



Reminder: Medicaid Provider Compliance Certifications Must Be Completed In December

As a reminder, Medicaid providers that are required to meet New York State's mandatory compliance program obligations must annually certify during the month of December that they have adopted, implemented and maintain compliance programs that meet the requirements of New York State Social Services Law § 363-d and 18 NYCRR Part 521. This is known as the "SSL Certification." Required providers include those that are subject to Articles 28 or 36 of the Public Health Law, those that are subject to Articles 16 or 31 of the Mental Hygiene Law, as well as those who claim, order, or receive (or reasonably expect to do any of the foregoing) at least \$500,000 from the Medicaid Program in any consecutive twelve-month period. Those who submit (or have submitted) \$500,000 in Medicaid claims on behalf of others in any consecutive 12-month period are also subject to the requirement.

In addition, any entity that received or made annual payments under the State Medicaid Plan of at least \$5,000,000 during the last Federal fiscal year (October 1, 2016 – September 30, 2017) is required to certify that they are in compliance with the Federal Deficit Reduction Act of 2005 (DRA). This is known as the "DRA Certification." Generally speaking, the DRA mandates that required entities have written policies for all employees (including management) and certain contractors that provide detailed information on State and Federal false claims laws and the whistleblower protections under such laws, that such policies include detailed provisions regarding how the entity detects and prevents fraud, waste and abuse, and that a specific discussion of such laws, and the entity's policies and procedures for detecting fraud, waste and abuse, be included in any employee handbook, if the entity has one.

Both certifications must be completed on-line on the Office of the Medicaid Inspector General's (OMIG's) website and must be done by the end of the year, using the current forms posted for the compliance certification process. Links to the SSL Certification and the DRA Certification are located here: <https://omig.ny.gov/compliance>. Other resources available from the OMIG include a recently posted webinar regarding the certification process, which includes tips for completing both forms, available here: <https://omig.ny.gov/resources/webinars/1079-nys-omig-s-certification-process-mandatory-compliance-programs-deficit-reduction-act-of-2005>.

Please be sure to follow the OMIG's directions when completing the certifications. In particular, be aware that the "Certifying Official" should be different from the Compliance Officer. The following link provides guidance on who the OMIG considers to be an appropriate Certifying Official: https://omig.ny.gov/images/stories/compliance_alerts/20160831_compliance_guidance_2016_01_8_31_16.pdf.

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Should you have any questions regarding the annual certification requirements, please feel free to contact a member of our [Compliance and White Collar Defense Group](#) or the [Garfunkel Wild attorney](#) with whom you regularly work.