


6100 General Overview and Enforcement Webinar

Office of Developmental Programs
October 30, 2019

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ODP's 6100 Training Plan

ODP has developed a three staged training plan to help all stakeholders understand the Chapter 6100 regulations.

- **Stage 1** provides a high-level overview of the 6100 regulations, ODP's implementation strategy, and projected timelines for implementation milestones.
- **Stage 2** presents general information about specific sections of the regulations to introduce stakeholders to each section's key concepts.
- **Stage 3** provides detailed information about how ODP will apply the regulations and expectations for compliance.

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About This Session



This webinar is the first Stage 2 session and will focus on the following sections:

- General Provisions (6100.1 – 6100.3)
- Transition to a New Provider (6100.301 – 6100.307)
- Medication Administration Training (6100.468, 469)
- General Payment Provisions (6100.481 – 6100.485)
- Fee Schedule (6100.571)
- Cost-Based Rates and Allowable Costs (6100.641-6100.672)
- Department-Established Fee for Ineligible Portion of Residential Service (6100.711)
- Enforcement (6100.741 – 6100.744)

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A Note About Questions



ODP has received many questions about the 6100 regulations.

Some of these questions can be answered right away because the meaning of the regulation is clear or because ODP has already released guidance relating to the questions.

On the other hand, some questions relate to how the regulations will be applied in very specific circumstances. We are not yet prepared to answer questions of this nature as interpretive materials such as compliance guides and bulletins are still under development. These types of questions will be addressed in Stage 3 of ODP's training plan.


Please keep the above in mind when asking questions during today's session.

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General Provisions



Part 1:

General Provisions

6100.1 – 6100.3

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Purpose - 6100.1


What do the Chapter 6100 regulations do?

- Allow individuals with an intellectual disability or autism to achieve maximum independence, choice, and opportunity in their lives through the effective and efficient delivery of services.

- Establish rules providers must follow when rendering services to ensure effective and efficient delivery of services.

- Explain and clarify how rates for services rendered are established.

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Applicability – 6100.2



Which services are covered by the 6100 regulations?

- Services Provided Through ODP Waiver Programs
 - Adult Autism Waiver
 - Community Living Waiver
 - Consolidated Waiver
 - Person/Family Directed Support Waiver
 - Any future waivers developed by ODP

- State Plan services
 - Targeted Support Management
 - Any future state plan services funded through ODP

- Base-funded services

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Applicability – 6100.2



Chapter 6100 Regulations do not apply to:

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- Settings not licensed by ODP and not reimbursed through ODP:
 - Hospitals, Nursing Facilities, Personal Care Homes, Assisted Living Residences, Mental Health Facilities
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 - Contract with Vendor Fiscal/Employer Agent Financial Management Services organization.
 - Common Law Employer Agreement
 - Support Service Professional Agreement

- The Adult Community Autism Program (ACAP)

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Definitions - 6100.3



Designated managing entity - An entity that enters into an agreement with the Department to perform administrative functions delegated by the Department, as the Department's designee.

- For **waivers**, the “designated entities” are the Administrative Entities (AE)

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Definitions - 6100.3




Definition	Applies to:
HCBS—Home and community-based service—An activity, assistance or product provided to an individual that is funded through a Federally-approved waiver program or the State plan.	<ul style="list-style-type: none"> All rules for Targeted Support Management. All rules for services funded through the waivers.
Service—An activity, assistance or product provided to an individual and paid through a Federally-approved waiver program, the State plan or base-funding. A service includes a HCBS, support coordination, TSM, agency with choice, organized health care delivery system, and vendor goods and services, unless specifically exempted in this chapter.	<ul style="list-style-type: none"> All rules for Targeted Support Management. All rules for services funded through the waivers. All rules for base-funded services.
Support—An unpaid activity or assistance provided to an individual that is not planned or arranged by a provider.	Any unpaid activity or assistance provided to an individual that is not planned or arranged by a provider.

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Transition to a New Provider



Part 2:

Transition to a New Provider

6100.301 – 6100.307

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Individual Choice



6100 does not make substantive changes to an individual's right to choose any willing and qualified provider; in general, the 6100 regulations use different language than was used in Chapter 51, such as:

- Providers may not exert influence when the individual is considering a transition to a new provider.
- The Support Coordinator shall assist the individual in exercising choice in transitioning to a new provider.
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Cooperation



No major changes to the requirement that both the current provider and the new provider cooperate during the transition; again, changes are primarily in language used:

The current provider must:

- Participate in transition planning to aid in the successful transition to the new provider.
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- Resolve pending incidents.

