



Medicaid Update

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Pharmacy Providers: Over the Counter Drug Fiscal Order Update

Effective December 1, 2023, when executed according to New York State (NYS) Medicaid laws, rules, and policy, NYRx, the NYS Medicaid Pharmacy program, will accept an original order as a failed electronic order which arrived at the pharmacy as a facsimile, telephone, or verbal order, provided by a practitioner or their authorized agent for over the counter (OTC) drugs. Additional information regarding NYS Medicaid coverage of OTC products can be found in the *Attention Prescribers and Pharmacies: Clarification of Medicaid Coverage for Over the Counter (OTC) Drugs* article published in the June 2020 issue of the *Medicaid Update*, located at: https://www.health.ny.gov/health_care/medicaid/program/update/2020/docs/mu_no11_jun20.pdf.

The table shown below illustrates the type of prescription or fiscal order and its original order status:

Prescription/Fiscal Order	Status
Official New York State Prescription (ONYSRx)	Original order*
Electronic prescription	Original order*
Phone/oral order – Non controlled substances	Original order*
Phone/oral order – Controlled substances	Not an original order**
Instate handwritten drug orders not on ONYSRx	Invalid order ***
Out-of-state (OOS) handwritten orders not on ONYSRx	Original order*
Faxed ONYSRx – Non controlled substances	Original order*
Faxed ONYSRx – Controlled substances	Not an original order**
Failed electronic prescriptions received as a fax (fail-over fax) not on ONYSRx – OTC drugs	Original order*
Failed electronic prescriptions received as a fax (fail-over fax) not on ONYSRx – Legend drugs	Invalid order***

*When executed according to State and federal laws and NYS Medicaid policy.

**Controlled substances require a backup/cover/original order and are limited to a five-day supply per NYS regulations.

***Invalid orders may not be used to submit a claim to NYS Medicaid.

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Pharmacy

Please note:

- The dispensing pharmacist must validate the fiscal order.
- This policy does not change any record retention requirements.
- This policy change does not apply to prescription drugs.
- Providers may only submit claims for payment to furnished services of which were medically necessary, as represented in Title 18 of the New York Codes Rules and Regulations (NYCRR) §504.3(e), located at: <https://regs.health.ny.gov/content/section-5043-duties-provider>. All claims are subject to audit and recovery.

Questions and Additional Information:

- Questions regarding this policy change should be directed to NYRx@health.ny.gov.
- Information regarding durable medical equipment, orthotics, prosthetics and supplies (DMEPOS) fiscal order acceptance policy can be found in the *Clarification to Durable Medical Equipment, Orthotics, Prosthetics and Supplies (DMEPOS) Fiscal Order Acceptance Policy* document, located at: https://www.emedny.org/ProviderManuals/DME/PDFS/DMEPOS_Fiscal_Order_Acceptance_Policy - 10-26-23.pdf.

Update to Long-Term Care Pharmacies New Patient and Leave of Absence

Effective November 30, 2023, the New York State (NYS) Medicaid program will no longer accept the “New Patient Processing (NP) 02” override to bypass early fill editing. NYS Medicaid will ensure correct use of the override for long-term care (LTC) pharmacies dispensing early fills to residents of NYS Medicaid-enrolled facilities, as described in the *Clarification for Long-Term Care Pharmacies New Patient and Leave of Absence* article published in the February 2023 issue of the *Medicaid Update*, located at: https://www.health.ny.gov/health_care/medicaid/program/update/2023/docs/mu_no5_feb23_pr.pdf. The exceptions and billing guidance regarding early fill edits for newly admitted NYS Medicaid members to NYS Medicaid-enrolled LTC facilities who were admitted without supply of recently dispensed medications or for those residents who need a supply for a leave of absence where other options are not available as outlined in this guidance in the *Clarification for Long-Term Care Pharmacies New Patient and Leave of Absence* article published in the February 2023 issue of the *Medicaid Update*, located at: https://www.health.ny.gov/health_care/medicaid/program/update/2023/docs/mu_no5_feb23_pr.pdf.

