



STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
800 North Pearl Street
Albany, New York 12204

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

OMIG AUDIT PROTOCOL ASSISTED LIVING PROGRAM (ALP)

Effective 11/22/13

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. 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. The 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 or category of service in the course of an audit and involve the OMIG's application of articulated Medicaid agency policy and the exercise of agency discretion. 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.

Audit protocols are amended as necessary. Reasons for amending protocols include, but are not limited to, responding to a hearing decision, litigation decision, or statutory or regulatory change.

OMIG AUDIT PROTOCOL ASSISTED LIVING PROGRAM (ALP)

Effective 11/22/13

1.	Missing Patient Record
OMIG Audit Criteria	If the provider is unable to produce the patient record, the paid claim will be disallowed. The nature of the facts surrounding the missing record should be evaluated for additional action.
Regulatory References	18 NYCRR Section 504.3(a) 18 NYCRR Section 504.3(i)

2.	Missing Medical Evaluation
OMIG Audit Criteria	The medical evaluation is the equivalent of the medical order for service. If the medical evaluation is missing or the document presented is more than 12 months prior to the date of service, the medical evaluation will be deemed as missing and the paid claim will be disallowed.
Regulatory References	18 NYCRR Section 487.4(d) 18 NYCRR Section 487.4(e)(1) 18 NYCRR Section 487.4(f) 18 NYCRR Section 494.4(b)

3.	Missing/Invalid Signature on Medical Evaluation
OMIG Audit Criteria	A medical evaluation may be dated and signed by a physician, physician's assistant or a nurse practitioner. However, a medical evaluation signed by a physician's assistant or nurse practitioner is not effective unless and until a physician co-signs the document. The lack of the physician's signature will result in the paid claim being disallowed.
Regulatory References	18 NYCRR Section 487.4(d) 18 NYCRR Section 487.4(e)(1) 18 NYCRR Section 487.4(f) 18 NYCRR Section 494.4(b)

4.	Missing Interim Assessment
OMIG Audit Criteria	The Interim Assessment is a follow up examination which occurs 6 months after the medical evaluation. It is the equivalent of the medical order for service. The document is required when the medical evaluation has not been conducted in the previous 6 months. If the Interim Assessment is missing when required, the paid claim will be disallowed.
Regulatory References	18 NYCRR Section 487.4(d) 18 NYCRR Section 487.4(e)(1) 18 NYCRR Section 487.4(f)

This document is intended solely for guidance. No statutory or regulatory requirement(s) are in any way altered by any statement(s) contained herein. This guidance does not constitute rulemaking by the 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.

OMIG AUDIT PROTOCOL ASSISTED LIVING PROGRAM (ALP)

Effective 11/22/13

	18 NYCRR Section 494.4(b)
5.	Missing/Invalid Signature on Interim Assessment
OMIG Audit Criteria	An Interim Assessment must be dated and signed by a physician, physician’s assistant or a nurse practitioner. However, an Interim Assessment signed by a physician’s assistant or nurse practitioner is not effective unless and until a physician co-signs the document. The lack of a signature and or date will result in the disallowance of the paid claim.
Regulatory References	18 NYCRR Section 487.4(d) 18 NYCRR Section 487.4(e)(1) 18 NYCRR Section 487.4(f) 18 NYCRR Section 494.4(b)

6.	Missing Plan of Care
OMIG Audit Criteria	If the Plan of Care is missing, the paid claim will be disallowed.
Regulatory References	18 NYCRR Section 494.4(b) 18 NYCRR Section 504.3(a)

7.	Missing Date and/or Signature on Plan of Care
OMIG Audit Criteria	The Plan of Care must be dated and signed by an RN. If it is not, the paid claim will be disallowed.
Regulatory References	18 NYCRR Section 494.4(b) 18 NYCRR Section 504.3(a)

8.	Missing Nursing/Functional/Social Assessment
OMIG Audit Criteria	If the Nursing/Functional/Social Assessment is missing, the paid claim will be disallowed.
Regulatory References	10 NYCRR Section 766.6(a)(3) 18 NYCRR Section 494.4(e)-(g) 18 NYCRR Section 504.3(a) 18 NYCRR Section 504.3(e)-(i)

9.	Missing Date and/or Signature on Nursing/Functional/Social Assessment
OMIG Audit Criteria	If the Nursing/Functional/Social Assessment is not dated and signed, the paid claim will be disallowed.
Regulatory References	10 NYCRR Section 766.6(a)(3) 18 NYCRR Section 494.4(e)-(g) 18 NYCRR Section 504.3(a)

This document is intended solely for guidance. No statutory or regulatory requirement(s) are in any way altered by any statement(s) contained herein. This guidance does not constitute rulemaking by the 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.

