



Office of the
Medicaid Inspector
General

OMIG's Self-Disclosure Program

March 13, 2024

Regulation

Applicable Regulation - General

- ❑ Affordable Care Act (ACA) of 2010 §6402
- ❑ Title 42 of the United States Code (USC) §1320a-7k(d)(1) & (2)
- ❑ Social Services Law (SOS) §363-d(6) & (7)
- ❑ Title 18 of the New York Code of Rules and Regulations (NYCRR) §521-3
- ❑ Title 18 of the New York Code of Rules and Regulations (NYCRR) §504.3

Applicable Regulation - MMCOs

- ❑ Title 42 of the code of Federal Regulations (C.F.R.) § 438.608(d)(2)

- ❑ Title 18 of the New York Code of Rules and Regulations (NYCRR)
 - §521-2.4(f)
 - §521-2.4(h)
 - §521- 3.3(b)(5)

- ❑ Model Contract 3/1/2019
 - Section 18.5(a)(viii)(G)
 - Section 22.7(e)

Potential Penalties for Non-Compliance

- ❑ Social Services Law (SOS)
 - §363-d(6)(d)
 - §145-b(4)(D)(iii)

- ❑ State Finance Law (SFL) – New York False Claims Act

Medicaid Entity/Provider Obligation to Report, Return & Explain

Impacted Entities

- ❑ All Medicaid Entities, including:
 - Medicaid enrolled Providers
 - Network Providers
 - Medicaid Managed Care Organizations (MMCOs) as both a Plan and as a Provider (overpaid capitation payments)
 - All other Entities involved in the billing or receipt of Medicaid funds

Medicaid Enrolled Providers, MMCOs (overpaid Capitation Payments) & other Entities:

- ❑ Have **processes in place** to identify the receipt of Medicaid overpayments.
- ❑ **Report, return and explain** the identified overpayment to OMIG's Self-Disclosure Unit **within 60 days** from the date of identification.
- ❑ **Remain compliant and responsive** throughout the Self-Disclosure review process
- ❑ **Repay the overpayment** according to the terms and timeframes as directed by OMIG

MMCO Requirements – As a Plan:

- ❑ Have **processes in place** for Network Providers to report, return and explain any self-identified Medicaid Managed Care overpayments. The process must - at minimum - meet the requirements outlined under Social Services Law (SOS)§363-d.
- ❑ **Post the details** of these processes - and organizational contact information pertaining to them - on the MMCO website
- ❑ **Accept, respond to and process** Network Provider self-disclosures of Medicaid Managed Care overpayments
- ❑ **Report** self-disclosure recoveries on the Provider Investigative Report (**PIR**) reports to OMIG and the **MMCOR** reports to DOH

Network Provider Requirements:

- ❑ **Report, return and explain** Medicaid Managed Care overpayments **to the applicable MMCO(s)** within 60 days of identifying the overpayment
- ❑ **Adhere to MMCO policies and procedures** for the report, return and explain requirement pertaining to overpayments
- ❖ If a Network Provider self-discloses Managed Care overpayments to OMIG, the Self-Disclosure Unit will issue a Determination Notice advising the provider to report, return and explain to the applicable MMCO(s)
- ❖ If a Network Provider determines an MMCO is unresponsive to the Provider's attempts to report, return & explain Managed Care overpayments, Network Providers are instructed to document their attempts and submit a Full Self-Disclosure to OMIG.

Benefits of Self-Disclosure

- ❑ Promotes an environment of compliance and integrity within an organization
- ❑ Enables OMIG to work with the disclosing entity on repayment terms
- ❑ Satisfies the disclosing entity's obligation to report, return and explain under Federal and State law

OMIG's Self-Disclosure Process

Common Issues Disclosed

- ❑ Commonly self-disclosed errors that led to a Medicaid overpayment include, but are not limited to:
 - Billing errors
 - Fraudulent behavior by employees
 - Discovery of an employee on the Excluded Provider list
 - Documentation errors
 - Changes in billing systems which caused claims to be billed incorrectly

Matters That Should Not Be Self-Disclosed

- ❑ The overpayment is included in another separate review or audit being conducted by OMIG, the Office of the Inspector General, Attorney General, etc.
- ❑ The overpayment is included in a broader state-initiated rate adjustment, cost settlement, or other payment adjustment mechanism. For example: retroactive rate adjustments, charity care, cost reporting, etc.
- ❑ Any underpayments; these must be re-billed to eMedNY. Claims are subject to their own rules and regulations

Two Self-Disclosure Avenues

- ❑ All identified Medicaid overpayments must be self-disclosed.
- ❑ OMIG has developed two paths for Medicaid Entities/Providers to satisfy their obligation to report, return and explain self-identified Medicaid overpayments within 60 days from the date of identification.
- ❑ Disclosing entities choose the appropriate type of Self-Disclosure based on the type of overpayment identified.
 - **Full Self-Disclosure** (existing form & process)
 - **Abbreviated Self-Disclosure** (new as of August 2023)
- ❖ Please Note: Voiding or adjusting claims does not satisfy the obligation to report and explain identified overpayments.

Which type of self-disclosure do I have?

- Determination should be based on the error or issue that occurred that caused the overpayment of Medicaid funds.
- The first step is to fully investigate and identify the error that caused the overpayment.

