



## OMIG Implements Final Rules on Mandatory Compliance Programs

*This is an update to our March Briefing "New Mandatory Compliance Programs for Medicaid Providers," available at [www.hodgsonruss.com](http://www.hodgsonruss.com).*

Final regulations governing the implementation of mandatory compliance programs for certain Medicaid providers were recently issued. The Office of the Medicaid Inspector General (OMIG) established the effective date of the regulations as July 1, 2009. All providers subject to the new regulations must be in compliance with the requirements by September 29, 2009. Providers currently participating in Medicaid will need to certify every December that they meet the requirements of these regulations. OMIG is currently developing a certification form that providers will be required to submit beginning December 2009.

The text of the regulations is not substantively different from the text of the proposed regulations. And, despite requests for clarification, OMIG did not shed light on how it will determine if a compliance program is "effective." However, OMIG's response to comments submitted during the public comment period did provide some insight and guidance for providers. A few points to note include:

- Providers subject to Article 16 of the Mental Hygiene Law pursuant to provider agreements are considered "required providers" and must comply
- Managed care organizations are required to comply as they are directly compensated under the terms of the New York State Managed Care and Family Health Plus Models Contract
- OMIG believes that requiring inclusion of risk areas not directly related to Medicaid reimbursement in the compliance plan is appropriate because the statute permitted the compliance plan to "not be confined to such matters." Providers should be aware that the final regulations require that the following risk areas be

addressed in the compliance plan and subject to internal audit and evaluation of compliance:

- (a) medical necessity and quality of care
- (b) governance
- (c) mandatory reporting and
- (d) credentialing

Providers should immediately begin an evaluation process to determine if the regulatory definitions require that they comply with the mandatory compliance program. Then new or existing compliance programs should be carefully reviewed to ensure they cover all the areas identified by OMIG, including those four areas not directly related to Medicaid reimbursement. Providers must be in compliance by September 29, 2009 or be subject to sanctions or penalties.

### **For assistance preparing or reviewing your compliance plan or for more information, please contact:**

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