



**Office of the
Medicaid Inspector
General**

Self-Disclosure Program Requirements

Instructions & Guidelines

JANUARY 2023

Self-Disclosure Guidance

Providers are required to report, return, and explain any overpayments they have received to the New York State Office of the Medicaid Inspector General (OMIG) Self-Disclosure Program within sixty (60) days of identification, or by the date any corresponding cost report was due, whichever is later. See Social Services Law (SOS) § 363-d(6).

OMIG has enacted a Self-Disclosure process to allow providers a mechanism to report, return, and explain overpayments from the Medicaid program. The process covers all Medicaid program providers. See SOS § 363-d(7).

Additionally, the Self-Disclosure Program accepts provider reports of damaged, lost, or destroyed records. Pursuant to Title 18 of the New York Codes, Rules and Regulations, Section 504.3, providers are required to prepare and maintain contemporaneous records demonstrating their right to receive payment under the medical assistance program and furnish the records, upon request. **If a provider becomes aware that their records have been damaged, lost or destroyed, they are required to report that information as soon as practicable, but no later than thirty (30) calendar days after discovery.**

Overpayment Identification

Pursuant to SOS § 363-d (6)(b), an overpayment has been identified when a provider has, or should have, through the exercise of reasonable diligence, determined that the provider received a Medicaid fund overpayment and they have quantified the amount of the overpayment.

Providers who have a compliance program should be utilizing routine internal audits to review compliance with Medicaid requirements and identify any Medicaid fund overpayments that may have been received. Additionally, if a provider is the subject of a government audit, part of that provider's due diligence is to review the results of the audit and look at past and future periods not covered in the audit scope to identify overpayments resulting from similar issues. If overpayments exist, providers are obligated to take corrective action, which includes reporting and returning any Medicaid overpayment identified to OMIG's Self-Disclosure Program.

Anticipated Timeframes and Process

While both Federal and State regulations require a provider to report, return, and explain an overpayment within sixty (60) days from identification, the actual timeframes for processing can vary. A provider's 60-day time frame will be tolled, or paused, when a complete Self-Disclosure Statement and Certification is received from an eligible provider. The time frame to repay will remain tolled during OMIG's review.

In a typical self-disclosure, a provider would submit all information to OMIG electronically through the secure online portal available in the Self-Disclosure section of the OMIG website. The provider would receive an automatic confirmation reply notifying them that the disclosure was received, which occurs on the same day the disclosure was submitted.

Subsequent to receipt, OMIG staff review the information and data submitted in an effort to understand the error that occurred and verify that the disclosed overpayment amount is correct. OMIG staff will notify the provider within twenty (20) days from the date of receipt confirming acceptance of the submission or rejecting the submission for failure to meet eligibility criteria.

The review process includes steps to understand the error that occurred which caused the overpayment, including any law, regulation, or policy that was violated. The claim data is reviewed and verified against paid Medicaid claim information when applicable. Staff also review the provider's disclosed plan of corrective action to confirm if it is sufficient to prevent the error from recurring in the future. If additional information is needed, OMIG staff will respond back to the provider requesting whatever is necessary to complete the disclosure. OMIG staff will request that a provider respond with appropriate information within fifteen (15) days of notification.

The overpayment amount will be determined by OMIG and must be paid within fifteen (15) days from the date of the Determination Notice detailing the overpayment amount due, or no later than the expiration of the deadline to report, return, and explain.

If a provider submits a Self-Disclosure Statement and Certification and is unable to pay in full within fifteen (15) days of notification, the provider *may request* an installment-payment agreement, which includes the execution of a Self-Disclosure Compliance Agreement (SDCA). Requests for full repayment within 2-years will be considered and may be approved based on a review of provider annual billings. A request for an extended repayment plan (beyond 2-years) is not guaranteed to be approved, and a provider must demonstrate a financial need for extended repayment options through the submission of a financial hardship application. Please see OMIG's website for more information: [Financial Hardship Application Information | Office of the Medicaid Inspector General \(ny.gov\)](#).

The self-disclosure process, and the information required to determine confirmation of the overpayment amount, is unique to the circumstances disclosed. OMIG staff update disclosing providers at each stage of the case process and are available to discuss any questions or concerns that may arise. OMIG staff make every effort to process cases within 90 days.

