



OMIG's Compliance Certification Process: December Annual & Enrolling Provider

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November
Webinar # 23

Thank you

For participating in this important Webinar

OMIG's MISSION STATEMENT

Our mission is to enhance the integrity of the New York State Medicaid program by preventing and detecting fraudulent, abusive, and wasteful practices within the Medicaid program and recovering improperly expended Medicaid funds while promoting high-quality patient care.

The Fine Print

These slides are not intended to provide legal advice; do not represent the opinion of the Office of the Medicaid Inspector General (OMIG); do not represent the opinion of the Centers for Medicare and Medicaid Services (CMS), the Office of the Inspector General (OIG) or any other state or federal agency; and shall not bind OMIG in any way.

Goals of Webinar #23

- ❑ Deficit Reduction Act (DRA) of 2005 Certification: Provide a high-level overview of the federal requirement on Medicaid providers DRA obligation and how providers can certify that they are meeting the DRA requirement in New York State (NYS);
- ❑ NYS's Mandatory Compliance Program Certification (SSL): Provide a high-level overview of NYS's requirement that Medicaid providers certify annually that they are meeting the mandatory compliance program obligations;
- ❑ Introduce the forms that providers must use to meet their **December** certification requirement for the DRA and SSL; and
- ❑ Address any questions on New York's December Certification form.

Questions on Webinar #23

- ❑ This presentation will remain posted on OMIG's Web until the end of the December certification season.
- ❑ Deadline for submitting questions for Webinar #23 is noon on November 17.
- ❑ Questions should be sent to information@omig.ny.gov before noon on November 17.
- ❑ OMIG will post the questions and answers on OMIG's Web site by November 24.

Federal Deficit Reduction Act (DRA) of 2005

42 USC 1396a(a)(68)

42 USC 1396a(a)(68) Obligations

The DRA requires health care entities which receive or make \$5 million* or more in Medicaid payments during a federal fiscal year (October 1 to September 30) to do the following:

- ❑ Establish written policies and procedures that provide detailed information to its employees, management, contractors, and agents about federal and state false claims acts, whistleblower protections, and its policies and procedures for detecting and preventing fraud, waste, and abuse.
- ❑ Include in an employee handbook (if any) specific discussion on federal and state false claims acts, whistleblower protections, and its policies and procedures for detecting and preventing fraud, waste, and abuse.

*DRA's FAQs identify \$5 million in direct Medicaid payments received from the state for providers or for MCOs \$5 million in Medicaid payments made.

42 USC 1396a(a)(68) Obligations

(Continued)

- ❑ On or before January 1 of each year, required health care entities must certify:
 - that they maintain written policies;
 - that any employee handbook includes materials, required under the DRA mandate;
 - that the materials have been properly adopted and published by the health care entity; and
 - that the materials have been disseminated to employees, contractors, and agents.

42 USC 1396a(a)(68) Obligations

(Continued)

Oversight of the DRA certification process has been a requirement of OMIG since it first went into existence in 2007.

OMIG has guidance on its Web site

www.omig.ny.gov

- Compliance tab
- Certification
- Compliance Library

New York State Medicaid Mandatory Compliance Program Obligations

(SSL)

NYS Compliance Obligations

Providers required to have compliance programs in NYS:

- ❑ subject to Public Health Law Article 28 or 36;
 - Social Services Law §363-d subd. 4 and 18 NYCRR §521.1(a)
- ❑ subject to Mental Hygiene Law Article 16 or 31; or
 - Social Services Law §363-d subd. 4 and 18 NYCRR §521.1(b)
- ❑ for which Medicaid is a *substantial portion of their business operations*.
 - Social Services Law §363-d subd. 4 and 18 NYCRR §521.1(c)

NYS Compliance Obligations (Continued)

“Substantial portion of business operations” means any of the following:

18 NYCRR §521.2(b)

- (1) Claims or orders, or has claimed or has ordered, or should be reasonably expected to claim or order, at least \$500,000 in any consecutive 12-month period from Medicaid; or
- (2) Receives or has received, or should be reasonably expected to receive, at least \$500,000 in any consecutive 12-month period, directly or indirectly, from Medicaid; or
- (3) Submits or has submitted claims for care, services, or supplies to Medicaid on behalf of another person or persons in the aggregate of at least \$500,000 in any consecutive 12-month period.

Medicaid Provider Compliance Obligations

Certification Requirement

18 NYCRR §521.3:

(b) Upon applying for enrollment in the medical assistance program, and **during the month of December each year** thereafter, a required provider shall certify to the department, using a form provided by the Office of the Medicaid Inspector General on its Web site, **that a compliance program meeting the requirements of this Part is in place. ...**

December (Annual) Certification Forms

What's Available When Certifying

- ❑ Certification landing page has links to the forms and to resources.
- ❑ The SSL and the DRA forms have a series of questions to help providers know what is required to be in place in order to certify.
- ❑ December certification option on the forms will only be posted during December.

