

Federal Deficit Reduction Act Frequently Asked Questions ("FAQs")

The following Frequently Asked Questions ("FAQs") primarily address the federal Deficit Reduction Act of 2005 (DRA) and its annual certification requirement.

Deficit Reduction Act Certification
(Revised: 12/1/2014)

* Please Note: The FAQs developed by CMS discussing the purpose and implementation of the DRA requirements are available by clicking [here](#).

1. WHAT IS THE PURPOSE AND INTENT OF THE DRA?

The Deficit Reduction Act of 2005 (DRA) instituted a requirement for health care entities receiving or making \$5 million or more in Medicaid payments during a federal fiscal year to establish written policies and procedures informing their employees, contractors and agents about federal and state false claim acts and whistleblower protections. If an entity furnishes items or services at more than a single location, under more than one contractual or other payment arrangement, or uses more than one provider or tax identification number, the aggregate of all payments to that entity is used to determine if the entity reached the \$5 million annual threshold. The applicability of the \$5 million annual threshold is based upon reimbursements for the federal fiscal year (FFY) beginning on October 1 and ending on September 30. For example, the certification due on or before January 1, 2010 is based on the applicability of the reimbursements for the FFY ending September 30, 2009.

2. ARE NEW YORK STATE'S MANDATORY COMPLIANCE PROVISIONS RELATED TO THE DRA REQUIREMENTS?

While the mandatory compliance requirements contained in New York State Social Services Law § 363-d and 18 NYCRR Part 521, and the Deficit Reduction Act (DRA) obligations found in 42 USC § 1396a (a)(68) address similar areas and each has a certification requirement, there are significant differences in which providers are covered and the scope of provider responsibilities.

Providers required to meet both provisions typically include the DRA requirements in their more comprehensive mandatory compliance programs.

3. WHAT IS THE PROCESS FOR CERTIFICATION UNDER THE DRA?

Certification must be submitted by completing an [on-line certification form](#) that is available on OMIG's Web site. Covered providers are required to annually certify on or before January 1 following the end of the federal fiscal year that the provider becomes subject to the DRA.

4. CAN PROVIDERS SUBMIT PAPER CERTIFICATIONS?

No. Only on-line certifications will be accepted.

5. WILL PROVIDERS RECEIVE A CONFIRMATION OF RECEIPT?

An electronic confirmation will be generated upon submission of the certification. This electronic confirmation will be in the form of a printable page with a confirmation number on it. The provider should print this confirmation page for their records and retain it as proof of certification. The confirmation page will only be available at the time of the form submission.

A confirmation email will be sent for the DRA certification to the email address listed by the provider on the form for the Certifying Official and the Compliance Officer.

6. WHO SHOULD SUBMIT THE CERTIFICATION?

The certification should be submitted by the individual on the certification that is identified as the "Certifying Official." The Certifying Official should be an employee of the provider who has oversight responsibility for DRA compliance.

This is a different expectation than for the mandatory compliance certification where the OMIG strongly encourages that someone from senior management (other than the compliance officer) or a member of the governing authority sign the certification as an indication that the provider's compliance efforts and responsibilities extend beyond the compliance officer.

7. DOES A PROVIDER HAVE TO SUBMIT A SEPARATE CERTIFICATION FOR EACH LOCATION OR PROVIDER NUMBER?

Please refer to the FAQs #1 through #12 located on the CMS website. The FAQs can be accessed by clicking this [link](#).

Please note that, there are separate certification forms for mandatory compliance under New York State's Social Services Law and DRA requirements.

8. WHAT IS THE CONSEQUENCE OF A PROVIDER'S FAILURE TO CERTIFY?

The OMIG is authorized to impose administrative sanctions, up to and including exclusion from the program, against providers who fail to certify compliance with the DRA requirements.

9. SHOULD PROVIDERS SUBMIT COPIES OF THEIR RELEVANT POLICIES OR DOCUMENTS ALONG WITH THE CERTIFICATION?

No, OMIG will specifically request a copy of a provider's relevant policies or documents when OMIG is interested in evaluating a particular provider's compliance with the DRA requirements.