NEW YORK STATE OF OPPORTUNITY. | Office of the Medicaid Inspector General

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OMIG AUDIT PROTOCOL
ASSISTED LIVING PROGRAM (ALP)
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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 and the absence of any statutory or regulatory requirement from a protocol does not preclude OMIG from enforcing the 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. 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 type or category of service in the course of an audit and 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 this effort, OMIG will review and consider any relevant contemporaneous documentation maintained and available in the provider's records to substantiate a claim.

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. 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.

1.	Missing Patient Record
OMIG Audit Criteria	If the provider is unable to produce the patient record, the claim will be disallowed.
Regulatory References	10 NYCRR § 766.6

2.	Missing Medical Evaluation
OMIG Audit Criteria	If the medical evaluation is missing or the document presented is more than 12 months prior to the date of service, the medical evaluation will be deemed as missing and the claim will be disallowed.
Regulatory References	10 NYCRR § 766.6(a)(2) 18 NYCRR § 487.4(d) 18 NYCRR § 487.4(e)(1) 18 NYCRR § 487.4(f) 18 NYCRR § 488.4(d)(1) 18 NYCRR § 488.4(e)(1)

3.	Missing/Invalid Signature on Medical Evaluation
OMIG Audit Criteria	A medical evaluation may be dated and signed by a physician, physician's assistant or a nurse practitioner. However, a medical evaluation signed by a physician's assistant or nurse practitioner is not effective unless and until a physician co-signs the document. The lack of the physician's signature will result in the claim being disallowed.
Regulatory References	18 NYCRR § 487.4(f) 18 NYCRR § 488.4(d)(1) 18 NYCRR § 504.3(i) NYS DOH DAL 14-10 NYS DOH DAL 14-12

4.	Missing Medical Reassessment
OMIG Audit Criteria	The medical reassessment is a follow up examination which occurs 6 months after the medical evaluation or upon a change in condition. If the reassessment is missing when required, the claim will be disallowed.
Regulatory References	NYS Social Services Law 461-L(2)(d)(iii) 10 NYCRR § 766.6(a)(2)

5.	Failure to Complete the Medical Reassessment
OMIG Audit Criteria	Reassessments must be conducted as frequently as required to respond to changes in a resident's condition, but in no event less frequently than once every six months. The reassessment is required to be dated and signed by a physician. The lack of a signature and or date will result in the claim being disallowed.
Regulatory References	NYS Social Services Law 461-L(2)(d)(iii) 18 NYCRR § 487.4 (f) 18 NYCRR § 488.4(d)(1) 18 NYCRR § 494.4(g) 18 NYCRR § 504.3(i) NYS DOH DAL 14-10 NYS DOH DAL 14-12

6.	Missing Plan of Care
OMIG Audit Criteria	If the plan of care is missing, the claim will be disallowed.
Regulatory References	NYS Social Services Law 461-L(2)(d)(iii) 10 NYCRR § 766.3(b) 10 NYCRR § 766.3(d) 10 NYCRR § 766.6(a)(4)

7.	Plan of Care not Updated as Required
OMIG Audit Criteria	The plan of care must be reviewed, dated and signed by a registered nurse upon a change of condition or at least every 6 months. If the plan of care is not updated as required, the claim will be disallowed.
Regulatory References	10 NYCRR § 766.3(d) 10 NYCRR § 766.6(a)(4) 18 NYCRR § 494.4(b)

8. ****	Missing Nursing/Functional/Social Assessment
OMIG Audit Criteria	If the nursing/functional/social assessment is missing, the claim will be disallowed.
Regulatory References	10 NYCRR § 766.6 (a)(3) 18 NYCRR § 494.4(e) - (f)

9. ****	Nursing/Functional/Social Reassessment Not Conducted as Required
OMIG Audit Criteria	If the nursing/functional/social reassessment is not done due to a change in the resident's condition or at least every six months, the claim will be disallowed.
Regulatory References	10 NYCRR § 766.6 (a)(3) 18 NYCRR § 494.4(e) - (g)

