



# Legal ALERT!

## HEALTH CARE & HUMAN SERVICES

David P. Glasel, *Chair*  
518.429.4250  
dglasel@hblaw.com

Linda J. Clark

Sheila A. Gaddis

James S. Grossman

Holly J. Hoehner

Tara N. Kamble

Eugene M. Laks

Henry J. Nahal

Gabriel M. Nugent

Margaret Surowka Rossi

Robert Tengeler

Melissa M. Zambri

## New OMIG Medicaid Compliance Plan Requirements

The New York State Office of Medicaid Inspector General (“OMIG”) has published the long anticipated proposed regulations for “Compliance Programs for Medical Assistance Providers”. The proposed regulations appeared in the January 14, 2009 edition of the New York State Register. Comments on the proposal may be submitted to the OMIG by February 28.

As required by the Social Services Law, the regulatory requirements apply to all providers under Public Health Law Article 28 (hospitals, nursing homes, clinics) or Article 36 (home health care) or under Mental Hygiene Law Article 16 (OMRDD providers) or Article 31 (OMH providers).

**In addition, the requirements will apply to any other Medicaid provider who submits claims for at least \$500,000 in any consecutive twelve-month period.** This threshold is much lower than the \$5 million threshold under federal law and will cover many additional providers.

For a covered provider, having a Medicaid Compliance Plan is a condition of receiving Medicaid funds. Under the regulations, the elements of a Medicaid Compliance Program are applicable to a broad scope:

1. billings;
2. payments;
3. medical necessity and quality of care;
4. governance;
5. mandatory reporting;
6. credentialing; and
7. other risk areas that are or should with due diligence be identified by the provider.

Providers who meet the threshold will be required to certify annually to the OMIG that the provider has a Medicaid Compliance Program in place.

A Compliance Plan includes:

1. written policies and procedures;
2. designation of an employee responsible for the compliance program (compliance officer);
3. training and education;
4. communication lines for reporting to the compliance officer;
5. disciplinary policies;
6. system for routine investigation and self-evaluation;

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7. system for responding to compliance issues and reporting to the OMIG; and
8. a policy of non-intimidation and non-retaliation for participation.

Hiscock & Barclay's Health Care and Human Services Practice Area has substantial experience in assisting providers to develop and implement compliance programs and training Boards of Directors, executive team members and staff of providers regarding compliance programs and issues. Please contact us for further details or assistance. ■

*Hiscock & Barclay's Health Care and Human Services Practice Area has substantial experience in helping providers respond to investigations, audits and other reviews and implementing compliance programs. Members of our team have extensive experience in attending entrance and exit conferences, preparing responses to audit reports, attending to hearing issues, drafting and revising compliance plans, and training Boards of Directors, executive team members and staff of providers regarding compliance issues. Should you have any questions regarding this Legal Alert, feel free to contact Eugene Laks or any member of the Health Care and Human Services Practice Area.*

Eugene M. Laks  
 Of Counsel, Albany  
[elaks@hblaw.com](mailto:elaks@hblaw.com)  
 (518) 429-4228

