

Making Your Organization Audit Proof

February 10, 2022



Goals

- ▶ Review who is interested in your operations
- ▶ What regulators are focusing on
- ▶ Discussion on how to tighten controls and compliance to avoid take-backs
- ▶ Discussion of resources available to assist with compliance
- ▶ Compliance Officer/Committee

Who is interested in your organization?

- ❖ External auditors
- ❖ NYS/NYC Comptrollers Office (OSC)
- ❖ Justice Center
- ❖ IRS
- ❖ Department of Labor
- ❖ Office of the Medicaid Inspector General (OMIG)
- ❖ Department of Health
- ❖ Banks

Compliance/Fiscal Audits

- ▶ Type of funding, drives audit focus:
 - ▶ Deficit funded contract
 - ▶ Focus is on determining costs are properly charged
 - ▶ Internal controls
 - ▶ Expenses are reasonable and necessary
 - ▶ Bids & quotes
 - ▶ Non-duplicative
 - ▶ Allocation methodologies
 - ▶ Underlying support for expenditures
 - ▶ Following regulations with respect to allowable costs
 - ▶ Related party transactions

Compliance/Fiscal Audits

- ▶ Type of funding, drives audit focus:
 - ▶ Fee based programs
 - ▶ Focus is on compliance with regulations
 - ▶ Documentation of services (case notes)
 - ▶ Correct forms completed
 - ▶ All proper signatures
 - ▶ People performing services are properly credentialed
 - ▶ Each funder has regulations by program
 - ▶ Audit protocols are published
 - ▶ Ensuring services billed for were actually delivered

Compliance/Fiscal Audits

- ▶ Type of funding, drives audit focus:
 - ▶ Performance based/hybrid programs
 - ▶ Focus on contractual terms
 - ▶ How are you tracking performance metrics
 - ▶ Could have cost components attached



Compliance/Fiscal Audits

- ▶ Funding Source
 - ▶ Could be fiscal or programmatic
 - ▶ Each funder has specific rules and regulations, but they are fairly consistent
 - ▶ Rules can be program specific
 - ▶ Outlined on website
 - ▶ Interested in systems and controls
- ▶ OSC Audits
 - ▶ Audit governmental agencies as well as nonprofits
 - ▶ Focus is more cost based than fee based
 - ▶ More “fraud” related approach
 - ▶ Not a high level of nonprofit audits
 - ▶ <https://www.osc.state.ny.us/state-agencies/audits/details-audit-process>

Compliance/Fiscal Audits

- ▶ OMIG
 - ▶ Interested in Medicaid billing and collections
 - ▶ Predominantly concerned with fee based programs
 - ▶ Compliance driven approach ... are you complying with all regulations
 - ▶ Small samples, large recoveries
 - ▶ Need to have a compliance plan in place and certify annually
- ▶ Other Governmental Agencies
 - ▶ NYC Department of Investigation
 - ▶ Attorney General
 - ▶ Counties

NYC Department of Investigation Report

- ▶ Outlined findings with respect to human services organizations:
<https://www1.nyc.gov/assets/doi/press-releases/2021/November/23NFPRelease.Rpt.11.10.2021.pdf>
 - ▶ Enhanced oversight by the City of purchasing functions
 - ▶ Bidding processes
 - ▶ Look at executive compensation
 - ▶ Focus on conflicts of interest
 - ▶ Expect further certification in the future to mirror CFR certifications and reporting
 - ▶ Ensure proper review of budgeting processes
 - ▶ Focus on outside contractors
 - ▶ Contracts and support for services performed
 - ▶ Additional focus on cost policies and allocations
 - ▶ NYC Human Services Cost Policy & Procedure Manual (2/19)
<https://www1.nyc.gov/assets/nonprofits/downloads/pdf/NYC%20HHS%20Cost%20Policies%20and%20Procedures%20Manual.pdf>
 - ▶ 9 criteria of allowability
 - ▶ NYC Human Services Invoice Review Policy (12/20)
https://www1.nyc.gov/assets/mocs/downloads/pdf/NonProfit/Standard_HHS_Invoice_Review_Policy_Final.pdf