This guidance supersedes the guidance found in the following *Medicaid Update* issues:

- *New Medicaid FFS Pharmacy Early Fill Edit* article published in the January 2015 issue of the *Medicaid Update*, located at: https://www.health.ny.gov/health_care/medicaid/program/update/2015/jan15_mu.pdf; and
- *Update on Policy for Medicaid Fee-for-Service (FFS) Pharmacy Early Fill Edit* article published in the March 2015 issue of the *Medicaid Update*, located at: https://www.health.ny.gov/health_care/medicaid/program/update/2015/mar15_mu.pdf.

Providers must be reminded that LTC pharmacy utilization of early fill overrides are limited to:

- a new resident in a NYS Medicaid-enrolled facility,
- a readmitted resident in a NYS Medicaid-enrolled facility for which there is no supply on-hand, or
- a NYS Medicaid member with a short leave of absence from the NYS Medicaid-enrolled facility.

New Patient*

LTC pharmacies dispensing to NYS Medicaid members who were newly admitted without their medications may override the “Early Fill Overuse” “01642” or “02242” edits by using a combination of Reason for Service Code (439-E4) “NP” and Submission Clarification Code (420-DK) “18” (LTC Patient Admit/Readmit Indicator) in the National Council for Prescription Drug Programs (NCPDP) claim when medically necessary and when all the following conditions are met:

- the dispensing pharmacy is a LTC servicing pharmacy;
- the NYS Medicaid member was recently admitted to a Private Skilled Nursing Facility, Public Skilled Nursing Facility, Private Health Related Facility, or Public Health Related Facility, when "NH" returns on eligibility response; **and**
- the claim edited for “Early Fill Overuse” edits “01642” or “02242” represents the **first** dispensing of a medication **after the recent admittance** of the NYS Medicaid member to the LTC facility (as described above).

*Applies to readmitted resident LTC pharmacy claims when the facility confirms there is no medication on hand.

Please note: The pharmacy must maintain documentation retrievable upon audit of the use of the override, including but not limited to, the date of recent admission and the request of the facility stating the NYS Medicaid member was admitted or readmitted without supply for their resident member. *Day supply will be limited up to 30 days unless the medication is subject to short-cycle billing* as described in the *Expansion of Guidance for Long-Term Care Pharmacy Providers on Short Cycle Billing of Pharmacy Claims* article published in the November 2021 issue of the *Medicaid Update*, located at: https://www.health.ny.gov/health_care/medicaid/program/update/2021/docs/mu_no13_nov21_pr.pdf. If all three conditions listed above are not met, the billing provider may call the NYS Department of Health (DOH) for assistance.

The NP/LTC Patient Admit/Readmit override may **not** be used when:

- the pharmacy is **not** an LTC-servicing pharmacy;
- NYS Medicaid member is **not** a resident of a Private Skilled Nursing Facility, Public Skilled Nursing facility, Private Health Related Facility, or Public Health Related Facility, when "NH" **does not** return on eligibility response;
- the NYS Medicaid member is **not** a **new** resident to the facility; **or**
- the claim is **not** the first fill of the prescription for the same drug, strength, and directions dispensed by the LTC pharmacy.

Leave of Absence

LTC pharmacies may accommodate a LTC facility request for medication supply for a NYS Medicaid member leaving for a short absence using one of the following options:

- LTC pharmacy relabeling and repackaging dispensed medications for NYS Medicaid member use during their leave;
- LTC facility covers the cost for the additional supply of medication needed for the leave of absence; **or**
- LTC facility prepares for the absence by ensuring the medication supply is filled for a shorter supply before the expected absence.

If the above options are not available, a LTC pharmacy may use a combination of Reason for Service Code (439-E4) “AD” (Additional Drug Needed) and a Submission Clarification Code (420-DK) of “14” (LTC Leave of Absence) in the NCPDP claim to override the “Early Fill Overuse” edit when all the following conditions are met:

- the dispensing pharmacy is a LTC servicing pharmacy;
- the NYS Medicaid member is a current resident of a Private Skilled Nursing Facility, Public Skilled Nursing Facility, Private Health Related Facility, or Public Health Related Facility, when “NH” returns on eligibility response;
- the claim rejected/edited for “Early Fill Overuse” edits “01642” or “02242”; **and**
- the claim is limited to a seven-day maximum dispensed supply.

