



**Office of the  
Medicaid Inspector  
General**

Education Letter to Medicaid Providers  
Who Failed to Certify in December 2014

**COMPLIANCE ALERT**

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2015 – 01

January 23, 2015

This *Compliance Alert* should be considered to be informational, but may serve as a general guide to assist providers subject to the mandatory compliance program obligations set out in New York State Social Services Law Section 363-d (§ 363-d) and 18 NYCRR Part 521 (Part 521). It does not set out all points that the Office of the Medicaid Inspector General (OMIG) will consider or use when assessing if compliance programs meet statutory and regulatory requirements. OMIG reserves the right to recall or change this *Compliance Alert* at any time.

This *Compliance Alert* does not constitute rulemaking by OMIG and may not be relied on to create a substantive or procedural right or benefit enforceable at law or in equity, by any person. Furthermore, nothing referred to herein alters any statutory or regulatory requirement. In the event of a conflict between statutes and regulations applicable to the Medicaid provider and this *Compliance Alert*, the requirements of the statutes and regulations govern.

A provider's legal obligations are determined by applicable federal and state statutes and regulations. OMIG cannot provide individual advice or counseling, whether medical, legal, or otherwise. If you are seeking specific advice or counseling, you should contact an attorney, a licensed practitioner or professional, a social services agency representative, or an organization in your local community.

## Compliance Program Certification Obligation

§363-d and Part 521 require many New York Medicaid providers to adopt and implement an effective compliance program that is appropriate to its characteristics. In addition to setting out the specific requirements of the mandatory compliance program, §363-d and Part 521 require providers who are subject to the mandatory compliance program to certify on [www.omig.ny.gov](http://www.omig.ny.gov) that they have in a compliance program meeting the requirements of the law and the regulations in place.

This Compliance Alert provides notice that in January, 2015, the New York State Office of the Medicaid Inspector General (OMIG) sent letters to many Medicaid providers who did not meet their annual December Certification obligation. The mailing reminded the addressees of the mandatory compliance requirement, the annual certification requirement for their compliance programs, and provided a link to this Compliance Alert.

The Resources section of this Compliance Alert can be used by those receiving the January, 2015 letter or others who wish to learn more about New York's mandatory compliance program obligation and the certification requirement.

### **BACKGROUND**

18 NYCRR §521.3(b) specifically states:

Upon applying for enrollment in the [Medicaid] ... program, and during the month of December each year thereafter, a required provider shall certify to the department, using a form provided by the Office of the Medicaid Inspector General on its website that a compliance program meeting the requirements of this Part is in place.

The MMIS New York State Medicaid Program Provider Manual, Information for All Providers- General Policy provides the following information:

Participating providers who fall under the requirements of the regulation are required to submit annually a "Certification of Compliance" to the OMIG each December. The certification form is available on the OMIG website, <http://omig.ny.gov>, under Compliance, and must be submitted electronically.

*MMIS NYS Medicaid Program Provider Manual,  
Information for All Providers- General Policy, Version  
2011-2, Section II, p.20*

Various New York State Department of Health (DOH) *Medicaid Updates* published since 2013 remind required providers of the annual certification requirement. For example, the December 2013 *Medicaid Update* stated:

Medicaid Required Providers (as described below) are required to implement and maintain a compliance program as described in NYS Social Services Law Section 363-d and 18 NYCRR Part 521.3(c). Any Required Provider must also certify annually that its compliance program meets the statutory and regulatory requirements. The certification must occur in December of each year.”

*DOH Medicaid Update, December 2013, Vol. 29,  
No.14, “Mandatory Compliance Program Certification  
Requirement under 18 NYCRR §521.3(b)”*

## RESOURCES

To determine if a Medicaid provider is required to adopt and implement an effective compliance program, providers can complete the short self-assessment questionnaire, “ARE YOU REQUIRED TO HAVE A COMPLIANCE PROGRAM?” which can be accessed through the following link at [http://www.omig.ny.gov/images/stories/provider\\_compliance/program\\_decision\\_tree.doc](http://www.omig.ny.gov/images/stories/provider_compliance/program_decision_tree.doc). This form is intended to be a self-assessment for Medicaid providers. **Do not submit the form to OMIG.**

The eight elements that are required of mandatory compliance programs are set out in §363-d Subsection 2 and 18 NYCRR Section 521.3(c). Copies of the law and regulation can be accessed in the Compliance Library, under *Compliance Authorities* through the following link <http://www.omig.ny.gov/compliance/compliance-library> .

Additional compliance information and resources can be found on OMIG’s website ([www.omig.ny.gov](http://www.omig.ny.gov)) under the “Compliance” tab including a compliance library, compliance webinars, copies of compliance laws, regulations and forms.

You are encouraged to subscribe to OMIG’s Listserv at <http://www.omig.ny.gov/omig-email-list-subscriptions> for updates, notices, and reminders about OMIG and compliance related matters.

## **CONCLUSION**

If you have any questions on this Compliance alert, or any compliance issue under New York State's mandatory compliance program obligation, please contact OMIG's Bureau of Compliance at 518-408-0401 or by email at [compliance@omig.ny.gov](mailto:compliance@omig.ny.gov).