

# OMIG AUDIT PROTOCOL EARLY INTERVENTION

01/07/2020

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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.

# OMIG AUDIT PROTOCOLS EARLY INTERVENTION PROGRAM

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<b>1.</b>	<p><b>SESSION</b> <b>Overlapping Session Times - One Therapist, Two Children</b></p>
<b>OMIG Audit Criteria</b>	If a therapist has starting and ending session times on two different session notes, involving two different children, in two different locations, which overlap, the claim will be disallowed. This applies to physical therapy, occupational therapy, speech therapy, and special instruction. This excludes group developmental intervention, parent–child groups, and family/caregiver support groups, evaluations, service coordination, respite, transportation, and assistive technology services.
<b>Regulatory References</b>	NY Public Health Law § 2557(3) & (3-a) 10 NYCRR § 69-4.30(b) 10 NYCRR § 69-4.26(b)(12) 10 NYCRR § 69-4.24(a)(14)
<b>2.</b>	<p><b>SESSION</b> <b>Inadequate/No Travel Time</b></p>
<b>OMIG Audit Criteria</b>	If a therapist working with two children in different locations where (1) no travel time is indicated between the two consecutive sessions with the different children, or (2) the ending time of the first session and the beginning time of the next session does not allow for adequate travel time between the two locations, the claim will be disallowed.
<b>Regulatory References</b>	NY Public Health Law § 2557(3) & (3-a) 10 NYCRR § 69-4.30(b) 10 NYCRR § 69-4.26(b)(12) 10 NYCRR § 69-4.24(a)(14) Early Intervention Memorandum 94-4 (reissued January 2000), page 11
<b>3.</b>	<p><b>SESSION</b> <b>Overlapping Session Times - Two Therapists, One Child</b></p>
<b>OMIG Audit Criteria</b>	If two therapists' starting and ending session times on their session notes involve the same child resulting in an overlap, the claim will be disallowed where a co–visit is not listed in the Individualized Family Service Plan (IFSP) and there is an overlap.  <b>NOTE:</b> Excludes group developmental intervention, parent-child groups, support groups, evaluations, service coordination, respite, transportation and assistive technology devices.
<b>Regulatory References</b>	NY Public Health Law § 2557(3) & (3-a) 10 NYCRR § 69-4.30(b) 10 NYCRR § 69-4.30(c)(5) & (6) 10 NYCRR § 69-4.26(b)(12) 10 NYCRR § 69-4.24(a)(14) BEI Guidance Letter on Co-Visits, March 31, 2006, page 2

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<b>4.</b>	<b>AUTHORIZATION/IFSP Not on IFSP</b>
<b>OMIG Audit Criteria</b>	If the services delivered were not in accordance the IFSP, the claim will be disallowed.
<b>Regulatory References</b>	NY Public Health Law § 2541.7 10 NYCRR § 69-4.11(a)(10)(v) Early Intervention Memorandum 95-2 (reissued January 2000), pages 6-10
<b>5.</b>	<b>AUTHORIZATION/IFSP BILLING RULE VIOLATED DUE TO NO WAIVER IN PLACE</b>
<b>OMIG Audit Criteria</b>	If the child would benefit from services beyond the limits set by the Department of Health (DOH), then prior authorization from the Early Intervention Official must be issued to the provider and documented in the IFSP. If the claim is for services that were provided beyond the allowed daily/weekly limits without first obtaining the proper prior authorization, the claim will be disallowed.  <b>NOTE:</b> Any make-up visits must be specified in the IFSP.
<b>Regulatory References</b>	10 NYCRR § 69-4.30(c)(5)-(12),(14)(d-f)
<b>6.</b>	<b>AUTHORIZATION/IFSP SERVICE PROVIDED PRIOR TO IFSP DATE</b>
<b>OMIG Audit Criteria</b>	If the claim was for services provided prior to the beginning date authorized on the IFSP, the claim will be disallowed.  <b>NOTE:</b> Screenings, initial service coordination, core evaluations, and in certain instances supplemental evaluations will predate the implementation of the initial IFSP. Services authorized by interim IFSPs can occur prior to a child's eligibility determination.
<b>Regulatory References</b>	NY Public Health Law § 2541.7 10 NYCRR § 69-4.11(a)(10)(v)(d) Early Intervention Memorandum 95-2 (reissued January 2000), page 12
<b>7.</b>	<b>AUTHORIZATION/IFSP IFSP TERMINATED/AUTHORIZATION CANCELLED</b>
<b>OMIG Audit Criteria</b>	If the claim was for services that were provided after the termination date listed in the IFSP, or the service authorization was cancelled the claim will be disallowed.
<b>Regulatory References</b>	NY Public Health Law § 2557(3) & (3-a) NY Public Health Law § 2541.7 10 NYCRR § 69-4.11(a)(10)(v)(d) Early Intervention Memorandum 95-2 (reissued January 2000), pages 12-13

