



HEALTH LAW ALERT

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By: David F. Durso, Esq.

RMF
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Reminder: OMIG Mandatory Compliance Program Certifications Due by the End of the Year

It is that time of year again, when certain providers must certify to the New York State Office of the Medicaid Inspector General (“OMIG”) that they have adopted and implemented a compliance program as required by New York State Social Services Law 363-d and 18 N.Y.C.R.R. Part 521. Providers that are required to have a compliance plan include those that:

- are subject to Article 28 or Article 36 of the New York State Public Health Law;
- are subject to Article 16 or Article 31 of the New York State Mental Hygiene Law;
- claim or order, and/or can reasonably be expected to claim or order, Medicaid services or supplies of at least \$500,000.00 in any consecutive 12-month period;
- receive Medicaid payments, and/or can reasonably be expected to receive payments, either directly or indirectly, of at least \$500,000.00 in any consecutive 12-month period; or
- submit Medicaid claims of at least \$500,000.00 in any consecutive 12-month period on behalf of another person or persons.

An effective compliance program includes a written code of conduct or code of ethics that has compliance policies and procedures. Additionally, the organization must appoint a Compliance Officer and establish lines of communication to the Compliance Officer for reporting potential compliance issues. A more recent addition to the requirements is that the practice must have a Certifying Official. The Certifying Official should be someone other than the Compliance Officer, and it is recommended that this person be the individual to whom the Compliance Officer reports. Last year, the OMIG increased its enforcement of these requirements. Indeed, seemingly through a data-mining process, the OMIG determined that certain providers that were required to submit a certification had not done so in 2017. The OMIG notified those providers that of the requirement to establish and implement a compliance program that meets the requirements above. The OMIG gave these providers a short deadline to establish and implement a compliance program, and submit a certification that they had done so.

The OMIG, in October 2016, posted a Compliance Program Review Guidance to assist required providers in developing and implementing compliance programs that meet the requirements of New York State Social Services Law §363-d and 18 N.Y.C.R.R. Part 521. Providers should conduct a self-assessment on an annual basis to ensure that they are in compliance with all of the required elements of a compliance program. Additional information can be found at www.omig.ny.gov/compliance.

For more information please contact
David F. Durso, Esq.
(516) 663-6667
ddurso@rmfpc.com

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