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**OMIG AUDIT PROTOCOL
HOSPITAL OUTPATIENT DEPARTMENT (OPD)
EMERGENCY ROOM/CLINIC
For service dates prior to December 1, 2008**

Effective 04/30/13

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. 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 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. 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.

Audit protocols are amended as necessary. Reasons for amending protocols include, but are not limited to, responding to a hearing decision, litigation decision, or statutory or regulatory change.

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1.	Missing Documentation of Service
OMIG Audit Criteria	If service documentation is not made available for audit, the service will be disallowed.
Regulatory References	18 NYCRR Section 504.3(a) 18 NYCRR Section 540.7(a)(8) 18 NYCRR Section 517.3 10 NYCRR Section 405.10 NYS Medicaid Program Policy Guidelines Manual for Article 28 Certified Clinics, Versions 2007-1 Section I and 2007-2 Section I MMIS Provider Manual for Clinic, Version April 2004, Section 2.1.12
2.	Non-emergent/Pre-scheduled Emergency Room Visit
OMIG Audit Criteria	Services will be disallowed if the visit was a follow-up to a previous ER visit and the patient's condition did not require immediate care on an unscheduled basis, and therefore did not constitute an emergency.
Regulatory References	10 NYCRR Section 444.19(a)(1) MMIS Provider Manual for Clinic, Version April 2004, Section 2.2.1B NYS Medicaid Program Policy Guidelines Manual for Article 28 Certified Clinics, Version 2007-1 Section II
3.	Emergency Room Patient Not Evaluated/Treated by a Qualified Practitioner
OMIG Audit Criteria	Service will be disallowed if patient is not evaluated or treated by a physician, physician's assistant, or nurse practitioner.
Regulatory References	10 NYCRR Section 405.19(e)(2)
4.	Ordered Ambulatory Services Billed as Clinic Visits
OMIG Audit Criteria	If the provider billed an all-inclusive clinic rate for an ordered ambulatory service, the difference between the clinic rate and the rate paid for the ordered ambulatory service will be disallowed.
Regulatory References	18 NYCRR Section 505.7(g)(7) MMIS Provider Manual for Clinic, Version April 2004, Section 2.2.1H NYS Medicaid Program Laboratory Manual Policy Guidelines, Version 2005-1, Section III NYS Medicaid Program Policy Guidelines Manual for Article 28 Certified Clinics, Version 2007-2, Section II

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5.	Emergency Room and Clinic Visit Billed for the Same Date of Service
OMIG Audit Criteria	If a clinic visit and emergency room visit were billed on the same day for the same illness, the incorrect claim will be disallowed.
Regulatory References	MMIS Provider Manual for Clinic, Version April 2004, Section 2.2.1G NYS Medicaid Program Policy Guidelines Manual for Article 28 Certified Clinics, Version 2007-2, Section I

6.	Threshold Visit Incorrectly Billed
OMIG Audit Criteria	Threshold clinic visits rendered at offsite locations will be disallowed, with the exception of those provided at FQHC facilities.
Regulatory References	10 NYCRR Section 86-4.9(a) 10 NYCRR Section 86-4.9(c) DOH Medicaid Update February 2003 Vol. 18, No 2, Office of Medicaid Management NYS Medicaid Program Policy Guidelines Manual for Article 28 Certified Clinics, Version 2007-1, Section VI

7.	PAC Visit Billed for Service Ordered from Previous PAC Visit
OMIG Audit Criteria	If the sampled service represents a service ordered from a previous PAC visit, the sampled service is disallowed.
Regulatory References	10 NYCRR Section 86-4.37(b) 10 NYCRR Section 86-4.37(d) DOH Dear Administrator Letter DAL: Issued January 22, 1993, Supplemental Instructions for Preferred Primary Care Providers (Section C)

8.	Incorrect PAC Rate Code
OMIG Audit Criteria	If the provider bills an incorrect PAC rate code, the difference between the incorrect rate code and correct rate code will be disallowed.
Regulatory References	10 NYCRR Section 86-4.37(a)

9.	Threshold Visit Billed for Non-Reimbursable Service
OMIG Audit Criteria	If a threshold visit is billed for pharmacy, nutrition, medical social services, respiratory therapy, or recreational therapy, the service will be disallowed.
Regulatory References	10 NYCRR Section 86-4.9(c) NYS Medicaid Program Policy Guidelines Manual for Article 28 Certified Clinics, Version 2007-1, Section VI

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10.	Improper Medicaid Payments for Dual Eligible Recipients
OMIG Audit Criteria	If the provider bills an incorrect Medicaid co-payment, the difference between the amount billed to Medicaid, and the amount that should have been billed will be disallowed.
Regulatory References	18 NYCRR Section 360-7.7(a) 18 NYCRR Section 360-7.7 (b) 18 NYCRR Section 360-7.2

11.	No EOB for Medicare/Third Party Health Insurance Covered Service
OMIG Audit Criteria	If no Explanation of Benefits is provided, the billed service will be disallowed.
Regulatory References	18 NYCRR Section 360-7.2 MMIS Provider Manual for Hospital Based Ordered Ambulatory, Version July 2002, Section 2.1.9

12.	Billed for Services Not Authorized by Operating Certificate
OMIG Audit Criteria	A service not authorized by the operating certificate will be disallowed.
Regulatory References	18 NYCRR Section 504.1(c) MMIS Provider Manual for Clinic, Version April 2004, Section 2.2.1B NYS Medicaid Program Policy Guidelines Manual for Article 28 Certified Clinics, Version 2007-2, Section II

13.	Medicaid Payment Denied Due to Lack of Medical Necessity as Determined by Medicare
OMIG Audit Criteria	If the provider bills Medicaid for services that lack medical necessity as determined by Medicare, the services will be disallowed.
Regulatory References	18 NYCRR Section 360-7.7(a)(1) and (2) 18 NYCRR Section 500.1(b) 18 NYCRR Section 517.3(b)(1) 18 NYCRR Section 504.3(e) NYS Medicaid Program, Information for All Providers, Version 2004-1, General Policy Section II

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