



# Medicaid Update

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## Legislative Update – Amendments to New York Social Services Law §363-d: Changes in Compliance Program Requirements

**Effective April 1, 2020**, Social Services Law (SOS) §363-d was amended to make changes to the mandatory compliance program requirements and permit the imposition of a monetary penalty for failing to adopt and implement an effective compliance program. Compliance with the requirements of SOS §363-d is a condition of payment of the medical assistance program.

**All providers who are subject to the mandatory compliance program requirements in SOS §363-d will be impacted by these changes and should take the steps necessary to review the changes, then comply.**

It is the provider's responsibility to ascertain whether or not they are required to implement and operate an effective compliance program under the statute [see SOS §363-d(4)]. Providers subject to the provisions of this section include those for which the medical assistance program is a substantial portion of their business operations. "Substantial portion of business operations" is defined in 18 New York Consolidated Rules and Regulations (NYCRR) Part 521. The Office of the Medicaid Inspector General (OMIG) will issue updated guidance in the coming months.

OMIG monitors providers' adherence to the requirements found in SOS §363-d and Part 521. Providers are advised to review the amendments made to SOS §363-d, in Part QQ of Chapter 56 of the Laws of 2020 which can be found at: <https://omig.ny.gov/compliance/compliance-library>. In the interim, providers subject to the mandatory compliance program requirements must continue to maintain and operate their compliance programs.

Questions regarding the information presented in this article should be directed to OMIG's Bureau of Compliance at (518) 408-0401 or via email at [compliance@omig.ny.gov](mailto:compliance@omig.ny.gov).

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## All Providers

### New York Medicaid EHR Incentive Program

Distribution to Eligible Professionals & Eligible Hospitals Since the Start of the Program in 2011\*

Number of Payments:	Distributed Funds:
44,780	\$1,020,986,284

\*As of 08/10/2020

Through the NY Medicaid Electronic Health Record (EHR) Incentive Program, eligible professionals (EPs) and eligible hospitals (EHs) in New York who adopt, implement, or upgrade certified EHR technology (CEHRT) and subsequently become meaningful users of CEHRT, can qualify for financial incentives. The Centers for Medicare and Medicaid Services (CMS) is dedicated to improving interoperability and patient access to health information. The NY Medicaid EHR Incentive Program is a part of the CMS Promoting Interoperability Program but will continue to operate under the current name of NY Medicaid EHR Incentive Program.

#### Payment Year (PY) 2020 Soft Opening Period

As the timeframes between payment years become shorter, providers who are ready to attest will be given the opportunity to do so before the official payment year opening, by means of a process called a *soft opening*. The soft opening will function in the same way an official opening does, with remediation and review processes that mirror what providers are used to. The main differences are that soft openings occur earlier in the year, and because of this the Meaningful Use (MU) criteria must be met sooner than normal if a provider wishes to attest during this period.

**The PY2020 Soft Opening period begins October 1, 2020.** Beginning on this date, providers who have met the attestation criteria will be able to complete their attestations in Medicaid EHR Incentive Program Administrative Support Service (MEIPASS). Providers may login to the MEIPASS system at: <https://meipass.emedny.org/ehr/login.xhtml>. Providers are encouraged to gather and submit their attestation data during this time. For additional information about the soft opening, a webinar will be held on **Tuesday, September 22, 2020, at 11 a.m.** An open discussion will follow the webinar presentation. Providers may register for this webinar at: <https://register.gotowebinar.com/register/2168201054525209101>.

#### Payment Year (PY) 2020 Pre-Validation Period

If EPs or a group of EPs have already selected their reporting period and calculated their patient volume prior to the MEIPASS attestation system being opened for the payment year, the EPs are able to complete a *Pre-Validation*. A Pre-Validation allows providers to submit their patient volume data for review and approval ahead of attestation and can allow the EPs to advance through the review process more quickly once MEIPASS begins accepting attestations.

Pre-Validations for PY 2020 will be accepted from **September 14, 2020 through December 14, 2020**. If providers would like to take advantage of this service and avoid patient volume remediation during the official or soft opening attestation periods, they must begin the process of finding a suitable Medicaid patient volume reporting period.