Please note: When using the LTC Leave of Absence override, it is expected that the next regular fill date for the NYS Medicaid member will be later to account for the extra supply the NYS Medicaid member received for the leave. The pharmacy must maintain documentation retrievable upon audit of the use of the override, including but not limited to, the request of the facility for leave of absence supply for their resident member. **LTC pharmacies** may contact NYS DOH for assistance when the above options are not available, and all conditions shown above are not met. **Community pharmacies** should continue to contact NYS DOH for assistance with “Early Fill Overuse” editing for NYS Medicaid members recently discharged from a LTC facility without their medication.

The use of the above override codes will continue to be monitored by the NYS DOH. All provider submitted claims must be true, accurate, medically necessary, and comply with the rules, regulations, and official directives of NYS DOH as detailed in Title 18 of the New York Codes, Rules and Regulations (NYCRR) §504.3(e), (h), and (i), located at: <https://regs.health.ny.gov/content/section-5043-duties-provider>. Unauthorized use of any override may result in audit and recovery of payment.

Reminder

When there are discontinued medications, missed doses, patient transfers or patient discharges in LTC facilities, the “NH” will have “unused” medications on hand. These “unused” medications should be returned to the dispensing/vendor pharmacy for credit to the NYS Medicaid program as regulated by Title 10 of the NYCRR §415.18 (f), located at: <https://regs.health.ny.gov/content/section-41518-pharmacy-services>, and NYS Public Health Law (PHL) §2803-e, located at: <https://www.nysenate.gov/legislation/laws/PBH/2803-E>, in a timely manner. **Medications already dispensed should be provided whenever possible to the discharged or transferred NYS Medicaid member to minimize waste and to avoid next fill billing issues.** LTC facilities and their pharmacies are encouraged to review their protocols to ensure any waste is minimized and all legal and regulatory requirements are met.

Questions and Additional Information:

- For assistance with performing a permitted override, contact the eMedNY Call Center at (800) 343-9000.
- Questions regarding this policy, exceptions, or considerations, as stated above, should be directed to the NYS Medicaid Pharmacy Unit by telephone at (518) 486-3209 or by email at NYRx@health.ny.gov.

Reminder: Sign Up for eMedNY Training Webinars

eMedNY offers several online training webinars to providers and their billing staff, which can be accessed via computer and telephone. Valuable provider webinars offered include:

- ePACES for: *Dental, Durable Medical Equipment Supplier (DME), Institutional, Physician, Private Duty Nursing (PDN), Professional (Real-Time), and Transportation*
- *ePACES Dispensing Validation System (DVS) for DME*
- *eMedNY Website Review*
- *Medicaid Eligibility Verification System (MEVS)*
- *New Provider / New Biller*
- *Pharmacy - New Provider / New Biller*
- *Provider Enrollment Maintenance Portal - Practitioner*

Webinar registration is fast and easy. To register and view the list of topics, descriptions and available session dates, providers should visit the eMedNY “Provider Training” web page, located at: <https://www.emedny.org/training/index.aspx>. Providers are reminded to review the webinar descriptions **carefully** to identify the webinar(s) appropriate for their specific training needs.

Questions

All questions regarding training webinars should be directed to the **eMedNY Call Center** at (800) 343-9000.

Non-Emergency Transportation Management Broker Implementation of Long Island

Effective December 1, 2023, Medical Answering Services, LLC (MAS) will be responsible for coordinating non-emergency medical transportation (NEMT) for Long Island (Nassau and Suffolk counties) fee-for-service (FFS) and mainstream Medicaid Managed Care (MMC) enrollees.

