



New York State Office of Medicaid Inspector General
Bureau of Compliance

DOCUMENT #3



COMPLIANCE PROGRAM ASSESSMENT TOOL – Focused Reviews

During the course of the Office of Medicaid Inspector General's (OMIG's) Effectiveness Review of Medicaid provider's Compliance Programs, providers are requested to complete a Compliance Program Assessment Tool (Tool) and return it to OMIG's Bureau of Compliance as part of the pre-visit document request.

Questions on the Compliance Program Assessment Tool can be addressed to:
compliance@omig.ny.gov or by calling 518-473-3782.

Directions on completing the Compliance Program Assessment Tool:

If the answer is yes to a question on the attached Tool, complete the "Yes" box and provide a description of what supports that response in the "Evidence of Compliance" column. The Evidence of Compliance description will provide a cross reference to the provider and to OMIG as to where the evidence supporting the "Yes" response can be located. For example, if the provider responds, "Yes", that its compliance expectations are included in a written code of conduct or code of ethics (see 1.1 on the attached Tool), the provider should state what documents, policies and procedures exist that set out the code of conduct or code of ethics and specify whether it is a code of conduct, code of ethics, or both.

If the answer is no to a question, complete the "No" box and consider what action (if any) should be taken to address the "no" response or document the rationale for the "no" response.

Following receipt of the completed Compliance Program Assessment Tool, the Bureau of Compliance may request documentation to support the responses provided and it may address additional questions to the Medicaid provider.

The Bureau of Compliance recommends that you may wish to maintain a copy of the completed Tool for your reference.

New York State Office of Medicaid Inspector General
 Medicaid Compliance Program
 Assessment Tool – 2011

Name of Medicaid Provider: _____
 Medicaid Provider ID #: _____
 Federal ID#: _____
 Person Completing Assessment: _____ Title: _____
 Date Assessment Completed: _____
 Assessment Period: _____

(1) Written policies and procedures

	Description	Yes	No	Evidence of Compliance or action required
1.1 *	Are compliance expectations included in a written code of conduct or code of ethics?			
1.2 *	Has the compliance program been implemented within the organization?			
1.3 *	Does the compliance program provide guidance to employees and others associated with the Medicaid provider on how to identify and communicate compliance issues to compliance personnel?			
1.4 *	Does the compliance program describe how potential compliance problems are investigated and resolved?			

(2) Designate an employee vested with responsibility

	Description	Yes	No	Evidence of Compliance or action required
2.1 *	Is the responsible compliance position an employed position?			
2.2 *	Does the responsible compliance position have responsibility for day to day operation of the compliance program?			
2.3 *	Does the person with responsibility for the day to day operation of the compliance program have responsibilities other than compliance?			
2.4 *	If the answer to question 2.3 is "Yes," are sufficient resources made available to the person with responsibility for the day to day operation of the compliance program to satisfactorily carry out their compliance duties? What evidence exists to demonstrate that the Compliance Officer is conducting his/her compliance duties satisfactorily?			
2.5 *	Does the responsible compliance position report to the CEO or other senior staff (and not through the legal department or the CFO)?			
2.6 *	Does the responsible compliance position periodically communicate with the governing board on the activities of the compliance program?			

(3) Training and education

	Description	Yes	No	Evidence of Compliance or action required
3.1 *	Is there evidence of a compliance training program which includes the Code of Conduct/Ethics; expectations of the compliance program; and how the compliance program operates?			
3.2 *	Are new employees, board members and affiliates trained in compliance so that they could identify circumstances of fraud, waste and abuse?			
3.3 *	Is the compliance training made part of orientation for new employees, board members and affiliates?			

(4) Communication lines to the responsible compliance position

	Description	Yes	No	Evidence of Compliance or action required
4.1 *	Are there accessible mechanism(s) for the governing board, management, employees and others associated with the Medicaid provider to communicate compliance related concerns to the responsible compliance position? What examples exist of how the Compliance Officer discusses those points?			
4.2 *	Do the accessible mechanisms referred to in 4.1 include methods for anonymous or confidential communication?			
4.3	Are the available lines of communication and examples of the types of issues to be reported to the responsible compliance position well publicized throughout the Medicaid provider (e.g.: orientation/education sessions, posters, pamphlets, intra/internet, etc)?			

(5) Disciplinary policies to encourage good faith participation

	Description	Yes	No	Evidence of Compliance or action required
5.1 *	Do disciplinary policies exist which encourage good faith participation in the compliance program by the governing board, senior management, employees and others associated with the Medicaid provider?			
5.2 *	Do disciplinary policies set out expectations for reporting compliance issues and for assisting in their resolution?			
5.3 *	Do disciplinary policies outline sanctions for failing to report suspected problems; participating in non-compliant behavior; or encouraging, directing, facilitating or permitting non-compliant behavior?			
5.4 *	If disciplinary action was taken, was discipline fairly and consistently applied			

	regardless of the perpetrator's position with the Medicaid provider?			
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(6) **A system for routine identification of compliance risk areas**

	Description	Yes	No	Evidence of Compliance or action required
6.1 *	Does a system exist within the Medicaid provider's compliance plan to routinely identify compliance risk areas specific to the type of service provided?			
6.2 *	Does a system exist within the Medicaid provider's compliance plan to routinely conduct self-evaluation of risk areas, including internal audits and as appropriate external audits?			
6.3 *	Does the Medicaid provider routinely evaluate potential or actual non-compliance as a result of its self-evaluations and audits?			
6.4 **	Does the Medicaid provider have systems in place to ensure that its employees, contractors, grantees and other organizations providing services or billings through the Medicaid provider are not submitting false claims as that may be defined under the federal False Claims Act or New York's Fraud, Enforcement and Recovery Act (FERA)?			

(7) **A system for responding to compliance issues**

	Description	Yes	No	Evidence of Compliance or action required
7.1 *	Does a system exist within the Medicaid provider's compliance plan for responding to compliance issues as they are raised?			
7.2 *	Does a system exist within the Medicaid provider's compliance plan for investigating potential compliance issues?			
7.3 *	Does a system exist within the Medicaid provider's compliance plan to respond to compliance issues that are identified in the course of self-evaluations and audits?			
7.4 * **	Does a system exist within the Medicaid provider to correct compliance issues promptly and thoroughly and implement procedures, policies and systems that may be necessary to reduce the potential for recurrence?			
7.5 **	Does a system or methodology exist to periodically prioritize compliance oversight of activities that are the most serious or most likely to occur?			
7.6 *	Does a system exist within the Medicaid provider's compliance plan for identifying and reporting compliance issues to the New York State Office of Medicaid Inspector General?			
7.7 **	Does a system exist within the Medicaid provider's compliance plan to report, refund and explain overpayments received			

	from the Medicaid program to the New York State Office of Medicaid Inspector General as required by Section 6402 of the Patient Protection and Affordable Care Act (ACA)? What is the history on self-disclosures and refunds?			
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(8) A policy of non-intimidation and non-retaliation

	Description	Yes	No	Evidence of Compliance or action required
8.1 *	Does the compliance plan or organization policy state intimidation or retaliation will not be permitted against individuals who in good faith participate in the compliance program, including but not limited to reporting potential issues, investigating issues, self-evaluations, audits and remedial actions and reporting to appropriate officials as provided in New York State Labor Law Sections 740 and 741?			
8.2	Are allegations of intimidation or retaliation fully and completely investigated? What history exists associated with investigations of allegations of intimidation or retaliation?			
8.3	Is the disciplinary action uniformly and consistently applied across the organization regardless of title or position? What examples exist of uniform application of discipline?			