



Office of the
Medicaid Inspector
General

Compliance Q&A

A conversation with OMIG

The Arc New York

May 7, 2019 – Saratoga Hilton, Saratoga Springs, NY

The Fine Print

- ❑ OMIG acknowledges that this presentation contains ideas and some materials from many sources.
- ❑ 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.

Today's Agenda

- ❑ OMIG Background
- ❑ Goals of Compliance Programs
- ❑ Compliance Resources
- ❑ Mandatory Compliance Program Requirements
- ❑ 7 Areas Where Compliance Programs Shall Apply
- ❑ Compliance Questions to Start Conversation
- ❑ Q&A

OMIG Background

OMIG Mission Statement

Our mission is to enhance the integrity of the New York State Medicaid program by preventing and detecting fraudulent, abusive, and wasteful practices within the Medicaid program and recovering improperly expended Medicaid funds while promoting high-quality patient care.

A Statewide Presence

Regional Offices:

- Albany
- Buffalo
- Hauppauge
- New York City
- Rochester
- Syracuse
- White Plains

Goals of Compliance Programs

Goals of Provider Compliance Program

1. Detect and correct payment and billing mistakes and fraud
2. Organize provider resources to resolve payment discrepancies and detect inaccurate billing
3. Make corrections/improvements quickly and efficiently in order to prevent compliance issues going forward
4. Create and operate a system of checks and balances to prevent recurrences
5. Operationalize a system to identify, assess, and address risks

Goals of Provider Compliance Program

6. Maintain appropriate processes to repay overpayments, regardless of the cause
7. Build on and expand existing management control structures so that integrity of operations is demonstrated
8. Ensure compliance programs are compatible with a provider's characteristics
9. Create a culture of compliance throughout the organization
10. Demonstrate to your constituencies a commitment to integrity in operations

Those Required to Have Effective Compliance Programs

- ❑ Providers subject to the following articles regardless of amount:
 - PHL Article 28 or Article 36; or
 - MHL Article 16 or Article 31;

or

- ❑ \$500,000 or more during a consecutive 12-month period
 - Ordering or claiming or being reasonably expected to ...
 - Receiving or being reasonably expected to ...
 - Submitting claims for care, services or supplies for others

Statutory and Regulatory Authority

- ❑ Mandatory Compliance Program Obligation
 - New York Social Services Law § 363-d
 - 18 New York Code of Rules and Regulations Part 521

Compliance Resources

Eight Elements and Their Requirements

- ❑ Nine-part Compliance Elements Webinar Series posted on OMIG's website at <https://omig.ny.gov/information/webinars>
- ❑ Mandatory Compliance Program and Certification Obligation webinar: <https://omig.ny.gov/information/webinars>
- ❑ OMIG's *Compliance Program Self-Assessment Form* that addresses each requirement under each of the eight elements on OMIG's website at <http://www.omig.ny.gov/compliance/compliance-library>

Eight Elements and Their Requirements

- ❑ Compliance Program Review Guidance posted on OMIG's website at:

https://www.omig.ny.gov/images/stories/compliance/compliance_program_review_guidance.pdf

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



Office of the Medicaid Inspector General

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Compliance Home

Who Must Have a Compliance Program

Elements of a Compliance Program

Compliance Certification

Compliance Library

Corporate Integrity Agreements

Contact the Bureau of Compliance

Compliance Library

The Compliance Library contains a collection of publications, webinars and other resources regarding compliance.

Compliance Alerts

Compliance Guidance

- [General Guidance](#)
- [Compliance Program Review Guidance](#)
- [Compliance Program Guidance for General Hospitals](#)
- [Delivery System Reform Incentive Payment \(DSRIP\) Program Compliance Guidance](#)

Compliance-Related Laws and Regulations

- [NYS Social Services Law § 363-d](#)
- [Deficit Reduction Act of 2005 - References](#)
- [18 NYCRR Part 521 - Provider Compliance Programs, effective on July 1, 2009.](#)
- [NYS Labor Law § 740](#)
- [NYS Labor Law § 741](#)

Compliance-Related Medicaid Updates

Compliance-Related Webinars

Compliance Program Self-Assessment Form

Other Compliance Resources

- [OMIG's Compliance Program Assessment Results](#)
- [OIG HHS Compliance Guidance](#)
- [CMS Deficit Reduction Act Information](#)



Compliance Resources

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

Compliance Resources

- ❑ Join the OMIG Listserv – signup on the OMIG website
- ❑ OMIG’s social media channels include Twitter, Facebook and LinkedIn
- ❑ OMIG general information and assistance
 - 518-473-3782
 - information@omig.ny.gov

Mandatory Compliance Program Requirements

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?

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?

Element 6: System for routine identification of compliance risk areas and non-compliance ...

