

# Client Alert

## July 20, 2025

### **OMIG Expands Lookback Period for Compliance Program Reviews**

The New York State Office of the Medicaid Inspector General (“OMIG”) has implemented a significant change to its Compliance Program Reviews (“CPR”). All CPRs initiated on or after July 1, 2025, will cover a 12-month review period, replacing the 90-day lookback period that CPRs have used since 2023. The revised lookback period will not apply to CPRs that are already in progress.

CPRs are formal evaluations conducted by OMIG to determine whether required providers (“Providers”) have adopted, implemented, and maintained an effective compliance program in accordance with 18 NYCRR Part 521. As part of the CPR process, OMIG will issue written notification to the Provider outlining the applicable review period and instructions for responding. Providers must submit their responses within thirty (30) days of the date of OMIG’s notification. OMIG will issue formal notice of findings upon completion of review.

Providers determined to have deficient compliance programs may be subject to enforcement actions which may include sanctions, monetary penalties, corrective actions, or termination from the Medicaid program.

Providers are encouraged to review and update their compliance programs to ensure ongoing compliance with applicable regulatory requirements and to maintain required documentation on a continuous basis.

To ensure you are fully prepared for an OMIG CPR, we recommend conducting a preemptive internal review of your compliance program. If you require assistance in updating your plan, preparing documentation, or responding to a CPR, please contact our office.

### **NYC Employers Must Comply with New Paid Prenatal Leave Requirements**

Effective July 2, 2025, amendments to New York City’s Earned Safe and Sick Time Act (“ESSTA”) formally incorporate New York State’s Prenatal Leave mandate and impose new compliance obligations on all private employers operating in New York City.

As previously reported, effective January 1, 2025, all private employers in New York State are required to provide their employees with up to twenty (20) hours of paid leave during any 52-week period for prenatal healthcare services related to the employee’s pregnancy (“Prenatal Leave”). The amendments now align with New York State’s Prenatal Leave obligations while imposing additional policy, notice, paystub and record keeping requirements specific to NYC employers.

Updated Notice of Rights Poster

NYC has updated the **NYC ESSTA Notice of Rights Poster** (“Notice”) to include Prenatal Leave. The updated Notice must be provided to all current employees immediately and to all new employees upon hire. NYC employers must maintain a record of receipt by each employee and must update their postings in the workplace to include this new Notice.

#### Written Prenatal Leave Policy Requirements

NYC employers must develop or update their written Prenatal Leave policy to include Prenatal Leave entitlements. The updated policy must be distributed to all current employees within fourteen (14) days of the effective date of the change to the policy, to new employees upon hire, and upon an employee’s request.

#### Recordkeeping Requirement

NYC employers must keep a record of the date and time of each instance of Prenatal Leave for each employee and the amount paid in each instance.

#### Paystub Requirement

For each pay period in which Prenatal Leave is used, NYC employers must provide written documentation showing:

- The amount of Prenatal Leave used during the pay period; and
- The total balance of Prenatal Leave available for use in the 52-week period.

NYC employers may satisfy the requirement through an electronic paystub system provided that employees are notified when the information is available; the system is accessible outside of the workplace; and information regarding accruals, use, and balance information for any prior pay period is easily accessible to the employee.

NYC employers should take immediate steps to update workplace posters, distribute applicable notices, develop or revise written policies and implement paystub disclosure and record keeping procedures.

For assistance updating your Prenatal Leave policies or preparing compliant policies please contact our office.

### **New York COVID-19 Paid Emergency Leave Ends This Month**

Effective July 31, 2025, New York employers will no longer be required to provide Paid Emergency Leave (“PEL”) for COVID-19-related quarantines and isolations. After this date, employees seeking leave for COVID-19 related reasons must rely on existing statutory leave entitlements, including New York Paid Sick Leave, New York Paid Family Leave, or The New York City Earned Safe and Sick Time Act. Between now and July 31, 2025, employers must ensure that they continue to comply with the PEL requirements including eligibility, benefits, and record-keeping. After the expiration of PEL, employees may continue to access paid leave under all applicable New York laws.

For assistance updating your policies or ensuring compliance with post PEL requirements, please contact our office.

### **Amended Preliminary Injunction Update in Engesser v. McDonald**

On July 3, 2025, the New York State Department of Health (“DOH”) issued updated guidance to **Medicaid Managed Care Plans (“MMCP”)** regarding their notice obligations under the Amended Preliminary Injunction in *Engesser, et al v. McDonald*, as it relates to the Consumer Directed Personal Assistance Program (“CDPAP”).

The final deadline for both consumers and personal assistants (“PA”) to complete registration with Public Partnerships LLC (“PPL”) is August 1, 2025. As of that date, PPL will be the sole authorized Fiscal Intermediary (“FI”) permitted to provide FI services under CDPAP.

Effective June 27, 2025, no new CDPAP consumer authorizations may be assigned to any former FI, and no payments may be issued to a prior FI for CDPAP services rendered on or after August 1, 2025.

PAs previously compensated by a former FI who are unable to onboard with PPL by August 1, 2025, but who successfully complete onboarding by August 15, 2025, will be eligible to

receive payment from PPL for services provided retroactive to August 1, 2025.

## **MMCP Responsibilities by Consumer Type:**

### **Consumers Currently Utilizing FIs Other than PPL:**

- By July 7, 2025: Send notice directing consumers to register with PPL by August 1, 2025.
- By August 15, 2025: Send notice of service discontinuation effective September 1, 2025, to consumers who remain unregistered.

### **Non-MLTC Consumers with No CDPAP Use in June 2025:**

- Includes non-MLTCP or non-MAP consumers authorized for CDPAP but with no use in June 2025.
- By August 15, 2025: Send notice of service discontinuation effective September 1, 2025.

### **MLTC/MAP Consumers with No CDPAP Use in June 2025:**

- Includes consumers in MLTCP or MAP, who were authorized but did not utilize CDPAP services in June 2025.
- By July 7, 2025: Send notice instructing registration with PPL by August 1, 2025.
- June 27, 2025 – August 1, 2025: Conduct a minimum of ten outreach attempts, including home visits and efforts to contact the consumer's authorized representative.
- By August 15, 2025:
  - Send intent to disenroll letters to consumers who have not taken steps to resume services and are not receiving any other Community-Based Long Term Care Services ("CBLTCS").
  - Send service discontinuance notices to consumers who have not taken steps to resume services but are receiving other CBLTCS.

### **Consumers Fully Registered with PPL:**

- Send an informational letter containing PPL contact information, facilitator listings, timekeeping resources, and the PPL@Home guide.

DOH will issue standard notice templates to MMCPs for each of the above notice requirements. MMCPs are also required to report all consumer Fair Hearing requests to DOH.

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