



Office of the
Medicaid Inspector
General

New York State's Mandatory Compliance Program Obligation for Medicaid Providers - Element #4

**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 #4 of New York's mandatory compliance program.
- ❑ Identify what OMIG looks for when it assesses if compliance programs meet the requirements for Element #4.
- ❑ 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 # 4 – Communication Lines

SSL § 363-d subsection 2(d) &
18 NYCRR §521.3(c)(4)

Element #4 – Communication Lines to the Compliance Officer ...

1. communication lines exist to the responsible compliance position;
2. communication lines must be accessible to all employees, persons associated with the provider, executives and governing body members;
3. communication lines must allow compliance issues to be reported;
4. communication lines must include an anonymous method for reporting of potential compliance issues;
5. communication lines must include a confidential method for reporting of potential compliance issues; and
6. good faith reporting of compliance issues.

What OMIG Looks for When it Assesses if the Requirements of Element #4 are Met

1. communication lines exist to the responsible compliance position;

1. Policies and procedures should be in place that identify how to communicate to the compliance function.
2. The responsible compliance position could be the compliance officer or a designee.
3. The communication is expected to be within the compliance office.
4. Communication lines are interpreted broadly to include telephone, email, interoffice and posted mail, face-to-face, web based, outside contracted method, etc.

2. communication lines must be accessible to all employees, persons associated with the provider, executives and governing body members;

1. Each group should have at least one method that is available to them, but they could be different.
2. Should consider the need for different communication methods based upon the groups needing to communicate with the compliance function.
3. Persons associated with the provider should address those that are subject to the reach of the compliance program. This can include subcontractors, vendors, others.

3. communication lines must allow compliance issues to be reported;

1. Communication methods should encourage submission and receipt of information on compliance issues.
2. Communication that is received is expected to be addressed in a timely manner.

4. communication lines must include an anonymous method for reporting of potential compliance issues;

1. Anonymous method for good faith reporting of compliance issues as identified must exist for all affected individuals.
2. “Anonymous” - normal meaning is that the identity of the person cannot be discerned.
3. Reporting person must have assurance that there is no way the compliance function can identify who is reporting the matter.

4. communication lines must include an anonymous method for reporting of potential compliance issues; (continued)

4. The anonymous method can be different from other methods available to each group.
5. Anonymous methods do not include telephone lines with caller ID, email which can be tracked, suggestion box that is not controlled by the compliance function, communication methods that are under surveillance cameras, or other methods that are outside of the control of the compliance function.

5. communication lines must include a confidential method for reporting of potential compliance issues.

1. Confidential method for good faith reporting of compliance issues as identified must exist for all affected individuals.
2. “Confidential” – the person receiving the communication can know the identity of the person, but the identity cannot be shared with others.
3. A communication method that is outside of the control of the compliance function is not likely confidential.
4. Reports must be kept secure to retain confidentiality.



6. good faith reporting of potential compliance issues.

1. Good faith is based upon the reporter's motivation for reporting a compliance issue.
2. "Good faith" generally describes an honesty of purpose, freedom from intent to defraud, and generally speaking being faithful to one's duty or obligation.
3. Reporting can be made in good faith but be wrong about the facts.

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 #5

Disciplinary policies to encourage good faith participation in the compliance program ...

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

Contact Information

Matthew D. Babcock, FACHE

Assistant Medicaid Inspector General

Bureau of Compliance

New York State Office of the Medicaid Inspector General

800 North Pearl Street

Albany, NY 12204

Phone number 518.408.0401

compliance@omig.ny.gov