# SELF-DISCLOSURE FREQUENTLY ASKED QUESTIONS

## 1. What is OMIG's Self-Disclosure Program, and who is impacted by it?

The Self-Disclosure Program is the mechanism Medicaid Entities, including Medicaid enrolled Providers, Medicaid Managed Care Organizations (MMCOs), and other Entities involved in the billing or receipt of Medicaid funds (Medicaid Entities/Providers), must use to self-report Medicaid fund overpayments that involve possible fraud, waste, abuse, or inappropriate payment of funds which they have identified through self-review, compliance programs, or internal controls. This program was developed in consultation with healthcare stakeholders to facilitate compliance with their Federal self-disclosure obligation. Medicaid Entities/Providers are required to report, return, and explain any overpayments they've identified to OMIG within 60 days of identification, or by the date any corresponding cost report was due, whichever is later. See Social Services Law (SOS) section 363-d.

***Please Note: Voiding or Adjusting Medicaid Claims does not satisfy a Medicaid provider's obligation to report and explain the identified overpayment.***

## 2. What about Managed Care overpayments (overpayments from a Medicaid Managed Care Plan (MMCO), and Capitation Payment overpayments (overpayments to an MMCO)?

MMCOs, also referred to as Plans, are required to establish Self-Disclosure Programs including policies and procedures for participating Providers and other subcontractors to report, return and explain Managed Care overpayments within sixty (60) days of identification. Network Providers should self-disclose identified Managed Care overpayments to their MMCO in accordance with the applicable MMCO's Self-Disclosure policies and procedures.

If an MMCO is unresponsive, the Network Provider should document their attempts to contact the MMCO and submit that documentation along with a completed Full Self-Disclosure to OMIG's Self-Disclosure Program. OMIG's Self-Disclosure Unit will review the submission and work with the Network Provider to determine the appropriate course of action.

If an MMCO identifies excess capitation payments they are required to self-disclose the overpayment to OMIG within sixty (60) days of identification, using the Full Self-Disclosure process.

Additional information regarding Regulatory Authority of Medicaid Managed Care can be found here: https://omig.ny.gov/self-disclosure-regulatory-authority

## 3. What is OMIG's self-disclosure process?

OMIG's Self-Disclosure Program includes two pathways for Medicaid Entities/Providers to report, return and explain self-identified overpayments. Both the Full Self-Disclosure Process and the Abbreviated Self-Disclosure Process begin with the same steps. A Medicaid Entity/Provider discovers that they are in receipt of a Medicaid overpayment and investigates to identify and explain it.

This identification includes:

- Determining why the overpayment occurred?
- How the overpayment occurred?
- Who/What was involved in causing the overpayment to occur?
- Who was involved in discovering the overpayment?
- What will be done to correct the overpayment and ensure that it doesn't reoccur?
- Quantification of the overpayment amount (to the best of the Medicaid Entity's/Provider's ability)

The Medicaid Entity/Provider reviews the reason for the overpayment and determines which of OMIG's self-disclosure processes is appropriate for them to utilize in satisfying their obligation to report, return and explain.

**Full Self-Disclosure Process**

Within 60 days of the identification of the overpayment, the Medicaid Entity/Provider will submit a completed Full Self-Disclosure Statement, Certification form and Claims Data form or Mixed Payor Calculation (MPC) form, if applicable. They will receive confirmation of receipt via email which confirms the 60-day timeframe has been tolled (paused).

The Self-Disclosure Unit will review the submission documentation and will verify the overpayment amount. Additional information will be requested, if needed. The Medicaid Entity/Provider will have 15 calendar days to supply any additional information requested.

Once the review is complete a Determination Notice will be issued to the Medicaid Entity/Provider confirming the total overpayment amount for the overpayment reason(s) disclosed, confirming any amounts already repaid through void or adjustment, and any remaining balance still due. The Determination Notice will also contain repayment instructions as applicable. If the Medicaid Entity/Provider has requested extended repayment terms they will be contacted by OMIG's Office of Counsel.

Please note that all MMCO identified excess capitation payments must be self-disclosed using the Full Self-Disclosure Process.

**Abbreviated Self-Disclosure Process**

Medicaid Providers may utilize the Abbreviated Self-Disclosure Process to report and explain identified overpayments resulting from routine and transactional errors that have already been voided or adjusted.