Eligibility

Eligibility to participate in the Self-Disclosure Program is detailed in SOS § 363-d(7)(c). To be eligible, a provider must meet **all** the following criteria:

- The provider must not currently be under audit, investigation, or review by OMIG, unless the overpayment and the related conduct being disclosed does not relate to OMIG's audit, investigation, or review.
- The provider is disclosing an overpayment and related conduct that OMIG has not determined, calculated, researched, or identified at the time of disclosure.
- The provider has reported the overpayment and conduct within sixty (60) days from identification, or by the date any corresponding cost report was due, whichever is later.
- The provider is not currently a party to any criminal investigation conducted by the deputy attorney general for the Medicaid Fraud Control Unit (MFCU), or any agency of the United States government or any political subdivision thereof.

The provider must submit the Self-Disclosure Statement and Certification in the format required by OMIG. **How to participate**

1. Apply

If a provider meets the eligibility criteria and has identified an overpayment, the Self-Disclosure process provides the mechanism for returning the overpayment.

A Self-Disclosure submission related to a Medicaid program overpayment requires completion of a [Self-Disclosure Statement](#), [Certification](#), and a [Claims Data File](#) of affected Medicaid claims, or [Mixed Payer Calculation \(MPC\) form](#) for Excluded provider disclosures. If the Medicaid program overpayment is not related to claim data or an excluded or non-enrolled provider, additional explanation to allow for the verification of the overpayment is required.

Note: Links to the Claims Data File and MPC form are embedded in the Self-Disclosure Statement.

For Medicaid Program overpayments OMIG requires:

- The overpayment amount
- A detailed explanation of the reason the provider received the overpayment, including an explanation of the circumstances that led to the overpayment
- Identification of any rule, policy, regulation, or statute that was violated
- Identification of the individuals involved in the error and discovery of the error
- The type of program affected
- Corrective measures put in place to prevent a recurrence, and so forth
- Provider contact information
- Signature of the provider on the Certification form
- Signatory and Title of the responsible person who will sign the Certification form
- Claims Data File or MPC Form (if applicable)
- Agreement to the terms of disclosure
- Confirmation that void or adjustment transactions have been processed, or agreement to return the overpayment amount within fifteen (15) days of written

notification from OMIG, or if approved by OMIG, agreement to executing an SDCA to repay in installments

The Claims Data File should include the following for each disclosed claim:

- Payer Name (Medicaid FFS or MCO/MLTC name)
- Claim Reference Number (CRN) or Transaction Control Number (TCN), a 16-digit number
- Claim Line Number
- Medicaid Group ID (if applicable)
- Billing Provider's Medicaid MMIS ID (Billing Provider ID) and NPI number
- Servicing Medicaid MMIS ID (Servicing Provider ID) and NPI number
- Medicaid recipient's first name
- Medicaid recipient's last name
- Medicaid recipient's Medicaid ID number (CIN), an 8-character number (e.g., AA#####A)
- Medicaid recipient's Date of Birth
- Medicaid recipient's Social Security Number
- Date of service (*not the date billed or payment date*)
- Incorrect rate or procedure codes (if applicable)
- Correct rate or procedure codes
- Incorrect Units paid (if applicable)
- Correct Units
- Amount Medicaid paid
- Amount that Medicaid should have paid
- Amount paid by Medicare or any other third party (if applicable)

2. Wait for a response and provide additional information if requested

OMIG will review the submission and determine eligibility to participate in the Self-Disclosure Program. The provider will receive notification from OMIG with a project or case number for reference.

OMIG may ask for additional information to process the submission, or to determine eligibility for an installment payment plan requiring an SDCA. If requested, the provider must respond within the time frame indicated in the request. Failure to do so may result in the determination that the provider has become non-compliant with the Self-Disclosure process. The consequences for failing to cooperate with the Self-Disclosure process are detailed below in section #4, Compliance with the Self-Disclosure Process.

3. Determination and Payment

After OMIG's review of all self-disclosure submission material, the provider will receive a Determination Notice for their disclosure case.

It is expected that providers will implement the corrective action they have specified in their Self-Disclosure Statement to prevent recurrence of the disclosed issue. For those providers required to adopt and implement an effective compliance program, implementation (or failure to implement) corrective action(s) will be taken into consideration during any compliance program review by OMIG.

