

# HOME CARE CLIENT ALERT



## The Office of the Medicaid Inspector General Publishes its 2017 Annual Report

October 8, 2018

The New York State Office of the Medicaid Inspector General published its 2017 Annual Report on October 4, 2018. The OMIG is charged with mitigating fraud and abuse in the Medicaid program. The OMIG Annual Report summarizes its investigative, auditing, and cost-avoidance efforts including its extensive partnerships with law enforcement agencies, and a wide range of compliance initiatives and provider education efforts. In 2017, the OMIG's efforts resulted in more than \$2.6 billion in Medicaid recoveries and cost savings.

The main program integrity activity highlights affecting home care were as follows:

### OMIG Initiative to Combat Fraud in Home Health

OMIG addressed issues of fraud, waste, and abuse in the home health care sector by coordinating statewide efforts, and meeting monthly to discuss allegations and trends. Most providers receiving funds from the NYS Medicaid program have a "unique" identifier like a National Provider Identifier (NPI) to track the performance of individuals providing services. The report explains that a significant challenge is the lack of an identifier for home health aides, personal care assistants, or individuals providing services under the Consumer Directed Personal Assistance Program (CDPAP). OMIG is reviewing solutions to address this issue, including requiring all home health caregivers to obtain an NPI.

### Personal Care service Audits

OMIG finalized 21 audits with identified overpayments of more than \$9 million in personal care services. The audits reviewed certified home health agencies, personal care, and traumatic brain injury providers. The most common findings included billing Medicaid before services were authorized; failure to maximize third-party or Medicare benefits; failure to document tasks; personal care aide not present at nursing supervision visits; missing documentation; failure to complete required training; and missing plan of cares.

### Home Care Referrals to Medicaid Fraud Control Unit

OMIG investigated allegations of fraud relating to home care. In one case, it was alleged a home health aide was providing CDPAP services and submitting documents stating she provided home health care to her mother, while her mother was out of the country.

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The OMIG obtained passport documents, and time sheets submitted for a time period when the recipient was out of the country, and subsequently referred the subject to the Medicaid Fraud and Control Unit for prosecution. On May 19, 2017, the home health aide was sentenced to five years of probation and 300 hours of community services, and had already repaid a total of \$75, 812 in restitution to the Medicaid program.

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Our Home Care Practice attorneys provide counsel to multiple home care agencies with respect to corporate, transactional, regulatory, reimbursement, compliance, wage and hour, wage parity enforcement, and litigation matters. With a broad understanding of the New York regulatory landscape, we help clients anticipate and respond to the increasingly complex rules governing the industry.

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