The Medicaid provider voids or adjusts the overpaid claim(s) within 60 days of identification as appropriate and adds it/them to the Self-Disclosure Abbreviated Statement form. Abbreviated Self-Disclosures can be submitted for each identified instance. Alternatively, as a convenience and best practice, Providers may aggregate their submissions into a monthly report which should be submitted each month for the claims that were voided or adjusted in the previous month. Once the Abbreviated Self-Disclosure is submitted, the Provider will receive confirmation of receipt via email and a unique identifier code which should be used to reference the Abbreviated Self-Disclosure if needed.

Abbreviated Self-Disclosures are processed as they are received. OMIG will not contact the Provider unless additional information is required. The Medicaid Provider will have 15 calendar days to supply any additional information requested. OMIG may, in its discretion, request that a Medicaid Provider submit a Full Self-Disclosure Statement.

Overpaid claims reported and explained through the Abbreviated process are already repaid by void or adjustment, therefore no Determination Notice will be issued for Abbreviated process submissions.

For more information, please refer to the Self-Disclosure Guidance document: https://omig.ny.gov/self-disclosure-guidance

## 4. What circumstances require a self-disclosure?

All self-identified inappropriate Medicaid overpayments received should be self-disclosed.

**Examples to be self-disclosed using the Full Self-Disclosure Statement include but are not limited to:**

- Any error that requires a Medicaid Entity/Provider to create and implement a formal corrective action plan
- Actual, potential or credible allegations of fraudulent behavior by employees or others
- Discovery of an employee on an Excluded Provider list
- Documentation errors that resulted in overpayments
- Overpayments that resulted from software or billing system updates
- Systemic billing or claim processing issues

- Non-claim based Medicaid overpayments
- Any error with substantial monetary or program impacts
- Any instance upon direction by OMIG

**Examples to be self-disclosed using the Abbreviated Self-Disclosure Statement include:**

- Routine credit balance/coordination of benefits overpayments
- Typographical human errors
- Routine Net Available Monthly Income (NAMI) adjustments
- Instance of missing or faulty authorization for services due to human error
- Instance of missing or insufficient support documentation due to human error
- Inappropriate rate, procedure or fee codes used due to typographical or human error
- Routine recipient enrollment issue

Questions regarding selecting the appropriate statement for submitting your Self-Disclosure can be submitted to the Self-Disclosure Unit at selfdisclosures@omig.ny.gov.

## 5. Once I identify an overpayment, and know which Self-Disclosure process is appropriate, how do I meet the 60-day requirement to report, return and explain?

There are two options for meeting the 60-day requirement. The determination for which option is required is dependent on the circumstances that led to the identified overpayment.

**Full Self-Disclosure:**

A completed Full Self-Disclosure Statement and Claims Data File should be uploaded to the secure uplink within 60 days of identifying and quantifying the overpayment to the best of the Medicaid Entity's/Provider's ability. The Medicaid Entity/Provider will receive an automatically generated response confirming that their submission was received. This submission will toll, or pause, the 60 days while OMIG processes the disclosure. Successful submission satisfies the report and explain requirement.

The Medicaid Entity/Provider should cooperate with the self-disclosure process and provide any additional information requested to keep their time frame tolled during the review. Once the review is complete, the Medicaid Entity/Provider will receive a Determination Notice with instructions for repayment and the 60 days will un-toll.

Repayment within the time frame specified in the Determination Notice will satisfy the return requirement.

Submit a Full Self-Disclosure here: https://omig.ny.gov/full-self-disclosure-process

**Abbreviated Self-Disclosure:**

Overpaid claims should be voided or adjusted as appropriate once identified, and within 60 days of that identification must be reported and explained to OMIG using the Self-Disclosure Abbreviated Statement form and spreadsheet. As a best practice, Medicaid Entities/Providers can submit Self-Disclosure Abbreviated Statements on a monthly basis, reporting identified overpayments from the previous month in aggregate.

Completed Self-Disclosure Abbreviated Statements should be submitted as directed, and not to any other contact or uplink. The Provider will receive an automatically generated response confirming that their submission was received, this submission satisfies the report and explain requirement. The email will contain an identifier code unique to the submission for use in any future correspondence. OMIG will not contact the submitting Provider regarding an Abbreviated Self-Disclosure unless additional information is required.

Submit an Abbreviated Self-Disclosure here: https://omig.ny.gov/abbreviated-self-disclosure-process

## 6. Is there a dollar threshold for reporting?

No, there is no dollar threshold for reporting. All self-identified inappropriate Medicaid overpayments received should be self-disclosed. However, the Medicaid Entity/Provider should utilize one of the two appropriate processes for reporting inappropriate Medicaid payments – the Full Self-Disclosure Process or the Abbreviated Self-Disclosure Process.

