



Farrell Fritz Client Advisory: OMIG Reform Bill Awaits Governor's Signature

September 23, 2011

A bill (S03184A/A05686A) to reform the procedures, practices and standards relating to the conduct of investigations, audits and recovery of payments by the New York State Office of the Medicaid Inspector General (“OMIG”) has been sent by the New York State Legislature to Governor Cuomo. The Governor’s Office has not indicated whether the Governor intends to sign the bill into law.

If you or your organization receives reimbursement or funding from Medicaid, it is essential to evaluate and update your compliance program and activities to ensure effectiveness, whether or not these proposed reforms become law. If you or your organization are currently under audit or have received notice of an upcoming audit, we recommend immediately contacting an attorney experienced in handling these matters.

The bill, if signed, would implement a number of reforms benefitting health care providers who participate in the Medicaid program. These include:

- For OMIG recoveries based upon “administrative or technical defects” in procedures or documentation where there was no intent to falsify or defraud, *the provider will have the opportunity to correct the defects and rebill within 30 days*;
- For provider audits, OMIG will apply the laws, regulations, policies and guidelines *in effect at the time the service was provided*;
- For provider audits, *OMIG will provide, at the exit conference or as part of any draft audit findings, a detailed written explanation of any sampling and extrapolation methodology used in the audit*;
- For OMIG recoveries of overpayments resulting from a final audit report, collections will commence not less than 60 days from that report, nor less than ten days from the date of written notice of the recovery from OMIG to the provider;
- For matters which were audited by OMIG within the last three years, such matters will not be subject to a new audit unless there is new information, good cause to believe the prior audit was erroneous, or the scope of the current audit is significantly different from the prior audit.

The Healthcare practice group at Farrell Fritz, P.C., has significant experience representing health care providers, including physicians and group practices, ancillary providers, health care facilities and hospitals, and is well-equipped to provide advice and support organizations will need in dealing with potentially serious compliance and OMIG-related issues.

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