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## **OMIG AUDIT PROTOCOL – OPWDD DAY TREATMENT PROGRAM** **For service dates prior to March 29, 2013**

### **Effective March 29, 2013**

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Audit protocols assist the Medicaid provider community in developing programs to evaluate compliance with Medicaid requirements under federal and state statutory and regulatory law. Audit protocols are intended solely as guidance in this effort. This guidance does not constitute rulemaking by the New York State Office of the Medicaid Inspector General (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 the audit protocols alters any statutory or regulatory requirement. In the event of a conflict between statements in the protocols and either statutory or regulatory requirements, the requirements of the statutes and regulations govern.

A Medicaid provider's legal obligations are determined by the applicable federal and state statutory and regulatory law. Audit protocols do not encompass all the current requirements for payment of Medicaid claims for a particular category of service or provider type and, therefore, are not a substitute for a review of the statutory and regulatory law. The 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.

Audit protocols are applied to a specific provider or category of service in the course of an audit and involve the OMIG's application of articulated Medicaid agency policy and the exercise of agency discretion. The Office of Medicaid Inspector General, consistent with state and federal law, can pursue civil and administrative enforcement actions against any individual or entity that engages in fraud, abuse, or illegal or improper acts or unacceptable practices perpetrated within the medical assistance program.

Audit protocols are amended as necessary. Reasons for amending protocols include, but are not limited to, responding to a hearing decision, litigation decision, or statutory or regulatory change.

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<b>1.</b>	<b>Missing Recipient Record</b>
<b>OMIG Audit Criteria</b>	If no recipient record is made available for review, claims for all dates of service associated with the recipient record will be disallowed.
<b>Regulatory References</b>	18 NYCRR Section 504.3(a) 18 NYCRR Section 540.7(a)(8)
<b>2.</b>	<b>No Documentation of Service</b>
<b>OMIG Audit Criteria</b>	If the recipient record does not document that a service was provided, the claim will be disallowed.
<b>Regulatory References</b>	18 NYCRR Section 504.3(a) 18 NYCRR Section 540.7(a)(8) 18 NYCRR Section 517.3(b)(2)
<b>3.</b>	<b>Missing Physician Review of the Individual Treatment Plan</b>
<b>OMIG Audit Criteria</b>	Physician review and approval of the individual treatment plan is substantiated by physician signature. The claim will be disallowed if the physician signature on the individual treatment plan is missing.
<b>Regulatory References</b>	14 NYCRR Section 690.5(b)(3)(ii)
<b>4.</b>	<b>Missing Individual Program Plan for Day Treatment Program</b>
<b>OMIG Audit Criteria</b>	If the individual program plan is missing, the claim will disallowed for the dates of service within the program plan period. The finding will apply if the Individual Treatment Plan (ITP) and the Comprehensive Functional Assessment (CFA) are missing. If only one item is missing, the claim will be disallowed in a different category, i.e., finding #9 (ITP) or finding # 10 (CFA).
<b>Regulatory References</b>	14 NYCRR Section 690.5(b)(2)(xiii)(a) 14 NYCRR Section 690.5(d)(3) 14 NYCRR Section 690.3(a)(3) 14 NYCRR Section 690.5(d)(5)(iii)(d)

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<b>5.</b>	<b>Missing Annual Individual Program Plan Review</b>
<b>OMIG Audit Criteria</b>	The claim will be disallowed if the annual interdisciplinary individual program review is missing.
<b>Regulatory References</b>	14 NYCRR Section 690.5(d)(9)(ii)

<b>6.</b>	<b>Incorrect Rate Code Billed</b>
<b>OMIG Audit Criteria</b>	When an incorrect rate code is billed, the amount of the claim disallowed will be the difference between the incorrect rate code billed amount and the correct rate code amount.
<b>Regulatory References</b>	14 NYCRR Section 690.1(d)(1)

<b>7.</b>	<b>No Diagnosis of Developmental Disability</b>
<b>OMIG Audit Criteria</b>	Claims will be disallowed in the absence of a clinical assessment substantiating a specific diagnosis of developmental disability.
<b>Regulatory References</b>	14 NYCRR Section 690.5(c)(1)(i-iii)

<b>8.</b>	<b>Excessive Screening Visits</b>
<b>OMIG Audit Criteria</b>	The claims for service dates in excess of the maximum allowed preliminary screening visits will be disallowed.
<b>Regulatory References</b>	14 NYCRR Section 690.5(c)(3)

<b>9.</b>	<b>Missing Individual Treatment Plan</b>
<b>OMIG Audit Criteria</b>	The claims for services will be disallowed if an individual treatment plan is missing. If no individual treatment plan is in place for a particular time period, there will be a disallowance for the dates of service within that time period.
<b>Regulatory References</b>	14 NYCRR Section 690.5(d)(6)(ii)