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Involuntary Transfers



The 6100 regulations outline the only situations in which an individual can be involuntarily transferred:

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- The individual's needs have changed, advanced or declined, so that the individual's needs cannot be met by the provider, even with the provision of supplemental services.
- Meeting the individual's needs would require a significant alteration of the provider's program or building.
- Closure of the service location.

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Written Notice



A change in 6100 regulations is that providers who will transfer an individual involuntarily must give written notice to the following at least 45 days prior to the date of the proposed change of provider or transfer:

- (1) The individual.
- (2) Persons designated by the individual.
- (3) The individual plan team members.
- (4) The designated managing entity.
- (5) The support coordinator, base-funding support coordinator or targeted support manager.
- (6) The Department

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Continuation of Services



The provider shall continue to provide the authorized service during the transition period to ensure continuity of service until a new provider is approved and the new service is in place, unless otherwise directed by the Department or the designated managing entity.

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Medication Administration Training



**Part 3:
Medication
Administration Training
6100.468, 469**

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Training



- Medication Administration Training is required when an individual cannot self-administer medications in licensed and unlicensed settings.
- A person who has successfully completed a Department-approved medication administration course, including the course renewal requirements, may administer the medications, injections, procedures and treatments as specified in § 6100.462(b)(2) (relating to medication administration).
- The medication administration course in § 6100.462(b)(2) and subsection (a) will be a modified course for life sharers and service locations that are not licensed by the Department.

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Exceptions



Medication Administration Training is not required for the following:

- Respite care provided for fewer than 30 days in a 12-month period.
- Job coaching provided for fewer than 30 days in a 12-month period.
- Administration of medication by an adult relative in a service location **other than the** following, i.e. medication administration training applies in these locations:
 - o A service location that is licensed by the Department.
 - o An unlicensed life sharing home


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Fiscal Information



Part 4:

General Payment Provisions
6100.481 – 6100.485

Fee Schedule
6100.571


Cost-Based Rates and Allowable Costs
6100.641-6100.672

Department-Established Fee for Ineligible Portion of Residential Service
6100.711

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Fiscal Information



These sections have been combined because there are very few changes from Chapter 51.

In-depth information about rates and other fiscal regulations will be provided in Stage 3.

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Fiscal Information



The only major change in the 6100 regulations is that the Department will update the data used to establish fee schedule rates at least every 3 years.

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Enforcement



Part 5 Enforcement

6100.741- 6100.744

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Sanctions



Sanctions, also called “adverse actions” or “enforcement actions,” are penalties used to provide incentives for compliance with law, rules, and regulations.

If a provider complies with the rules, the provider will not be subject to penalties.

If a provider does not comply with the rules, the provider may be subject to penalties.

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Why do we Impose Sanctions?



Sanctions are **not** punishment or retribution for wrongdoing.

The primary benefit of sanctions is to compel compliance.

Sanctions also give ODP the authority to take immediate steps to protect participant health and safety in crisis situations.

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Imposing Sanctions



Sanctions may be applied when a provider:

- Does not comply with any part of Chapter 6100.
- Does not submit an acceptable Corrective Action Plan as defined at § 6100.3 in response to non-compliance or a preliminary determination of non-compliance with Chapter 6100 in a time frame specified by ODP.
- Fails to implement all or part of a Corrective Action Plan
- Commits fraud, deceit, or falsification of documents or information related to Chapter 6100.
- Does not provide ODP, the AE, and/or any other authorized Federal and State officials free and full access to its policies and records, and/or to the participants receiving services.
- Does not provide documents or other information in a timely manner upon the request of the ODP, the AE, and/or any other authorized Federal and State agency.

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Array of Sanctions



The Department may implement the following sanctions:

- (1) Recouping, suspending or disallowing payment.
- (2) Terminating a provider agreement for participation in an HCBS waiver program.
- (3) Prohibiting the delivery of services to a new individual.
- (4) Prohibiting the provision of specified services at a specified service location.
- (5) Prohibiting the enrollment of a new service location.
- (6) Ordering the appointment of a master, as approved by the Department, at the provider's expense and not eligible for reimbursement from the Department, to manage and direct the provider's operational, program and fiscal functions.
- (7) Removing an individual from a service location.

