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 and the absence of any statutory or regulatory requirement from a protocol does not preclude the OMIG from enforcing the 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 type 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. Audit protocols are used as a guide in the course of an audit to evaluate a provider’s compliance with Medicaid requirements and to determine the propriety of Medicaid expended funds. In this effort, the OMIG will review and consider any relevant contemporaneous documentation maintained and available in the provider’s records to substantiate a claim.

OMIG, 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. Furthermore, audit protocols do not limit or diminish the OMIG’s authority to recover improperly expended Medicaid funds and the OMIG may amend audit protocols as necessary to address identified issues of non-compliance. Additional reasons for amending protocols include, but are not limited to, responding to a hearing decision, litigation decision, or statutory or regulatory change.
## 1. Missing Recipient Record

**OMIG Audit Criteria**
If the recipient record is not available for review, claims for all dates of service associated with the recipient record will be disallowed.

**Regulatory References**
- 18 NYCRR Section 504.3(a)
- 18 NYCRR Section 540.7(a)(8)
- 14 NYCRR Section 587.18(a)

## 2. No Documentation of Intensive Psychiatric Rehabilitation Service

**OMIG Audit Criteria**
If recipient records do not document that a face-to-face intensive psychiatric rehabilitation service was provided, the claim will be disallowed.

**Regulatory References**
- 18 NYCRR Section 504.3(a)
- 18 NYCRR Section 540.7(a)(8)
- 18 NYCRR Section 505.25(d)(1)
- 18 NYCRR Section 505.25(e)(5)
- 18 NYCRR Section 505.25(f)(1) and (3)
- 18 NYCRR Section 505.25(h)(1)(ii)
- 14 NYCRR Section 587.13(c) and (d)
- 14 NYCRR Section 587.18(b)(7)
- 14 NYCRR Section 588.4(a) and (b)

## 3. Excessive Preadmission Visits

**OMIG Audit Criteria**
Claims in excess of the maximum allowed three preadmission visits will be disallowed.

**Regulatory References**
- 14 NYCRR Section 588.5(k)(4)

## 4. Missing Individual Service Plan

**OMIG Audit Criteria**
A written individual service plan must be completed within five visits after admission. Claims for services provided after the fifth visit from the admission date will be disallowed if the written individual service plan is missing.

**Regulatory References**
- 14 NYCRR Section 588.5(c)
- 14 NYCRR Section 588.10(e)
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