



Office of the
Medicaid Inspector
General

Introduction to New York State's Mandatory Compliance Program Obligation for Medicaid Providers

OMIG Webinar Series Addressing Requirements of New York's
Mandatory Compliance Programs for Medicaid Providers

November 2015

The Fine Print

- ❑ This presentation reflects what OMIG considers when assessing compliance programs required by SSL § 363-d and 18 NYCRR Part 521, as of the date this is posted.
- ❑ OMIG does not have responsibility for updating this presentation to reflect changes in approach or interpretation.
- ❑ This presentation does not provide legal advice; shall not bind OMIG in any way; and does not represent the opinion of the Office of the Medicaid Inspector General (OMIG), Centers for Medicare and Medicaid Services (CMS), Office of Inspector General (OIG) or any other State or federal agency.

Program Agenda

- ❑ Introduce the purpose of the mandatory compliance program obligation
- ❑ Identify who must have a compliance program
- ❑ Identify the statutory and regulatory requirements of the compliance program
- ❑ Identify compliance-related tools and resources
- ❑ Identify the applicability of compliance programs to Medicaid providers' operations
- ❑ Introduce the next webinar in the series

OMIG Background

Mission Statement

Our mission is to enhance the integrity of the New York State Medicaid program by preventing and detecting fraudulent, abusive, and wasteful practices within the Medicaid program and recovering improperly expended Medicaid funds while promoting high-quality patient care.

Mandatory Compliance Program Obligation

New York State Social Services Law Section 363-d, Subsection 1

The New York legislature found:

Medicaid providers may be able to detect and correct payment and billing mistakes and fraud if required to develop and implement compliance programs.

New York State Social Services Law Section 363-d, Subsection 1 (Continued)

The purposes of compliance programs are to:

- ☐ organize provider resources to resolve payment discrepancies and detect inaccurate billings, among other things, as quickly and efficiently as possible
- ☐ impose systemic checks and balances to prevent future recurrences

New York State Social Services Law Section 363-d, Subsection 1 (Continued)

The legislature recognized:

- ☐ for a compliance program to be effective, it must be designed to be compatible with the provider's characteristics
- ☐ key components must be included in every compliance program
- ☐ the key components should be required if a provider is going to participate in Medicaid

New York State Social Services Law Section 363-d, Subsection 1 (Continued)

New York State Social Services Law Section 363-d requires:

- ☐ providers to adopt effective compliance program elements
- ☐ each provider to be responsible for implementing a compliance program appropriate to its characteristics

Who Must Have a Compliance Program?

Those Required to Have Effective Compliance Programs

Are you required to have a Compliance Program?		Yes	No
1.	Is your organization subject to Article 28 or Article 36 of the NYS Public Health Law?		
2.	Is your organization subject to Article 16 or Article 31 of the NYS Mental Hygiene Law?		
3.	<p>a. Does your organization claim or order Medicaid services or supplies of at least \$500,000 in any consecutive 12-month period?</p> <p style="text-align: center;">and/or</p> <p>b. Can your organization be reasonably expected to claim or order Medicaid services or supplies of at least \$500,000 in any consecutive 12-month period?</p>		
4.	<p>a. Does your organization receive Medicaid reimbursement - directly or indirectly - of at least \$500,000 in any consecutive 12-month period?</p> <p style="text-align: center;">and/or</p> <p>b. Can your organization be reasonably expected to receive Medicaid reimbursement - directly or indirectly - of at least \$500,000 in any consecutive 12-month period?</p>		
5.	Does your organization submit Medicaid claims of at least \$500,000 in any consecutive 12-month period on behalf of another person or persons?		

If you answered Yes to any of the above questions, then you are required to have a Compliance Program under New York State Social Services Law Section 363-d (SSL § 363-d) and 18 NYCRR Part 521 (Part 521).



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Statutory and Regulatory Requirements of the Compliance Program

What Are the Statutory and Regulatory Citations for the Mandatory Compliance Program?

- ❑ New York State Social Services Law
Section 363-d (SSL 363-d)
- ❑ Title 18 New York Code of Rules and Regulations
Part 521 (18 NYCRR Part 521)



What Are the Elements of a Mandatory Compliance Program?

- Element 1: Written policies and procedures that describe compliance expectations as embodied in a code of conduct or code of ethics ...
- Element 2: Designation of an employee vested with responsibility for the day-to-day operation of the compliance program ...

What Are the Elements of a Mandatory Compliance Program? (Continued)

- Element 3: Training and education of all affected individuals on compliance issues, expectations and the compliance program ...
- Element 4: Communication lines to the compliance officer that are accessible to all affected individuals to allow compliance issues to be reported ...
- Element 5: Disciplinary policies to encourage good faith participation in the compliance program ...



