



**STATE OF NEW YORK
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**Letter to Providers Enrolled in or Ordering Services
Payable by the New York State Medicaid Program**

This is the beginning of the third full fiscal year of operation of the Office of the Medicaid Inspector General (OMIG). Through cooperative efforts involving health care professionals and organizations, the Governor, the Legislature, the Department of Health, and our other state agency partners, we have achieved substantial improvements in the integrity and efficiency of the medical assistance (Medicaid) program.

In our continuing efforts to further improve and strengthen the Medicaid program, the OMIG has prepared a comprehensive work plan (posted on the OMIG's Web site at www.omig.state.ny.us), to aggressively address specific areas of the Medicaid program that are particularly vulnerable to improper payments. The OMIG will place particular emphasis on the following focus areas of its 2009-10 work plan:

- Claims submitted for medical service to deceased beneficiaries
- Claims submitted after or the failure to reimburse the Medicaid program after third-party liability has been established¹
- Bills submitted to a Medicaid beneficiary for Medicaid-covered services²

Beyond recouping overpayments and imposing sanctions for substantiated violations of any of the these three areas, beginning October 1, 2009, the OMIG will post the names and addresses of providers who have billed the Medicaid program for services rendered after the date of patient death on our Web site. Providers will receive notification of the name and payment information from OMIG, and will have the opportunity to correct any information they believe to be inaccurate prior to publication. The OMIG will not publish the names of providers who billed for services subsequent to the date of a patient's death in instances where the provider has completed, in writing, the OMIG's self-disclosure protocol prior to notice from OMIG (see the provider self-disclosure guidance document, available on the OMIG Web site).

Providers must also take action to eliminate improper claims for payment, which include implementation of effective compliance programs.³

Providers with questions about the information contained in this letter should contact Wanda Fischer, public information officer, at (518) 473-3782.

¹ Persons and providers participating in the Medicaid program cannot retain Medicaid payments, other than co-payments permitted by statute, when a liable third party has been ascertained (see 42 C.F.R. § 433.19 and 42 C.F.R. § 433.310-433-320, 18 § NYCRR § 540.6(e)(4)). Such payments are overpayments, and knowingly retaining such overpayments violates the Fraud Enforcement and Recovery Act (FERA) Pub. L. No. 111-21 (2009), which amends the federal False Claims Act .

² State regulations prohibit persons or providers participating in the Medicaid program from attempting to collect an alleged debt or an alleged balance due from a Medicaid beneficiary for Medicaid-covered services, other than a co-payment permitted by statute (see 18 § NYCRR § 515.2(b)(8) and New York *Medicaid Update*, June 2008, vol. 24, #7).

³ Effective October 1, 2009, every New York Medicaid provider receiving, billing or ordering more than \$500,000 is required to have an effective compliance program in place (see 18 NYCRR § Part 521-Provider Compliance Programs, available on the OMIG Web site). An “effective” compliance program includes identifying compliance issues and refunding overpayments.