



Office of the  
Medicaid Inspector  
General

# Mandatory Compliance Program and Certification Obligation

Webinar # 24

January 2015

# Welcome

OMIG appreciates your interest in this Webinar

## The Fine Print

These slides are not intended to provide legal advice; do not represent the opinion of the Office of the Medicaid Inspector General (OMIG); do not represent the opinion of the Centers for Medicare and Medicaid Services (CMS), the Office of the Inspector General (OIG) or any other state or federal agency; and shall not bind OMIG in any way.

## Goals of this Webinar

- ❑ NYS's Mandatory Compliance Program Requirements and Certification (SSL):
  - ❑ Overview of NYS's mandatory program integrity compliance program requirement and
  - ❑ Overview of the certification requirement for mandatory program integrity compliance programs.

## Goals of this Webinar

- ❑ Deficit Reduction Act (DRA) of 2005 Requirements and Certification:
  - ❑ Overview of the federal DRA obligation for Medicaid providers and
  - ❑ Overview of the certification requirement for the DRA in New York State (NYS).

# OMIG AT A GLANCE

# Mission Statement

Our mission is 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.

## We Have A Statewide Presence

### Regional Offices:

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



**NYS Social  
Services Law (SSL)  
§ 363-d and 18  
NYCRR Part 521**

# Medicaid Mandatory Compliance Program Obligations

# NYS Compliance Obligations

Providers required to have compliance programs in NYS:

- subject to Public Health Law Article 28 or 36;
  - Social Services Law §363-d subd. 4 and 18 NYCRR §521.1(a)
- subject to Mental Hygiene Law Article 16 or 31; or
  - Social Services Law §363-d subd. 4 and 18 NYCRR §521.1(b)
- for which Medicaid is a *substantial portion of their business operations*.
  - Social Services Law §363-d subd. 4 and 18 NYCRR §521.1(c)

## NYS Compliance Obligations (Continued)

“Substantial portion of business operations” means any of the following as defined in 18 NYCRR §521.2(b):

- (1) Claims or orders, or has claimed or has ordered, or should be reasonably expected to claim or order, at least \$500,000 in any consecutive 12-month period from Medicaid; or
- (2) Receives or has received, or should be reasonably expected to receive, at least \$500,000 in any consecutive 12-month period, directly or indirectly, from Medicaid; or

## NYS Compliance Obligations (Continued)

- (3) Submits or has submitted claims for care, services, or supplies to Medicaid on behalf of another person or persons in the aggregate of at least \$500,000 in any consecutive 12-month period.

# What Are the Elements of a Mandatory Compliance Program?

Element 1: Written Policies and Procedures

Element 2: Designation of Compliance Officer

Element 3: Training and Education

Element 4: Communication Lines to the Compliance Officer

Element 5: Disciplinary Policies

## What Are the Elements of a Mandatory Compliance Program? (Continued)

Element 6: System for Routine Identification of Compliance Risk Areas and Non-Compliance

Element 7: System of Responding to Compliance Issues

Element 8: Policy of Non-Intimidation and Non-Retaliation

SSL §363-d subd. 2 and 18 NYCRR §521.3(c)

# Application of Mandatory Compliance Programs

- ❑ Compliance Programs must be applicable to:
  1. Billing
  2. Payment
  3. Medical necessity and quality of care
  4. Governance



## Application of Mandatory Compliance Programs (Continued)

5. Mandatory reporting
6. Credentialing and
7. Other risk areas that are or should with due diligence be identified

18 NYCRR §521.3(a)

# Medicaid Provider Compliance Obligations

Mandatory Compliance Program Certification Requirement

## 18 NYCRR §521.3

(b) Upon applying for enrollment in the medical assistance program, and **during the month of December each year** thereafter, a required provider shall certify to the department, using a form provided by the Office of the Medicaid Inspector General on its Web site, **that a compliance program meeting the requirements of this Part is in place. ...**

**Federal Deficit  
Reduction Act (DRA)  
of 2005  
42 USC 1396a(a)(68)**

## 42 USC 1396a(a)(68) Obligations

The DRA requires health care entities which receive or make \$5 million\* or more in Medicaid payments during a federal fiscal year (October 1 to September 30) to do the following:

- Establish written policies and procedures that provide detailed information to its employees, management, contractors, and agents about federal and state false claims acts, whistleblower protections, and its policies and procedures for detecting and preventing fraud, waste, and abuse.

\*DRA's FAQs identify \$5 million in direct Medicaid payments received from the state for providers or for MCOs \$5 million in Medicaid payments made.

## 42 USC 1396a(a)(68) Obligations (Continued)

- Include in an employee handbook (if any) specific discussion on federal and state false claims acts, whistleblower protections, and its policies and procedures for detecting and preventing fraud, waste, and abuse.

## 42 USC 1396a(a)(68) Obligations (Continued)

- On or before January 1 of each year, required health care entities must certify:
  - that they maintain written policies;
  - that any employee handbook includes materials, required under the DRA mandate;
  - that the materials have been properly adopted and published by the health care entity; and
  - that the materials have been disseminated to employees, contractors, and agents.

## 42 USC 1396a(a)(68) Obligations (Continued)

Oversight of the DRA certification process has been a requirement of OMIG since it first went into existence in 2007.

OMIG has guidance on its Web site:

[www.omig.ny.gov](http://www.omig.ny.gov)

- Compliance tab
  - Certification
  - Compliance Library

# Certification Requirement



# Certification for Mandatory Compliance Programs

- ❑ If required to have a compliance program, Medicaid providers must certify:
  - ❑ Upon enrollment in the Medicaid program and
  - ❑ Annually each December.
- ❑ Certification is only available electronically on OMIG's website.
- ❑ OMIG has separate Webinars that address how the certification can be accomplished.

## Certification for DRA

- ❑ Required for all Medicaid providers subject to the DRA requirements.
- ❑ Required before January 1<sup>st</sup> immediately following the end of the federal fiscal year that the provider becomes subject to the DRA.
- ❑ Required annually
- ❑ Certification is only available electronically on OMIG's website.
- ❑ OMIG has separate Webinars that address how the certification can be accomplished.

# Questions

- ❑ Questions related to this Webinar should be sent to [compliance@omig.ny.gov](mailto:compliance@omig.ny.gov)
- ❑ Bureau of Compliance contacts:
  - [compliance@omig.ny.gov](mailto:compliance@omig.ny.gov)
  - 518.408.0401

# Compliance Resources

Our website: [www.omig.ny.gov](http://www.omig.ny.gov)

## □ Compliance Library

- Compliance Authorities
- OMIG Compliance Publications
- Forms
- OMIG Assessment Results
- FAQs
- Compliance-related Webinars
- Other Compliance Resources

## Compliance Resources (Continued)

- Bureau of Compliance dedicated e-mail address – [compliance@omig.ny.gov](mailto:compliance@omig.ny.gov)
  
- Bureau of Compliance dedicated telephone number – **518.408.0401**

# Thank You