Frequently Asked Questions (FAQs)
NYS Mandatory Compliance Program Certification Process
(Revised 12/1/2015)

The following Frequently Asked Questions (FAQs) are for reference relative to the completion of the Social Services Law (SSL) §363-d subdivision 3 and 18 NYCRR §521.3(b) certification form. The Office of the Medicaid Inspector General (OMIG) reserves the right to change an interpretation or direction provided in the FAQs at any time without notice.

PLEASE NOTE:

If you have questions about the applicability of the New York State certification requirement related to your compliance program, please refer to the following link to Mandatory Provider Compliance Programs Frequently Asked Questions (FAQs).

If you have questions about the certification requirement related to the Federal Deficit Reduction Act of 2005 ("DRA"), please refer to the following link to the Deficit Reduction Act's FAQs.

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1. WHEN AND HOW DO I CERTIFY THAT I HAVE A COMPLIANCE PROGRAM THAT MEETS NEW YORK STATE’S MANDATORY COMPLIANCE PROGRAM REGULATION?

Upon applying for enrollment in the medical assistance program, required providers as defined in 18 NYCRR 521.2 must certify that they have a compliance program in place that meets the requirements of 18 NYCRR Part 521. This can only be done electronically by completing the certification form available on OMIG’s website and by choosing the “Enrolling Providers” option on the top of the form.

In addition, during the month of December each year thereafter, required providers must certify. The certification is done by completing the certification form available on OMIG’s website and by choosing the “December Annual Certification” option on the top of the form.

Please see Mandatory Provider Compliance Programs Frequently Asked Questions (FAQs) FAQ #4 – “Who must have a compliance program?” for information on the Medicaid providers who must have compliance programs and FAQ #15 – “What is the process for certification under the mandatory compliance law?” for information on who must complete the annual certification or the certification on enrollment as a Medicaid provider.

Each year, OMIG will provide an updated on-line form on its website, www.omig.ny.gov. Medicaid providers should complete the form and submit it electronically. It is recommended that prior to completion of the certification, the Medicaid provider conduct a self-assessment of its compliance program.

2. CAN PROVIDERS SUBMIT PAPER CERTIFICATIONS?

No. Only on-line certifications will be accepted.

3. WILL PROVIDERS RECEIVE A CONFIRMATION OF RECEIPT?

An electronic confirmation will be generated upon submission of the certification and sent by email to the email addresses of the compliance officer and certifying official. This electronic confirmation will be in the form of a printable page with a confirmation number on it. The provider should print this confirmation page for their records and retain it as proof of certification along with the email from the Bureau of Compliance.

4. WHO SHOULD COMPLETE THE CERTIFICATION (OR WHO SHOULD BE THE CERTIFYING OFFICIAL)?

OMIG strongly encourages that someone from senior management or a member of the governing authority complete the certification (or be listed as the certifying official) as an indication that the provider's compliance program efforts and responsibilities extend beyond the compliance officer. OMIG recommends that the certifying official not be the compliance officer, except in cases where the size and complexity of the Medicaid provider indicates a different expectation is warranted. For most Medicaid providers, OMIG expects that there will be two different individuals identified on the certification.

5. DOES A PROVIDER HAVE TO SUBMIT A SEPARATE CERTIFICATION FOR EACH LOCATION OR PROVIDER NUMBER?

No. Since December 2010, providers are asked to certify based upon the Federal Employer Identification Number (FEIN) or Social Security Number (SSN) that they use to receive Medicaid payments. OMIG’s computer systems relate provider identification numbers to the FEIN or SSN to which the payment is made based upon what is reported on the Medicaid claims. However, if more than one FEIN/SSN is used to receive payments for the organization, then each FEIN/SSN will need to submit a separate certification form even if the compliance program, compliance officer and certifying official are the same for all the related entities. It is recommended that the compliance officer and/or the certifying official check with the Medicaid provider’s billing, accounting or payment processing department to identify the FEIN/SSN to which Medicaid payments are made directly or indirectly.

If multiple provider identification numbers are associated with a single FEIN/SSN, OMIG considers the certification under that FEIN/SSN to apply to all provider identification numbers associated with the FEIN/SSN. This has the effect of committing to OMIG that all provider identification numbers under the FEIN/SSN have a compliance program that meets the statutory and regulatory requirements of SSL Section 363-d and 18 NYCRR Part 521. In most cases, there is one enterprise level compliance program that applies to the FEIN/SSN and all related provider identification numbers, but it is possible that each provider identification number has a separate compliance program. OMIG considers the statements being made in the FEIN/SSN certification to be applicable to all provider identification numbers associated with the FEIN/SSN.
6. SHOULD PROVIDERS SUBMIT A COPY OF THEIR COMPLIANCE PLAN OR SELF-ASSESSMENTS ALONG WITH THE CERTIFICATION?