Self-Disclosure Abbreviated Statement

- Routine credit balance/coordination of benefits overpayments
- Typographical human errors
- Routine Net Available Monthly Income (NAMI) adjustments
- Instances of missing or faulty authorization for services due to human error
- Inappropriate rate, procedure or fee code used due to typographical or human error
- Routine recipient enrollment issue
- ❖ **All overpaid Medicaid claims appropriate for the Abbreviated process must be voided or adjusted.**
- ❖ **Capitation Payments and Medicaid Managed Care Overpayments cannot be self-disclosed using the Abbreviated Process.**

Submit an Abbreviated Self-Disclosure

- ❑ Void or adjust the overpaid claim(s)
- ❑ Within 60 days of identifying the overpayment, complete the Abbreviated Self-Disclosure Statement form spreadsheet.
- ❑ Utilize the secure uplink on OMIG's website to submit the completed Self-Disclosure documentation
- ❖ Providers may submit an Abbreviated Self-Disclosure for each identified overpayment. Alternatively, they may utilize the Abbreviated Self-Disclosure Statement spreadsheet to document voided & adjusted overpayments appropriate for this process and then submit the Self-Disclosure in aggregate no later than 60 days from the date the oldest overpayment was identified and voided or adjusted.

Self-Disclosure Full Statement

- ❑ Any error that requires a Medicaid entity/Provider to create and implement a formal corrective action plan
- ❑ Actual, potential or credible allegation of fraudulent behavior by employees or others
- ❑ Discovery of an employee on the Excluded Provider list
- ❑ Non-claim-based Medicaid overpayments
- ❑ Systemic billing or claiming issues
- ❑ Any error with substantial monetary or program impacts
- ❑ Any instance upon direction by OMIG
- ❖ **Self-identified Capitation overpayments**
- ❖ **Instances when an MMCO is unresponsive to a Network Provider's attempts to report, return and explain Medicaid Managed Care overpayment**

Submit a Full Self-Disclosure

- Complete the Self-Disclosure Full Statement, Certification form and Claims Data or Mixed Payer Calculation spreadsheet (as applicable)
- If repaying by voids or adjustments, void or adjust the overpaid claim(s)
- Utilize the secure uplink on OMIG's website to submit the completed Self-Disclosure documentation

Lost, Destroyed or Damaged Records

- ❑ By enrolling in Medicaid, providers agree to have records demonstrating the right to receive payment under the Medicaid program, and to maintain those records for a period of six years from the date the care, services or supplies were furnished. Records must be produced upon request.
- ❑ OMIG has developed a process for providers to self-disclose lost, damaged or destroyed records. Reports must be submitted to OMIG no later than 30 days after discovery.

Repayment Options

Voiding or Adjusting Overpaid Claims

- ❑ Voiding or adjusting Medicaid claims is an acceptable way to repay Medicaid but does not satisfy a provider's obligation to report and explain the identified overpayment.
 - **Abbreviated Process:** Claims are required to be voided or adjusted prior to submitting the Self-Disclosure.
 - **Full Process:** Void or adjust the overpaid Medicaid claims prior to submitting the Self-Disclosure Full Statement. If this isn't possible, indicate within the Statement that voids or adjustments are in process for repayment.

Check, Money Order or Electronic Payment

- ❑ **Lump Sum Payment**: Once the Full Self-Disclosure is processed, you may pay by check, electronic payment or money order. A Determination Notice will be sent with instructions on lump sum repayment. **DO NOT SEND PAYMENT ALONG WITH SELF-DISCLOSURE.**
- ❑ **Extended Repayment**: As part of a Full Self-Disclosure, a disclosing entity may request installment payments via a Self-Disclosure and Compliance Agreement (SDCA) prior to the issuance of a Determination Notice. This payment option is granted or denied at the discretion of OMIG. The disclosing entity must supply all supporting financial documentation requested by OMIG (i.e., tax returns) by the due date specified to be considered for this payment option.

Self-Disclosure Best Practices

Investigate

- ❑ **Fully investigate what caused the overpayment, who was involved, and determine what will be done to ensure nonrecurrence**
 - Determine what caused the overpayment to occur
 - Identify who caused the overpayment (if identifiable)
 - Identify who was involved in discovering the overpayment
 - Quantify the overpayment to the best of your ability and determine an estimated overpayment amount
 - Determine what corrective action needs to take place (if any) to ensure the overpayment does not reoccur

Visit the OMIG Website

- ❑ Forms, instructions and options for secure submission can be found on OMIG's website for both the Abbreviated Self-Disclosure Process and the Full Self-Disclosure Process at: <https://omig.ny.gov/provider-resources/self-disclosure>



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Self-Disclosure: It's the *right thing* to do



Contacts

Self-Disclosure Unit Resources and Contact Information

- ❑ Self-Disclosure web page: <https://omig.ny.gov/provider-resources/self-disclosure>
- ❑ Self-Disclosure dedicated email: selfdisclosures@omig.ny.gov
- ❑ Self-Disclosure dedicated phone line: 518-402-7030

Agency Contact & Resource Information

- ❑ OMIG Executive Staff: 518-473-3782
- ❑ Website: www.omig.ny.gov
- ❑ Bureau of Medicaid Fraud Allegations: bmfa@omig.ny.gov
- ❑ Medicaid Fraud Hotline: 877-873-7283
- ❑ Join our [listserv](#)
- ❑ Follow us on X (formerly Twitter): @NYSOMIG
- ❑ Dedicated e-mail: information@omig.ny.gov