NEW YORK STATE | Office of the Medicaid Inspector General

OMIG AUDIT PROTOCOL
Applied Behavior Analysis (ABA)

(For Service Dates 08/01/2021 through 06/25/2026)

Audit protocols assist the Medicaid provider community in developing programs to assess and improve compliance with Medicaid requirements under federal and state laws and regulations. Audit protocols are intended solely as guidance to explain or clarify applicable laws, rules and procedures. This guidance does not constitute rulemaking by the New York State Office of the Medicaid Inspector General (OMIG) and is not intended to create a substantive or procedural right or benefit enforceable, at law or in equity, by any person. The audit protocols do not alter any statutory or regulatory requirement and the absence of any statutory or regulatory requirement from a protocol does not preclude OMIG from enforcing the requirement. The requirements in the statutes and regulations govern, regardless of any omission, conflict, or discrepancy in the protocols.

A Medicaid provider's legal obligations are determined by the applicable federal and state statutory and regulatory law. Medicaid providers are subject to audit and claim review pursuant to N.Y. Public Health Law § 32(14) and under Section 504.8 of Title 18 of the New York Codes, Rules and Regulations (NYCRR). 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 provider's obligation to review relevant laws and regulations. Pursuant to 18 NYCRR 504.3(i), it is the provider's duty "to comply with the rules, regulations and official directives of the department." This guidance is not legal advice. OMIG cannot provide individual advice or counseling, whether medical, legal, or otherwise. If you are seeking specific advice or counseling, you should retain or hire an attorney, or contact a licensed practitioner or professional, a social services agency representative, or an organization in your local community.

Audit protocols involve 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 furtherance of this effort, OMIG will apply the audit protocol in conjunction with relevant laws and regulations, to any relevant contemporaneous records maintained by the provider and made available for OMIG's review to substantiate a claim.

OMIG, consistent with state and federal law, can pursue civil and administrative enforcement actions against any person or entity that engages in fraud, abuse, illegal or improper acts, or unacceptable practices perpetrated within the Medicaid program. (SSA § 1128J; N.Y. Public Health Law § 32; and New York Social Services Law § 145-b). Furthermore, audit protocols do not limit or diminish OMIG's authority to recover improperly expended Medicaid funds and 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.

Posted 6/29/2026

1.	**Missing Patient Record**
OMIG Audit Criteria	If the record is not available for review, claims for all dates of service associated with the patient record will be disallowed.
Regulatory References	8 NYCRR § 29.2(a)(3) NYS Medicaid Program, Information for All Providers, General Policy Versions 2008-1 through 2022-2, Section II **For Services 10/01/25 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Version 2025-1, Section 8.1 **For Services 04/01/23 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Versions 2023-2 through 2025-1, Section 8.3 **For Services 08/01/21 through 03/31/23:** NYS Medicaid Fee-For-Service Program, Licensed Behavior Analysts & Certified Behavior Analyst Assistants Policy Manual for Providing Applied Behavior Analysis Services, Versions 2021-1 through 2023-1, Section IV

2.	**Missing Documentation of Service**
OMIG Audit Criteria	The service must be documented in the clinical record. If there is no documentation of service, the claim will be disallowed.
Regulatory References	8 NYCRR § 29.2(a)(3) 18 NYCRR § 504.3(h) and (i) NYS Medicaid Program, Information for All Providers, General Policy Versions 2008-1 through 2022-2, Section II **For Services 04/01/23 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Versions 2023-2 through 2025-1, Section 8.3 **For Services 08/01/21 through 03/31/23:** NYS Medicaid Fee-For-Service Program, Licensed Behavior Analysts & Certified Behavior Analyst Assistants Policy Manual for Providing Applied Behavior Analysis Services, Versions 2021-1 through 2023-1, Section IV

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3.	Documentation of Service Does Not Meet Required Standards
OMIG Audit Criteria	If the documentation of service is missing required information or is inaccurate, the claim will be disallowed. The required information includes: • identifying patient information • service rendering provider • services provided • location of service
Regulatory References	18 NYCRR § 504.3(h) and (i) NYS Medicaid Program, Information for All Providers, General Policy Versions 2008-1 through 2022-2, Section II **For Services 04/01/23 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Versions 2023-2 through 2025-1, Section 8.3 **For Services 08/01/21 through 03/31/23:** NYS Medicaid Fee-For-Service Program, Licensed Behavior Analysts & Certified Behavior Analyst Assistants Policy Manual for Providing Applied Behavior Analysis Services, Versions 2021-1 through 2023-1, Section IV

