 2010 Preexisting Services Liability Notice. For example, prior to March 15, 2010, the individual received at home residential habilitation (now named community habilitation) from provider A and received MSC from provider B. In April 2010 the individual requests day habilitation services from provider C. Providers A and B would each give the individual and/or liable parties a 2010 Preexisting Services Liability Notice. Provider C would give the individual and/or liable parties a Liability Notice for Persons Applying for Services.

#### **D. Who gets the notice?**

Give the notice to **all** of the people who fit the situations described below. This means you may be required to give notice to more than one person.

**i. Give the notice to the individual** who is receiving or would receive the service if the individual is 21 or older. However, if it is clear that the individual is not capable of understanding the notice, it is recommended that you give the notice to the person accompanying or helping the individual, and ask the person to do his or her best to explain the notice to the individual.



**ii. Give the notice to all persons who meet the criteria in the chart below.**

<b>Give the notice to</b>	<b>If</b>
The individual’s parent(s)	the individual is under 21, lives with his or her parent(s) and is receiving a covered non-residential service <sup>1</sup> <b>OR</b>
	the individual is under 21 and is requesting a covered non-residential service which would be received while he or she lives with his or her parent(s)
The legal guardian	the individual has a court-appointed guardian who is responsible for the individual’s property or money
The trustee	The individual is a beneficiary of a trust or other legal instrument where the assets of the trust are available income and resources for Medicaid. (If the trust is a “Medicaid qualifying trust” or a “Medicaid exception trust”, the trust assets are not available income and resources for Medicaid. Always ask for a copy of the document for the trust or other instrument.)
A representative payee or other payee for benefits	There is a representative payee for SSI, Social Security or a payee for any other benefits the individual receives
Any person holding money or assets for the individual	There is any person holding money or assets for the individual
The conservator	There is a court-appointed conservator for the individual under former Mental Hygiene Law Article 77
The committee	There is a court-appointed committee of the property for the individual under former Mental Hygiene Law Article 78
The spouse	The individual is married

<sup>1</sup> The covered non-residential services are day habilitation, MSC, day treatment, community habilitation, at home residential habilitation services, prevocational services, supported employment services, respite services, blended services under the OPTS program and comprehensive services under the OPTS program

## **E. When do you give the notice?**

### **i. 2010 Preexisting Services Notice: May 15, 2010**

The deadline for giving out the 2010 Preexisting Services Liability Notice is May 15, 2010. You can give this notice earlier if you want. If you discover after May 15, 2010 that there is someone who should have received the notice (e.g., you learn that the individual has a trust, or that he or she has a court-appointed guardian with responsibility for the individual's money or resources), give the notice to that person as soon as you can after you learn about him or her. If circumstances change so that there is a new person who should get the notice (e.g., if a guardian is appointed with responsibility for the individual's money), give the notice to the new person as soon as you can after you learn of the changed circumstances.

### **ii. Liability Notice for Persons Applying for Services: before you start giving the individual services**

For any individual who begins services on or after March 15, 2010, give the Liability Notice for Persons Applying for Services before the individual begins services. This can be any time in the intake, assessment or other process you use before individuals begin to receive services. If you discover after you start services that there is someone who should have received the notice (e.g., you learn that the individual has a trust, or that he or she has a court-appointed guardian with responsibility for the individual's money or resources), give the notice to that person as soon as you can after you learn about him or her. If circumstances change so that there is a new person who should get the notice (e.g., if a guardian is appointed with responsibility for the individual's money), give the notice to the new person as soon as you can after you learn of the changed circumstances.

## **5. THE LIMITED EXCEPTION NOTICES**

### **A. Introduction**

There are three limited exception notices. The first one, Limited Exception Notice for Individuals Meeting Exception, is to be given to people who are receiving supported employment or respite services and not any of the other covered services. This notice tells the person about the limited exception. The other two, the Limited Exception Notice for Persons Applying for Other Services (to be given by supported employment or respite provider) (OPWDD LIAB 08), and the Limited Exception Notice for Persons Applying for Other Services (to be given by provider of other requested services) (OPWDD LIAB 09), is to be given to persons who are under the limited exception but who are applying for another covered service, and to liable parties of such persons.

### **B. Limited Exception Notice for Individuals Meeting Exception**

#### **i. When do you use this notice?**

Only OPWDD-regulated supported employment and respite providers should use this form. If you do not provide OPWDD-regulated supported employment or respite services, you will not be using this notice.