For trips occurring before December 1, 2023, Long Island Medicaid members and medical providers can arrange transportation through ModivCare Inc. by telephone at (844) 678-1103 or by visiting the ModivCare, Inc. Long Island Medicaid Ride website, located at: <https://www.longislandmedicaidride.net/>. **For trips on and after December 1, 2023**, Long Island Medicaid members and medical providers can arrange transportation through MAS by telephone at (800) 666-6270 or by visiting the MAS website, located at: www.medanswering.com. All New York State (NYS) MMC enrollees and providers outside of Long Island can continue to schedule transportation through MAS. Additional information about the NYS Medicaid NEMT benefit can be found on the NYS Department of Health (DOH) “Medicaid Transportation” web page, located at: https://www.health.ny.gov/health_care/medicaid/members/medtrans_overview.htm.

Questions:

- MAS contact information can be found on the MAS “Contact Center” web page, located at: [https://www.medanswering.com/contact-center/](http://www.medanswering.com/contact-center/).
 - Additional questions regarding this guidance should be directed to medtrans@health.ny.gov.
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2023 Changes to Provider Reporting of Human Immunodeficiency Virus in New York State

Effective March 22, 2023, changes to New York State (NYS) Public Health Law (PHL) were enacted that impact reporting of Human Immunodeficiency Virus (HIV) infection, HIV testing conducted for insurance institution underwriting decisions and the timeframe within which HIV diagnoses must be reported to the NYS Department of Health (DOH) by providers who are authorized to order such tests. The amendments to Title 10 of the New York Codes Rules and Regulations (NYCRR) §63.2, located at: <https://regs.health.ny.gov/volume-1a-title-10/content/section-632-application>, and §63.4, located at: <https://regs.health.ny.gov/volume-1a-title-10/content/section-634-filing-reports>, reduce the time within which HIV diagnoses must be reported from 14 days to seven days; implement reporting of acute HIV infection (AHI), including primary HIV infection, acute retroviral syndrome (ARS), and early HIV infection, within one day (24 hours) of such determination or diagnosis; and require reporting of HIV testing conducted for insurance institution underwriting decisions by clinicians under whose medical license the HIV testing is ordered.

Additional information regarding changes to Title 10 of the NYCRR §63.2 and §63.4 and HIV reporting requirements for NYS providers can be found on the NYS NYCRR “Title: Part 63 - HIV/AIDS Testing, Reporting and Confidentiality of HIV-Related Information” web page, located at: <https://regs.health.ny.gov/volume-1a-title-10/content/part-63-hiv aids-testing-reporting-and-confidentiality-hiv-related>, the NYS DOH “HIV Reporting & Partner Services” web page, located at: https://www.health.ny.gov/diseases/aids/providers/regulations/partner_services/, and by contacting the Bureau of HIV/AIDS Epidemiology by telephone at (518) 474-4284.

Confidential reporting is integral to epidemiologic surveillance that evaluates the progression of HIV/AIDS in NYS. These updates enhance this work and contribute to targeted prevention efforts, focused resource management, and improved health outcomes for all New Yorkers. Providers should take the steps necessary to review the changes and comply.

Updated Reimbursement for Reproductive Health Services

With the State Fiscal (SF) Year 2024 investment in New York State (NYS) Medicaid abortion and family planning services, NYS Medicaid has updated reimbursement fees for specified procedural abortion services. **Effective October 1, 2023**, for NYS Medicaid fee-for-service (FFS), and **effective April 1, 2024**, for NYS Medicaid Managed Care (MMC) Plans [inclusive of mainstream MMC Plans, Human Immunodeficiency Virus-Special Needs Plans (HIV-SNPs), as well as Health and Recovery Plans (HARPs)], NYS Medicaid will reimburse procedural abortion services, as defined as induced abortion by dilation and curettage [Current Procedure Terminology (CPT) code “**59840**”] and induced abortion by dilation and evacuation (CPT code “**59841**”) at \$1,000.00 and \$1,300.00 respectively.

