



New York State Office of Medicaid Inspector General

Compliance Guidance

2014 – 03



RISK AREAS BY PROVIDER TYPE Day Habilitation, Day Treatment, Residential Habilitation, and Medicaid Service Coordination Programs and Services

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New York State Social Services Law Section 363-d (§ 363-d) and 18 NYCRR Part 521 (Part 521) provide that the Office of the Medicaid Inspector General (OMIG) issue compliance program guidance on its Web site for those providing care, services, or supplies under New York's Medicaid program.¹ This *Compliance Guidance* is being published in OMIG's Compliance Library in connection to OMIG's responsibilities.

PURPOSE OF THIS COMPLIANCE GUIDANCE

Routine identification of compliance risk areas, specific to the type of services being offered to Medicaid beneficiaries by a Medicaid Provider,² is a requirement of New York's mandatory compliance program obligations.³ The purpose of this *Compliance Guidance* is to provide some

¹ N.Y. Soc. Serv. Law § 363-d subd. 2, 18 NYCRR 521.3 (b)

² The use of the word "Provider" herein shall be used to refer to any natural person or entity who is subject to New York State's mandatory compliance program obligations in § 363-d and Part 521.

³ Element #6, which is the subject of *Compliance Guidance* 2014-01, can be accessed on OMIG's public Web site in the Compliance Library. That *Compliance Guidance* provides guidance on the requirement set out in § 363-d at subd. 2 (f) and Part 521 at § 521.3(c)(6).

examples of compliance risk areas that may be of particular concern to those providing Day Habilitation, Day Treatment, Residential Habilitation, and Medicaid Service Coordination services. Many of these are taken from OMIG Audit Protocols for Office for People with Developmental Disabilities (OPWDD) programs and services and can be found on OMIG's Web site, www.omig.ny.gov.

The *Compliance Guidance* is presented in a question format to highlight that identification of risk areas can be accomplished through methods similar to how a good root cause analysis process operates.

BACKGROUND

At any particular point in time, a provider's compliance risk areas should be expected to change based upon changes in the Medicaid program; improvements in provider's control and compliance structures; changes in provider's staff, management, service delivery methods, and patients; and other factors. Since each provider is different, even within the same provider type, this *Compliance Guidance* should not be viewed as an exclusive list of areas where compliance risks exist for all programs and services. These questions can serve as a starting point for further questions and discussion between the compliance function, management, staff, and the governing body. It is expected that providers will conduct a customized risk assessment, which should include not only identifying risk areas, but also prioritizing the risks identified.

COMMON RISK AREAS FOR Day Habilitation, Day Treatment, Residential Habilitation, and Medicaid Service Coordination Programs and Services⁴

The following identifies examples of some common risk areas for Day Habilitation, Day Treatment, Residential Habilitation, and Medicaid Service Coordination that providers should consider when assessing their compliance risk areas. These risk areas can be used during self-evaluations or audits to determine where compliance, management, or staff resources should be deployed to reduce, minimize, or eliminate compliance-related failures. OMIG's published protocols for OPWDD programs as of the date of this *Compliance Guidance* include protocols for Day Habilitation, Day Treatment, Individualized Residential Alternative (IRA) Residential Habilitation, and Medicaid

⁴ There are other risk areas that are not specific to the providers that are the subject of this *Compliance Guidance* that should also be considered when conducting risk assessments. The listing in this *Compliance Guidance* is intended to be specifically related to OMIG Audit Protocols.

Service Coordination. Please note that the following risk areas are not arranged by program type, as they may apply to more than one program.

A. Documentation Risk Areas

1. Are all recipient records maintained as required and available for review?
2. Was the individual service plan (service plan) updated timely and maintained as part of the recipient's record?
3. Was the service, habilitation, or treatment plan maintained as part of the recipient's record?
4. Was the service, habilitation, or treatment plan completed and reviewed timely?
5. Were all required elements of the service or habilitation plan included in the written plan?
6. Are all required elements of the service notes included in the documentation?

B. Quality-of-Care Risk Areas

1. Did the appropriate ordering practitioner review, approve, and sign the orders for the services specified in the treatment plan?
2. Was the service, habilitation, or treatment plan developed within the required timeframes?
3. Were all required elements of the service or habilitation plan provided and documented?
4. Was the service or habilitation plan and any updates distributed (e.g., to the service coordinator) within the established timeframes?
5. Was evidence of the *Medicaid Service Coordination Agreement* maintained as part of the recipient's record, and were the requirements of the *Medicaid Service Coordination Agreement* continuously met in order to support billing?

C. Billing and Payment Risk Areas

1. Were the appropriate numbers of days of service or units of service (e.g., 15-minute increments for individual day habilitation services) provided and documented in order to receive the payment level being billed?
2. Did the recipient's record document that the services being billed were actually provided?

3. Was the recipient in another level of care (e.g., inpatient hospitalization) during a normally scheduled treatment period, so that no program services could be provided?

D. Credentialing and Workforce Risk Areas

1. Was the staff person providing services under the service, habilitation, or treatment plan licensed, certified, or otherwise authorized to provide the services being provided?
2. Did the staff person providing Medicaid service coordination have the minimum required education and training requirements to provide the services?
3. Did the staff person providing services under the service, habilitation, or treatment plan meet the minimum mandated education and training requirements to provide the services?
4. Was the waiver service claimed for payment authorized for the provider on the recipient's service plan?

CONCLUSION

If you have any questions on this *Compliance Guidance*, or any compliance issue under New York State's mandatory compliance program obligation, please contact the Office of the Medicaid Inspector General's Bureau of Compliance at 518-408-0401 or by e-mail at compliance@omig.ny.gov.

The *Compliance Guidance* should be considered to be a general guidance to assist those subject to the mandatory compliance program obligations set out in § 363-d and Part 521. It does not set out all points that OMIG will consider or use when assessing whether compliance programs are meeting the statutory and regulatory requirements. OMIG reserves the right to recall or change this *Compliance Guidance* at any time.