



Office of the  
Medicaid Inspector  
General

# Overview of OMIG's Compliance Program Requirements and Processes

November 16, 2023

# Agenda

- ❑ OMIG Background
- ❑ Part 521
- ❑ Compliance Program Guidance
- ❑ Compliance Programs
- ❑ Definitions & Duties
- ❑ Compliance Program Elements
- ❑ Compliance Program Review Process
- ❑ Possible Sanctions and Penalties
- ❑ Best Practices
- ❑ Compliance Resources
- ❑ Q&A

# OMIG Background

# OMIG Mission

To enhance the integrity of the NYS 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.

# 18 NYCRR Part 521

# Part 521

- Adopted on December 28, 2022
- Self-disclosure requirements became effective with adoption on December 28, 2022
- Compliance program reviews began on July 3, 2023, with a three-month look-back review period of April 1–June 30, 2023.

# Compliance Programs Requirements

# Outcomes

- ❑ Recognizes key role providers play in program integrity efforts
- ❑ Builds on existing, long-standing provider compliance and reporting requirements
- ❑ Aligns state and federal provisions related to compliance program requirements



# Compliance Programs

- ❑ Definitions established
- ❑ Contractual requirements
- ❑ Written policies and procedures
- ❑ Defined responsibilities (compliance officer, etc.)
- ❑ Management-level compliance committee
- ❑ Communications and transparency requirements
- ❑ Training requirements

# Compliance Programs

- ❑ Auditing and monitoring requirements
  - Auditing and monitoring risk areas
  - Responding to compliance issues
  - Provider/MMCO-generated annual compliance program review
  
- ❑ Report, return and explain requirements

# Definitions & Duties

# Condition of Receiving Payment

Required providers shall, as a condition of receiving payment under the Medicaid program, adopt, implement, and maintain an effective compliance program that satisfies the requirements of SubPart 521-1.

# Those Required to Have Effective Compliance Programs

- ❑ Providers subject to the following Articles regardless of amount paid:
  - Public Health Law Article 28 or Article 36
  - Mental Hygiene Law Article 16 or Article 31
  
- ❑ (NEW) Managed Care providers, including Managed Long-Term Care Plans (collectively, “MMCOs”)
  
- ❑ (NEW) \$1,000,000 (up from \$500,000) or more during a consecutive 12-month period:
  - Claimed or reasonably expected to ...
  - Received or reasonably expected to ...

# Compliance Program Requirements

- ❑ Providers must certify to the Department of Health (DOH) upon enrollment and annually thereafter that they have met the requirements of SOS § 363-d and Part 521
- ❑ Compliance program certifications are included in the annual *Certification Statement for Provider Billing Medicaid* (Electronic Transmitter Identification Number - ETIN) form submitted to DOH

# Compliance Program Elements

# Element 1 – Compliance Policies

- ❑ The Providers should incorporate legal and ethical obligations related to compliance program requirements into their written policies, procedures, and standards of conduct (Policies).
- ❑ The written Policies should also document the implementation of each of the seven elements and outline the ongoing operation of the compliance program.



## Element 2 – Compliance Officer

- ❑ Designation of a compliance officer who is vested with responsibility for the day-to-day operation of the compliance program
- ❑ (NEW) Designation of a compliance committee that will coordinate with the compliance officer

\* See additional information in the Compliance Program Guidance on page 9-11

# Element 3 - Training

- ❑ Compliance program training and education for all affected individuals
- ❑ (NEW) Develop and maintain a training plan

\*See additional information in the Compliance Program Guidance on pages 11-12

# Element 4 - Communications

- ❑ Lines of communication to the compliance officer to report compliance issues
- ❑ Provider must ensure the confidentiality of persons reporting compliance issues

\*See additional information in the Compliance Program Guidance on pages 12-13

# Element 5 – Disciplinary Standards

- ❑ Disciplinary standards that address potential violations and encourage good-faith participation in the compliance program
- ❑ (NEW) Written policies establishing disciplinary standards are published and disseminated to all affected individuals

\* See additional information in the Compliance Program Guidance on pages 13-14

# Element 6 – Compliance Processes

- ❑ Systems for:
  - identifying compliance risk areas
  - routine auditing and monitoring
  - (NEW) annual compliance program review
  - (NEW) checking monthly for excluded providers
    - ✓ requiring contractors, agents, subcontractors, and independent contractors to comply with checking monthly for excluded providers

