



Compliance Alert 2017-01 August 31, 2017

Mandatory Compliance Programs' Risk Assessments: Changes in Medicaid Reimbursement Systems

PURPOSE OF THIS COMPLIANCE ALERT

This *Compliance Alert* serves to remind Required Providers¹ under New York's Medicaid program to consider, as part of their compliance program's risk assessment activity, how various Medicaid reimbursement models may impact their risk assessment factors, processes, and outcomes. This *Compliance Alert* does not identify specific risk assessment activities that must be undertaken.

BACKGROUND

18 NYCRR § 521.3 (a) requires compliance programs to be applicable to all of the following:

- (1) billings;
- (2) payments;
- (3) medical necessity and quality of care;
- (4) governance;
- (5) mandatory reporting;
- (6) credentialing; and
- (7) other risk areas that are or should with due diligence be identified by the provider.

New York State's Medicaid program has undergone and continues to undergo changes related to how providers are paid for providing Medicaid-reimbursable care, services, or supplies. Historically, most Medicaid providers were paid on a fee-for-service basis. New York's Medicaid program is utilizing new payment methodologies, including capitation, risk-sharing arrangements, and value-based payments, among others.

RISK ASSESSMENT

In a fee-for-service environment, billing systems primarily track whether a covered, medically necessary service was: delivered, coded correctly, billed accurately and timely, and met established quality of care standards. New and developing Medicaid reimbursement and payment systems (e.g., capitation, value based payments, etc.) create the potential for additional program integrity concerns regarding Medicaid billing and payment.

18 NYCRR § 521.3 (c)(6) and New York Social Services Law § 363-d subsection 2(f) require compliance programs to include a system for routine identification of compliance risk areas specific to the provider type. Medicaid's current and developing payment systems will likely vary based upon provider type and unique factors associated with the actual services being delivered to Medicaid recipients.

¹ Required Provider is defined in 18 NYCRR § 521.2 (a).

Providers are encouraged to closely review reimbursement methodologies so they can identify where they may need to update risk-assessment activities. Risk assessments may need to expand beyond the integrity of the billing and payment process to include an assessment of the processes involved in the delivery of Medicaid reimbursable services.

CONCLUSION

Required Providers are urged to review their compliance program's risk assessment processes, and determine how those risk assessments must change to adjust to new and developing payment methodologies.

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.²

² This *Compliance Alert* should be considered to be informational to assist providers subject to the mandatory compliance program obligations established under New York State Social Services Law Section 363-d and 18 NYCRR Part 521. It does not set out all points that the Office of the Medicaid Inspector General ("OMIG") 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.