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<b>8.</b>	<b>AUTHORIZATION/IFSP NOT “EXTENDED” SESSION</b>
<b>OMIG Audit Criteria</b>	If the provider billed the extended rate for services with a time duration of less than one hour, the claim will either be disallowed or reduced to a lesser rate.  <b>NOTE:</b> A provider can only bill for what is authorized in the IFSP. If the IFSP only authorizes a basic session, then the provider cannot bill for an extended visit.
<b>Regulatory References</b>	10 NYCRR § 69-4.30(c)(5)(ii)
<b>9.</b>	<b>AUTHORIZATION/IFSP NO WRITTEN ORDER ON FILE</b>
<b>OMIG Audit Criteria</b>	Speech therapy, physical therapy, occupational therapy, and nursing services may not be provided without written orders from a physician, physician assistant, or nurse practitioner. Speech therapy services may be made available if a NYS licensed and currently registered speech language pathologist recommends the recipient for such services. Occupational therapy services may be made available if a NYS licensed and currently registered occupational therapist recommends the recipient for such services. Physical therapy services may be made available if a NYS licensed and currently registered physical therapist recommends the recipient for such services. If no written order or recommendation is found covering the services and an order or recommendation is required, then the claim will be disallowed.  <b>NOTE:</b> Copies of orders or electronic orders are acceptable.
<b>Regulatory References</b>	10 NYCRR § 69-4.11(a)(10)(ii) 18 NYCRR § 505.11(a) 18 NYCRR § 505.11(c)(1)(iv)
<b>10.</b>	<b>AUTHORIZATION/IFSP SHORT SESSION</b>
<b>OMIG Audit Criteria</b>	If the service duration was less than what was authorized in the IFSP without a documented, valid reason, the claim will be disallowed.
<b>Regulatory References</b>	NY Public Health Law § 2541.7 10 NYCRR § 69-4.11(a)(10)(v)(c)
<b>11.</b>	<b>AUTHORIZATION/IFSP CANCELED SESSION</b>
<b>OMIG Audit Criteria</b>	If the child or family was a “no show,” the claim will be disallowed.
<b>Regulatory References</b>	NY Public Health Law § 2541.7

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<b>12.</b>	<b>RECORD KEEPING SESSION NOTE MISSING OR INCOMPLETE</b>
<b>OMIG Audit Criteria</b>	<p>If records (session notes) are missing required information or are inaccurate, the claim will be disallowed. The required information includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>• The session note;</li> <li>• The name of the recipient (child/parent/caregiver);</li> <li>• The date of service;</li> <li>• The type of service provided;</li> <li>• The duration (length) of the session;</li> <li>• The recipient's progress made by receiving the service during the session in a brief description (2-3 sentences) related to the outcome contained in the IFSP;</li> <li>• The name of the person delivering the service;</li> <li>• The title of the person delivering the service;</li> <li>• The signature of the person delivering the service;</li> <li>• The date the session note was created.</li> </ul> <p>If the session note was pre-signed by the person delivering the service, the claim will be disallowed.</p> <p><b>NOTE:</b> Stamped signatures are not acceptable; electronic signatures are acceptable.</p>
<b>Regulatory References</b>	<p>10 NYCRR § 69-4.11(a)(10)(v)(c)            10 NYCRR § 69-4.26(b) &amp; (c)            Early Intervention Program Memorandum 2003-1</p>
<b>13.</b>	<b>RECORD KEEPING ONE SESSION NOTE – MULTIPLE CLINICIANS AND CO-VISITS</b>
<b>OMIG Audit Criteria</b>	<p>When sessions, including co-visits, are authorized to be conducted with and reimbursed to more than one clinician, individual session notes from each clinician are required. If individual session notes were not submitted and only one session note was prepared representing the work of the clinical service furnished by more than one clinician, the claims for the entire session will be disallowed.</p>
<b>Regulatory References</b>	<p>10 NYCRR § 69-4.26(c)            10 NYCRR § 69-4.26(b)(12)</p>

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<b>14.</b>	<b>PROVIDER QUALIFICATIONS UNQUALIFIED THERAPIST/CLINICIAN/TEACHER</b>
<b>OMIG Audit Criteria</b>	If the rendering provider did not meet the qualifications to provide the service, the claim will be disallowed. The qualified rendering provider must be a DOH-approved Individual Billing Provider/Provider of Record or associated with a DOH-approved Agency Billing Provider/Provider of Record as an employee, a contractor, or an employee of a subcontracting agency.  <b>NOTE:</b> Provider needs to be directly <b>employed and approved</b> by the DOH and not excluded from Medicaid at the time of service.
<b>Regulatory References</b>	NY Public Health Law § 2550(2)(b) 10 NYCRR § 69-4.1(ak) & (al) Early Intervention Program Memorandum 2001-1, pages 3-4
<b>15.</b>	<b>DISALLOWED SERVICES SERVICE CORDINATION LESS THAN 5 MINUTES</b>
<b>OMIG Audit Criteria</b>	If service coordination was billed for a time duration of less than five minutes, the claim will be disallowed. The initial billed unit of time must be between five to 15 minutes.
<b>Regulatory References</b>	10 NYCRR § 69-4.30(c)(3)
<b>16.</b>	<b>DISALLOWED SERVICES INVALID SERVICE BILLED / ACTIVITY NOT BILLABLE</b>
<b>OMIG Audit Criteria</b>	Activities such as case recording, training and conferences, supervisory conferences, team meetings and administrative work, are not separately billable activities. If these activities are billed, the claim will be disallowed.
<b>Regulatory References</b>	10 NYCRR § 69-4.30(b) Early Intervention Program Memorandum 94-4 (reissued January 2000), page 11
<b>17.</b>	<b>DISALLOWED SERVICES DOUBLE BILLING</b>
<b>OMIG Audit Criteria</b>	If the same services at the same time for the same child were billed twice, the claim will be disallowed.  <b>NOTE:</b> Same day, same service is allowed, if authorized if authorized in the IFSP.
<b>Regulatory References</b>	NY Public Health Law § 2557(3) & (3-a) 10 NYCRR § 69-4.26(b)(12) 10 NYCRR § 69-4.24(a)(14)

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