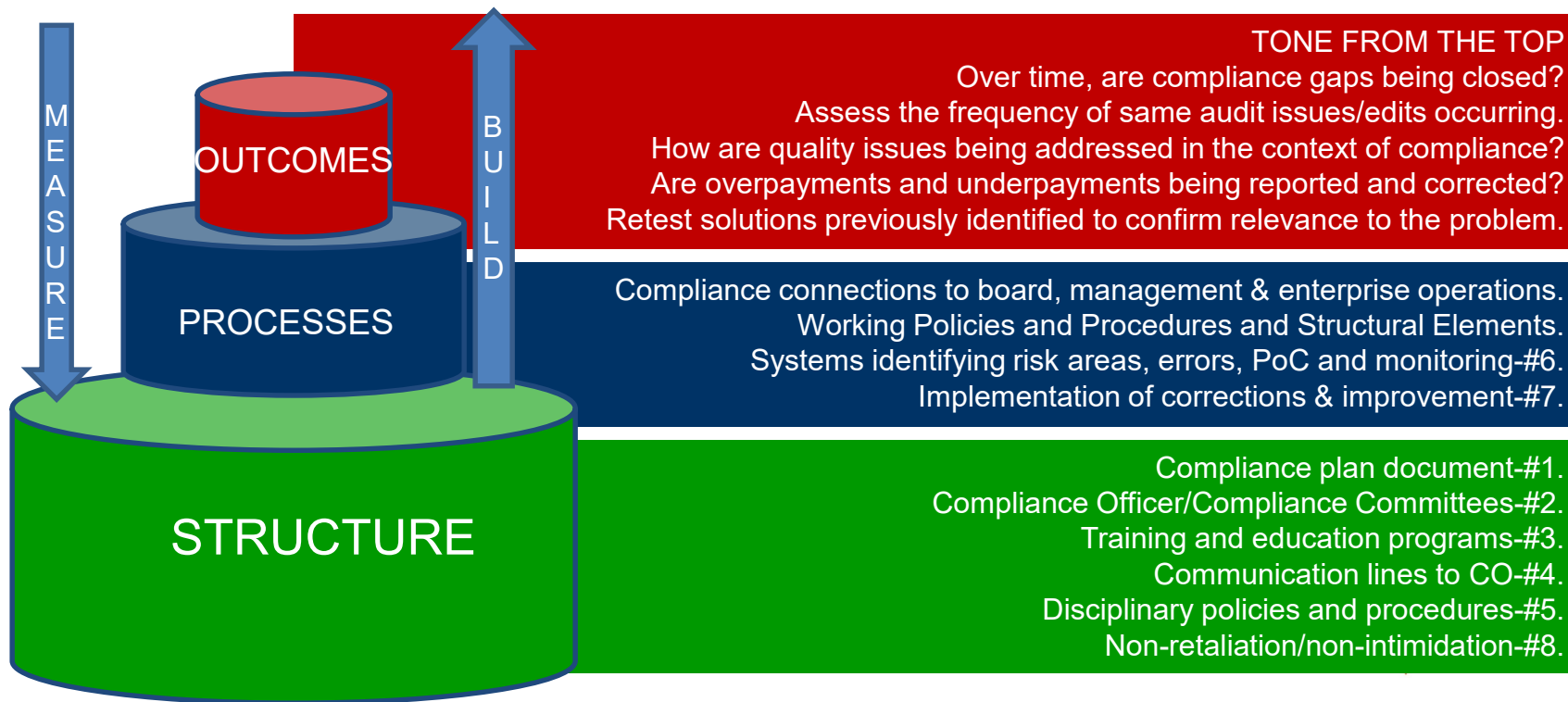
Element 7: System for responding to compliance issues when raised, for investigating and correcting problems ...

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)



How to Build & Measure a Compliance Program for Effectiveness



7 Areas Where Compliance Programs Shall Apply

Compliance Programs Required Provider Duties – 18 NYCRR §521.3(a)

(a) Every required provider shall adopt and implement an effective compliance program. The compliance program may be a component of more comprehensive compliance activities by the required provider so long as the requirements of this Part are met. Required providers' compliance programs shall be applicable to: ...

Compliance Programs Required Provider Duties – 18 NYCRR §521.3(a)

- (1) billings
- (2) payments
- (3) medical necessity and quality of care
- (4) governance
- (5) mandatory reporting
- (6) credentialing
- (7) other risk areas that are or should with due diligence be identified by the provider

Compliance Questions To Start Conversation

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Compliance Certification Questions:

- (1) Who is required to certify each December that a compliance program meeting the requirements of Part 521 is in place?
- (2) How do providers certify when they have multiple Provider IDs?
- (3) What is the process if a provider makes an error during certification?

Eight Elements and Their Requirements

- ❑ Compliance Program Review Guidance published and posted on OMIG's website on October 26, 2016

https://www.omig.ny.gov/images/stories/compliance/compliance_program_review_guidance.pdf

As we go through the Guidance we will address areas where most of the areas of confusion or insufficiency are identified. Note, however, that areas not addressed are just as relevant and important.

Compliance Questions to Start Conversation

Compliance Program and Operation Questions:

- (1) If I were a new compliance officer, what should I focus on during the first month to two months?
- (2) Who is subject to the compliance obligation within a provider?
- (3) What are compliance training requirements for volunteers and unpaid interns?
- (4) How should I define, prioritize and assess compliance/organizational risks?

Questions

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