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<b>10.</b>	<b>Missing Comprehensive Functional Assessment (CFA)</b>
<b>OMIG Audit Criteria</b>	If the admission date is within the audit period, claims will be disallowed if the initial CFA developed by the interdisciplinary treatment team is missing. Claims will also be disallowed in the absence of a reviewed and/or revised CFA associated with the annual review of the individual program plan.
<b>Regulatory References</b>	14 NYCRR Section 690.5(d)(5)(iii)(b) 14 NYCRR Section 690.5(d)(9)(ii)

<b>11.</b>	<b>Insufficient Duration for Collocated Day Treatment Billing</b>
<b>OMIG Audit Criteria</b>	Claims for collocated day treatment services of less than 90 minutes in duration will be disallowed.
<b>Regulatory References</b>	14 NYCRR Section 690.1(d)(2)

<b>12.</b>	<b>Allowable Service Not Documented</b>
<b>OMIG Audit Criteria</b>	Claims for services that do not include at least one of the allowable service types will be disallowed. “. . . Allowable services . . . include: independent living services; medical oversight services; nursing services; nutrition services; occupational therapy services; physical therapy services; psychology services; self-care services; social work services; speech pathology services; and therapeutic recreational services.”
<b>Regulatory References</b>	14 NYCRR Section 690.3(a)(1)(i-xi)

<b>13.</b>	<b>No Written Medical Prescription</b>
<b>OMIG Audit Criteria</b>	Claims will be disallowed if a written medical prescription by the physician for occupational or physical therapy is missing. Multiple evidence is allowed to validate that a physician prescribed occupational or physical therapy.
<b>Regulatory References</b>	14 NYCRR Section 690.3(a)(3)

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<b>14.</b>	<b>Duplicative Services</b>
<b>OMIG Audit Criteria</b>	For service dates in which there is a payment to a Part 679 Article 16 clinic treatment (Tx) provider and the day Tx provider for an allowable service on the same day: If the payment for the clinical service exceeds the day Tx payment, the entire payment for the day Tx service will be disallowed. If the payment for the clinical service is less than the day Tx payment, the difference will be disallowed. A recipient admitted to a day Tx facility may receive a Part 679 Article 16 clinic Tx service on the same day as the day Tx visit in the clinical areas of audiology, special medical, routine medical, and dentistry without any restriction <i>presuming the recipient receives the full duration of the day Tx visit being claimed.</i>
<b>Regulatory References</b>	14 NYCRR Section 690.3(a)(5)(iii)
<b>15.</b>	<b>Missing Record of Attendance</b>
<b>OMIG Audit Criteria</b>	Claims will be disallowed if a daily census record is missing or does not indicate recipient attendance.
<b>Regulatory References</b>	14 NYCRR Section 690.5(b)(2)(xv)(b) 14 NYCRR Section 690.6(s)(4)
<b>16.</b>	<b>Billing for Work-for-Pay Services</b>
<b>OMIG Audit Criteria</b>	Claims for services determined to be purely vocational (i.e., work-for-pay) will be disallowed.
<b>Regulatory References</b>	14 NYCRR Section 690.3(a)(2)
<b>17.</b>	<b>Missing Progress Note</b>
<b>OMIG Audit Criteria</b>	Progress notes must be maintained. The lack of required progress notes will result in the disallowance of all services that were to have been summarized in the note.
<b>Regulatory References</b>	14 NYCRR Section 690.6(s)(1)
<b>18.</b>	<b>Missing Treatment Note</b>
<b>OMIG Audit Criteria</b>	Treatment notes must be maintained. The lack of required treatment notes will result in the disallowance of all services that were to have been summarized in the note. Examples of documentation include, but are not limited to, data activity sheets, an activity calendar, or a clinician report.
<b>Regulatory References</b>	14 NYCRR Section 690.6(r)(6)

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<b>19.</b>	<b>Failure to Meet Minimum Duration Requirements for Non-Collocated Day Treatment Services</b>
<b>OMIG Audit Criteria</b>	Claims for day treatment services lasting less than 3 hours in duration will be disallowed.
<b>Regulatory References</b>	14 NYCRR Section 690.1(d)(1)

<b>20.</b>	<b>Billing for Services by Ineligible Provider</b>
<b>OMIG Audit Criteria</b>	Day treatment services must be rendered by a provider who holds a proper and currently valid license, registration and/or certification or operating certificate to be eligible to furnish the care, services or supplies. A day treatment provider's operating certificate remains valid unless there is an adverse action taken by the certifying agency.
<b>Regulatory References</b>	18 NYCRR Section 485.5(d) 18 NYCRR Section 485.5(f) 18 NYCRR Section 504.1(c) 14 NYCRR Section 690.3(a)(4)(i)

<b>21.</b>	<b>Duration of Service Not Documented</b>
<b>OMIG Audit Criteria</b>	For service dates lacking the duration of the day treatment service, the full day visit rate will be reduced to a half day visit rate. The difference between the amount of the full day visit rate and the amount of the half day visit rate will be disallowed.
<b>Regulatory References</b>	14 NYCRR Section 690.5(b)(2)(xv)(b) 14 NYCRR Section 690.6(s)(4)

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