## 7. What information should NOT be self-disclosed?

All self-identified inappropriate Medicaid overpayments received should be self-disclosed unless the Medicaid overpayments received have been identified by OMIG or another enforcement entity.

**Medicaid Entities/Providers should not self-disclose the following:**

- When a Medicaid Entity's/Provider's overpayment is included in another separate review or audit being conducted by OMIG, the Office of the Inspector General,

Attorney General, etc. Please note that Providers are required to seek permission from the investigating entity before voiding or adjusting claims.

- When a Medicaid Entity's/Provider's overpayment is included in a broader state-initiated rate adjustment, cost settlement, or other payment adjustment mechanisms. For example: retroactive rate adjustments, charity care, cost reporting, etc.
- Additionally, the Self-Disclosure Program can't reconcile underpayments. All underpayments must be re-billed to eMedNY; claims are subject to their own rules and regulations.

### 8. Should I self-disclose if someone notified me of the overpayment, if I didn't discover it through self-review?

Yes. If the Medicaid Entity's/Provider's oversight agency or another entity notifies them of a possible overpayment, they are obligated to investigate and identify if an overpayment exists, as well as the scope and amount of the overpayment. The Medicaid Entity/Provider is obligated to self-disclose all identified Medicaid fund overpayments to OMIG's Self-Disclosure Program. The only exception to this obligation is if the overpayment is already encompassed by an existing review and will be recovered through that existing review (example – an existing OMIG audit).

If the Medicaid Entity/Provider is involved in an existing review, they should check with their review contact to ensure that there is no overlap between the existing review and the overpayment they will be self-disclosing.

If you have additional questions about potential overlap, please contact the Self-Disclosure Unit at selfdisclosures@omig.ny.gov.

### 9. What if my self-disclosure involves several Medicaid Entities/Providers?

In instances where multiple Entities are involved with a Medicaid overpayment, such as the Lead Health Home/Care Management Agency arrangement, the Entity who billed for, and received payment for, the overpaid claims is required to be part of the Self-Disclosure submission.

Entities may self-disclose jointly when necessary. For example, a Care Management Agency (CMA) may have made and discovered the error, but the Health Home bills the claims and receives payment for them. Ultimately, the party filing a claim is responsible for the documentation required for payment of the claim, and responsible for maintaining the documentation for 6 years in support of the claim.

If a Medicaid Entity's/Provider's self-disclosure involves more than one Medicaid Entity/Provider, and the error that caused the overpayment is not routine or transactional, they should self-disclose using the Full Self-Disclosure process. All impacted Medicaid Entities/Providers and their involvement in the disclosure should be identified within the Full Self-Disclosure Statement and the relationship between the entities should be explained. Contact information should be provided for each entity involved.

All impacted Medicaid Entities/Providers should be made aware of the disclosure as additional information may be requested during the self-disclosure review process.

## 10. What is the lookback period for self-disclosure?

The lookback period is six (6) years by date of service.

## 11. How do I submit a self-disclosure?

Forms and links for secure submission are available below:

- Submit a **Full Self-Disclosure** here: https://omig.ny.gov/full-self-disclosure-process
- Submit an **Abbreviated Self-Disclosure** here: https://omig.ny.gov/abbreviated-self-disclosure-process

## 12. What is the Claims Data File used for?

The Claims Data File is used to disclose overpaid Medicaid claims in the Full Self-Disclosure process. It is embedded in the Full Self-Disclosure Statement.

**The Claims Data File should include the following:**

- Payer Name (Medicaid FFS or MCO/MLTC name)
- Claim Reference Number (CRN) or Transaction Control Number (TCN), a sixteen (16) digit number
- Claim Line Number
- Medicaid Group ID, an eight (8) digit number (if applicable)
- Billing Provider's Medicaid MMIS ID, an eight digit number (Billing Provider ID)
- Billing Provider's NPI number, a ten (10) digit number (if applicable)

- Servicing entity's Medicaid MMIS ID (Servicing Provider ID if applicable)
- Servicing entity's NPI number, a ten (10) digit number (if applicable)
- Medicaid recipient's first name
- Medicaid recipient's last name
- Medicaid recipient's Medicaid ID number (CIN), an eight (8) character alphanumeric code (e.g., AA#####A)
- Medicaid recipient's Date of Birth
- Medicaid recipient's Social Security Number
- Date of service (not the date billed or payment date)
- Incorrect rate or procedure codes (if applicable)
- Correct rate or procedure codes (if applicable)
- Incorrect Units paid (if applicable)
- Correct Units (if applicable)
- Amount Medicaid paid
- Amount that Medicaid should have paid
- Amount paid by Medicare or any other third party (if applicable)

## 13. What is the Mixed Payer Calculation File used for?

The Mixed Payer Calculation File is used to determine the repayment amount for excluded or non-enrolled individuals whose salaries were paid through multiple sources. It should only be used in instances where the impacted Medicaid Claims can't be isolated and identified and can only be used in the Full Self-Disclosure process. The MPC form is embedded in the Full Self-Disclosure Statement.