Other Audits

▶ Uniform Guidance Audits

- ▶ Federal Funding in excess of \$750,000
 - ▶ Increased issue due to CARES Act funding
- ▶ Performed by your external auditors
- ▶ Covers fiscal and compliance aspects
 - ▶ Compliance requirements
 - ▶ Activities allowed or unallowed
 - ▶ Allowable costs/cost principles
 - ▶ Cash management
 - ▶ Eligibility
 - ▶ Equipment & real property management
 - ▶ Matching, level of effort, earmarking
 - ▶ Period of performance
 - ▶ Procurement and suspension and debarment
 - ▶ Program income
 - ▶ Reporting
 - ▶ Subrecipient monitoring
 - ▶ Special tests and provisions

- ▶ Compliance supplement (https://www.whitehouse.gov/wp-content/uploads/2021/08/OMB-2021-Compliance-Supplement_Final_V2.pdf)

Other Audits

- ▶ Internal Revenue Service
 - ▶ Not common for them to audit a nonprofit
 - ▶ The information provided on a filed return (such as any of the 990 forms) appears to be inconsistent or incomplete
 - ▶ The IRS has received a complaint from the public or a federal or state agency regarding potential non-compliance by an exempt organization
 - ▶ The Exempt Organizations Division completes an IRS-wide examination. These examinations are usually generated by the National Research Program
 - ▶ If a certain return involves issues or transactions with insiders or related parties, or compensation appears excessive
 - ▶ An IRS program focused on matching documents identifies a discrepancy between information reported by a payor and payee, like on Forms 1099 or W-2
 - ▶ Further review is needed for a claim for refund or request for abatement

What Auditors are Looking For

- ▶ Learn from Other's Mistakes Stalk the OSC, OMIG, and other's websites for audits of similar providers to gain insight into what they are looking at and what their findings are
- ▶ Documentation is paramount. If it isn't documented it didn't occur
 - ▶ You can provide the best service in the world, but if there are required aspects of support missing, the charge will be disallowed
- ▶ Files should be orderly and consistent. The layout/order of every file within your organization should be consistent



What Triggers an Audit

- ▶ Level and type of funding
- ▶ Results outside standard deviations (data mining)
- ▶ Information inconsistencies
- ▶ Last time audit occurred
- ▶ Programmatic compliance
- ▶ Referral from another governmental agency
- ▶ Self-reported/Whistleblower incidents
- ▶ Justice Center incidents
- ▶ Late filings
- ▶ Global issues (SED 4410, EI)

OSC Findings

- ▶ **New York Agency (September 5, 2018)**
 - ▶ OPWDD funded agency
 - ▶ \$91,013 of proposed recoupments on FSS contracts (\$5.1 million funded)
 - ▶ Lack of documentation to support service delivery
 - ▶ Lack of appropriate time studies showing where employees worked
- ▶ **New York Agency (January 9, 2019)**
 - ▶ OASAS funded agency
 - ▶ \$3,921,284 of proposed recoupments (approximately \$30.8 million funded)
 - ▶ Unsupported/nonallowable allocated parent costs (lobbying, fundraising, etc)
 - ▶ Lack of time studies
 - ▶ Improper allocation of costs
 - ▶ Lack of appropriate performance reviews for merit increases
 - ▶ Lack of vehicle logs
 - ▶ Nonallowable property costs

OSC Findings

▶ New York Agency (December 31, 2019)

- ▶ SED funded agency
- ▶ \$152,967 of proposed recoupments on SEIT Services (\$8.0 million funded)
- ▶ Pension charges that were not in accordance with reimbursable cost manual
- ▶ Improper allocation of salaries and other costs
- ▶ Missing documentation/unsupported expenses
- ▶ Non-allowable costs