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Additional Sanctions



§ 6100.744. Additional conditions and sanctions.

In addition to sanctions and sanction conditions specified in Chapter 6100, the provider is subject to the following:

- 1) Sections 1101.74, 1101.75, 1101.76 and 1101.77.
- 2) Other sanctions as provided by applicable statutes and regulations.

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Sanctions Explained



Recouping, suspending or disallowing payment.

This allows ODP to:

- Take money back when services are not rendered, or not rendered properly.
- Temporarily stop payments to providers until they comply with the regulations.
- Not pay for a service that was not rendered, or not rendered properly.

Terminating a provider agreement for participation in an HCBS waiver program.

This allows ODP to end a provider's ability to render and receive payment for waiver services.

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Sanctions Explained (Continued)



Prohibiting the delivery of services to a new individual.

This allows ODP to prevent a provider from serving any additional people after a specified date until compliance has been achieved.

For example, ODP may prevent a noncompliant Residential Habilitation provider from admitting anyone not currently supported in the providers' homes until an acceptable corrective action plan is submitted.

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Sanctions Explained (Continued)



Prohibiting the provision of specified services at a specified service location.

This allows ODP to prevent, suspend, or stop services at one or more locations. Service provision may be suspended pending compliance or prohibited indefinitely, e.g. if the location is not integrated in the community in accordance with § 6100.443 (Relating to Integration).

Prohibiting the enrollment of a new service location.

This allows ODP to deny applications to enroll a new service location until compliance at other locations has been achieved.

Removing an individual from a service location.

This allows ODP to require a participant who is in an unsafe provider-operated setting or provider-operated setting that is not sufficient to meet the participant's needs to be relocated to another setting.

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Sanctions Explained (Continued)



Ordering the appointment of a master as approved by the Department, at the provider's expense and not eligible for reimbursement from the Department, to manage and direct the provider's operational, program and fiscal functions.

A "master" is a person or entity not affiliated with the provider who is approved by ODP to assume control over the provider's operations when ODP has determined that provider cannot successfully manage its own operations.

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Concurrent Sanctions



It is possible for ODP to impose multiple, concurrent sanctions.

For example, if serious noncompliances are found at a Residential Habilitation service location, ODP may:

- Require the provider to remove participants from the service location;
- Prohibit the provider from rendering Residential Habilitation at the service location;
- Recoup any funds paid for Residential Habilitation at the service location, and
- Disallow any pending payments for Residential Habilitation at the service location.

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Progressive Enforcement



It is ODP's policy that sanctions be applied in an equitable and judicious manner in accordance with the principles of *Progressive Enforcement*.

Progressive Enforcement compels compliance through the application of positive and progressively more restrictive actions.

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The Stages of Progressive Enforcement



The stages of Progressive Enforcement include:

1. Training and education
2. Technical assistance
3. Compliance monitoring
4. Request for corrective action
5. Warning of potential sanctions
6. Imposing the least restrictive sanction possible to compel compliance
7. Imposing more restrictive sanctions up to and including termination of Provider Agreement / appointment of Master


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Consideration as to Type of Sanction Utilized




ODP will consider the following factors when determining and implementing a sanction or combination of sanctions:

1. The seriousness of the situation
2. The continued (i.e. ongoing) nature of the situation
3. The repeated nature of the situation
4. How many of the reasons for sanctioning present as listed at § 6100.741(b)
5. The provider's licensing history, if applicable
6. The provider's history of compliance with Chapters 51 and 6100, with other Departmental regulations such as licensure regulations, and with applicable regulations of other State and Federal agencies.

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Consideration as to Type of Sanction Utilized



The seriousness of the situation

- CAP is one day late – Less serious
- Person is at imminent risk of serious injury or death – Very serious

The continued (i.e. ongoing) nature of the situation

- The provider did not complete progress notes for one person for one three-month period but did so moving forward – Less serious
- The provider has never completed a progress note for anyone and refuses to complete them – Very serious


The repeated nature of the situation

- The provider has never broken the rule before – Less serious
- The provider has been cited for breaking the same rule over a period of years – Very serious

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Consideration as to Type of Sanction Utilized



How many of the reasons for sanctioning present as listed at § 6100.741(b)

- The provider was one week late in submitting a copy of a person's record – Less serious

- The provider was one week late in submitting a copy of a person's record; when the record was received, multiple documents contained forged signatures, and there was a forged prescription that did not come from a licensed prescriber – Very serious

The provider's licensing history, if applicable


- The provider was on a provisional license for six months three years ago – Less serious

- The provider is currently on a third provisional license – Very serious.