If OMIG determines an overpayment is due, OMIG will send a Determination Notice confirming the overpayment amount, and the instructions regarding repayment.

To remain compliant with the Self-Disclosure process, payment of the full overpayment amount, plus any interest, must be paid within fifteen (15) days from the date of the Determination Notice, or no later than the expiration of the deadline to report, return, and explain, unless the provider had previously requested and was approved for an installment-repayment SDCA.

Payment can be made by:

- Lump sum check, money order or electronic check payment. Please do not send payment in with your submission.
- Voids or Adjustments of the overpaid claims. These transactions should be completed prior to submission.

In certain circumstances and at the sole discretion of OMIG, installment-repayment terms may be permitted. All installment-payment agreements will require the provider to execute an SDCA within fifteen (15) days from the date of the Determination Notice. Providers will be required to demonstrate financial need by including a detailed request for consideration of installment payments with their Self-Disclosure Statement, along with copies of any requested financial documentation.

4. Compliance with the Self-Disclosure Process

Once a provider has submitted a Self-Disclosure Statement, they must remain compliant and cooperate with the self-disclosure process.

Violations of the Self-Disclosure process include, but are not limited to:

- Providing false material information in any disclosure documents.
- Failure to cooperate in validating the overpayment amount disclosed.
- Intentional omission of material information from any disclosure documents.
- Failure to pay the overpayment amount and interest as agreed.
- Failure to execute the SDCA.
- Violation of the provisions detailed in the SDCA.

Violations of the Self-Disclosure Process, including the SDCA, shall result in:

- Termination of the provider's participation in the self-disclosure process. The provider's 60-day timeframe will un-toll. Failure to report, return, and repay a Medicaid overpayment within 60 days from identification is a violation of SOS § 363-d.
- OMIG may seek to impose penalties pursuant to SOS § 145-b(4)(a)(iii) for failure to report, return, and explain the overpayment.
- Other penalties that may be available under State and Federal law.

Please note that OMIG may use disclosed information and shall pursue any civil or criminal penalty that might apply to the misconduct disclosed as part of the program process.

Monetary Penalties

In addition to recovery of any overpayment, failure to participate or meet the requirements of the self-disclosure process may result in monetary penalties.

SOS § 145-b(4)(c)(i) Penalty for failure to report, return, and explain:

- The penalties imposed for failure to report, return, and explain shall be based on the guidelines specified in SOS § 145-b(4)(b) and the process outlined 18 NYCRR Part 516.
- This penalty is not to exceed \$10,000.00 per item or service, except when a penalty under this section has been imposed on the provider within the previous five years. In those cases, the penalty shall not exceed \$30,000 per item or service.

Disclosing Damaged, Lost or Destroyed Records

Pursuant to Title 18 of the New York Codes, Rules and Regulations, Section 504.3, providers are required to prepare and maintain contemporaneous records demonstrating their right to receive payment under the medical assistance program and furnish the records, upon request. **If a provider becomes aware that their records have been damaged, lost, or destroyed, they are required to report that information to the Self-Disclosure Program as soon as practicable, but no later than thirty (30) calendar days after discovery.**

How to Report

A submission for lost, destroyed, or damaged records requires completion of a [Statement of Lost or Destroyed Records form](#), [Certification](#), and submission of any accompanying documentation to support the report of loss or damage.

For reports of lost, destroyed, or damaged records OMIG requires:

- A detailed explanation of the event that caused the loss, destruction, or damage of records;
- Identification of the records affected, including document type, Medicaid recipients affected, dates of service, and so forth; and
- Identification of the steps taken to report the lost, destroyed, or damaged records.

OMIG's Response

A notification letter detailing the acceptance of the report will be issued to the provider or the provider's authorized representative.

Recordkeeping

OMIG's receipt and acknowledgement of a provider's Self-Reporting Notification does not absolve the provider of its recordkeeping responsibilities. The paid claims and/or program associated with the lost/destroyed records remain available for audit, review, or investigation. OMIG will evaluate whether there are mitigating circumstances for the failure to maintain these documents in conjunction with any audit, review, or investigation that involves the reportedly lost/destroyed records.

For more Information

Contact OMIG's Self-Disclosure Unit by email at: selfdisclosures@omig.ny.gov