OMIG Findings

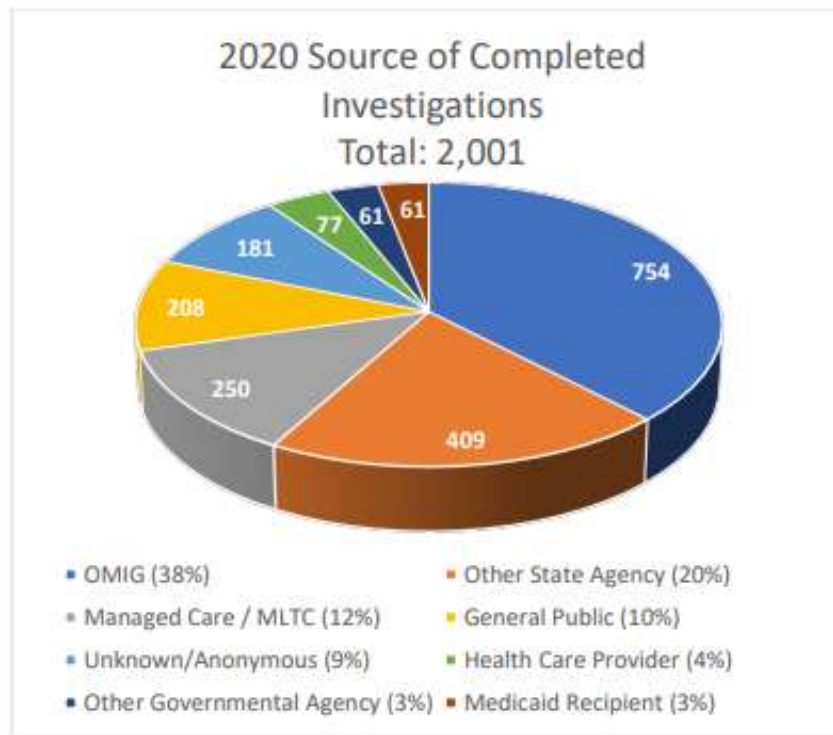
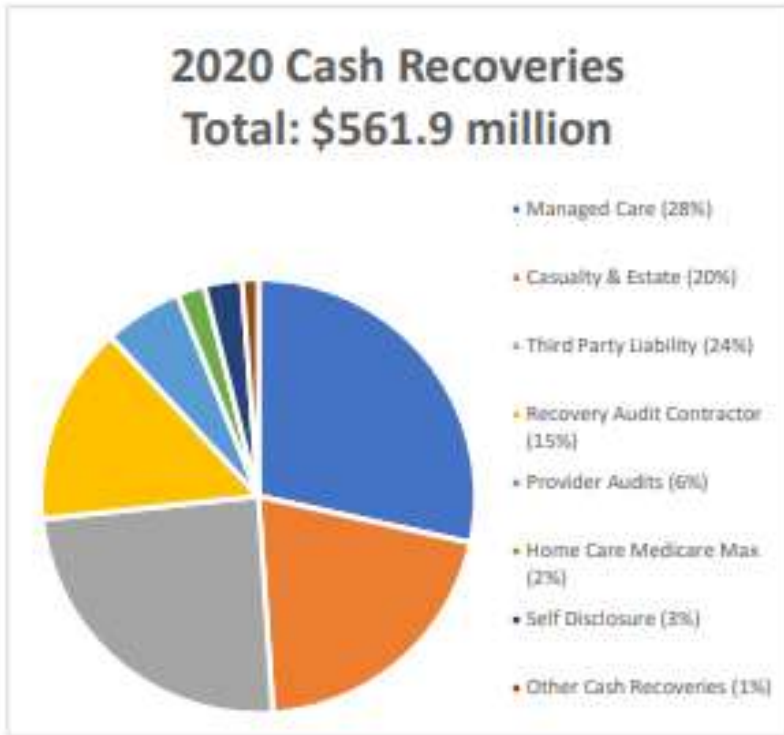
- ▶ Westchester Agency (November 23, 2021)
 - ▶ 100 claims reviewed (less than 1/10 of 1 % of all claims)
 - ▶ \$8,279.18 of findings on claims reviewed
 - ▶ Missing required health assessment
 - ▶ Missing documentation of required test or follow-up
 - ▶ Missing certification of immunization
 - ▶ Missing personnel record
 - ▶ Failure to complete required in-service training
 - ▶ Missing entry in the Uniform Assessment system
 - ▶ Failure to complete annual performance evaluation
 - ▶ Missing/invalid signature on medical evaluation
 - ▶ Missing service documentation
 - ▶ \$170,715 lower confidence level extrapolated error (adjusted point estimate is \$634,334)

OMIG Findings

- ▶ Long Island Agency (January 20, 2020)
 - ▶ 100 claims reviewed (slightly over 1/2 of 1 % of all claims)
 - ▶ \$2,020.93 of findings on claims reviewed (16 claims)
 - ▶ No documentation of service
 - ▶ Missing Day Hab service documentation
 - ▶ Incorrect rate code billed for group/supplemental group Day Hab services
 - ▶ Missing Day Hab plan review
 - ▶ \$202,168 lower confidence level extrapolated error (adjusted point estimate is \$339,942)