10.	**Missing Patient Review Instrument (PRI)**
OMIG Audit Criteria	If the Patient Review Instrument applicable for the claim under review is missing, the claim will be disallowed.
Regulatory References	10 NYCRR § 766.6 (a)(3) 10 NYCRR § 86-2.30(c) 18 NYCRR § 504.3(i) NYS DOH DAL HCBS 08-02

11. ****	**Incomplete Patient Review Instrument**
OMIG Audit Criteria	If the Patient Review Instrument applicable for the claim under review is not dated and signed by a qualified assessor, the claim will be disallowed.
Regulatory References	10 NYCRR § 766.6(a)(3) 10 NYCRR § 86-2.30(c) 18 NYCRR § 494.4(g) 18 NYCRR § 504.3(i) NYS DOH DAL HCBS 08-02 DOH Hospital and Community PRI Instructions, Specialized Services, Paragraph 35

12. ****	**Incorrect PRI Level Claimed**
OMIG Audit Criteria	If the PRI Level is not supported by the record, the correct level will be determined from the information in the record. The difference between the appropriate claim amount and the paid claim amount will be disallowed.
Regulatory References	10 NYCRR § 766.6(a)(3) 10 NYCRR § 86-2.30(a) & (c) 18 NYCRR § 504.3(i) NYS DOH DAL HCBS 08-02

13. ****	**Patient Review Instrument Invalid Resident not on site for the look back period.**
OMIG Audit Criteria	If the Patient Review Instrument applicable for the claim under review is dated while the patient is not in the facility on that date or the 7 days prior, the claim will be disallowed.
Regulatory References	10 NYCRR § 766.6(a)(3) 10 NYCRR § 86-2.30(a) 18 NYCRR § 504.3(i) DOH Hospital and Community PRI instructions, General Concepts, paragraph 5. NYS DOH DAL HCBS 08-02

14. @@@@	**Missing Entry in the Uniform Assessment System for NY (UAS-NY)**
OMIG Audit Criteria	If the Uniform Assessment System for NY (UAS-NY) is missing from the patient on line file, the claim will be disallowed.
Regulatory References	10 NYCRR § 766.6(a)(3) 18 NYCRR § 504.3(i) NYS DOH Medicaid Update, February 2013, Vol. 29, No. 3

15.	No Service Rendered
OMIG Audit Criteria	If the Medicaid-covered service required by the plan of care is not supported by the patient record, the claim will be disallowed.
Regulatory References	18 NYCRR § 494.4(b) 18 NYCRR § 494.5 18 NYCRR § 505.35(h)(1) 18 NYCRR § 540.7(a)(8) 18 NYCRR § 517.3(b)(1)

16.	Missing Service Documentation
OMIG Audit Criteria	The service must be documented in the record. The claim will be disallowed if the service documentation is missing.
Regulatory References	18 NYCRR § 494.4(b) 18 NYCRR § 504.3(a) 18 NYCRR § 505.35(h)(1) 18 NYCRR § 517.3(b)(1)

17.	Incorrect Rate Code Billed
OMIG Audit Criteria	If the rate code billed is not the correct rate 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(f) 18 NYCRR § 504.3(h) 18 NYCRR § 505.35(h)(1)

18.	Billed for Services While Inpatient at Another Facility
OMIG Audit Criteria	Services paid when the resident was an inpatient at another facility will be disallowed.
Regulatory References	18 NYCRR § 505.23(a)(1)(i) 18 NYCRR § 505.35(h)(7) 18 NYCRR § 504.3(i) Department of Social Services 92 ADM-15 (March 1992), Vol. 21, No. 4, Office of Medicaid Management