No. OMIG will specifically request a copy of a provider’s compliance plan documentation and request the provider to complete a compliance program assessment form when OMIG conducts an assessment of a particular provider’s compliance program.

7. HOW DO I KNOW IF MY COMPLIANCE PROGRAM IS MEETING THE REQUIREMENTS OF THE SOCIAL SERVICES LAW SECTION 363-d AND 18 NYCRR PART 521?

OMIG recommends that Medicaid providers conduct an annual self-assessment of its compliance program to determine if the required certification can be made.

Providers may use any self-assessment tool that they wish to conduct the annual self-assessment, but it is recommended (note: it is not required) that the Compliance Program Assessment Form available on the OMIG website be used. (See the Compliance Program Assessment Form in the Compliance Library on the OMIG website.)

8. WHO IS RESPONSIBLE FOR DETERMINING IF A REQUIRED PROVIDER’S COMPLIANCE PROGRAM MEETS THE REQUIREMENTS OF SOCIAL SERVICES LAW SECTION 363-d AND 18 NYCRR PART 521?

For certification purposes, the Medicaid provider is responsible for determining if it has a compliance program that meets the requirements of SSL §363-d and 18 NYCRR Part 521. This decision is an important one that should be made after due deliberation on the facts and circumstances surrounding the implementation and operation of the compliance program.

9. WHAT IF I AM A REQUIRED PROVIDER ENROLLING AS A MEDICAID PROVIDER AND CANNOT CERTIFY TO HAVING A COMPLIANCE PROGRAM THAT MEETS THE MANDATORY COMPLIANCE PROGRAM REQUIREMENTS?

If you are a required provider enrolling in the Medicaid program and cannot certify that you have in place a compliance program required by SSL Section 363-d and 18 NYCRR Part 521 you should develop and put in place a compliance program that meets the requirements of SSL Section 363-d and 18 NYCRR Part 521 and then recommence the certification process.

10. AM I REQUIRED TO CERTIFY THAT I HAVE A COMPLIANCE PROGRAM IN CONNECTION TO THE DEPARTMENT OF HEALTH (DOH) REVALIDATION PROCESS?

For those required providers (as defined in 18 NYCRR 521.2) who must have a compliance program, DOH requires submission of evidence that required providers have met the mandatory compliance program certification obligation. DOH is asking revalidating providers to submit evidence of the certification that was received during the prior December certification period. If a required provider going through DOH’s revalidation process did not certify in the prior December, or in December was not considered a required provider, but is required to have a compliance program at the time of revalidation, the revalidating Medicaid provider should complete the online certification form and choose the “Revalidating Provider” option at the top of the form.

11. IF, DURING THE YEAR AFTER MY CERTIFICATION, THE NAME OF MY COMPLIANCE OFFICER OR OTHER INFORMATION SUPPLIED ON THE CERTIFICATION FORM CHANGES, CAN I UPDATE THE INFORMATION ON MY CERTIFICATION?

No, the information on the SSL Certification form cannot be updated until the next certification cycle.

12. IF I COMPLETE THE SOCIAL SERVICES LAW CERTIFICATION FORM AND DISCOVER THAT I MADE A MISTAKE IN ONE OF THE DATA ELEMENTS, HOW CAN I CORRECT THE INFORMATION SUBMITTED?

Currently, OMIG does not have a method to correct the information supplied on the certification once it is submitted.
13. WHAT IS THE CONSEQUENCE OF A PROVIDER’S FAILURE TO CERTIFY?

Failure to certify may result in a denial of Medicaid enrollment. If required providers do not certify upon enrollment or annually each December, they will be deemed to be failing to meet their statutory and regulatory obligations as providers under the Medicaid program and may be subject to administrative sanctions which may include termination of the provider’s enrollment as a Medicaid provider. The Bureau of Compliance uses certification history as a metric to identify providers who will be subject to compliance program reviews.

14. ARE THERE ANY OTHER CERTIFICATIONS THAT I MUST SUBMIT TO OMIG ANNUALLY?

There are separate certification forms for the SSL and the DRA. The DRA applies to providers who bill or receive over $5,000,000 annually from the Medicaid program. Please refer to the Federal Deficit Reduction Act FAQs for additional information on DRA requirements which can be accessed at this link.

15. WHO DO I CALL IF I HAVE QUESTIONS ABOUT THE SOCIAL SERVICES LAW SECTION 363-D AND 18 NYCRR PART 521 REQUIREMENTS OF A COMPLIANCE PROGRAM?

Address questions to compliance@omig.ny.gov and please state in the subject line that you have a compliance program question. You can also call the Compliance Bureau’s dedicated telephone number: 518-408-0401.