



New York State Office of Medicaid Inspector General

Compliance Guidance

2014 – 04 Revision #1



RISK AREAS BY PROVIDER TYPE Inpatient Chemical Dependency Rehabilitation and Outpatient Chemical Dependency Services

July 29, 2014

This *Compliance Guidance* should be considered to be a general guidance to assist those subject to the mandatory compliance program obligations set out in New York State Social Services Law Section 363-d (§ 363-d) and 18 NYCRR Part 521 (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 compliance programs meet statutory and regulatory requirements. OMIG reserves the right to recall or change this *Compliance Guidance* at any time.

This *Compliance Guidance* 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 OMIG audit protocols referred to herein or this *Compliance Guidance* alters any statutory or regulatory requirement.

In the event of a conflict between statutes and regulations applicable to the Medicaid provider¹ and either OMIG audit protocols or this *Compliance Guidance*, the requirements of the statutes and regulations govern.

A provider's legal obligations are determined by applicable federal and state statutory and regulatory law. Audit protocols do not encompass all 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 statutory and regulatory law. OMIG cannot provide individual advice or counseling, whether medical, legal, or otherwise. If you are seeking specific advice or counseling,

¹ The use of the word "provider" herein shall be used to refer to any "required provider," as defined in 18 NYCRR § 521.2(a).

you should contact an attorney, a licensed practitioner or professional, a social services agency representative, or an organization in your local community.

PURPOSE OF THIS COMPLIANCE GUIDANCE

Routine identification of compliance risk areas, specific to the type of services being offered to Medicaid beneficiaries by a provider, is a requirement of New York's mandatory compliance program obligations.² The purpose of this *Compliance Guidance* is to provide some examples of compliance risk areas that may be of particular concern to those providing inpatient chemical dependence rehabilitation and outpatient chemical dependence services. Many of these are taken from OMIG fee-for-service audit protocols for the Office of Alcoholism and Substance Abuse Services (OASAS) chemical dependence services and can be found on OMIG's Web site, www.omig.ny.gov.

This *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 a provider's control and compliance structures; changes in a 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 among 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.

The questions posed in *Compliance Guidance 2014-04 Revision #1* are based upon OMIG's fee-for-service audit protocols for dates of service prior to the date that the Ambulatory Patient Group (APG) regulations (14 NYCRR Part 822) went into effect.³ Once OMIG audit protocols are developed for the APG reimbursement system, *Compliance Guidance 2014-04 Revision #1* may be updated.

COMMON RISK AREAS FOR INPATIENT CHEMICAL DEPENDENCE REHABILITATION AND OUTPATIENT CHEMICAL DEPENDENCE SERVICES⁴

² 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).

³ Pre-Ambulatory Patient Group Part 822 outpatient regulations expired on June 30, 2011. APG Part 822 regulations became effective on July 1, 2011. There are two basic delivery systems for OASAS outpatient services with differing APG implementation dates. Hospital-based Public Health Law Article 28 clinics implemented APGs on October 1, 2010. Free-standing Mental Hygiene Law Article 32 clinics implemented APGs on July 1, 2011.

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.

The following identifies examples of some common risk areas for inpatient chemical dependency rehabilitation and outpatient chemical dependency services providers that 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 OASAS chemical dependence services as of the date of this *Compliance Guidance* include protocols related to inpatient and outpatient services. The following list of risk areas does not break them out by program area, because it is likely that the concepts identified cut across both program areas, even though there may be a reference to a characteristic of a specific program type.

A. Documentation Risk Areas

1. Did the claim include a chemical dependence diagnosis that supported the services provided?
2. Was the written individualized treatment plan completed within the required timeframe (i.e., for inpatient services, within seven days of admission or for outpatient services, within 30 days of admission)?
3. Were treatment plans reviewed and signed by the appropriate staff, including the physician and the responsible clinical staff member?
4. For outpatient services, did you maintain a record of attendance for each visit that included the date, type, and duration of the service provided?
5. Were progress notes written by the appropriate staff on a timely basis?

B. Quality-of-Care Risk Areas

1. Was an initial comprehensive evaluation of the patient conducted?
2. Was the treatment plan reviewed, revised as necessary, and approved at the required intervals (i.e., for inpatient services, every 14 days or for outpatient services, every 90 days)?
3. Did progress notes provide a chronology of the patient's progress related to the initial services provided or the goals established in the treatment plan, and were they sufficient to delineate the course and results of treatment/services?
4. Did outpatient visits meet the required minimum duration (i.e., at least 30 minutes for clinic visits)?
5. Did outpatient group counseling sessions include no more than the 15 maximum number of patients allowed for group sessions?
6. Was the comprehensive evaluation plan updated at the required intervals?
7. Was an appropriate discharge plan and summary developed and made part of the clinical record?

C. Billing and Payment Risk Areas

1. Were service requirements for billing met (i.e., for outpatient services, only one occasion of service per patient, per day is reimbursable, and for inpatient services, were the number of patient days billed accurate)?
2. Were unit-of-service requirements for billing met (e.g., for outpatient rehabilitation services, do services last at least two hours in duration)?

3. Were limitations on preadmission visits met (i.e., a maximum of two preadmission visits)?

D. Credentialing and Workforce Risk Areas

1. Was clinical staff completely documenting services that were ordered and delivered?
2. Were multidisciplinary teams properly credentialed to meet treatment requirements?

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 OMIG's Bureau of Compliance at 518-408-0401 or by e-mail at compliance@omig.ny.gov.

Section 363-d at subd. 2 and Part 521 at § 521.3(b) provide that OMIG will provide compliance program guidance on its Web site for those providing care, services, or supplies under New York's Medicaid program. This *Compliance Guidance* is being published in OMIG's Compliance Library in connection to OMIG's responsibilities.