



Office of the
Medicaid Inspector
General

Mandatory Compliance Program and Certification Obligations

Delivery System Reform Incentive Payment (DSRIP)
Program Performing Provider System (PPS) Leads

February 26, 2015

Welcome

New York State Office of the Medicaid Inspector General (OMIG) appreciates your interest in the mandatory compliance program obligations that apply to PPS Leads within the DSRIP Program.

The Fine Print

These slides are not intended to provide legal advice; do not represent the opinion of the Office of the Medicaid Inspector General (OMIG); do not represent the opinion of Centers for Medicare and Medicaid Services (CMS), Office of Inspector General (OIG) or any other State or federal agency; and shall not bind OMIG in any way.

Goals of this Webinar

- ❑ NYS's Mandatory Compliance Program Requirements and Certification (SSL):
 - ❑ Overview of NYS's mandatory compliance program requirement;
 - ❑ Overview of the certification requirement for mandatory compliance programs; and

Goals of this Webinar

- ❑ Deficit Reduction Act (DRA) of 2005 Requirements and Certification:
 - ❑ Overview of the federal DRA obligation for Medicaid providers; and
 - ❑ Overview of the certification requirement in NYS for those providers subject to the DRA requirements.

**NYS Social
Services Law (SSL)
§ 363-d and 18
NYCRR Part 521**



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Medicaid Mandatory Compliance Program Obligation Introduction

Compliance Program Requirement

Required of all Providers where Medicaid is a “substantial portion of business operations”

- ❑ Social Services Law §363-d subd. 4 and 18 NYCRR §521.1(c)
- ❑ 18 NYCRR §521.2(b) defines “substantial portion of business operations”
 - ❑ person, provider or affiliate who receives, has received or should be reasonably be expected to receive at least \$500,000 in any consecutive 12-month period

What Are the Elements of a Mandatory Compliance Program?

Element 1: Written Policies and Procedures that describe compliance expectations as embodied in a code of conduct or code of ethics ...

Element 2: Designation of Compliance Officer – an employee vested with responsibility for the day-to-day operation of the compliance program ...

What Are the Elements of a Mandatory Compliance Program? (Continued)

Element 3: Training and Education of all affected individuals on compliance issues, expectations and the compliance program ...

Element 4: Communication Lines to the Compliance Officer that are accessible to all affected individuals to allow compliance issues to be reported ...

Element 5: Disciplinary Policies to encourage good faith participation in the compliance program



What Are the Elements of a Mandatory Compliance Program? (Continued)

Element 6: System for Routine Identification of Compliance Risk Areas and Non-Compliance ...

Element 7: System for Responding to Compliance Issues when raised, for investigating and correcting problems ...

Element 8: Policy of Non-Intimidation and Non-Retaliation for good faith participation in the compliance program ...

SSL §363-d subd. 2 and 18 NYCRR §521.3(c)

Application of Mandatory Compliance Programs

- ❑ Compliance Programs must be applicable to:
 1. Billing
 2. Payment
 3. Medical necessity and quality of care
 4. Governance

Application of Mandatory Compliance Programs (Continued)

5. Mandatory reporting
6. Credentialing
7. Other risk areas that are - or should - with due diligence be identified

18 NYCRR §521.3(a)

Mandatory Compliance Program Certification Requirement

Medicaid Provider Compliance Obligations

Mandatory Compliance Program Certification Requirement

18 NYCRR §521.3

(b) Upon applying for enrollment in the medical assistance program, and **during the month of December each year** thereafter, a required provider shall certify to the department, using a form provided by the Office of the Medicaid Inspector General on its Web site, **that a compliance program meeting the requirements of this Part is in place. ...**

Certification for Mandatory Compliance Programs

- ❑ Certification is only available electronically on OMIG's website.
- ❑ OMIG has separate Webinars that address how the certification can be accomplished.



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Certification

For those who provide Medicaid care, services, or supplies in New York State, the *NYS Mandatory Provider Compliance Program* certification and the *Federal Deficit Reduction Act of 2005 (DRA)* certifications can be completed and submitted electronically on the New York State Office of the Medicaid Inspector General's Web site. Each certification is separate and has different obligations and criteria for its application. Some providers of Medicaid care, services, or supplies are required to complete one certification, while others are required to complete both certifications. Please reference the two sections below to determine if each certification applies to the Medicaid provider. Certifications can only be submitted electronically through the links below.

New York State Social Services Law Section 363-d and 18 NYCRR Part 521 Certification – NYS Mandatory Provider Compliance Programs

Providers who are unsure of whether the mandatory compliance obligation applies to them are encouraged to reference the chart *ARE YOU REQUIRED TO HAVE A COMPLIANCE PROGRAM?* accessible through this [link](#).

New York State Medicaid providers who are subject to the mandatory compliance program obligation set out in NYS Social Services Law Section 363-d and 18 NYCRR Part 521 must also certify on OMIG's Web site that their compliance program has been adopted, implemented and meets the statutory and regulatory requirements. Please see the [Frequently Asked Questions \(FAQs\) – NYS Mandatory Provider Compliance Programs](#) for details and information on the mandatory compliance program obligation. Please use the following [link](#) that will identify the Enrollment Categories relevant to the certification process.

- [NYS OMIG Social Services Law – Certification of Compliance with the Social Services Law § 363-d and 18 NYCRR Part 521 Form](#)



Office of the
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**Federal Deficit
Reduction Act (DRA)
of 2005
42 USC 1396a(a)(68)**

42 USC 1396a(a)(68) Obligations

The DRA requires health care entities which receive or make \$5 million* or more in Medicaid payments during a federal fiscal year (October 1 to September 30) to do the following:

- ❑ Establish written policies and procedures that provide detailed information to its employees, management, contractors, and agents about federal and state false claims acts, whistleblower protections, and its policies and procedures for detecting and preventing fraud, waste, and abuse.

*DRA's FAQs identify \$5 million in direct Medicaid payments received from the state for providers or for \$5 million in Medicaid payments made.

42 USC 1396a(a)(68) Obligations (Continued)

- ❑ Include in an employee handbook (if one exists) specific discussion on federal and state false claims acts, whistleblower protections, and the provider's policies and procedures for detecting and preventing fraud, waste, and abuse.

DRA Certification Requirement

Certification for DRA

- ❑ Required for all Medicaid providers subject to the DRA requirements.
- ❑ Required by OMIG in December immediately following the end of the federal fiscal year that the provider becomes subject to the DRA.
- ❑ Required annually for each year that the DRA applies.
- ❑ Certification is only available electronically on OMIG's website.
- ❑ OMIG has separate Webinars that address how the certification can be accomplished.

Certification for DRA (Continued)

- Health care entities subject to the DRA's requirements must certify that:
 - they maintain written policies;
 - any employee handbook includes materials, required under the DRA mandate;
 - the materials have been properly adopted and published by the health care entity; and
 - the materials have been disseminated to employees, contractors, and agents.

Certification for DRA (Continued)

OMIG has guidance on its website:

www.omig.ny.gov

- Compliance tab
 - Certification
 - Compliance Library

Compliance Resources Available on Website

Compliance Resources

OMIG website: www.omig.ny.gov

☐ Compliance Library

- Compliance Authorities
- OMIG Compliance Publications
- Forms
- OMIG Assessment Results
- FAQs
- Compliance-related Webinars
- Other Compliance Resources

Compliance Resources (Continued)

- ❑ Bureau of Compliance dedicated e-mail address – compliance@omig.ny.gov
- ❑ Bureau of Compliance dedicated telephone number – **518.408.0401**

Questions

- For those on the call ...
- After the call ...

Thank You