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New York State's Mandatory Compliance Program Obligation for Medicaid Providers - Element #6

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.

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Program Agenda

❑ Identify the statutory and regulatory requirements of Element #6 of New York's mandatory compliance program.

❑ Identify what OMIG looks for when it assesses if compliance programs meet the requirements for Element #6.

❑ Introduce the next webinar in the series.

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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.

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Element # 6 ─ System for Routine Identification of Compliance Risk Areas
SSL § 363-d subsection 2(f) & 18 NYCRR §521.3(c)(6)

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Element #6 – System for routine identification of compliance risk areas and non-compliance …

1. a system for routine identification of compliance risk areas
2. specific to the provider type,

Element #6 – System for routine identification of compliance risk areas and non-compliance … (continued)

3. for self-evaluation of such risk areas, including but **not limited to**
   a. internal audits and as appropriate external audits and
   b. for evaluation of potential or actual non-compliance identified as a result of such self-evaluations and audits,
   c. **credentialing of providers and persons associated with providers,**
   d. **mandatory reporting, governance, and quality of care of Medicaid beneficiaries;**

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What OMIG Looks for When it Assesses if the Requirements of Element #6 are Met

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1. a system for routine identification of compliance risk areas

1. A system must exist and evidence of its operation must be evident.
2. Evidence must be available to show that compliance risk areas are being identified.
3. If the system used for identification of compliance risks is part of an enterprise level risk management system, or control process that is acceptable, but
    ❖ There must be sufficient activity devoted to compliance issues in order to adequately identify compliance risks.

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1. a system for routine identification of compliance risk areas (continued)

4. Documentation is expected to exist that identifies the compliance risks and follow-up analysis after correction or mitigation activity is implemented.
5. Operation of the system must be routine, which we take to mean being conducted on a regular basis.

1. a system for routine identification of compliance risk areas (continued)

6. 18 NYCRR § 521.3(a) requires compliance programs to be applicable to the following which are a good source of risk identification:

   (1) billings;

   (2) payments;

   (3) medical necessity and quality of care;

   (4) governance;

   (5) mandatory reporting;

   (6) credentialing;

   (7) other risk areas that are or could be identified.

2. specific to the provider type,

1. Risk identification must focus on the specific issues associated with the obligations associated with delivery and quality of services, as well as recording, charting, coding, billing and payment for services.
2. Look to available sources specific to provider type:
    a. OMIG Audit Protocols
        https://www.omig.ny.gov/audit/audit-protocols
    b. Provider Manuals
        https://www.emedny.org/ProviderManuals/index.aspx
    c. Published disciplinary actions

3. for self-evaluation of such risk areas, including but not limited to
   ### a. internal audits and as appropriate external audits and

1. There must be self-evaluation of compliance risk areas.
2. Internal audits are the backbone of the self-evaluations.
3. Internal audits that address compliance risk areas can be part of other more expansive audits, but compliance risk areas must be part of internal audits.
4. Evidence of the results of internal audits on compliance risk areas must exist.

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3. for self-evaluation of such risk areas, including but not limited to

a. internal audits and as appropriate external audits and (continued)

5. External audits can be specific to compliance or be part of other external audits, e.g.,

    a. annual CPA financial audit,

    b. agreed upon procedures audits focused on compliance or compliance related issues, or

    c.   findings on government audits.

6. External audits may suggest the need for an internal audit.

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3. for self-evaluation of such risk areas, including but not limited to …
   b. for evaluation of potential or actual non-compliance identified as a result of such self-evaluations and audits,

1. Once risks are identified, they need to be prioritized.
2. Factors that could be included in the risk evaluation include:
   a. frequency (actual or possible),
   b. likelihood that they will actually result in non-compliance,
   b. impact on quality of services being provided,
   c. impact on other operations and contracts, and
   d. financial impact.

3. for self-evaluation of such risk areas, including but not limited to …

   c. credentialing of providers and persons associated

   with providers,

1. Credentialing includes primary source verification and checking the exclusions lists, among others.
2. Persons associated with providers includes medical staff, vendors, contractors, suppliers, and others that are involved in the delivery of healthcare services and are subject to the provider's compliance program.
3. As information is received off cycle, credentialing should still operate to address issues or risks.

3. for self-evaluation of such risk areas, including but not limited to …

   d. mandatory reporting, governance, and quality of care of Medicaid beneficiaries;

1. The effectiveness and completeness of the provider's mandatory reporting systems must be evaluated.
2. Governance (board and management) activities related to compliance should be evaluated.
3. Quality of care to Medicaid beneficiaries should be evaluated and compliance impacts identified.

Compliance-Related Tools and Resources

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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

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Compliance Resources (continued)

Compliance Library: (continued)

❑ OMIG Assessment Results
- ▪ Best Practices
- ▪ Opportunities for Enhancement
- ▪ Identified Insufficiencies

❑ FAQs

❑ Compliance-related Webinars

❑ Other Compliance Resources

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The Next Webinar in the Series

Element #7

System for responding to compliance issues when raised, for investigating and correcting problems …

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

❑ OMIG's self-disclosure process is accessible at https://www.omig.ny.gov/self-disclosure

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.

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Thank You

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