To submit a Pre-Validation, simply select your Patient Volume Reporting period and fill out the appropriate Pre-Validation form with the data for that period. These templates can be found in the Document Repository at: [https://www.health.ny.gov/health\\_care/medicaid/redesign/ehr/repository/index.htm](https://www.health.ny.gov/health_care/medicaid/redesign/ehr/repository/index.htm).

*\*Pre-Validations submitted before the official request period begins will not be considered. All submissions received before this time must be re-submitted during the Pre-Validation Period for a review to occur.*

## **Check Provider Participation**

At minimum\*, a provider must have completed and received an incentive payment for one payment year in PY 2016 or earlier to participate for future years. Providers uncertain about their participation status are encouraged to reach out to the NY Medicaid EHR Incentive Program support team for assistance. Program participation status can be verified and reviewed using the provider's National Provider Identifier (NPI) and may assist in determining a provider's ability to attest in PY 2019-2021. Providers who wish to check their participation status should contact the support team at **(877) 646-5410 (Option 2)** or via email at [hit@health.ny.gov](mailto:hit@health.ny.gov).

\*Providers must also meet all other relevant program requirements and metrics to be eligible to participate in the NY Medicaid EHR Incentive Program.

## **LISTSERV Communications**

Additional information and program changes are announced periodically, especially as the program begins its final years. The NY Medicaid EHR Incentive Program uses a LISTSERV messaging system to quickly communicate any changes or updates and recommends that providers and administrators subscribe in order to best be kept up to date. Information and instructions on how to subscribe can be found on the NY Medicaid EHR Incentive Program LISTSERV webpage at: [https://www.health.ny.gov/health\\_care/medicaid/redesign/ehr/listserv/index.htm](https://www.health.ny.gov/health_care/medicaid/redesign/ehr/listserv/index.htm). Providers who experience any difficulty when attempting to subscribe should contact the support team for assistance.

## **Webinars**

The NY Medicaid EHR Incentive Program will host quarterly Program Discussion Webinars on a variety of topics identified by support staff and the provider community. Providers who would like to have a particular topic discussed should submit requests by completing the Program Satisfaction Survey at: [https://www.surveymonkey.com/r/NY\\_EHR](https://www.surveymonkey.com/r/NY_EHR). Schedule and registration information for all webinars, including *Program Discussions, Stage 3, Security Risk Analysis, Public Health Reporting, Patient Engagement, and Health Information Exchange* can be found at: [https://www.health.ny.gov/health\\_care/medicaid/redesign/ehr/calendar/](https://www.health.ny.gov/health_care/medicaid/redesign/ehr/calendar/).

## **New York State (NYS) Regional Extension Centers (RECs)**

**NYS RECs offer free support to help providers achieve Meaningful Use of CEHRT.** Support provided by NYS RECs includes, but is not limited to, the following:

- Answers to questions regarding the program and requirements
- Assistance on selecting and using CEHRT
- Help on meeting program objectives

NYS RECs offer **free** assistance for all practices and providers located within New York.

<b>For Providers Located:</b>	
<b>Inside the five boroughs of NYC</b>	<b>Outside the five boroughs of NYC</b>
Contact: <b>NYC REACH</b> Phone: (347) 396-4888 Website: <a href="https://www.nycreach.org">https://www.nycreach.org</a> MU Direct: <a href="https://www.nycreach.org/qi-services/#meaningful-use">https://www.nycreach.org/qi-services/#meaningful-use</a> Email: <a href="mailto:nycreach@health.nyc.gov">nycreach@health.nyc.gov</a>	Contact: <b>New York eHealth Collaborative (NYeC)</b> Phone: (646) 817-4101 Website: <a href="http://www.nyehealth.org">http://www.nyehealth.org</a> MU Direct: <a href="https://www.nyehealth.org/services/meaningful-use">https://www.nyehealth.org/services/meaningful-use</a> Email: <a href="mailto:ep2info@nyehealth.org">ep2info@nyehealth.org</a>

## **Questions**

The EHR Incentive Program has a dedicated support team ready to assist. Please contact the program at: **(877) 646-5410 (Option 2)** or via email at [hit@health.ny.gov](mailto:hit@health.ny.gov).