The MPC form takes payment and revenue information from the disclosing entity (as described below) and calculates an estimated amount of the excluded/non-enrolled individual's compensation, during the period of overlap between exclusion/non-enrollment and employment, which can reasonably be attributed to Medicaid funds.

**The Mixed Payer Calculation File should include the following:**

- Dates the individual worked for the disclosing entity while they were excluded/non-enrolled.
- Compensation the individual earned from the disclosing entity while the individual was excluded/non-enrolled. Compensation should include gross earnings, benefits and welfare earned, as well as pension earned.

- Annual revenue amounts as found in the Provider's fiscal or calendar year records for the year during which the excluded/non-enrolled individual was working for the disclosing entity. Both the revenue from all sources including Medicaid, and the Medicaid-only revenue are required.

## 14. Does the Self-Disclosure Program accept requests for Extrapolation as a methodology to calculate overpayments?

Providers who wish to request a Universe, Sample and Extrapolation methodology to calculate their overpayment amount must provide a justification explaining why that methodology is being requested in their Self-Disclosure Full Statement form. Approval is made in the sole discretion of OMIG.

The Provider must also provide the data element parameters necessary for OMIG to extract a universe of potentially overpaid claims.

- If the request is not approved, a claim-by-claim review of the potentially overpaid claims will be required.
- If the request is approved, OMIG will extract a universe of potentially overpaid claims based on the parameters disclosed in the Self-Disclosure Full Statement and a statistically valid random sample of claims will be provided for review. The Provider must review and respond by the due date specified with the entire Sample and an explanation for each claim identifying if it was allowed or disallowed and why. The overpayment will be calculated using the lower limit of the 90% confidence interval based on the Sample response.

NOTE: The extrapolated overpayment amount repaid through a self-disclosure would reduce any amount owed due to overpayments found in any future review of the same claims. OMIG, however, reserves its right and the rights of any other entity authorized by law to conduct further audits, investigations, or reviews of the Provider's participation in the Medicaid program for the same or a different time period and the same basis.

## 15. What types of payment options are available for the Self-Disclosure Program?

Payment options include:

- **Lump sum** check, money order or electronic check payment. DO NOT send payment in with your submission.

- **Voids or Adjustments** of the overpaid claims.
    - Abbreviated Self-Disclosure: Claims disclosed using the Abbreviated Self-Disclosure process MUST be voided or adjusted to repay Medicaid prior to submitting the disclosure.
    - Full Self-Disclosure: Claims disclosed using the Full Self-Disclosure process may be voided or adjusted to repay Medicaid, and this is the **recommended repayment option** when feasible. Voids and adjustments MUST either be completed prior to submission, or the Medicaid Entity/Provider MUST notify OMIG within the Full Self-Disclosure Statement that they are in the process of voiding or adjusting the claims.
- **Installment Payments** via a Self-Disclosure and Compliance Agreement (SDCA). A Medicaid Entity/Provider may request installment payments prior to the issuance of a Determination Notice. This payment option is granted or denied at the discretion of OMIG. A Medicaid Entity/Provider must supply all supporting financial documentation requested by OMIG (i.e., tax returns) by the due date specified to be considered for this repayment option.

### 16. I want to repay my overpaid claim(s) through void or adjustment. Should I void or adjust the claim(s) before I submit my self-disclosure?

For claims disclosed through the Abbreviated Self-Disclosure Process all claims must be voided or adjusted prior to submission of the disclosure. For claims disclosed through the Full Self-Disclosure Process voiding or adjusting claims is the recommended form of repayment because it allows the claim record to remain accurate. Please at least initiate the void or adjustment transactions. There is space within the Full Self-Disclosure Statement to explain if claims have been voided or adjusted, or the transactions are in process.

### 17. I've voided or adjusted my overpaid claim(s). Which Transaction Control Number(s) (TCN) should I include in my disclosure? The TCN(s) from the originally billed claim, or the TCN(s) received with the voided or adjusted claim(s)?

Always disclose the original TCN, this is true for both the Abbreviated Self-Disclosure Process and the Full Self-Disclosure Process.