What Are the Elements of a Mandatory Compliance Program? (Continued)

Element 6: System for routine identification of compliance risk areas and non-compliance ...

Element 7: System for responding to compliance issues when raised, for investigating and correcting problems ...

Element 8: Policy of non-intimidation and non-retaliation for good faith participation in the compliance program ...

SSL §363-d subd. 2 and 18 NYCRR §521.3(c)

Compliance-Related Tools and Resources

Compliance Resources

OMIG website: www.omig.ny.gov

- ❑ Compliance Tab
 - Compliance Library
- ❑ Resources Tab
 - Webinars
- ❑ Bureau of Compliance contacts:
 - compliance@omig.ny.gov
 - 518-408-0401



Compliance Library Resources

- ❑ Compliance Authorities – applicable laws and regulations
- ❑ OMIG Compliance Publications
 - Compliance Guidance
 - Compliance Alerts
 - Medicaid Updates
- ❑ Forms
 - Compliance Program Self-Assessment Form

Compliance Resources (continued)

- ☐ OMIG Assessment Results
 - Best Practices
 - Opportunities for Enhancement
 - Identified Insufficiencies
- ☐ FAQs
- ☐ Compliance-related Webinars
- ☐ Other Compliance Resources



Applicability of Compliance Programs to Medicaid Providers' Operations

18 NYCRR Section 521.3(a)

There are 7 areas to which mandatory compliance programs must be applicable.

Compliance Programs Shall Be Applicable to Billings - §521.3(a)(1)

1. Internal controls for documentation during data entry and billing
2. Billing office internal audit results shared with compliance
3. Conduct root cause analysis for persistent billing denials
4. Conduct tracer audits for work being billed
5. Self-assess to determine if number and value of adjustments are appropriate
6. Assess separation of duties in billing and receipts functions

Compliance Programs Shall Be Applicable to Payments - §521.3(a)(2)

1. Track and analyze any overpayments, underpayments and denials
2. Share results of accounts receivable internal audits with compliance officer
3. Conduct tracer audit for payments to assess accuracy of billing and resulting payments
4. Determine if billing and payment system weaknesses are being identified and corrected as necessary

Compliance Programs Shall Be Applicable to Medical Necessity & Quality of Care – §521.3(a)(3)

1. Develop compliance connectivity to quality oversight process as part of the reporting and control structures
2. Conduct periodic tracers of care to assess if quality requirements are being met and provide reports to compliance
3. Develop quality scorecards with resolution of outliers being reported to the compliance function

Compliance Programs Shall Be Applicable to Governance - §521.3(a)(4)

1. Meaningful conflict of interest policy for governing body and management with reporting of unresolved conflicts
2. Compliance function is connected to all management and governing body entities within the enterprise
3. Include the governing body in compliance plan approval process and in setting compliance budget
4. Include governing body in self-assessment and work plan process to include planning, tracking progress and budgeting

Compliance Programs Shall Be Applicable to Mandatory Reporting - §521.3(a)(5)

1. Periodic testing on completeness of mandatory reporting of billing, payment, quality and contractual issues
2. Report, repay and explain all overpayments as required by the Affordable Care Act – compliance can assess comprehensiveness of process
3. Conduct root cause analyses for areas in issue

Compliance Programs Shall Be Applicable to Credentialing - §521.3(a)(6)

1. Periodically check accuracy and comprehensiveness of credentialing process
2. For associates (non-employees) that provide Medicaid reimbursable services through you, determine if they are independently required to have a compliance program
3. Check excluded party lists as recommended

Compliance Programs Shall Be Applicable to Other Risk Areas that are - or Should - with Due Diligence Be Identified - §521.3(a)(7)

1. Determine if your compliance program is covering all risk areas
2. Assess affiliates' program integrity
3. Stratify risk within compliance program
4. Expand risk areas based upon compliance program history and its operations

The Next Webinar in the Series

Element #1

Written policies and procedures that describe compliance expectations as embodied in a code of conduct or code of ethics ...

Closing

OMIG Resources

- ❑ www.omig.ny.gov
- ❑ Join the OMIG list serve – signup on the OMIG website
- ❑ OMIG's social media channels include Twitter, Facebook and LinkedIn

Questions

- ❑ Questions related to this webinar and others in this series should be emailed to OMIG's Bureau of Compliance at: compliance@omig.ny.gov
- ❑ Questions received up to November 25, 2015 will be addressed in an FAQ to be posted on the OMIG website in December 2015.
- ❑ Please include "COMPLIANCE WEBINAR QUESTION" in the subject line when submitting questions via email.

Thank You

Contact Information

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