



## **New Georgia Medicaid Requirements for Ordering, Prescribing, or Referring Providers**

H. Carol Saul and Jordan C. Kearney

The Patient Protection and Affordable Care Act (PPACA) adopted new anti-fraud provisions that seek to prevent individuals who are excluded from Federal Health Care Programs from billing Medicare or Medicaid. In May 2013, the Department of Health and Human Services Office of Inspector General issued an updated guidance that clarified the effect of exclusion from the Medicare and Medicaid programs and emphasized providers' obligation to screen current and potential employees and contractors against OIG's List of Excluded Individuals and Entities to determine whether they are excluded.<sup>1</sup>

As part of the Georgia's compliance with the PPACA program integrity requirements, the Georgia Department of Community Health (DCH) recently issued a guidance explaining a new Medicaid enrollment requirement for ordering, prescribing, or referring physicians and other eligible professionals (OPR providers).<sup>2</sup> This new Georgia guidance is another signal that the Centers for Medicare & Medicaid Services ("CMS") and the states are tightening enforcement on exclusion checks.

### **The New Enrollment Requirement for OPR Providers**

Prior to PPACA, providers who were not enrolled in the Medicaid program could nevertheless order services and prescribe medications that were covered under Medicaid, and the entity that rendered the covered services or filled the prescriptions could bill Medicaid for those services. PPACA changed this rule.<sup>3</sup> Now, OPR providers must be enrolled in the Georgia Medicaid Program to order, prescribe, or refer items or services for Georgia Medicaid beneficiaries. If the OPR provider is not enrolled in Medicaid, the entity that ultimately provides the covered services cannot bill Medicaid for the services.

Under the new regulations, there are three basic requirements for ordering, prescribing, or referring covered items and services:

1. The physician or non-physician practitioner who wrote the order, prescription, or referral must be enrolled in Medicaid as either a participating Medicaid provider or as an OPR provider, and his or her National Provider Identifier (NPI) number must be included on the claim.
2. The provider's NPI number must be for an individual physician or non-physician practitioner (*i.e.*, not an organizational NPI).
3. The physician or non-physician practitioner must be of a specialty type that is eligible to order, prescribe, or refer.

DCH is in the process of rolling out the related registration requirements and enrollment began

<sup>1</sup> For more information on the updated guidance, see H. Carol Saul, "AGG Client Alert: OIG Updates Guidance on Effect of Exclusion from Federal Health Care Providers."

<sup>2</sup> Providers who can order, refer, and/or prescribe include doctor of medicine or osteopathy, dental medicine, dental surgery, podiatric medicine, optometry, physicians assistant, nurse practitioner, clinical psychologist, certified nurse midwife, clinical social worker, and audiologist.

<sup>3</sup> 42 C.F.R. § 455.410(b).

April 1, 2013. On October 1, 2013, DCH began denying pharmacy claims if the prescribing provider is not enrolled as an OPR provider or participating Medicaid provider. DCH will soon begin surveying claims for all other categories of services (e.g., specialist services, imaging services, etc.) and notifying OPR providers through the claims transaction process if the submitted OPR provider is not enrolled in Medicaid. DCH has not released the timeline of when it will begin enforcement efforts for these services.

## What are the Implications of Enrolling as an OPR Provider?

A physician or other eligible professional who enrolls as an OPR provider and who does not submit claims to Medicaid will not be required to accept the terms of the general Medicaid Statement of Participation. DCH has created a new Statement of Participation specifically for OPR providers that does not require the provider to accept Medicaid enrollees or bill Medicaid for his or her services. Therefore, enrolling in Medicaid as an OPR provider:

- Does not obligate a provider to see Medicaid patients;
- Does not mean the provider will be listed as a Medicaid provider for patient assignment or referral;
- Does not require an annual renewal; and
- Allows the provider to continue to see Medicaid patients without billing the Medicaid program if he or she so chooses.

## How to Enroll as an OPR Provider

Providers who are already enrolled as active Medicaid participating providers do not need to enroll again as an OPR provider. A provider who is not enrolled as participating provider should take the following steps to enroll as an OPR provider:

1. Apply for an NPI with CMS at: <https://nppes.cms.hhs.gov/NPPES/Welcome.do>.
2. Enroll as an OPR provider through the Georgia Medicaid Management Information System (GMMIS) Web Portal at: <https://www.mmis.georgia.gov/portal/default.aspx>.

Importantly, providers must submit an additional enrollment application through the GMMIS Web Portal for each physical service location where they see Medicaid patients.

## OPR Provider Enrollment and Medicare

Also under PPACA, providers who order, prescribe, or refer patients for Medicare covered services or medications must be enrolled in the Medicare program. Implementation of the Medicare enrollment requirement is further along than implementation of the Georgia Medicaid enrollment requirement. Beginning January 6, 2014, claims for some services will be denied if the OPR provider's information is invalid or if the provider is not of a specialty that is eligible to order or refer. These claims include Part B clinical lab and imaging technical or global component claims, durable medical equipment and prosthetics claims, and home health agency claims.

To access the DCH guidance, "New Medicaid Requirements for Ordering, Prescribing or Referring Providers – An Overview – Updated September 26, 2013," please click [here](#).<sup>4</sup>

For information regarding Medicare enrollment guidelines, please click [here](#).<sup>5</sup>

<sup>4</sup> <http://dch.georgia.gov/dch-frequently-asked-questions>.

<sup>5</sup> [http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/downloads/MedEnroll\\_OrderReferProv\\_FactSheet\\_ICN906223.pdf](http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/downloads/MedEnroll_OrderReferProv_FactSheet_ICN906223.pdf).

## Authors and Contributors

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**H. Carol Saul**

Partner, Atlanta Office  
404.873.8694  
carol.saul@agg.com

**Jordan C. Kearney**

Associate, Atlanta Office  
404.873.8152  
jordan.kearney@agg.com

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**Atlanta Office**

171 17th Street NW  
Suite 2100  
Atlanta, GA 30363

**Washington, DC Office**

1775 Pennsylvania Ave., NW,  
Suite 1000  
Washington, DC 20006

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