

Protecting the Integrity of New York State's Medicaid Program

January 16, 2019

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OMIG's Mission

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.

A Statewide Presence

Regional Offices:

- Albany
- Buffalo
- Hauppauge
- New York City
- Rochester
- Syracuse
- White Plains

OMIG Reports

Work Plan & Annual Report

- **2018-19 Work Plan** posted on the OMIG website at:
<https://omig.ny.gov/index.php/information/work-plan>
 - Offers guidance, direction and information regarding OMIG's focus areas, review plans and new initiatives
 - Released annually in April; updated throughout the year
- **2017 OMIG Annual Report** posted at:
<https://omig.ny.gov/index.php/information/annual-reports>
 - Released annually in October

2018-19 Work Plan: Key Focus Areas

Enhancing Compliance Outreach and Education Efforts

- Promote provider outreach and education
 - Hits to the Compliance tab on OMIG's website in 2017: 100,000+
 - Phone calls to dedicated call line in 2017: 1,150+
 - Emails to Compliance dedicated email address in 2017: 325
- Generate policy based on provider collaboration efforts

Mandatory Compliance Program Certification

- Certification is only available electronically on OMIG's website
- OMIG's webinar series provides statutory and regulatory background on the compliance and certification obligations
See: <https://www.omig.ny.gov/resources/webinars>
- Effective December 2018: compliance certification is based on Provider Identification Number

Promoting Innovative Analytics

- Enhance multidisciplinary activities, including improved data access, storage and mining capabilities
- Apply technology to aggregate & analyze continuously updated data to enhance accuracy, timeliness, etc.

Fighting Fraud, Waste, and Abuse

- Refer and support prosecution of cases related to suspected or confirmed allegations of fraud to Attorney General's Medicaid Fraud Control Unit (MFCU)
- Utilize multidisciplinary activities to improve audit and investigation efforts to recover and save Medicaid funds
- Develop efficient and effective managed care auditing processes through OMIG's Project Team Initiative

Fighting Fraud, Waste, and Abuse

- OMIG Project Teams
 - Data
 - Managed Care Contract and Policy/Relationship Management (MCCPRM)
 - Managed Care Plan Review
 - Managed Care Network Provider Review
 - Pharmacy
 - Value Based Payments

Prescription Drug & Opioid Abuse

The Current Landscape:

- **Drug Diversion** – Schemes to sell prescription drugs for profit involving high-cost, highly abused drugs like narcotics, antidepressants, antipsychotics, and antiretrovirals
- **Prescription Forgeries** – Electronic prescribing now accounts for 89% of all prescriptions; yet over 1.5 million out of more than 41 million Medicaid prescriptions last year were written as paper scripts; 17% of those were for controlled substances

OMIG's Response:

- **Investigate Outliers** – Launched a new project with the Unified Program Integrity Contractor (SGS) to assist in identifying and investigating providers and recipients whose prescribing or utilization is outside normal parameters
- **Recipient Restriction Program (RRP)**
 - Restrict access to a single designated provider, pharmacy, or both to prevent doctor shopping
 - Delivered cost savings of more than \$94M with 2,300 reviews conducted in 2017

Home Health & Community-Based Services

Current Landscape

- Expanding Universe** - Home and community-based care sector continues to grow
- Abuse Alert by HHS OIG to all states**
 - Significant and persistent fraud risk in home care
 - Home care aides have the highest number of fraud convictions nationwide of any provider type
 - New York City identified as one of 27 “hotspots” for characteristics common to home health fraud

OIG Findings

- Nationwide Analysis of Common Characteristics in OIG Home Health Fraud Cases
- More than 350 criminal and civil actions; over \$975 million in receivables for fiscal years 2011-2015
- Major concerns pertain to questionable billing patterns, compliance problems, and improper payments in home health
 - “Impossible Days”
 - Failure to have effective compliance program in place

Home Health & Community-Based Services

- OMIG home health working group:** auditors, investigators work collaboratively – triage cases, referral matters, etc.
- Certified Home Health Agency**
 - Conduct fee-for-service audits to validate payments
 - Conduct Episodic Payment System (EPS) audits
- Personal Care Services (PCS)**
 - Audit and investigate PCS FFS Medicaid claims and services provided through MCOs
 - Audit and investigate CDPAP providers to ensure compliance with rules and regulations

Home Health & Community-Based Services

- **Long-Term Home Health Care Program (LTHHCP)**
 - Continue to audit LTHHCP fee-for-service (FFS) Medicaid claims to verify per-visit and hourly rates calculated for the various ancillary services provided; focus on LTHHCPs with both high Medicaid utilization and rate capitations.
 - Review rate add-ons, including funds dedicated to worker recruitment, training, and retention.