4.	Billed More Units Than Documented
OMIG Audit Criteria	If more units are billed than documented in the clinical record, the difference between the amount billed and documented will be disallowed.
Regulatory References	18 NYCRR § 504.3(h) and (i) NYS Medicaid Program, Information for All Providers, General Policy Versions 2008-1 through 2022-2, Section II **For Services 04/01/23 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Versions 2023-2 through 2025-1, Section 8.3 **For Services 08/01/21 through 03/31/23:** NYS Medicaid Fee-For-Service Program, Licensed Behavior Analysts & Certified Behavior Analyst Assistants Policy Manual for Providing Applied Behavior Analysis Services, Versions 2021-1 through 2023-1, Section IV

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5.	Missing Referral for ABA Services
OMIG Audit Criteria	Patients must be referred for ABA services by a NYS-licensed physician, psychologist, psychiatric nurse practitioner, pediatric nurse practitioner, or physician assistant. If no referral is found covering the services, the claim will be disallowed.
Regulatory References	NY Education Law § 8802(1) NYS DOH Medicaid Update, December 2024, Vol. 40, No. 13 NYS DOH Medicaid Update, July 2021, Vol. 37, No. 9 **For Services 04/01/23 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Versions 2023-2 through 2025-1, Section 5 **For Services 08/01/21 through 03/31/23:** NYS Medicaid Fee-For-Service Program, Licensed Behavior Analysts & Certified Behavior Analyst Assistants Policy Manual for Providing Applied Behavior Analysis Services, Versions 2021-1 through 2023-1, Section I

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6.	**Referral for ABA Services Does Not Meet Required Standards**
OMIG Audit Criteria	If the referral is missing required information, is inaccurate, or is not written by a NYS-licensed physician, psychologist, psychiatric nurse practitioner, pediatric nurse practitioner, or physician assistant, the claim will be disallowed. Examples of insufficient referrals include (but are but not limited to) orders that are: • written more than two years prior • not written by a NYS-licensed physician, psychologist, psychiatric nurse practitioner, pediatric nurse practitioner, or physician assistant • missing the age of the patient • missing the ASD or Rett Syndrome diagnosis • missing the date of initial diagnosis • missing a symptom severity level/level of support (if referral is from an ASD-diagnosing provider) • missing a statement indicating the patient needs ABA services • missing the DSM-5 Diagnostic Checklist for ASD diagnoses
Regulatory References	NY Education Law § 8802(3) NYS DOH Medicaid Update, December 2024, Vol. 40, No. 13 NYS DOH Medicaid Update, July 2021, Vol. 37, No. 9 **For Services 06/30/23 and After:** 8 NYCRR § 29.20(a) **For Services 04/01/23 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Versions 2023-2 through 2025-1, Section 5 **For Services 08/01/21 through 03/31/23:** NYS Medicaid Fee-For-Service Program, Licensed Behavior Analysts & Certified Behavior Analyst Assistants Policy Manual for Providing Applied Behavior Analysis Services, Versions 2021-1 through 2023-1, Section I

7.	**Missing Status Report**
OMIG Audit Criteria	The Licensed Behavior Analyst (LBA) providing services pursuant to a referral for ABA services must provide a report at least annually to the referring practitioner regarding the status of the individual served. If no annual or required periodic status report is found covering the services, the claim will be disallowed.
Regulatory References	**For Services 06/30/23 and After:** 8 NYCRR § 29.20(b) NY Education Law § 8802(1)

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8.	**Missing Individualized Treatment Plan**
OMIG Audit Criteria	Individualized treatment plans must be developed by a Licensed Behavior Analyst and updated every six months or more frequently if conditions warrant. If the individualized treatment plan is missing from the record, the claim will be disallowed.
Regulatory References	18 NYCRR § 504.3(h) and (i) **For Services 04/01/23 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Versions 2023-2 through 2025-1, Section 8.3 **For Services 08/01/21 through 03/31/23:** NYS Medicaid Fee-For-Service Program, Licensed Behavior Analysts & Certified Behavior Analyst Assistants Policy Manual for Providing Applied Behavior Analysis Services, Versions 2021-1 through 2023-1, Section IV

9.	**Individualized Treatment Plan Does Not Meet Required Standards**
OMIG Audit Criteria	If the individualized treatment plan does not meet required standards, the claim will be disallowed. Individual treatment plans must be: • completed by a Licensed Behavior Analyst • updated within 6 months • updated after significant changes to patient's condition
Regulatory References	18 NYCRR § 504.3(h) and (i) **For Services 04/01/23 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Versions 2023-2 through 2025-1, Section 8.3 **For Services 08/01/21 through 03/31/23:** NYS Medicaid Fee-For-Service Program, Licensed Behavior Analysts & Certified Behavior Analyst Assistants Policy Manual for Providing Applied Behavior Analysis Services, Versions 2021-1 through 2023-1, Section IV