Billing NYS Medicaid FFS:

- Freestanding Diagnostic and Treatment Centers (D&TCs), Hospital Outpatient Department Clinics (OPDs), and Ambulatory Surgery Centers (ASCs) can bill for procedural abortion services using the codes below on Ambulatory Patient Group (APG) claims. The CPT codes shown in the table below have been added to the APG Fee Schedule, located on the NYS Department of Health (DOH) “APG and Px-Based Weights History and APG Fee Schedules” web page, at: https://www.health.ny.gov/health_care/medicaid/rates/methodology/history_and_fee_schedule.htm.
- Private practice physicians can bill for procedural abortion services using the CPT codes shown below on the NYS Medicaid FFS fee schedule.

CPT Code	Description	Gestational Age	Reimbursement Rate
59840	Induced abortion, by dilation and curettage	Less than 14 weeks	\$1,000.00
59841	Induced abortion, by dilation and evacuation	14 weeks or greater	\$1,300.00

MMC Billing Instructions

For NYS Medicaid members enrolled in an MMC Plan, providers should contact the specific MMC Plan of the enrollee for billing instructions. MMC Plan contact information can be found in the eMedNY *New York State Medicaid Program Information for All Providers - Managed Care Information* document, located at: https://www.emedny.org/ProviderManuals/AllProviders/PDFS/Information_for_All_Providers_Managed_Care_Information.pdf.

MMC enrollees may receive services from any qualified NYS Medicaid provider, inside or outside their health plan, for family planning and reproductive health services. These services include abortion without prior approval (PA) from the health plan or referral from the primary care provider, if the provider accepts NYS Medicaid and offers the needed services. MMC Plans are advised to review Utilization Management criteria to ensure alignment with this policy. Additional information about NYS Medicaid coverage of abortion services can be found in the *New York State Fee-for-Service and Medicaid Managed Care Coverage of Abortion Services* article published in the August 2022 issue of the Medicaid Update, located at: https://health.ny.gov/health_care/medicaid/program/update/2022/docs/mu_no9_aug22_pr.pdf.

Questions and Additional Information:

- FFS claim questions should be directed to the eMedNY Call Center at (800) 343-9000.
 - FFS coverage and policy questions should be directed to MaternalandChild.HealthPolicy@health.ny.gov.
 - MMC questions should be directed to the MMC Plan of the enrollee. MMC Plan contact information can be found in the *eMedNY New York State Medicaid Program Information for All Providers - Managed Care Information* document, located at: <https://www.emedny.org/ProviderManuals/AllProviders/PDFS/Information for All Providers Managed Care Information.pdf>.
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Update and Reminder: Medicaid Policy Loss of Records Due to Unforeseen Event

As stated in Title 18 of the New York Codes Rules and Regulations (NYCRR) §504.3, located at: <https://regs.health.ny.gov/content/section-5043-duties-provider>, “by enrolling in the Medicaid program, the provider agrees:

(a) to prepare and to maintain contemporaneous records demonstrating its right to receive payment under the medical assistance program and to keep for a period of six years from the date the care, services or supplies were furnished, all records necessary to disclose the nature and extent of services furnished and all information regarding claims for payment submitted by, or on behalf of, the provider and to furnish such records and information, upon request, to the department, the Secretary of the United States Department of Health and Human Services, the Deputy Attorney General for Medicaid Fraud Control and the New York State Department of Health; (i) to comply with the rules, regulations and official directives of the department.”

Providers whose records have been damaged, lost, or destroyed are required to report that information as soon as practicable, but **no later than thirty calendar days after discovery**, to the New York State (NYS) Office of the Medicaid Inspector General (OMIG) Self-Disclosure Unit. Failure to report such incidents may result in a determination of overpayment, penalties, and/or sanctions. **Please note:** Loss/destruction/corruption/inaccessibility of *electronic* records must also be included in this reporting requirement to ensure compliance with regulatory standards. This guidance supersedes communication shared in the *Medicaid Policy Loss of Records Due to Unforeseen Event* article published in the May 2015 issue of the *Medicaid Update*, located at: https://www.health.ny.gov/health_care/medicaid/program/update/2015/may15_mu.pdf.

