



In the Spotlight

Monthly Issues of Interest Presented By
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Legislation to Reform Office of Medicaid Inspector General Introduced

The goal of OMIG reform is to provide a more equitable process by which Medicaid providers are audited by allowing for due process and to revise the process of "extrapolation"

In April, Assemblyman Richard Gottfried of Manhattan and Chair of the Assembly Health Committee, introduced legislation that would reform the Office of the Medicaid Inspector General (OMIG). The general goal of OMIG reform is to provide a more equitable process by which Medicaid providers are audited by allowing for due process and to revise the process of "extrapolation" which allows OMIG to audit a portion of a health care provider's Medicaid payments and then apply the percentage of errors found in the audit to 100 percent of the provider's business resulting in much larger financial penalties for the provider.

The bill introduced by Assemblyman Gottfried, received input from a vast array of Medicaid providers including those that provide services to individuals with disabilities (including agencies that provide services through the Office of Mental Retardation and Developmental Disabilities), to hospitals, pharmacists and doctors. At present, the bill is a "stand-alone" bill meaning it does not have a companion bill in the Senate. In order for it to become law, it will need a companion bill in the Senate.

As the Governor is counting on revenue generated from OMIG investigations, there is question as to whether he will support the bill. However, the focus of the bill is on revising OMIG procedures that relate to large recoupment of penalties or "overpayments" to providers when technical errors or omissions are found and penalized, not fraud cases. An article that ran in the New York Post on April 17 painted a highly

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The Learning Disabilities Association of New York State (LDANYS) was chartered by the New York State Board of Regents in 1958 and is a statewide 501c3 nonprofit, parent-driven organization that advocates on behalf of children and adults who have learning disabilities. LDANYS is the New York state affiliate of the Learning Disabilities Association of America. Our regional affiliates located throughout the state provide a variety of programs and services for children and adults with learning and other developmental disabilities and their families. For more information about our organization or about the content contained here, please contact our state office at 518-608-8992.

OMIG Reform Legislation– continued

critical picture of Assemblyman Gottfried's bill. In response to the article and to set the record straight on why this legislation is needed, a coalition of a variety of Medicaid providers, placed an open letter to the Legislature in the Legislative Gazette explaining why this legislation is necessary and why they are supporting it. As LDANYS' local affiliates are Medicaid service providers, the state association has signed on to the letter and is supporting the legislation. An excerpt from the letter highlights why this legislation is needed:

"We are honest providers who fully support efforts of the Attorney General and Medicaid Inspector General to prosecute anyone guilty of Medicaid fraud. We do not support unfair penalties against providers who follow stage agency regulations and directives and make minor errors in paperwork." The letter goes on to state that "Minor technicalities in the audited sample form the basis for calculations of huge monetary penalties despite solid evidence that care was appropriately rendered and products were provided as ordered. Most egregious is OMIG's unfettered authority to withhold funds from audited providers over alleged errors, even when they have been cleared of fraud, prior to the provider's opportunity to argue their case on the errors. this is a clear denial of due process, a fundamental right of all Americans. As a result, good providers are at risk of closing down or leaving the program."