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10.	Billed for Non-Reimbursable Services
OMIG Audit Criteria	If the service delivered was for a non-billable service, the claim will be disallowed. Non-reimbursable services include but are not limited to: • invasive procedures used as a treatment, therapy, or professional service • services provided in a school setting • CBAA billed Medicaid directly • a family adaptive behavior treatment guidance service was provided when not authorized in the patient's treatment plan • a group adaptive behavior treatment guidance service was provided when not authorized in the patient's treatment plan • a group session which exceeds the maximum of 8 individuals
Regulatory References	NY Education Law § 8802(4) NYS DOH Medicaid Update, July 2021, Vol. 37, No. 9 **For Services 06/30/23 and After:** 8 NYCRR § 29.20(a)(2) **For Services 04/01/23 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Versions 2023-2 through 2025-1, Sections 8.1 and 9.1 **For Services 08/01/21 through 03/31/23:** NYS Medicaid Fee-For-Service Program, Licensed Behavior Analysts & Certified Behavior Analyst Assistants Policy Manual for Providing Applied Behavior Analysis Services, Versions 2021-1 through 2023-1, Sections IV and V

11.	Incorrect Procedure Code Billed
OMIG Audit Criteria	If the procedure code billed is not the correct procedure code for the services provided, the difference between the appropriate claim amount and the paid claim amount will be disallowed.
Regulatory References	18 NYCRR § 504.3(h) and (i) NYS DOH Medicaid Update, August 2025, Vol. 41, No. 8 NYS DOH Medicaid Update, October 2022, Vol. 38, No. 12 NYS DOH Medicaid Update, September 2021, Vol. 37, No. 11 **For Services 04/01/23 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Versions 2023-2 through 2025-1, Section 9.1 **For Services 08/01/21 through 03/31/23:** NYS Medicaid Fee-For-Service Program, Licensed Behavior Analysts & Certified Behavior Analyst Assistants Policy Manual for Providing Applied Behavior Analysis Services, Versions 2021-1 through 2023-1, Section V

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12.	**Inaccurate Servicing Provider on Claim**
OMIG Audit Criteria	If the service provider on the claim conflicts with the service provider in the clinical record, the claim will be disallowed.
Regulatory References	42 C.F.R. § 455.440 18 NYCRR § 504.1(c) NYS DOH Medicaid Update, December 2024, Vol. 40, No. 13 **For Services 04/01/23 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Versions 2023-2 through 2025-1, Section 9.1 **For Services 08/01/21 through 03/31/23:** NYS Medicaid Fee-For-Service Program, Licensed Behavior Analysts & Certified Behavior Analyst Assistants Policy Manual for Providing Applied Behavior Analysis Services, Versions 2021-1 through 2023-1, Section V

13.	**Missing Documentation of Supervision of Unlicensed Individual**
OMIG Audit Criteria	Licensed Behavior Analysts are required to supervise Certified Behavior Analyst Assistants and other unlicensed individuals. Documentation of supervision must be recorded in the patient file of the NYS Medicaid member. If the documentation of supervision is missing from the record, the claim will be disallowed.
Regulatory References	NY Education Law § 8802(2) NYS DOH Medicaid Update, August 2025, Vol. 41, No. 8 NYS DOH Medicaid Update, January 2023, Vol. 39, No. 2 NYS DOH Medicaid Update, October 2022, Vol. 38, No. 12 NYS DOH Medicaid Update, July 2021, Vol. 37, No. 9 **For Services 04/01/23 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Versions 2023-2 through 2025-1, Section 8.1 **For Services 09/29/21 and After:** 18 NYCRR § 505.39(a)(2) and (3)

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14.	Services Provided by an Unqualified Individual
OMIG Audit Criteria	A Licensed Behavior Analyst (LBA) must be licensed. A Certified Behavior Analyst Assistant (CBAA) must be certified and must work under the supervision of a Licensed Behavior Analyst. LBAs are required to supervise unlicensed individuals for a minimum of five percent of the hours the unlicensed individual spends providing behavior analysis services each calendar month. Supervision must include at least two face-to-face, real-time contacts per month. An LBA can supervise no more than six CBAAs/unlicensed individuals at a time (e.g., one CBAA and five unlicensed individuals or two CBAAs and four unlicensed individuals, etc.). If the individual providing service on the sampled claim was not licensed or supervised as required, the claim will be disallowed.
Regulatory References	42 C.F.R. § 455.412 18 NYCRR § 504.1(c) NY Education Law § 8802(1) NY Education Law § 8802(2) and (4) NY Education Law § 8803 NY Education Law § 8804(1) NY Education Law § 8804(2) NY Education Law § 8805 NYS DOH Medicaid Update, August 2025, Vol. 41, No. 8 NYS DOH Medicaid Update, January 2023, Vol. 39, No. 2 NYS DOH Medicaid Update, October 2022, Vol. 38, No. 12 NYS DOH Medicaid Update, July 2021, Vol. 37, No. 9 **For Services 06/30/23 and After:** 8 NYCRR § 29.20(a)(1) **For Services 04/01/23 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Versions 2023-2 through 2025-1, Sections 6 and 8.1 **For Services 09/29/21 and After:** 18 NYCRR § 505.39(a)(2) and (3) **For Services 08/01/21 through 03/31/23:** NYS Medicaid Fee-For-Service Program, Licensed Behavior Analysts & Certified Behavior Analyst Assistants Policy Manual for Providing Applied Behavior Analysis Services, Versions 2021-1 through 2023-1, Sections II and IV

