

ISSUE DATE: March 28, 2023
EFFECTIVE DATE: May 18, 2023
REVISION DATE: February 5, 2024

RECOMMENDER: Sarah Begeal LSWR DATE: 2/5/2024
Sarah Begeal, Deputy Director of Community Services

ADMINISTRATIVE APPROVAL: Lori Morgan LSWR DATE: 2/15/2024
Lori Morgan, Director of Community Services

COMMUNITY SERVICES BOARD APPROVAL: John Bezirgarian MD DATE: 2/15/2024
John Bezirgarian, Medical Director & Community Services Board Chair

REASON: OMIG's Self-Disclosure Program was revised to include two pathways for entities to report, return and explain overpaid Medicaid funds

Policy and Procedure: Corporate Compliance
Topic: Billing Errors, Overpayments, and Self-Disclosure

Purpose:

TIOGA COUNTY DEPARTMENT OF MENTAL HYGIENE (sometimes referred to as "TCDMH" or "TCMH") is committed to adopting and implementing an effective Compliance Program that includes ensuring the ability to detect, correct, and resolve payment and billing errors as quickly and as efficiently as possible.

For purposes of this Policy, the term "Affected Individuals" includes all employees, contractors, subcontractors, independent contractors, student interns, volunteers, supervisors, senior administrators, including the Compliance Officer, Director of Community Services and Community Services Board members.

Policy:

It is the policy of TIOGA COUNTY DEPARTMENT OF MENTAL HYGIENE that any overpayments or inaccurate billing of claims be detected, reported, and returned in a timely manner following all rules, regulations, and laws.

TIOGA COUNTY DEPARTMENT OF MENTAL HYGIENE is committed to ensuring that, in the event that the Tioga County Department of Mental Hygiene has received an overpayment under the Medicaid Assistance Program (Medicaid), Medicare, or another third-party payer, the Tioga County Department of Mental Hygiene shall report and return the overpayment, notify the appropriate payer, and comply with all Federal and State laws, regulations, guidelines, and policies.

Regulatory Reference:

- Social Service Law 363-D
- 18 NYCRR Part 521
- Affordable Care Act of 2010 §6402
- 42 USC §1302a-7k(d)

Procedures:

I. Identification of Billing Errors and Overpayments

1. The Compliance Officer must be promptly notified of all potential or actual billing errors and suspected overpayments. Examples of billing errors or reasons for overpayment may include, but are not limited to, the following:
 - Coding errors;
 - Errors in rate or unit;
 - Keying or inputting errors;
 - Provision of unauthorized services;
 - Services are not medically necessary, or necessity is not documented in the record;
 - Absence of one or more required elements of documentation;
 - Service was not rendered;
 - Falsification of service or billing documents;
 - Duplicate payments;
 - Fraudulent behavior by employees or others;
 - Discovery of an employee or contractor on the Federal or State exclusion lists; and
 - Damaged, lost, or destroyed records.
2. The Billing Supervisor(s) will notify the Compliance Officer, Director of Community Services and the Director of Administrative Services of potential billing issues and overpayments. The preliminary circumstances will be reviewed to determine if a suspension of billing is to be initiated.
3. The Compliance Officer or designee will investigate the issue; review any underlying facts; quantify and identify the amount of overpayment; ensure that any errors are corrected; and ensure that any refunds are made to the appropriate governmental agency or third-party payer. The investigation will be conducted in accordance with the Reporting and Investigation of Compliance Concerns Policy and Procedure. The Compliance Officer may engage outside legal counsel, auditors, or other consultants to help determine whether an overpayment has occurred and/or to quantify the overpayment.
4. An overpayment is deemed “identified” when it is determined or should have been determined through the exercise of reasonable diligence, that an overpayment was received, and the amount of the overpayment has been quantified.
5. The Compliance Officer is responsible for ensuring that the Tioga County Department of Mental Hygiene properly discloses all overpayments to the appropriate payer and makes any reports and refunds that are necessary within the required timeframe for the payer.
6. Medicaid and Medicare overpayments must be reported and returned:
 - a. no later than 60 days after the date the overpayment was identified; or
 - b. by the date that any corresponding cost report is due, if applicable.
7. Medicaid overpayments must be reported and returned in accordance with the Office of Medicaid Inspector General’s (OMIG) Self-Disclosure Protocol. The Protocol is available on OMIG’s website at <https://omig.ny.gov/>. (For further information, refer to the Medicaid Self-Disclosure section below.)

