



The Coalition of Behavioral Health Agencies, Inc.
90 Broad St.
New York, NY 10004
212.742.1600 x105
www.coalitionny.org

Define and Limit the Powers of the Office of Medicaid Inspector General (OMIG)

- **Require OMIG to respect the established policies and procedures of the relevant licensing and certifying agencies**

The Coalition supports legislation to curtail the powers of OMIG that will explicitly define auditing rules of engagement. OMIG should be prevented from retroactive and hyper-technical reinterpretations of regulations and policies that have been set in place by certifying and licensing agencies. OMIG should not be able to recoup payments for reasons that are not supported by the licensing agency's interpretation of its own regulations.

- **Mandate strict due process procedures for providers subject to OMIG audits**

Providers should be able to appeal to a DOH Administrative Law Judge (ALJ) if they feel they have been wronged during an audit without OMIG threatening a "higher confidence" recoupment, which is generally hundreds of thousands of dollars greater than OMIG's "lower confidence" estimate offered to providers at the close of the audit.

The Local Impact

The Coalition supports the sanction of OMIG to recover claims that rise to the level of fraud and abuse. However, we are worried that the tactics used in the field by OMIG auditors are onerous and unfair to providers. Through data mining and extrapolation procedures, OMIG audits cause not-for-profit providers to lose millions of dollars in Medicaid revenue that was paid to them for the delivery of legitimate services to consumers. OMIG seeks take-backs of dollars paid for services actually rendered when agencies have made small technical or clerical errors or omissions or who, often for no fault of their own, were unable to bill Medicaid within 90 days of rendering the service. Small, not-for-profit agencies in the behavioral health sector are particularly vulnerable, as well as agencies with older billing systems. Providers incur extra costs and resource allocation required to access records and respond to OMIG requests. Very few providers can appeal OMIG audits, given the threat that they will be forced to repay even more by asseting their due process rights and the fact that they must incur substantial expenditures to prepare for and undertake the hearing.

Why This Is Important

The Coalition is deeply concerned about a process that encourages OMIG to seek aggressive provider recoupments on claims for validly rendered services. In 2006, the Federal-State Health Reform Partnership (F-SHRP) program was approved by the Center for Medicare and Medicaid Services (CMS). It sets targets for New York State to generate in Medicaid recoveries from fraud and abuse over a five year period—targets that have been repeatedly increased by the State Budget in search of additional revenues. Clearly, this places great pressure on OMIG to take back Medicaid payments from providers for hyper-technical billing issues that have nothing to do with fraud or abuse.