<b>Please Complete the New York Medicaid EHR Incentive Program Customer Satisfaction Survey</b>
The NY Medicaid EHR Incentive Program values provider insight. The survey can be found at: <a href="https://www.surveymonkey.com/r/NY_EHR">https://www.surveymonkey.com/r/NY_EHR</a> .

## **Reminder: Sign Up for eMedNY Training Webinars**

eMedNY offers various types of training webinars for providers and their billing staff. Webinars are conducted online, so that providers may join the meeting via a computer and telephone. **No travel is necessary.**

**Webinar registration is fast and easy.** Providers may register for webinars, as well as view a list of webinar topics, descriptions, and available sessions, at: <https://www.emedny.org/training/index.aspx>. Providers are reminded to review the webinar descriptions **carefully** to identify the webinar appropriate for their specific training needs.

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

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## Policy and Billing

### Implementation of Claim Edits for Office for People with Developmental Disabilities Intermediate Care Facilities for Individuals with Intellectual Disabilities

**Effective October 1, 2020,** the New York State (NYS) Office for People with Developmental Disabilities (OPWDD) and the NYS Department of Health will be implementing claim edits that will require inclusion of the qualified practitioner's National Provider Identifier (NPI) on each Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) claim. **The NPI will be required on all claims submitted on and after October 1, 2020, regardless of the date of service.**

Effective July 1, 2019, the NYS OPWDD established a new claim submission requirement for all ICF/IID providers. This requirement mandated the inclusion of the NPI of the qualified practitioner who completed the annual Level of Care Eligibility Determination (LCED) on each claim submission per federal guidelines at Title 42 Code of Federal Regulations (CFR) 456.360. Specific requirements were detailed in the [August 2019 Medicaid Update](#) article titled "Billing Changes for OPWDD ICF/IID Providers Effective July 1, 2019."

As detailed in the referenced August 2019 *Medicaid Update* article, the NPI of the qualified practitioner who completed the annual LCED must be included in the attending provider component of the 837I claim submission as detailed below:

- Loop: **2310A**
- Segment: **NM109**

**Note: Failure to include this information on the claim will result in denial.**

Two edits have been established to ensure compliance with federal requirements. Claim edit "**02298**" (No Attending NPI Included on Claim) will be engaged if the ICF/IID provider fails to include the practitioner NPI on the claim submission. Claim edit "**02299**" (Attending NPI on claim is not a Medicaid Enrolled Practitioner) will engage if the NPI on the claim is not associated with a qualified practitioner enrolled in the NYS Medicaid program, either as a billing provider or an Ordering/Prescribing/Referring/Attending (OPRA) provider.

OPWDD will be contacting ICF/IID providers who have not complied with these requirements since July 1, 2019 in order to ensure corrective action. Providers will need to adjust any claims since the July 1, 2019 implementation date that were not submitted in accordance with these requirements.

Questions regarding these requirements should be directed to OPWDD via email at [central.operations@opwdd.ny.gov](mailto:central.operations@opwdd.ny.gov).

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## Retroactive Repricing Update

As referenced in the [January 2019 Medicaid Update](#), the New York State Department of Health (the Department) started to reprice pharmacy claims, in accordance with the effective date of the Centers for Medicare and Medicaid (CMS) approved Medicaid fee-for-service (FFS) pharmacy reimbursement, per the CMS Final Rule on Covered Outpatient Drugs and the enacted State Fiscal Year (SFY) 2018-19 budget.

As was communicated previously in March of 2019, the repricing was suspended when errors were identified for 469 drugs. Since that time, claims for all other drugs were appropriately repriced, the issue causing the errors for the 469 drugs was corrected and lump sum payments were issued to pharmacies that experienced significant cash flow issues (where the repriced amount for the 469 drugs was more than \$1,000 below the original remittance amount). Therefore, the Department will resume the repricing of claims for the 469 drugs, recover the lump sum payments and reprice dispensing fees, per the enacted SFY 2018-19 budget. The schedule for these activities is summarized below.