OMIG Audits

► http://ceriniandassociates.com/wp-content/uploads/2022/02/2020-OMIG-Annual-Report_0.pdf



Establishing Proper Controls

- ▶ Each Funder is going to have their own audit protocols
 - ▶ OASAS: <https://oasas.ny.gov/system/files/documents/2019/10/administrative-and-fiscal-guidelines-for-oasas-funded-providers.pdf>
 - ▶ OPWDD: <https://opwdd.ny.gov/providers/medicaid>
 - ▶ OMIG: <https://omig.ny.gov/audit/audit-protocols>
- ▶ Join funding source specific trade associations to keep abreast of audits and issues as well as changing regulations
- ▶ Understand who will be auditing you and what they will be looking at

Objectives of Internal Controls

- ▶ Accurate Financial Information
- ▶ Compliance with Policies and Procedures
- ▶ Safeguarding Assets
- ▶ Efficient Use of Resources
- ▶ Accomplishment of Company Objectives and Goals
 - ▶ Institute of Internal Auditors (IIA)



What Internal Controls Do

- ▶ Effectiveness and Efficiency of Operations
 - ▶ addresses an entity's basic business objectives, including performance and profitability goals and safeguarding of resources.
- ▶ Reliability of Financial Reporting
 - ▶ preparation of reliable financial statements and publicly reported financial data.
- ▶ Compliance with Laws and Regulations
 - ▶ compliance with those laws and regulations to which the entity is subject.

-COSO Integrated Framework Executive Summary



Why Internal Controls Are Important

- ▶ Provides management with confidence that the entity is operating according to standards which are monitored-someone is watching.
- ▶ Indicates to staff that what they are doing is important and that QUALITY is important.
- ▶ Sends a signal that certain behaviors will not be tolerated.



What Does a Proper Control Environment Look Like

- ▶ Fiscal Policy & Procedure Manual
 - ▶ Description of accounting systems and records
 - ▶ Cost allocation policies (between entities, programs, and direct vs. non-direct)
 - ▶ How do you ensure costs are properly allocated
 - ▶ Proper cut-off procedures in place
 - ▶ Purchasing policies and procedures
 - ▶ Proper Bids/quotes in place
 - ▶ Proper approvals
 - ▶ Travel reimbursement policies and procedures
 - ▶ Proper Review of Journal Entries
 - ▶ Contemporaneous accounting records
 - ▶ Recorded to right account and cost center
 - ▶ Proper oversight and reconciliations

What Does a Proper Control Environment Look Like

- ▶ Fiscal Policy & Procedure Manual
 - ▶ Equipment inventory and controls
 - ▶ Tagging of assets
 - ▶ Proper depreciation
 - ▶ Petty cash policies and procedures
 - ▶ Payroll policies and procedures
 - ▶ Time tracking in place
 - ▶ Documentation of shared staff
 - ▶ Allowable/Non-allowable Cost Policy
 - ▶ How are you tracking what costs are non-allowable
 - ▶ Related Party Transaction Policy
 - ▶ Capitalization policy



Audit Protocols

(OPWDD Day Hab Services)

- ▶ Review of OPWDD Day Hab Audit protocols
 - ▶ <http://ceriniandassociates.com/wp-content/uploads/2022/02/Office-for-People-With-Developmental-Disabilities-OPWDD-Day-Habilitation-Protocol-1.pdf>



Auditor Concerns (Fee based Programs)

- ▶ Documentation
 - ▶ Makes sure that your records are internally consistent
 - ▶ Looking for individualization of needs (can't be cookie cutter approach)
 - ▶ Not just interested in processes, also concerned that linkage exists between services and planned outcomes. Progress notes should clearly document this relationship
 - ▶ Patient centered service treatment plans that are fluid
 - ▶ Document issues encountered and how they are being resolved

Auditor Concerns

(Fee Based Programs)