How to Self-Report Damaged, Lost or Destroyed Records

To self-report, providers must complete the *Statement of Damaged, Lost or Destroyed Records* form, located on the NYS OMIG “Self-Disclosure Submission Information and Instructions” web page, at: <https://omig.ny.gov/self-disclosure-submission-information-and-instructions>. The NYS OMIG “Self-Disclosure Submission Information and Instructions” web page, at: <https://omig.ny.gov/self-disclosure-submission-information-and-instructions>, additionally offers the NYS OMIG Hightail Secure Uplink website, located at: <https://spaces.hightail.com/uplink/OMIGDSURFTP>, for form submission, and all required supporting documentation.

When self-reporting, providers must include the following information:

- provider NYS Medicaid enrollment information including Medicaid Management Information System (MMIS) number and National Provider Identifier (NPI) number;
- provider contact information; **and**
- a statement fully explaining the loss, damage or destruction of records including:
 - a complete and full description of the loss/destruction that occurred including when it occurred, and how and when it was discovered;
 - a listing of the documents affected including document type, relevant recipients, and dates of service;
 - names and titles of individuals who discovered and documented the loss/destruction;
 - a description of all actions taken to prevent recurrence of the event that caused the loss/destruction; **and**
 - a complete listing and copies of any reports of the loss/destruction to insurance companies, police agencies, state agencies, or federal organizations including contact information for those entities.

Providers must also notify any other State or local regulatory agency of their loss, damage or destruction as required by those regulatory agencies. **Please note:** In the event of a NYS Medicaid audit or investigation in which sought records were not maintained as required by Title 18 of the NYCRR §504.3, located at: <https://regs.health.ny.gov/content/section-5043-duties-provider>, NYS OMIG will evaluate the *Statement of Damaged, Lost or Destroyed Records* form and determine on a case-by-case basis whether there are mitigating circumstances for missing or damaged documents.

Additional Information:

- For assistance with submitting the *Statement of Damaged, Lost or Destroyed Records* form providers should contact the NYS OMIG Self Disclosure Unit at selfdisclosures@omig.ny.gov.
- **Please note:** In addition to Title 18 of the NYCRR §504.3(a), located at: <https://regs.health.ny.gov/content/section-5043-duties-provider>, providers may be subject to other record retention requirements [e.g., contractual requirements under the Medicaid Managed Care (MMC) program].

Provider Directory

Office of the Medicaid Inspector General:

For suspected fraud, waste, or abuse complaints/allegations, please call 1-877-87 FRAUD, (877) 873-7283, or visit the Office of Medicaid Inspector General (OMIG) web site at: www.omig.ny.gov.

Provider Manuals/Companion Guides, Enrollment Information/Forms/Training Schedules:

Please visit the eMedNY website at: www.emedny.org.

Providers wishing to listen to the current week's check/EFT amounts:

Please call (866) 307-5549 (available Thursday PM for one week for the current week's amount).

For questions about billing and performing MEVS transactions:

Please call the eMedNY Call Center at (800) 343-9000.

Provider Training:

Please enroll online for a provider seminar at: <https://www.emedny.org/training/index.aspx>. For individual training requests, please call (800) 343-9000.

Beneficiary Eligibility:

Please call the Touchtone Telephone Verification System at (800) 997-1111.

Medicaid Prescriber Education Program:

For current information on best practices in pharmacotherapy, please visit the following web sites:

- DOH Prescriber Education Program page:
https://www.health.ny.gov/health_care/medicaid/program/prescriber_education/presc-educationprog.
- Prescriber Education Program in partnership with SUNY: <http://nypep.nysdoh.suny.edu/>.

eMedNY

For a number of services, including: change of address, updating an enrollment file due to an ownership change, enrolling another NPI, or revalidating an existing enrollment, please visit the eMedNY Provider Enrollment page at: <https://www.emedny.org/info/ProviderEnrollment/index.aspx>, and choose the appropriate link based on provider type.

Comments and Suggestions Regarding This Publication

Please contact the editor, Angela Lince, at medicaidupdate@health.ny.gov.