Home Health & Community-Based Services

- **Wage Parity**
 - OMIG continues to conduct reviews and work closely with DOH and DOL to ensure that home care providers are providing wage and fringe benefit compensation in compliance with wage parity laws
- **Minimum Wage/Fair Labor Standards Act**
 - OMIG, in collaboration with DOH, continues to conduct reviews to ensure MCOs are appropriately passing on supplemental Medicaid payments to home care providers, in compliance with DOH directives

Managed Care

Current Landscape

- Select Mainstream Model Contract Amendments**
 - MCOs now required to submit quarterly provider investigative reports
 - OMIG can audit both MCOs (data submitted to the State) and their network providers (data submitted to the MCOs)

Current Landscape

- **Model Contract Changes (Required by CMS 2016 Final Rule)**
 - MCOs must refer all “potential” fraud, waste, or abuse
 - MCOs must report enrollee change of address or death
 - MCOs must report overpaid capitation rates or other contract payments within 60 calendar days
 - MCOs must suspend payments to network providers under investigation by the State for credible allegation of fraud

OMIG Activities

- **Multi-disciplinary Project Teams** – Six specialized project teams work in concert to investigate, audit, and review providers in the managed care environment
- **MCO Visits** – OMIG is conducting on-site visits with MCOs to educate, inform, and clarify expectations, processes, and regulations regarding program integrity
- **Network Provider Reviews**

Managed Long-Term Care

- Investigate – independently and with partner agencies - Social Adult Day Care (SADC) Centers
 - In concert with DOH and NYSOFA, launched SADC Certification process
- Conduct bimonthly meetings with MLTC plans, DOH, New York City Department for the Aging (DFTA), and NYS Office for the Aging (NYSOFA)
- Audit MLTC plans to ensure enrollees are program eligible and appropriate care management is provided
 - Includes the MLTC Partial Capitation program

Transportation

Current Landscape

- **Mobility** - The “portable” nature of this business makes it easy for fraudulent providers to close up shop in one place and open elsewhere under a different name when being investigated or reviewed by OMIG
- **High Billing** - Medicaid transportation services claims in 2017 totaled more than \$937 million

OMIG's Response

- **Transportation Task Force** – working together with state and local partners, OMIG identifies non-licensed or uninsured operators, as well as those with pending or adjudicated criminal allegations
- **Statewide CVR effort** – onsite reviews conducted to ensure transportation providers are in full compliance with all local, state, and federal regulations

Self-Disclosure

Self-Disclosure Background

- Providers who identify Medicaid overpayments are obligated to return those funds
- Failure to timely report and return any overpayment can have severe consequences, including but not limited to:
 - Potential liability under the False Claims Act
 - The imposition of civil monetary penalties
 - Fines and treble damages
 - Possible exclusion from the Medicare and Medicaid programs

Regulatory Authority

- New York State Public Health Law (NYS PHL) §32(18)
OMIG shall, in conjunction with the commissioner, develop protocols to facilitate the efficient self-disclosure and collection of overpayments and monitor such collections, including those that are self-disclosed by providers. The provider's good faith self-disclosure of overpayments may be considered as a mitigating factor in the determination of an administrative enforcement action.

Regulatory Authority

- Affordable Care Act (ACA) of 2010 §6402
Medicaid and Medicare overpayments must be returned within 60 days of identification, or by the date any correspondence cost report was due, whichever is later.
- Title 18 of the New York Code of Rules and Regulations (NYCRR) §521 (7)
Requires the refunding of overpayments as part of provider's compliance program.

Regulatory Authority

- Title 42 of the United States Code (USC) §1320a-7k(d)(1) & (2)
Requires a person who has received an overpayment to report the overpayment, the reason for the overpayment, and to return the overpayment within 60 days of identification or by the date the correspondence cost report is due, if applicable.

Benefits of Self-Disclosure

- Promotes an environment of compliance and integrity within an organization
- Avoids the potential for treble damages by the federal government
- Can result in OMIG making accommodations regarding interest and payment period

Method of Submission

- ❑ Self-Disclosure website recently enhanced to include a new combined submission and data form as well as updated FAQs
- ❑ Self-Disclosure site: <https://www.omig.ny.gov/self-disclosure>

Contact Us

OMIG Contact Information:

- ❑ OMIG: 518-473-3782
- ❑ Website: www.omig.ny.gov
- ❑ Medicaid Fraud Hotline: 877-873-7283
- ❑ Join our Listserv: <https://omig.ny.gov/omig-email-list-subscriptions>
- ❑ Follow us on Twitter: @NYSOMIG
- ❑ Like us on Facebook
- ❑ Dedicated e-mail: information@omig.ny.gov
- ❑ Bureau of Medicaid Fraud Allegations: bmfa@omig.ny.gov