You should give this notice to anyone who is getting supported employment or respite services from you, and who meets all of the following six conditions:

- 1) The person is receiving or applying for supported employment or respite services, but not both
- 2) The person is not living in an intermediate care facility for persons with developmental disabilities, an individualized residential alternative, a community residence or a family care home
- 3) The person is not receiving or applying for Medicaid Service Coordination, Day Treatment Services, Community Habilitation, At Home Residential Habilitation, Day Habilitation Services, Prevocational Services, Respite Services, OPTS Blended Services or OPTS Comprehensive Services
- 4) The person does not have the kind of Medicaid that pays for these services
- 5) The person is not enrolled in OPWDD's Home and Community Based Services (HCBS) Waiver.
- 6) At any time on or after March 15, 2010, the person did not have the kind of Medicaid that pays for supported employment or respite services AND was not enrolled in the HCBS Waiver

If the person does not meet ALL of the above conditions, you should use the 2010 Preexisting Services Liability Notice (OPWDD LIAB 06) or the Liability Notice for Persons Applying for Services (OPWDD LIAB 05) instead. You will give out only ONE of these three notices to the individual.

## **ii. How to fill in the blanks in the notice**

### **a. Provider name**

Put your (the provider's) name and address at the top of the notice.

### **b. Date**

Put the date on which you gave the notice.

### **c. Name of Individual**

Fill in the first and last name of the individual who is receiving supported employment or respite services from you. Do not put the name of any person or organization other than the individual requesting or receiving services. For example, do not put the name of a person accompanying or assisting the individual, an advocate, correspondent, parent, family member, guardian, trustee, representative payee or attorney.

**iii. Who gets the notice?**

Give the notice to **the individual** who is receiving or would receive supported employment or respite services. However, if it is clear that the individual is not capable of understanding the notice, it is recommended that you give the notice to the person accompanying or helping the individual, and ask the person to do his or her best to explain the notice to the individual.

If the individual has a court-appointed guardian, give the notice to the guardian. If the individual is under 21, give the notice to his or her parents.

**iv. When do you give the notice?**

a. For persons receiving supported employment or respite services on a regular basis from you on March 15, 2010: Give the notice by May 15, 2010

The deadline for giving out the Limited Exception Notice for Individuals Meeting Exception is May 15, 2010. You can give this notice earlier if you want. If you discover after May 15, 2010 that there is someone who should have received the notice (e.g., you learn that the individual has a court-appointed guardian with responsibility for the individual's money), give the notice to that person as soon as you can after you learn about him or her. If circumstances change so that there is a new person who should get the notice (e.g., a guardian is appointed with responsibility for the individual's money), give the notice to the new person as soon as you can after you learn of the changed circumstances.

b. For all other persons: before you start giving the individual services

For any individual who starts supported employment or respite services on or after March 15, 2010, give the Limited Exception Notice for Individuals Meeting Exception before the individual begins services. This can be any time in the intake, assessment or other process you use before individuals begin to receive services. If you discover after you start services that there is someone who should have received the notice (e.g., you learn that the individual has a court-appointed guardian with responsibility for the individual's money), give the notice to that person as soon as you can after you learn about him or her. If circumstances change so that there is a new person who should get the notice (e.g., if a guardian is appointed with responsibility for the individual's money), give the notice to the new person as soon as you can after you learn of the changed circumstances.

**C. Limited Exception Notice for Persons Applying for Other Services (To be given by supported employment or respite provider)**

**i. When do you use this notice?**

If you are a provider of any supported employment or respite services, you may have to use the Limited Exception Notice for Persons Applying for Other Services. You should use

OPWDD LIAB 08, which is for the provider of supported employment or respite services the individual is receiving while under the limited exception.

This notice is to be given when a person has the limited exception, but has applied for another service which would disqualify him or her from the limited exception.

**ii. How will you know if the person applies for other services?**

There are several ways you can find out that a person applied for another service.

First, you may know about the application because the person applied to you for the other service.

Second, the person has to tell you about the application. A person who is under the limited exception has an obligation to notify the supported employment or respite services provider if he or she applies for any other five original or eight additional services. This includes a person only receiving supported employment who applies for respite services, and a person only receiving respite services who applies for supported employment.

Third, the provider that receives the person's application for the other services is required to notify the supported employment or respite services provider about the application. (There is no OPWDD form for this notice.)

Finally, you may learn that the person applied for other services through informal channels.

**iv. How to fill in the blanks in the notice**

**a. Provider name**

Put your (the provider's) name and address at the top of the notice.

**b. Date**

Put the date on which you gave the notice.

