

HEALTH LAW WIRE

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New OMIG Compliance Rules Effective

Effective Dec. 28, 2022, the Office of the Medicaid Inspector General's (OMIG) revised Part 521 compliance regulations became effective. First proposed in July 2022¹ for review and comment, only minor, technical changes to the original proposal were made in the final promulgated regulation.

The text of the final regulations and a summary of the OMIG response to comments received may be found at their [website](#) under "Recently Adopted Regulations."

The final regulations are intended to implement the statutory changes resulting from the recommendations of the Medicaid Redesign Team II as adopted in the State Fiscal Year 2020-2021 Enacted Budget ([Chapter 56 of the Laws of 2020, Part QQ](#)) and to make other conforming changes related to (1) provider compliance programs, (2) Medicaid managed care plan fraud, waste and abuse prevention programs under the Medical Assistance (Medicaid) program, and (3) the obligation to report, return and explain Medicaid overpayments through OMIG's Self-Disclosure Program.

Significant changes are:

1. Increase in monetary threshold for "Substantial portion of business operations" to \$1,000,000 for *Required Providers*
2. Adoption of standards for compliance program documentation retention
3. Reduction of compliance obligation parameters for vendors and contractors of Required Provider
4. Expansion of specific risk areas to be addressed by Required Providers
5. Revisions to Compliance Officer and Compliance Committee reporting requirements
6. Substantial extension and delineation of Medicaid Managed Care Organization (MMCO) compliance obligations and requirements
7. Requirement for Compliance Programs to include Deficit Reduction Act training: fraud, abuse, waste, and Whistleblower statutes
8. Adoption of detailed Self-Disclosure Program

Please note that in the future OMIG plans to issue guidance on some aspects, including:

1. Self-disclosures based on extrapolation
2. Revised self-disclosure forms and requirements, including mandatory use of self-disclosure program for any overpayment and requirements for Self-Disclosure and Compliance Agreements (SDCA) in all self-disclosures when seeking interest waiver or repayment terms
3. Extent of application of regulations to CBOs and HEROS in regard to compliance program requirements for the "social determinants of health" waiver
4. Specific compliance requirements for contractors and contract revisions made necessary by the new rules
5. Who cannot/should not be a compliance officer and the required training
6. OMIG training for providers on new Part 521 regulations
7. Required provider "routine auditing functions"
8. OMIG compliance review process
9. Special MMCO requirements, including claims auditing thresholds

For more information on the updated regulations, please contact [John Darling](#), [Catherine Graziose](#) or the attorney at the firm with whom you are regularly in contact.

¹ For more on the July 2022 posting see our article, available at <https://www.bsk.com/news-events-videos/proposed-rulemaking-on-medicaid-program-fraud-waste-and-abuse-prevention>

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