How Can I Successfully Complete the Annual Certification Process?

Suggestions for a Successful and Effective Certification Process

1. Identify all Federal Employer Identification Numbers (FEIN) that you order, claim, or receive Medicaid payments through. Some providers have multiple FEINs.
2. Certify in connection to every FEIN that orders, claims, or receives a Medicaid payment that is subject to the mandatory compliance program obligation.

Suggestions for a Successful and Effective Certification Process (Continued)

3. Review your mandatory compliance program to confirm that it meets all eight elements of the NYS Social Services Law and the regulations.
4. Assess whether your mandatory compliance program is implemented and operating.
5. For the DRA certification, review the DRA requirements and confirm that all the requirements are being met.
6. Completing certifications is an annual event.

Suggestions for a Successful and Effective Certification Process (Continued)

7. Identify the appropriate person to be the certifying official:
 - SSL – someone who the compliance function reports to is ideal
 - DRA – person with oversight responsibility for the DRA requirements

8. Complete the certification early in December – certification volumes are highest at the beginning and very end of December

Suggestions for a Successful and Effective Certification Process (Continued)

9. The DRA Certification is different from the SSL Certification. If you are required to complete both, two separate certifications are required.
10. If you certify and you cannot locate your confirmation page, do not recertify; instead, request a copy by e-mail to compliance@omig.ny.gov.
11. Make sure that firewalls, filters, and antivirus programs will allow connection and submission.
12. Sign-up for OMIG's listserv to receive certification reminders.

New York State Office of the Medicaid Inspector General



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Report Fraud



You can help stop Medicaid fraud: Call OMIG's Fraud Hotline at 1-877-87 FRAUD (1-877-873-7283), or click [here](#) to file a complaint electronically.

Latest News

\$496 Million Identified In Home Health Medicaid Error Payments

30 October 2013

New York State identified \$496 million in Medicaid erroneous payments and recovered \$211 million fro [...]



How to Fill Out the Certification Forms Successfully

Recommendation for Annual Certification Preparation

- ❑ Conduct regular assessments of your compliance program and identify any gaps
- ❑ Create an annual work plan and assessment of the progress on prior work plans and the status of plans of correction
- ❑ Interact with the certifying official, senior management, and governing board in addressing the work plan, plans of correction and gaps

Recommendation for Annual Certification Preparation

(Continued)

- ❑ Seek interaction with areas that compliance program applies:
 1. Billing
 2. Payment
 3. Medical necessity and quality of care
 4. Governance
 5. Mandatory reporting
 6. Credentialing and
 7. Other risk areas that are or should with due diligence be identified
- 18 NYCRR §521.3(a)

Opportunity that Certification Creates

- ❑ Comply with a basic requirement
- ❑ Avoid consequences of failure to certify

Consequences for Not Certifying

- ❑ It is a violation of statutory and regulatory requirements.
- ❑ Certification history is reviewed by OMIG's Division of Medicaid Audit and Division of Medicaid Investigations.
- ❑ Certification history is a metric used by the Bureau of Compliance to identify providers who will become the subject of a compliance program review.
- ❑ Failure to submit a certification for every FEIN that is subject to the mandatory compliance program obligation will result in a determination that the Medicaid provider is in violation of its regulatory certification obligation.

Consequences for Not Certifying

(Continued)

- ❑ Newly enrolling Medicaid providers may not be able to complete their enrollment process with DOH.
- ❑ Medicaid providers revalidating enrollment with DOH may not be able to smoothly complete the process.
- ❑ It may impact the transfer of Medicaid contracts to purchasers.

Cautionary Points on Certification

- ❑ Do not make false statements on the certification forms.
- ❑ Volumes are high. Do not wait until the very end of the certification period to certify.
- ❑ Make sure that your firewalls and security settings will allow for the certification process to be completed.

Reminders

- ❑ Use the correct form (SSL vs. DRA)
- ❑ Use the correct FEIN
- ❑ Certify for each FEIN in the enterprise involved in Medicaid
- ❑ For SSL, do not certify early ... wait until December
- ❑ Remember—this is an official document

Questions

- ❑ Questions related to this Webinar should be sent to information@omig.ny.gov before noon on November 17
- ❑ FAQs will be posted on or about November 24 based upon questions received
- ❑ Bureau of Compliance contacts:
 - compliance@omig.ny.gov
 - 518.408.0401

Compliance Resources

www.OMIG.ny.gov

❑ Compliance Library

- Compliance Authorities
- OMIG Compliance Publications
- Forms
- OMIG Assessment Results
- FAQs
- Compliance-related Webinars
- Other Compliance Resources

❑ Bureau of Compliance dedicated e-mail address – compliance@omig.ny.gov

❑ Bureau of Compliance dedicated telephone number – **518.408.0401**

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