19.	Failure to Complete Required Inservice Training for Personal Care Aide
OMIG Audit Criteria	If a review of the personnel folder has found that the mandatory inservice training was not documented in the Personal Care Aide's chart, the claim will be disallowed.
Regulatory References	10 NYCRR § 763.13(l)(2) 10 NYCRR § 763.13(h) 10 NYCRR § 766.11(i)(2)

20.	Failure to Complete Required Inservice Training for Home Health Aide
OMIG Audit Criteria	If a review of the personnel folder has found that the mandatory inservice training was not documented in the Home Health Aide's chart, the claim will be disallowed.
Regulatory References	10 NYCRR § 763.13(h) 10 NYCRR § 763.13(l)(1) 10 NYCRR § 766.11(i)(1)

21.	Minimum Training Standards Not Met for the Personal Care Aide
OMIG Audit Criteria	If the Personal Care Aide did not meet minimum training requirements when services were rendered, the claim will be disallowed.
Regulatory References	10 NYCRR § 763.13(b)(1) 10 NYCRR § 700.2(b)(14)(iii) 10 NYCRR § 763.13(h) 18 NYCRR § 505.14(e)(1) 18 NYCRR § 505.14(e)(2)(i)(a-e) 18 NYCRR § 505.14(e)(7) 18 NYCRR § 494.6(a)(1) 18 NYCRR § 504.3(i) NYS DOH DAL: DHCBC 06-02

22.	Minimum Training Standards and/or Certification Not Met for the Home Health Aide
OMIG Audit Criteria	If the Home Health Aide did not meet minimum training requirements when services were rendered, the claim will be disallowed.
Regulatory References	10 NYCRR § 700.2(b)(9) 10 NYCRR § 763.13(h) 18 NYCRR § 494.6(a)(1) 18 NYCRR § 504.1(c) 18 NYCRR § 504.3(i) NYS DOH DAL: DHCBC 06-02

23.	Missing Certificate of Immunization
OMIG Audit Criteria	If documentation of the mandatory certificate of immunization was not in the personnel file of the individual who has direct patient contact, the claim will be disallowed.
Regulatory References	10 NYCRR § 763.13(c)(1) and (2) 10 NYCRR § 763.13(e) 10 NYCRR § 766.11(d)(1)-(3) and (6)

24.	Missing Required Health Assessment
OMIG Audit Criteria	If documentation of a yearly health assessment is not in the personnel file of the individual who has direct patient contact, the claim will be disallowed.
Regulatory References	10 NYCRR § 763.13(c)(1) and (2) 10 NYCRR § 763.13(d) 10 NYCRR § 763.13(e) 10 NYCRR § 763.13(h)

	10 NYCRR § 766.11(d)(5)

25.	**Missing Documentation of a Tuberculosis Test or Follow-Up**
OMIG Audit Criteria	If documentation of a yearly tuberculosis test, or the required follow-up, is not in the personnel file of the individual who has direct patient contact, the claim will be disallowed.
Regulatory References	10 NYCRR § 763.13(c)(4) 10 NYCRR § 763.13(e) 10 NYCRR § 763.13(h) 10 NYCRR § 766.11(d)(4)

26.	**Missing Personnel Record(s)**
OMIG Audit Criteria	If the requested personnel records are missing, the claim will be disallowed.
Regulatory References	10 NYCRR § 763.13(h) 18 NYCRR § 487.10(d)(5)(vii) 18 NYCRR § 488.10(d)(4)(vii) 10 NYCRR § 766.11 (g)

27.	**Failure to Complete Annual Performance Evaluation**
OMIG Audit Criteria	If the annual performance evaluation is missing or incomplete, the claim will be disallowed.
Regulatory References	10 NYCRR § 763.13(h) 18 NYCRR § 487.10(d)(5)(vii) 18 NYCRR § 488.10(d)(4)(vii)

**** phase out as per DOH Schedule Page 7 (NYS DOH Medicaid Update, February 2013, Vol. 29, No. 3)

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