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15.	Services Ordered / Prescribed / Referred / Attended by Individual Not Enrolled in NYS Medicaid
OMIG Audit Criteria	Claims for services ordered, prescribed, referred, or attended by an individual not enrolled in the New York State Medicaid program when the services were ordered, prescribed, referred, or attended, as required, will be disallowed. Note: In limited circumstances, certain services may be rendered by non-enrolled, unlicensed individuals when performed under the supervision of a NYS Medicaid-enrolled Licensed Behavioral Analyst, physician, or qualified health professional, as permitted under NYS Medicaid policy.
Regulatory References	42 C.F.R. § 455.410(b) 42 C.F.R. § 455.440 18 NYCRR § 504.1(b) 18 NYCRR § 504.6(b)-(d) 18 NYCRR § 513.1(d) and (g) NYS DOH Medicaid Update, June 2024, Vol. 40, No. 6 NYS DOH Medicaid Update, July 2021, Vol. 37, No. 9 NYS DOH Medicaid Update, May 2017, Vol. 33, No. 5 NYS DOH Medicaid Update, Special Edition December 2013, Vol. 29, No. 13 NYS DOH Medicaid Update, June 2012, Vol. 28, No. 7 NYS DOH Medicaid Update, April 2011, Vol. 27, No. 5 **For Services 04/01/23 and After:** Applied Behavior Analysis Policy Manual, eMedNY NYS Medicaid Provider Policy Manual, Versions 2023-2 through 2025-1, Sections 5 and 7.1 **For Services 08/01/21 through 03/31/23:** NYS Medicaid Fee-For-Service Program, Licensed Behavior Analysts & Certified Behavior Analyst Assistants Policy Manual for Providing Applied Behavior Analysis Services, Versions 2021-1 through 2023-1, Sections I and III

16.	Services Ordered / Prescribed / Referred / Attended by Excluded Individual
OMIG Audit Criteria	Claims for services ordered, prescribed, referred, or attended by an individual excluded from the New York State Medicaid program when the services were ordered, prescribed, referred, or attended will be disallowed.
Regulatory References	18 NYCRR § 504.7(d)(1) 18 NYCRR § 513.1(d) and (g) 18 NYCRR § 515.1(b)(6) and (10) 18 NYCRR § 515.5(a)-(c) and (e) NYS DOH Medicaid Update, Special Edition December 2013, Vol. 29, No. 13 NYS DOH Medicaid Update, April 2010, Vol. 26, No. 6

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17.	Failed to Maximize Service Benefit Covered Under Other Insurance
OMIG Audit Criteria	Medicaid is the payor of last resort. Providers must bill all applicable third-party insurance sources before billing Medicaid. Failure to submit or obtain proper adjudication from other insurance, or failure to maintain supporting documentation (e.g., Explanation of Benefits), will result in claim disallowance in full or in part, as applicable.
Regulatory References	18 NYCRR § 360-7.2 18 NYCRR § 540.6(e)(1) and (2) 18 NYCRR § 540.6(e)(3) NYS Medicaid Program, Information for All Providers, General Policy Versions 2006-1 through 2022-2, Sections I and II NYS Medicaid General Billing Guidelines, Professional Versions 2011-1 through 2022-1, Section 2.4, Unlabeled (Field 24L)

18.	Failure to Bill Medicaid Managed Care
OMIG Audit Criteria	Claims billed to Medicaid for services provided to Medicaid Managed Care enrollees that were not submitted to the Medicaid Managed Care company responsible for payment will be disallowed.
Regulatory References	18 NYCRR § 360-7.2 NYS Medicaid Program, Information for All Providers, General Policy Versions 2006-1 through 2022-2, Sections I and II NYS Medicaid General Billing Guidelines, Professional Versions 2011-1 through 2022-1, Section 2.4 NYS DOH Medicaid Update, October 2022, Vol. 38, No. 12

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