\* See additional information in the Compliance Program Guidance on pages 14-15



# Element 7 - Monitoring

- ❑ Systems for responding to compliance issues
  - responding promptly to compliance issues when raised
  - investigating and correcting problems
  - ensuring compliance with state and federal laws, rules, regulations, and requirements of the Medicaid program

\* See additional information in the Compliance Program Guidance on pages 15-16

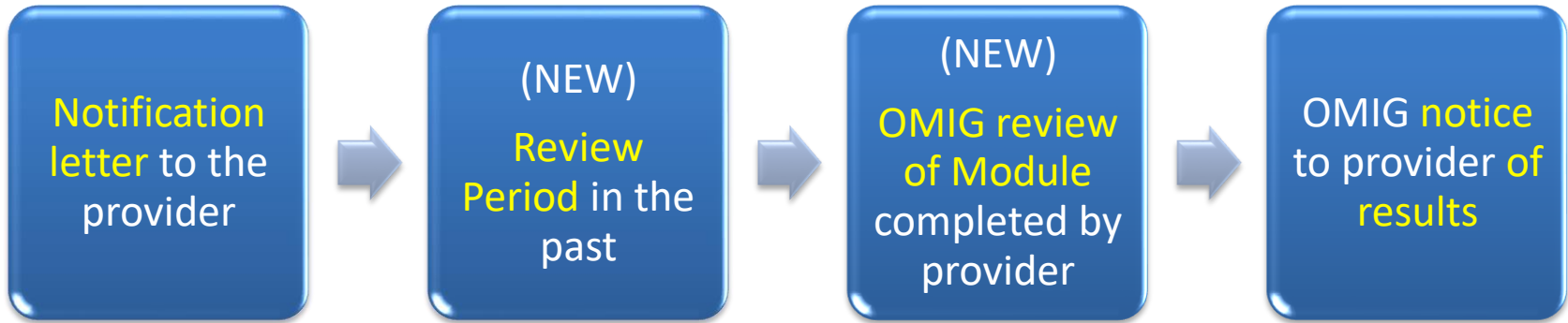
# Managed Care Key Components

- ❑ (NEW) Incorporate fraud, waste, and abuse prevention programs into compliance programs
    - Interconnections between 521-1 and 521-2
  - ❑ (NEW) Special Investigations Unit staffing requirements
  - ❑ (NEW) Contractual requirements
  - ❑ (NEW) Fraud, waste, and abuse reporting
  - ❑ (NEW) a public awareness program
- See additional information in the Medicaid Managed Care Fraud, Waste and Abuse Prevention Program Guidance

# Compliance Program Review Process



# Compliance Program Review Process



# Possible Sanctions & Penalties

# Sanctions & Penalties

- ❑ Per SOS § 363-d(3)(c-d), if the provider does not have a satisfactory program, the provider may be subject to any sanctions or penalties permitted by federal or state laws and regulations, including revocation of the provider's agreement to participate in the Medicaid program
  
- ❑ OMIG may impose penalties for failure to have an effective compliance program up to:
  - \$5,000 per calendar month in the first instance
  - \$10,000 per calendar month for subsequent instances

# Plans of Correction

- ❑ Providers should identify and implement corrective actions in all areas identified by OMIG as needing improvement.
- ❑ Implementation of corrective actions may not be immediately reviewed by OMIG, but failure to implement requested corrective action could subject a provider to further sanctions associated with a future review.

# Compliance Program Best Practices

# Best Practices

- ❑ Utilize the Module and Self-Assessment Form on OMIG's website to guide the annual compliance program review. The Module focuses on the elements from a high-level; the Self-Assessment form focuses on each requirement under the elements.
- ❑ The compliance work plan is a key component in demonstrating that a provider has an effective compliance program.
- ❑ Disciplinary actions should be progressive
- ❑ Upon receipt of a notification letter, assemble the appropriate team and promptly begin completing the form/gathering related documentation
- ❑ Communicate early and often with OMIG throughout a review



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# Compliance: It's the *right thing* to do



# Compliance Resources



# Compliance Resources

- ❑ The Compliance Library on OMIG's website ([omig.ny.gov](https://omig.ny.gov)) contains:
  - [Compliance Program Guidance](#)
  - [Compliance Program Requirements FAQs](#)
  - *General Compliance Guidance and Resources*
  - *Compliance-Related Laws and Regulations*
  - [Compliance Program Self-Assessment Form](#)
- ❑ Bureau of Compliance email: [compliance@omig.ny.gov](mailto:compliance@omig.ny.gov)

# Contacts

# Agency Contact & Resource Information

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



Any  
questions?