



## 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.<sup>1</sup>

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<sup>1</sup> 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.<sup>2</sup> 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](mailto:Legal@oasas.ny.gov)

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<sup>2</sup> OMIG, [Summary of Legislation Enacted in 2020](#).