Activity	Service Dates	Estimated Number of Claims	Remittance(s)*
Reprice claims for the 469 drugs	4/1/17 through 2/21/18	280,000	2237 and 2240
Recover Lump Sum Payments	Not Applicable	Not Applicable	2237 and 2240
Reprice Dispensing Fees (additional .08), per the <a href="#">November 2018 Medicaid Update</a> .	4/1/18 through 11/4/18	4,430,000	2243 through 2250

\*Remittance Schedule can be found at: <https://www.emedny.org/hipaa/news/PDFS/CYCLE CALENDAR.pdf>.

Adjustments made to affected claims will be found on the remittance statement beginning with the claim date April 1, 2017. Adjustments will progress forward from that date with each cycle completion. All remit types (Paper/PDF/835) will show a claim that retracts the initial payment, and then a new claim at the new amount. For Paper and Portable Document Format (PDF) remittance receivers, the edit “01999” will appear on the remit. For electronic remit (835) receivers, only the normal adjudication Health Insurance Portability and Accountability Act (HIPAA) codes will appear. Due to the age of the claims being adjusted, providers will receive pend notifications for the adjusted claims a week before the dates outlined in the schedule above. Adjustments can be tracked by the claim dates. Guidelines for remittance advice can be found at: [https://www.emedny.org/ProviderManuals/AllProviders/General\\_Remittance\\_Guidelines.pdf](https://www.emedny.org/ProviderManuals/AllProviders/General_Remittance_Guidelines.pdf).

Providers may forward questions and concerns to [ppno@health.ny.gov](mailto:ppno@health.ny.gov).

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## Pharmacy

### Drug Coverage for New York State Medicaid Dual Eligible Members

**Effective October 22, 2020**, Medicaid will implement claims editing that will ensure over-the-counter (OTC) insulin and legend drugs with available OTC drug substitutes are appropriately billed to Medicare Part D prescription drug plans and Medicare Advantage Prescription Drug (MAPD) plans.

As previously communicated in the [December 2013](#) and [June 2014 Medicaid Update](#) articles titled “Change in Coverage of Barbiturates for Dual Eligible Population” and “Update on Drug Coverage for the Dual Eligible Population” respectively, coverage is available for **select prescription vitamins and OTC drugs** for New York State (NYS) Medicaid dual eligible members. Only Medicaid-reimbursable drugs excluded by Medicare are covered for dual eligible members. Therefore, NYS Medicaid will no longer cover OTC insulin and some OTC products which have legend drug substitutes that are covered by Medicare Part D and MAPD plans.

#### Additional Information

Providers may find additional relevant information at the following links:

- Prescription Drugs Covered by NYS Medicaid for Dual Eligible Members Effective March 1, 2020: [https://www.health.ny.gov/health\\_care/medicaid/program/medicaid\\_transition/docs/medicare\\_exempt\\_drugs.pdf](https://www.health.ny.gov/health_care/medicaid/program/medicaid_transition/docs/medicare_exempt_drugs.pdf)
- Medicare Drug Coverage for Part D: <https://www.medicare.gov/drug-coverage-part-d>
- Medicare Prescription Drug Coverage (outpatient): <https://www.medicare.gov/coverage/prescription-drugs-outpatient>

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# Provider Directory

## Office of the Medicaid Inspector General:

For suspected fraud or abuse complaints/allegations, call 1-877-87FRAUD, (877) 873-7283, or visit [www.omig.ny.gov](http://www.omig.ny.gov).

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

Please visit the eMedNY website at <https://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:

To sign up for a provider seminar, please enroll online at <https://www.emedny.org/training/index.aspx>.

For individual training requests, call (800) 343-9000.

## Beneficiary Eligibility:

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 websites:

- [http://www.health.ny.gov/health\\_care/medicaid/program/prescriber\\_education/presc-educationprog](http://www.health.ny.gov/health_care/medicaid/program/prescriber_education/presc-educationprog)
- <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: <https://www.emedny.org/info/ProviderEnrollment/index.aspx> and choose the appropriate link based on provider type.

## NY Medicaid Electronic Health Record (EHR) Incentive Program

Contact the New York Medicaid EHR Call Center at (877) 646-5410 for assistance.

## Comments and Suggestions Regarding This Publication

Please contact the editor, Georgia Wohnsen, at [medicaidupdate@health.ny.gov](mailto:medicaidupdate@health.ny.gov).