

Compliance Alert 2016-01

July 22, 2016

Federal False Claims Act Civil Penalties Increase

PURPOSE OF THIS COMPLIANCE ALERT

This *Compliance Alert* notifies Medicaid providers of an increase in the federal False Claims Act (FCA) Civil Penalties limits. This applies to Medicaid providers who are subject to the portions of the federal Deficit Reduction Act of 2005 (DRA) that were codified in 42 USC § 1396a(a)(68).

BACKGROUND

42 USC § 1396a(a)(68) applies to any Medicaid provider that receives or makes annual payments under the State Medicaid plan of at least \$5 million. Further information about the requirements of the DRA may be found in the Compliance Library on the OMIG website at: <https://www.omig.ny.gov/compliance/compliance-library>.

42 USC § 1396a(a)(68) obligates Medicaid providers to provide detailed information about the FCA and Administrative Remedies, as well as relevant State false claims laws.

CIVIL MONETARY PENALTIES INFLATION ADJUSTMENT

On June 30, 2016, the Justice Department (Department) published an Interim Final Rule that adjusts for inflation civil monetary penalties assessed or enforced by components of the Department. The Rule can be accessed at the following link: <https://www.federalregister.gov/articles/2016/06/30/2016-15528/civil-monetary-penalties-inflation-adjustment#h-36>.

Effective August 1, 2016, the FCA civil penalty increases to a range of \$10,781 to \$21,563 per claim. Also on August 1, 2016, the Administrative Remedies civil penalty will change to \$10,781 per claim.

CONCLUSION

This *Compliance Alert* only addresses the civil penalties associated with the federal FCA and Administrative Remedies and does not affect the relevant State statutes associated with filing false claims.

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.¹

¹ This *Compliance Alert* should be considered to be informational to assist providers subject to the mandatory requirements of the Deficit Reduction Act of 2005 ("DRA"), § 6032 (42 USC § 1396a(a)(68)). It does not set out all points that the Office of the Medicaid Inspector General (OMIG) or the federal government will consider or use when assessing if providers 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 in this *Compliance Alert* 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 statutory and regulatory law. This *Compliance Alert* is not a substitute for a review of statutory and regulatory law. 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.