OMIG AUDIT PROTOCOL ASSISTED LIVING PROGRAM (ALP)

Effective 11/22/13

	18 NYCRR Section 504.3(e)-(i)
--	-------------------------------

10.	Missing Patient Review Instrument (PRI)
OMIG Audit Criteria	If the Patient Review Instrument applicable for the claim under review is missing, the paid claim will be disallowed.
Regulatory References	10 NYCRR Section 86-2.30 18 NYCRR Section 504.3(e)-(i) DAL HCBS 08-02, January 23, 2008 Instructions Form DOH-694

11.	Missing Date and/or Signature on Patient Review Instrument
OMIG Audit Criteria	If the Patient Review Instrument applicable for the claim under review is not dated and signed by a qualified assessor, the paid claim will be disallowed.
Regulatory References	10 NYCRR Section 86-2.30 18 NYCRR Section 504.3(e)-(i) DAL HCBS 08-02, January 23, 2008 Instructions Form DOH-694

12.	Incorrect PRI Level Claimed – Determined by PRI Certified Nurse
OMIG Audit Criteria	If the PRI Level is not supported by the record, the correct level will be determined from the information in the record. The difference between the appropriate claim amount and the paid claim amount will be disallowed.
Regulatory References	10 NYCRR Section 86-2.30 18 NYCRR Section 504.3(e)-(i) DAL HCBS 08-02, January 23, 2008 Instructions Form DOH-694

13.	No Service Rendered
OMIG Audit Criteria	If the Medicaid-covered service required by the Plan of Care is not supported by the patient record, the paid claim will be disallowed.
Regulatory References	18 NYCRR Section 494.5 18 NYCRR Section 504.3(a) 18 NYCRR Section 505.35(h) 18 NYCRR Section 540.7(a)(8) 18 NYCRR Section 517.3(b)(1)

14.	Missing Service Documentation
OMIG Audit	The service must be documented in the record. The paid claim will be disallowed if this

This document is intended solely for guidance. No statutory or regulatory requirement(s) are in any way altered by any statement(s) contained herein. This guidance does not constitute rulemaking by the 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.

OMIG AUDIT PROTOCOL ASSISTED LIVING PROGRAM (ALP)

Effective 11/22/13

Criteria	documentation is missing.
Regulatory References	18 NYCRR Section 504.3(e)-(i)
15.	Incorrect Rate Code Billed
OMIG Audit Criteria	If the rate code billed is not the correct rate code for the services provided, the difference between the appropriate claim amount and the paid claim amount will be disallowed.
Regulatory References	18 NYCRR Section 505.23(a)(1) 18 NYCRR Section 504.3(e) 18 NYCRR Section 504.3(f) 18 NYCRR Section 494.5 18 NYCRR Section 505.35(h)(1)
16.	Billed for Services While Inpatient at Another Facility
OMIG Audit Criteria	Services paid when the patient was an inpatient at another facility will be disallowed.
Regulatory References	18 NYCRR Section 505.23(a)(1) 18 NYCRR Section 494.5(a) 18 NYCRR Section 494.5(b) 18 NYCRR Section 505.35(h)(1) 18 NYCRR Section 505.35(h)(7) Department of Social Services 92 ADM-15 (March 1992), Vol. 21, No. 4, Office of Medicaid Management
17.	Failure to Complete Minimum Training Requirements
OMIG Audit Criteria	If a review of the personnel folder has found that the mandatory training was not documented in the caregivers chart, the paid claim will be disallowed.
Regulatory References	10 NYCRR Section 763.13(l) 18 NYCRR Section 504.3(a) 18 NYCRR Section 517.3(b)(1) 18 NYCRR Section 540.7(a)(8)
18.	Missing Certificate of Immunization
OMIG Audit Criteria	If a review of the personnel folder has found that the mandatory certificate of immunization was not in the caregivers chart, the paid claim will be disallowed.
Regulatory References	10 NYCRR Section 763.13(c) 10 NYCRR Section 763.13(e) 10 NYCRR Section 763.13(h)

This document is intended solely for guidance. No statutory or regulatory requirement(s) are in any way altered by any statement(s) contained herein. This guidance does not constitute rulemaking by the 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.

OMIG AUDIT PROTOCOL ASSISTED LIVING PROGRAM (ALP)

Effective 11/22/13

19.	Failure to Complete Required Health Assessment
OMIG Audit Criteria	If documentation that the caregiver has met the requirement of a yearly health assessment is missing, the paid claim will be disallowed.
Regulatory References	10 NYCRR Section 763.13(c) 10 NYCRR Section 763.13(d) 10 NYCRR Section 763.13(e) 10 NYCRR Section 763.13(h)

20.	Missing Documentation of a PPD (Mantoux) Skin Test or Follow-Up
OMIG Audit Criteria	If documentation that the caregiver has met the requirement of a yearly PPD (Mantoux) skin test is missing, or if the required follow-up is missing, the paid claim will be disallowed.
Regulatory References	10 NYCRR Section 763.13(c)(4) 10 NYCRR Section 763.13(e) 10 NYCRR Section 763.13(h)

21.	Missing Personnel Record(s)
OMIG Audit Criteria	If the requested personnel records are missing, the paid claim will be disallowed.
Regulatory References	10 NYCRR Section 763.13(h)

22.	Failure to Complete Annual Performance Evaluation
OMIG Audit Criteria	If the annual performance evaluation is missing or incomplete, the paid claim will be disallowed.
Regulatory References	10 NYCRR Section 763.13(h)

This document is intended solely for guidance. No statutory or regulatory requirement(s) are in any way altered by any statement(s) contained herein. This guidance does not constitute rulemaking by the 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.