- ▶ Movement to Medicaid Managed Care
 - ▶ Managed care companies do a lot of retrospective reviews
 - ▶ Quality assurance should not just be about dotting the i's and crossing the t's (as required by OMIG), it should also look at quality of care and linkage to outcomes
 - ▶ Everything links back to treatment plan, what are you trying to accomplish and what is your planned course of treatment
 - ▶ If treatment isn't working, need to rethink treatment (type and frequency)
 - ▶ Interested in helping people out of the system ... looking for progress not regression
 - ▶ If you don't post real results, that could impact your ability to receive future referrals
- ▶ Organizations will need to have a clear understanding of their cost structure before signing managed care contracts

Medicaid Compliance

- ▶ Compliance Program Assessment Tool
 - ▶ https://www.omig.ny.gov/images/stories/compliance_alerts/document3-compliance_alert7.pdf
- ▶ 8 Areas of review
 - ▶ Written Policies and Procedures
 - ▶ Documented compliance expectations
 - ▶ How to identify and communicate compliance issues
 - ▶ How investigated and resolved
 - ▶ Compliance Officer
 - ▶ Employee of organization
 - ▶ Report to CEO
 - ▶ Roles within organization
 - ▶ Regular communication with Board

Annual Medicaid Certification

- ▶ 8 Areas of review
 - ▶ Training & Education
 - ▶ Annual training of staff regarding compliance program and how to identify fraud and waste
 - ▶ New staff/board orientation training
 - ▶ Open Communication to Compliance Officer
 - ▶ Staff/Board/volunteers notified what and how to report to compliance officer
 - ▶ Ability to notify anonymously
 - ▶ Types of issues and method to report properly advertised (orientation, posters, pamphlets, intra/internet, etc.)

Annual Medicaid Certification

- ▶ 8 Areas of review
 - ▶ Disciplinary Policies to Encourage Good Faith Participation
 - ▶ Expectations, punishment for failure to comply or complacency
 - ▶ Discipline fairly and consistently applied
 - ▶ Regular Assessment of Compliance Risk
 - ▶ Is formal risk assessment performed and documented
 - ▶ Is regular testing of higher risk areas performed with findings clearly documented
 - ▶ Are formal corrective action plans developed and monitored by the compliance department
 - ▶ Are proper controls in place to ensure false claims are not filed

Annual Medicaid Certification

- ▶ 8 Areas of review
 - ▶ System for Responding to Compliance Issues
 - ▶ Procedures in place to respond to reports of noncompliance or findings
 - ▶ Procedures in place to correct immediately and implement policies to reduce noncompliance in the future
 - ▶ Systems in place to self-report to Medicaid where appropriate
 - ▶ Non-Intimidation or Retaliation Policy
 - ▶ Clearly documented in policy
 - ▶ Allegations fully and completely investigated
 - ▶ Disciplinary action is uniform

Justice Center

- ▶ Programs are not fully aware of:
 - ▶ What is and isn't reportable
 - ▶ How to properly investigate findings
 - ▶ Proper process and close out
- ▶ Potential indication of systemic issues within your control environment
 - ▶ Programs should look at trends in findings
 - ▶ Location by location
 - ▶ Staff training
 - ▶ Employees

Compliance Committee

- ▶ Who should be part of
 - ▶ Department representation
 - ▶ Compliance officer
 - ▶ Audit Committee/Board member(s)
 - ▶ Quality assurance
 - ▶ Legal
- ▶ What should be focus
 - ▶ Risks within organization
 - ▶ Annual risk assessment that remains fluid throughout the year
 - ▶ Internal and external
 - ▶ Testing and monitoring
 - ▶ Changing regulations/requirements

Compliance Committee

- ▶ Communication
 - ▶ Meeting with Board/Audit committee at least quarterly
 - ▶ Summarize information, risks, and potential impact
 - ▶ Proper follow-up and reporting
 - ▶ Develop appropriate corrective action plans
 - ▶ Use findings to educate staff

Keep in Mind



- ▶ Keep lines of communication open with funding sources
- ▶ Keep copies of all communication to support responses
- ▶ Develop formal quality assurance protocols and document work performed (audit checklist)
- ▶ Assess risk at least annually and test areas of greatest risk
- ▶ Stalk funding source websites and stay involved with your industry

Thank You



- ▶ Kenneth Cerini, CPA, CFP, Partner
Cerini & Associates, LLP
P: 631-868-1103
E: kcerini@cerinicpa.com



- ▶ Shari Diamond, CIA, Partner
Cerini & Associates, LLP
P: 631-868-1143
E: sdiamond@cerinicpa.com