**c. Name of Individual**

Fill in the first and last name of the individual who is asking to receive services for him or herself. Do not put the name of any person or organization other than the individual requesting or receiving services. For example, do not put the name of a person accompanying or assisting the individual, an advocate, correspondent, parent, family member, guardian, trustee, representative payee or attorney.

**d. Fee**

Put your (the provider's) full fee for the supported employment or respite service the person receives.

- Write the unit of service for the fee. For respite services, write \$xx.xx per hour. For supported employment services, write, \$xx.xx per month.

- Write the fee that is in effect at the time the person is requesting the other services. If the person is requesting services for a future date, write the fee that will be in effect on the date as of which the person wishes to receive services.
- For services with a monthly unit of service, specify the full monthly fee (even if the individual will only be receiving services for a partial month at first). For day habilitation, if the individual could receive either a full or half unit of service, list both fees.

**iv. Who gets the notice?**

Give the notice to **all** of the people who fit the situations described below. This means you may be required to give notice to more than one person.

**Give the notice to the individual** who is receiving or would receive the service if the individual is 21 or older. However, if it is clear that the individual is not capable of understanding the notice, is it recommended that you give the notice to the person accompanying or helping the individual, and ask the person to do his or her best to explain the notice to the individual.

**Give the notice to all persons who meet the criteria in the chart below.**

Give the notice to	If
The individual’s parent(s)	the individual is under 21, lives with his or her parent(s) and is receiving a covered non-residential service <b>OR</b>
	the individual is under 21 and is requesting a covered non-residential service which would be received while he or she lives with his or her parent(s)
The legal guardian	the individual has a court-appointed guardian who is responsible for the individual’s property or money
The trustee	The individual is a beneficiary of a trust or other legal instrument where the assets of the trust are available income and resources for Medicaid. (If the trust is a “Medicaid qualifying trust” or a “Medicaid exception trust”, the trust assets are not available income and resources for Medicaid. Always ask for a copy of the document for the trust or other instrument.)
A representative payee or other payee for benefits	There is a representative payee for SSI, Social Security or a payee for any other benefits the individual receives
Any person holding money or assets for the individual	There is any person holding money or assets for the individual

The conservator	There is a court-appointed conservator for the individual under former Mental Hygiene Law Article 77
The committee	There is a court-appointed committee of the property for the individual under former Mental Hygiene Law Article 78
The spouse	The individual is married

**vi. When do you give the notice?**

Give the notice as soon as you learn that the individual has requested other services. If the individual has not begun to receive the other service and the limited exception is still in place, and you discover that there is someone who should have received the notice (e.g., you learn that the individual has a trust or a court-appointed guardian with responsibility for the individual's money), give the notice to that person as soon as you can after you learn about him or her. Similarly, if before the individual begins to receive the other services, circumstances change so that there is a new person who should get the notice (e.g., a guardian is appointed with responsibility for the individual's money), give the notice to the new person as soon as you can after you learn of the changed circumstances.

**D. Limited Exception Notice for Persons Applying for Other Services (To be given by provider of other requested services)**

**i. General**

If you are a provider of any covered services, you may have to use the Limited Exception Notice for Persons Applying for Other Services. You should use OPWDD LIAB 09, which is for the provider of the other services for which the individual applied while under the limited exception. This notice is to be given when a person has the limited exception, but has applied for another service which would disqualify him or her from the limited exception.

If the individual has the limited exception, you must complete this notice and give it to the appropriate people. In addition, you will have to give the Liability Notice for Persons Applying for Services (OPWDD LIAB 05).

If the person does not have the limited exception, do not complete or give out this form and only complete and give out the Liability Notice for Persons Applying for Services.

**ii. How will you know if the person applying for services is under the limited exception?**

All providers of covered services are required to ask if the individual is already receiving or applying for respite services or supported employment services. If the individual is receiving

one of these services, you will need to determine whether he or she has the limited exception. Anyone who meets ALL of the six conditions below has the limited exception.

- 1) The person is receiving or applying for supported employment or respite services, but not both
- 2) The person is not living in an intermediate care facility for persons with developmental disabilities, an individualized residential alternative, a community residence or a family care home
- 3) The person is not receiving or applying for Medicaid Service Coordination, Day Treatment Services, Community Habilitation, At Home Residential Habilitation, Day Habilitation Services, Prevocational Services, Respite Services, OPTS Blended Services or OPTS Comprehensive Services
- 6) The person does not have the kind of Medicaid that pays for these services
- 7) The person is not enrolled in OPWDD's Home and Community Based Services (HCBS) Waiver.
- 6) At any time on or after March 15, 2010, the person did not have the kind of Medicaid that pays for supported employment or respite services AND was not enrolled in the HCBS Waiver

You can rule out the limited exception if the person already has the kind of Medicaid that would pay for the supported employment or respite services and is enrolled in the HCBS waiver.