8. Medicare overpayments are reported and refunded to the Medicare Administrative Contractor (MAC) or through the Office of Inspector General's Voluntary Self Disclosure program.
9. Overpayments to other third-party payers will be made in accordance with the contractual agreement.
10. Any overpayments retained by the Tioga County Department of Mental Hygiene after the deadline for reporting and returning the overpayment may be subject to a monetary penalty.
11. The Corporate Compliance Officer and Director of Community Services must approve the overpayment and self-disclosure procedures and/or any revisions to procedures or forms before implementation.
12. Failure to report a potential reimbursement and billing issue or suspected overpayment will result in disciplinary action, up to and including termination of employment or contract.
13. The Compliance Officer or designee will maintain a file for each overpayment and self-disclosure. All interview notes, evidence, claims data, and written communication to and from the government agency or third-party payer will be maintained in the file in a secure location.
14. The Compliance Officer or designee will maintain a log of all overpayments that have been disclosed to governmental authorities and third-party payers. The following information will be recorded on the Overpayment and Disclosure Log (attached to this Policy):
 - The date that the overpayment was identified/quantified;
 - The date that the overpayment was disclosed;
 - The date that the overpayment was refunded;
 - The cause of the overpayment;
 - The department, program, or service;
 - The amount of the overpayment; and
 - The corrective action(s) to prevent the overpayment from recurring.
15. A report of overpayments, the results of investigations, and remedial actions will be reported to the Compliance Committee on a quarterly basis, and to the Community Services Board at least annually.

II. Medicaid Self-Disclosure

1. The Tioga County Department of Mental Hygiene will participate in OMIG's self-disclosure program under the following eligible conditions as required:
 - a. The Tioga County Department of Mental Hygiene is not currently under audit, investigation, or review by the Medicaid Inspector General, unless the overpayment and the related conduct being disclosed does not relate to the OMIG audit, investigation, or review;
 - b. The Tioga County Department of Mental Hygiene is disclosing an overpayment and related conduct that at the time is not being determined, calculated, researched, or identified by OMIG;

- c. The overpayment and related conduct will be reported by the deadline previously specified, i.e., within 60 days of identification and the overpayment is quantified, or the date any corresponding cost report is due; and
- d. The Tioga County Department of Mental Hygiene is not a party to any criminal investigation being conducted by the deputy attorney general for the Medicaid Fraud Control Unit or any agency of the US government or any political subdivision thereof.
- e. The Tioga County Department of Mental Hygiene must submit the Self-Disclosure Statement appropriate to their overpayment type in the format required by OMIG. Links to the Self-Disclosure forms can be found here:

- Full Self-Disclosure Process:
<https://omig.ny.gov/full-self-disclosure-process>
- Abbreviated Self-Disclosure Process (new as of August 2023):
<https://omig.ny.gov/abbreviated-self-disclosure-process>
- Lost or Destroyed Records Reporting:
<https://omig.ny.gov/lost-damaged-or-destroyed-records-reporting>

2. The Tioga County Department of Mental Hygiene will pay the overpayment amount determined by OMIG within 15 days of OMIG notifying the Tioga County Department of Mental Hygiene of the amount due, unless the OMIG permits the Tioga County Department of Mental Hygiene to repay the overpayment and interest due in installments.
3. The Tioga County Department of Mental Hygiene will enter into a self-disclosure compliance agreement with the Medicaid Inspector General that will be executed within 15 days of receiving said agreement from the Medicaid Inspector General or other time frame permitted by OMIG, but not less than 15 days.
4. Any false material information or omitted material information when submitting a self-disclosure, any attempts to evade an overpayment due, or any failure to comply with the terms of a self-disclosure and compliance agreement will not be tolerated and will be subject to disciplinary action up to and including termination.

How to Submit a Self Disclosure

If a Tioga County Department of Mental Hygiene meets the eligibility criteria and has identified an overpayment, OMIG's self-disclosure processes provide the mechanism for reporting and returning the overpayment.

- a. A self-disclosure submission related to a Medicaid program overpayment requires completion of either a Self-Disclosure Full Statement (including a Claims Data File of affected Medicaid claims or Mixed Payer Calculation (MPC) form for Excluded providers), or
- b. a completed Self Disclosure Abbreviated Statement. If the Medicaid program overpayment is not related to claims data or is related to an excluded or non-enrolled provider, disclosure using a Self Disclosure Full Statement and additional explanation to allow for the verification of the overpayment is required.
- c. The determination of which form is appropriate for a Medicaid Entity's/Provider's self disclosure should be based on the error identified. Errors that require formal corrective action plans should always be self-disclosed using the Self-Disclosure Full Statement, while errors that are more transactional or routine in nature and already repaid through voids or adjustments may be better suited to for the Self-Disclosure Abbreviated Statement.

Sanction Statement:

Non-compliance with this policy may result in disciplinary action, up to and including termination.

Compliance Statement:

As part of its ongoing auditing and monitoring process in its Compliance Program, TIOGA COUNTY DEPARTMENT OF MENTAL HYGIENE will review this policy based on changes in the law or regulations, as TIOGA COUNTY DEPARTMENT OF MENTAL HYGIENE's practices change, and, at minimum, on an annual basis. Additionally, this policy will be tested for effectiveness on an annual basis or more frequently as identified in accordance with TIOGA COUNTY DEPARTMENT OF MENTAL HYGIENE's Compliance Program. Testing will include but is not limited to ensuring that the policy is appropriately followed; the policy is effective; the policy has been disseminated to all Affected Individuals, as well as notified of any updates or changes.

Tracking of the criteria above and results of this testing will be completed by the Compliance Officer, or designee. Additionally, results will be reported to the Compliance Committee and Governing Body on a regular basis.

Record Retention Statement:

TIOGA COUNTY DEPARTMENT OF MENTAL HYGIENE will retain this policy and all subsequent revisions, and any related documentation will be retained for a period of, at minimum, six years.