



Office of the
Medicaid Inspector
General

New York State's Mandatory Compliance Program Obligation for Medicaid Providers - Element #3

**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

- ❑ Identify the statutory and regulatory requirements of Element #3 of New York's mandatory compliance program.
- ❑ Identify what OMIG looks for when it assesses if compliance programs meet the requirements for Element #3.
- ❑ Introduce the next webinar in the series.

General Introduction to the Eight Elements

Introduction

- ❑ Medicaid providers are required to adopt and implement a compliance program.
- ❑ Each requirement under each compliance program element must be implemented in order to meet the mandatory compliance program obligation.
- ❑ Compliance programs must be effective.
- ❑ OMIG considers the provider's characteristics when determining effectiveness, but all requirements must be adopted and implemented at the time of the review.

Element # 3 – Training and Education

SSL § 363-d subsection 2(c) &
18 NYCRR §521.3(c)(3)

Element #3 – Training and Education of all Affected Individuals

1. training and education of all affected employees and persons associated with the provider, including executives and governing body members;
2. training and education shall be on compliance issues, expectations and the compliance program operation;
3. training shall occur periodically; and
4. training shall be made a part of the orientation for a new employee, appointee or associate, executive and governing body member.

What OMIG Looks for When it Assesses if the Requirements of Element #3 are Met

1. training and education of all affected employees and persons associated with the provider, including executives & governing body members;

1. Training and education program covering the topics required elsewhere in Element #3;
2. Training and education takes place based upon the frequency required elsewhere in Element #3;
3. Affected employees and persons associated with the provider are being trained;

1. training and education of all affected employees and persons associated with the provider, including executives & governing body members; (continued)

4. Records of attendance provide evidence of who and when training takes place;
5. Action to follow-up with those that missed training to ensure that it takes place;
6. Consequences when there is a failure to attend training;

1. training and education of all affected employees and persons associated with the provider, including executives & governing body members; (continued)

7. Persons associated with the provider include, but not be limited to, those involved in the delivery of Medicaid reimbursable care, services or supplies or whose activities may result in a Medicaid payment;
8. Persons associated with the provider may include vendors, consultants, volunteers, and contractors;

1. training and education of all affected employees and persons associated with the provider, including executives & governing body members; (continued)

9. Training and education may need to be in different languages or methods depending upon the demographic of the individuals to be trained.

OMIG looks for evidence that a training obligation exists and that training takes place.

2. training and education shall be on compliance issues, expectations and the compliance program operation;

1. The compliance plan and policies and procedures will likely be a good source for this subject matter;
2. The message in the training and education should be consistent with the terms of the compliance plan, policies & procedures, and other compliance commitments made by the provider;

2. training and education shall be on compliance issues, expectations and the compliance program operation; (continued)

3. Training can be customized to address specific compliance issues and expectations that may exist for different departments. A beginning to end description of the operation of the compliance program is expected to be included;
4. Testing is recommended to assess if the training is effective and to provide input into improvements in training program;
5. Training and education should be at a level to maximize comprehension of the groups being trained;

2. training and education shall be on compliance issues, expectations and the compliance program operation; (continued)

6. Training and education is expected to allow for questions from the trainees with appropriate answers based upon the compliance program.
7. Some persons associated with the provider may have their own compliance obligation and the provider need only provide supplemental training to those groups.

2. training and education shall be on compliance issues, expectations and the compliance program operation; (continued)

8. OMIG looks at the training materials including the recording if there is a recorded training program.
 - a. The training materials are compared with the operating compliance program for relevance and consistency.
 - b. What does the compliance function use to assess the effectiveness of the training program?
9. Compliance issues include explanation of fraud, waste, and abuse; historical compliance matters; and risk areas.

2. training and education shall be on compliance issues, expectations and the compliance program operation; (continued)

10. Compliance expectations include expectations related to acting in ways that support program integrity, reporting on compliance issues, and supporting investigations.
11. Compliance program operation includes explaining how the compliance function operates, how investigations take place, and how it interacts with management and the governing body.

3. training shall occur periodically; and

1. Periodically is not defined, but OMIG recommends it occur annually & it should re-occur at regular intervals.
2. Compliance training can take place at the same time as other mandatory trainings that are required.
3. The training frequency may vary based upon the provider's assessment of risk for the various categories of individuals who must be trained.
4. Evidence that the training has occurred must be able to be produced. Sign-in sheets, answer sheets from test, performance evaluations are examples.

4. training shall be made a part of the orientation for a new employee, appointee or associate, executive and governing body member.

1. Appointee or associate is not defined, but OMIG determines it is related to individuals working for the provider such that it appears that they may be an employee of the provider. This can include leased employees, interns, or subcontractors
2. Orientation on compliance can be separate from other orientation, or included in general orientation.

4. training shall be made a part of the orientation for a new employee, appointee or associate, executive and governing body member. (continued)

3. Governing body members may not receive orientation training when they enter board service, but compliance training must be provided.
4. OMIG looks for evidence that training is occurring during a reasonable time measured from the start of the relationship with the provider. For example, new employees are oriented within 30 days of hire and new board members get oriented with in the first or second meeting.

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 Resources (continued)

Compliance Library

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

Compliance Resources (continued)

Compliance Library: (continued)

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



The Next Webinar in the Series

Element #4

Communication lines to the compliance officer that are accessible to all affected individuals to allow compliance issues to be reported ...



Closing

OMIG Resources

- ❑ www.omig.ny.gov
- ❑ Join the OMIG listserv – 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

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