Update to Medicaid Compliance Program and Medicaid Integrity Audits. Guidance for OASAS Certified Providers

Overview:

The Federal Deficit Reduction Act of 2005 which became effective on July 1, 2009, established Medicaid compliance program requirements for health care entities that are:

- Subject to Article 28 or 36 of the Public Health Law,
- Subject to Article 16 or 31 of the Mental Hygiene Law; and
- Reasonably expected to claim at least five hundred thousand dollars ($500,000) for Medicaid reimbursement in any consecutive twelve-month period.

OASAS Certified Providers who meet any of the categories above must comply with the Medicaid Compliance Program requirements. 18 NYCRR § 521.3 outlines the required elements of the provider Medicaid Compliance Program. Compliance programs shall include:

- Written policies and procedures
- Designated Compliance Program staff
- Compliance Training and education for appropriate staff
- Communications structure between Compliance staff and executives/governing body
- Policies to encourage good faith participation in compliance program
- System for identification of compliance risk
- System for responding to compliance risk
- Policy of non-intimidation for good faith participation in compliance program.

Originally, affected providers were required to certify to the Office of Medicaid Inspector General (OMIG) each December that they had a compliance program in place that meets the above regulatory requirements. Providers are no longer required to complete the annual December certification, commonly referred to as the “SSL Certification,” using the form located on the Office of the Medicaid Inspector General's (OMIG) website. Instead, a provider adopting and maintaining an effective compliance program will now record (attest to) this as part of their annual "Certification Statement for Provider Billing Medicaid." This annual certification shall occur on the anniversary date of the provider's enrollment in Medicaid.¹

¹ OMIG Compliance Certification, Notification to Providers Regarding Changes to Compliance Certification Requirement.
Social Services Law (SOS) 363-d allows for the imposition of a monetary penalty for those providers who fail to adopt and implement an effective compliance program. This monetary penalty can be in addition to any recoupment for overpayments.

Self-Disclosure of Overpayment:

Providers are reminded that 18 CRR-NY 521.3(c)(7) requires as part of their Compliance Program that they have a system in place to review, identify, and report any findings of overpayment for Medicaid claims to the Office of Medicaid Inspector General. The Self-Disclosure page on the OMIG website provides information on how to report any found overpayment in reimbursement.

Closing:

Providers are responsible for reviewing and complying with Office of Medicaid General’s protocols and regulations as provided on the OMIG website. If you have further questions regarding this guidance document please email them to Legal@oasas.ny.gov

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2 OMIG, Summary of Legislation Enacted in 2020.