Unless you know that the individual does NOT have the limited exception, you must contact the provider of supported employment services or respite services to find out if he or she has the limited exception.

### **iii. How to fill in the blanks in the notice**

#### **a. Provider name**

Put your (the provider's) name and address at the top of the notice.

#### **b. Date**

Put the date on which you gave the notice.

#### **c. Name of Individual**

Fill in the first and last name of the individual who is asking to receive services for him or herself. Do not put the name of any person or organization other than the individual requesting or receiving services. For example, do not put the name of a person accompanying or assisting the individual, an advocate, correspondent, parent, family member, guardian, trustee, representative payee or attorney.



d. Fee

Put your (the provider's) full fee for the other service requested.

- Write the unit of service for the fee. For example, for an IRA, write \$ xx.xx per month. For respite services, write \$xx.xx per hour. For supported employment services, write, \$xx.xx per month.
- Write the fee that is in effect at the time the person is requesting services. If the person is requesting services for a future date, write the fee that will be in effect on the date as of which the person wishes to receive services.
- For services with a monthly unit of service, write the entire monthly fee for the services the individual will receive on an ongoing basis (even if the individual will only be receiving services for a partial month at first).

Alternatively, you may attach a separate sheet listing the fee and put “see attached” in the blank space in the sentence “The full fee is \_\_\_\_\_.” If you attach a list of fees for different services, the list must clearly identify the service to which each fee applies.

e. Check All the Applicable Services

Check the services that someone is requesting that you provide the individual. Do not check off any services the individual is requesting from another provider, even you also provide those services.

Check Medicaid Service Coordination if you are providing or have been requested to provide Medicaid Service Coordination or Other Service Coordination, but not Plan or Care Support Services.

**iv. Who gets the notice?**

Give the notice to **all** of the people who fit the situations described below. This means you may be required to give notice to more than one person.

**Give the notice to the individual** who is receiving or would receive the service if the individual is 21 or older. However, if it is clear that the individual is not capable of understanding the notice, is it recommended that you give the notice to the person accompanying or helping the individual, and ask the person to do his or her best to explain the notice to the individual.

**Give the notice to all persons who meet the criteria in the chart below.**

Give the notice to	If
The individual's parent(s)	the individual is under 21, lives with his or her parent(s) and is receiving a covered non-residential service <b>OR</b>
	the individual is under 21 and is requesting a covered non-residential service which would be received while he or she lives with his or her parent(s)
The legal guardian	the individual (of any age) has a court-appointed guardian who is responsible for the individual's property or money
The trustee	The individual is a beneficiary of a trust or other legal instrument where the assets of the trust are available income and resources for Medicaid. (If the trust is a "Medicaid qualifying trust" or a "Medicaid exception trust", the trust assets are not available income and resources for Medicaid. Always ask for a copy of the document for the trust or other instrument.)
A representative payee or other payee for benefits	There is a representative payee for SSI, Social Security or a payee for any other benefits the individual receives
Any person holding money or assets for the individual	There is any person holding money or assets for the individual
The conservator	There is a court-appointed conservator for the individual under former Mental Hygiene Law Article 77
The committee	There is a court-appointed committee of the property for the individual under former Mental Hygiene Law Article 78
The spouse	The individual is married

**v. When do you give the notice?**

For any individual who requests services on or after March 15, 2010, give the notice before you start giving the individual services. This can be any time in the intake, assessment or other process you use before individuals begin to receive services. If the individual has not yet started to receive services from you, and you discover that there is someone who should have received the notice (e.g., you learn that the individual has a trust or a court-appointed guardian with responsibility for the individual's money), give the notice to that person as

soon as you can after you learn about him or her. If circumstances change so that there is a new person who should get the notice (e.g., if a guardian is appointed with responsibility for the individual's money), give the notice to the new person as soon as you can after you learn of the changed circumstances.

## **6. INFORMATION DOCUMENT ABOUT THE LIMITED EXCEPTION**

Both the Liability Notice for Persons Applying for Services (OPWDD LIAB 05) and the 2010 Preexisting Services Liability Notice (OPWDD LIAB 06) contain a brief statement about the limited exception. These notices also tell the person reading the notice to ask for the publication "Information about the Limited Exception" to learn more about the limited exception, and to see if the individual could become eligible for the limited exception. Give anyone asking for more information about the limited exception the form Information About the Limited Exception for Persons Receiving Supported Employment or Respite Services (OPWDD LIAB 10).