### 18. What is a Self-Disclosure and Compliance Agreement (SDCA) and when is it used?

An SDCA takes the place of the Stipulation Agreement document historically used for self-disclosures that have been approved for extended repayment terms. The SDCA can be used for extended repayment, or to document the Medicaid Entity's/Provider's commitment to a corrective action plan. The approval of, or requirement for, an SDCA is at the sole discretion of OMIG.

## 19. What happens if a Medicaid Entity/Provider doesn't self-disclose?

Medicaid Entities/Providers who received a Medicaid overpayment and do not self-disclose it, or Medicaid Entities/Providers who fail to exercise reasonable diligence in discovering and identifying an overpayment, will be subject to penalties pursuant to SOS §145-b(4) for failure to report, return and explain the overpayment.

**Penalties for failure to report, return and explain include:**

- The penalties imposed for failure to report, return, and explain shall be based on the guidelines specified in SOS § 145-b(4) and the process outlined in 18 NYCRR Part 516. Penalties can be imposed up to $10,000 per item or service, unless this penalty has already been imposed on the Medicaid Entity/Provider within the previous five years. In those cases the penalty can be up to $30,000 per item or service.
- The Medicaid Entity/Provider may be subject to other penalties under State and Federal law for failing to report and return overpayments to the Medicaid program.

## 20. What happens if a Medicaid Entity/Provider self-discloses, but fails to comply with the self-disclosure process?

Once a Medicaid Entity/Provider has self-disclosed, violations of the self-disclosure process shall result in the Provider becoming ineligible for the benefits of the Self-Disclosure Program.

**Violations of Self-Disclosure process include, but are not limited to:**

- Providing false material information in any disclosure documents.
- Failure to cooperate in validating the overpayment amount disclosed.
- Intentional omission of material information from any disclosure documents.
- Failure to pay the overpayment amount and any interest as agreed.
- Failure to timely execute a SDCA or any violation of the provisions detailed in the SDCA.

Additionally, OMIG may use the information submitted as part of the disclosure. A Provider's failure to complete the self-disclosure process will result in OMIG's pursual of any civil or criminal penalty that might apply to the misconduct disclosed as part of the program process, and OMIG shall impose penalties pursuant to SOS §145-b(4)(a)(iii) for failure to report, return and explain the overpayment.

**Penalties for failure to report, return and explain include:**

- The penalties imposed for failure to report, return, and explain shall be based on the guidelines specified in SOS § 145-b(4) and the process outlined in 18 NYCRR Part 516. Penalties can be imposed up to $10,000 per item or service, unless this penalty has already been imposed on the Medicaid Entity/Provider within the previous five years. In those cases the penalty can be up to $30,000 per item or service.
- The Medicaid Entity/Provider may be subject to other penalties under State and Federal law for failing to report and return overpayments to the Medicaid program.

## 21. Am I required to report damaged, lost, or destroyed records?

Yes; pursuant to Title 18 of the New York Codes Rules and Regulations, Section 504.3, Medicaid Entities/Providers are required to prepare and maintain contemporaneous records demonstrating their right to receive payment under the medical assistance program and furnish the records, upon request.

If a Medicaid Entity/Provider becomes aware that their records have been damaged, lost or destroyed that information **should be reported as soon as practicable, but no later than thirty (30) calendar days after discovery**, by submitting a completed Statement of Damaged, Lost or Destroyed Records and any accompanying documentation to OMIG's Self-Disclosure Unit via the secure uplink available on OMIG's website.

Once a review of the submitted documentation is complete for reports of lost, destroyed, or damaged records submissions, a Notice of Acceptance detailing the acceptance of the report is issued to the Medicaid Entity/Provider and/or their authorized contact person.

Please note that Medicaid Entities/Providers must also notify any other State or local regulatory agency of their loss, damage or destruction as required by those regulatory agencies.

OMIG's receipt of a Statement of Damaged, Lost or Destroyed Records does not absolve a Medicaid Entity/Provider of its recordkeeping responsibilities. The paid claims and/or

program associated with the lost/destroyed records remain available for audit, review, or investigation. In the event of a Medicaid audit or investigation in which sought records were not maintained as required by 18 NYCRR 504.3, OMIG will evaluate Statements of Damaged, Lost or Destroyed Records and determine on a case-by-case basis whether there are mitigating circumstances for the failure to maintain these documents.

## 22. For more Information

If you have additional questions, please reach out to OMIG's Self-Disclosure Unit by email at: selfdisclosures@omig.ny.gov.