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OMIG AUDIT PROTOCOL – OPWDD DAY TREATMENT PROGRAM

For Service Dates Prior to March 29, 2013

EFFECTIVE 03/29/2013

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.

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1.	Missing Recipient Record
OMIG Audit Criteria	If no recipient record is made available for review, claims for all dates of service associated with the recipient record will be disallowed.
Regulatory References	18 NYCRR Section 504.3(a) 18 NYCRR Section 540.7(a)(8)

2.	No Documentation of Service
OMIG Audit Criteria	If the recipient record does not document that a service was provided, the claim will be disallowed.
Regulatory References	18 NYCRR Section 504.3(a) 18 NYCRR Section 540.7(a)(8) 18 NYCRR Section 517.3(b)(2)

3.	Missing Physician Review of the Individual Treatment Plan
OMIG Audit Criteria	Physician review and approval of the individual treatment plan is substantiated by physician signature. The claim will be disallowed if the physician signature on the individual treatment plan is missing.
Regulatory References	14 NYCRR Section 690.5(b)(3)(ii)

4.	Missing Individual Program Plan for Day Treatment Program
OMIG Audit Criteria	If the individual program plan is missing, the claim will disallowed for the dates of service within the program plan period. The finding will apply if the Individual Treatment Plan (ITP) and the Comprehensive Functional Assessment (CFA) are missing. If only one item is missing, the claim will be disallowed in a different category, i.e., finding #9 (ITP) or finding # 10 (CFA).

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5.	Missing Annual Individual Program Plan Review
OMIG Audit Criteria	The claim will be disallowed if the annual interdisciplinary individual program review is missing.
Regulatory References	14 NYCRR Section 690.5(d)(9)(ii)

6.	Incorrect Rate Code Billed
OMIG Audit Criteria	When an incorrect rate code is billed, the amount of the claim disallowed will be the difference between the incorrect rate code billed amount and the correct rate code amount.
Regulatory References	14 NYCRR Section 690.1(d)(1)

7.	No Diagnosis of Developmental Disability
OMIG Audit Criteria	Claims will be disallowed in the absence of a clinical assessment substantiating a specific diagnosis of developmental disability.
Regulatory References	14 NYCRR Section 690.5(c)(1)(i-iii)

8.	Excessive Screening Visits
OMIG Audit Criteria	The claims for service dates in excess of the maximum allowed preliminary screening visits will be disallowed.
Regulatory References	14 NYCRR Section 690.5(c)(3)

9.	Missing Individual Treatment Plan
OMIG Audit Criteria	The claims for services will be disallowed if an individual treatment plan is missing. If no individual treatment plan is in place for a particular time period, there will be a disallowance for the dates of service within that time period.
Regulatory References	14 NYCRR Section 690.5(d)(6)(ii)

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10.	Missing Comprehensive Functional Assessment (CFA)
OMIG Audit Criteria	If the admission date is within the audit period, claims will be disallowed if the initial CFA developed by the interdisciplinary treatment team is missing. Claims will also be disallowed in the absence of a reviewed and/or revised CFA associated with the annual review of the individual program plan.
Regulatory References	14 NYCRR Section 690.5(d)(5)(iii)(b) 14 NYCRR Section 690.5(d)(9)(ii)

11.	Insufficient Duration for Collocated Day Treatment Billing
OMIG Audit Criteria	Claims for collocated day treatment services of less than 90 minutes in duration will be disallowed.
Regulatory References	14 NYCRR Section 690.1(d)(2)

12.	Allowable Service Not Documented
OMIG Audit Criteria	Claims for services that do not include at least one of the allowable service types will be disallowed. “. . . Allowable services . . . include: independent living services; medical oversight services; nursing services; nutrition services; occupational therapy services; physical therapy services; psychology services; self-care services; social work services; speech pathology services; and therapeutic recreational services.”
Regulatory References	14 NYCRR Section 690.3(a)(1)(i-xi)

13.	No Written Medical Prescription
OMIG Audit Criteria	Claims will be disallowed if a written medical prescription by the physician for occupational or physical therapy is missing. Multiple evidence is allowed to validate that a physician prescribed occupational or physical therapy.
Regulatory References	14 NYCRR Section 690.3(a)(3)

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14.	Duplicative Services
OMIG Audit Criteria	For service dates in which there is a payment to a Part 679 Article 16 clinic treatment (Tx) provider and the day Tx provider for an allowable service on the same day: If the payment for the clinical service exceeds the day Tx payment, the entire payment for the day Tx service will be disallowed. If the payment for the clinical service is less than the day Tx payment, the difference will be disallowed. A recipient admitted to a day Tx facility may receive a Part 679 Article 16 clinic Tx service on the same day as the day Tx visit in the clinical areas of audiology, special medical, routine medical, and dentistry without any restriction <i>presuming the recipient receives the full duration of the day Tx visit being claimed.</i>
Regulatory References	14 NYCRR Section 690.3(a)(5)(iii)
15.	Missing Record of Attendance
OMIG Audit Criteria	Claims will be disallowed if a daily census record is missing or does not indicate recipient attendance.
Regulatory References	14 NYCRR Section 690.5(b)(2)(xv)(b) 14 NYCRR Section 690.6(s)(4)
16.	Billing for Work-for-Pay Services
OMIG Audit Criteria	Claims for services determined to be purely vocational (i.e., work-for-pay) will be disallowed.
Regulatory References	14 NYCRR Section 690.3(a)(2)
17.	Missing Progress Note
OMIG Audit Criteria	Progress notes must be maintained. The lack of required progress notes will result in the disallowance of all services that were to have been summarized in the note.
Regulatory References	14 NYCRR Section 690.6(s)(1)
18.	Missing Treatment Note
OMIG Audit Criteria	Treatment notes must be maintained. The lack of required treatment notes will result in the disallowance of all services that were to have been summarized in the note. Examples of documentation include, but are not limited to, data activity sheets, an activity calendar, or a clinician report.
Regulatory	14 NYCRR Section 690.6(r)(6)

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References	
19.	Failure to Meet Minimum Duration Requirements for Non-Collocated Day Treatment Services
OMIG Audit Criteria	Claims for day treatment services lasting less than 3 hours in duration will be disallowed.
Regulatory References	14 NYCRR Section 690.1(d)(1)
20.	Billing for Services by Ineligible Provider
OMIG Audit Criteria	Day treatment services must be rendered by a provider who holds a proper and currently valid license, registration and/or certification or operating certificate to be eligible to furnish the care, services or supplies. A day treatment provider's operating certificate remains valid unless there is an adverse action taken by the certifying agency.
Regulatory References	18 NYCRR Section 485.5(d) 18 NYCRR Section 485.5(f) 18 NYCRR Section 504.1(c) 14 NYCRR Section 690.3(a)(4)(i)
21.	Duration of Service Not Documented
OMIG Audit Criteria	For service dates lacking the duration of the day treatment service, the full day visit rate will be reduced to a half day visit rate. The difference between the amount of the full day visit rate and the amount of the half day visit rate will be disallowed.
Regulatory References	14 NYCRR Section 690.5(b)(2)(xv)(b) 14 NYCRR Section 690.6(s)(4)

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