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Consideration as to Type of Sanction Utilized



The provider's history of compliance with Chapters 51 and 6100, with other Departmental regulations such as licensure regulations, and with applicable regulations of other State and Federal agencies.


- The provider's QA&I review in 2017 found noncompliances with staff training documentation. Documentation was subsequently located – Less serious

- ODP recouped \$150,000 in paid claims in 2018 because there was no documentation to support that services were provided – Very serious


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Questions and Answers



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General Provisions



Part 1:

General Provisions

6100.1 – 6100.3

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Purpose - 6100.1


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Transition to a New Provider



Part 2:

Transition to a New Provider

6100.301 – 6100.307

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Medication Administration Training



**Part 3:
Medication
Administration Training
6100.468, 469**

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Training



- Medication Administration Training is required when an individual cannot self-administer medications in licensed and unlicensed settings.
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Exceptions



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Fiscal Information



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These sections have been combined because there are very few changes from Chapter 51.

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Part 5 Enforcement

6100.741- 6100.744

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Imposing Sanctions



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Array of Sanctions



The Department may implement the following sanctions:

- (1) Recouping, suspending or disallowing payment.
- (2) Terminating a provider agreement for participation in an HCBS waiver program.
- (3) Prohibiting the delivery of services to a new individual.
- (4) Prohibiting the provision of specified services at a specified service location.
- (5) Prohibiting the enrollment of a new service location.
- (6) Ordering the appointment of a master, as approved by the Department, at the provider's expense and not eligible for reimbursement from the Department, to manage and direct the provider's operational, program and fiscal functions.
- (7) Removing an individual from a service location.

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Additional Sanctions



§ 6100.744. Additional conditions and sanctions.

In addition to sanctions and sanction conditions specified in Chapter 6100, the provider is subject to the following:

- 1) Sections 1101.74, 1101.75, 1101.76 and 1101.77.
- 2) Other sanctions as provided by applicable statutes and regulations.

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Sanctions Explained



Recouping, suspending or disallowing payment.

This allows ODP to:

- Take money back when services are not rendered, or not rendered properly.
- Temporarily stop payments to providers until they comply with the regulations.
- Not pay for a service that was not rendered, or not rendered properly.

Terminating a provider agreement for participation in an HCBS waiver program.

This allows ODP to end a provider's ability to render and receive payment for waiver services.

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Sanctions Explained (Continued)



Prohibiting the delivery of services to a new individual.

This allows ODP to prevent a provider from serving any additional people after a specified date until compliance has been achieved.

For example, ODP may prevent a noncompliant Residential Habilitation provider from admitting anyone not currently supported in the providers' homes until an acceptable corrective action plan is submitted.

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Sanctions Explained (Continued)



Prohibiting the provision of specified services at a specified service location.

This allows ODP to prevent, suspend, or stop services at one or more locations. Service provision may be suspended pending compliance or prohibited indefinitely, e.g. if the location is not integrated in the community in accordance with § 6100.443 (Relating to Integration).

Prohibiting the enrollment of a new service location.

This allows ODP to deny applications to enroll a new service location until compliance at other locations has been achieved.

Removing an individual from a service location.

This allows ODP to require a participant who is in an unsafe provider-operated setting or provider-operated setting that is not sufficient to meet the participant's needs to be relocated to another setting.

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Sanctions Explained (Continued)



Ordering the appointment of a master as approved by the Department, at the provider's expense and not eligible for reimbursement from the Department, to manage and direct the provider's operational, program and fiscal functions.

A "master" is a person or entity not affiliated with the provider who is approved by ODP to assume control over the provider's operations when ODP has determined that provider cannot successfully manage its own operations.

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Concurrent Sanctions



It is possible for ODP to impose multiple, concurrent sanctions.

For example, if serious noncompliances are found at a Residential Habilitation service location, ODP may:

- Require the provider to remove participants from the service location;
- Prohibit the provider from rendering Residential Habilitation at the service location;
- Recoup any funds paid for Residential Habilitation at the service location, and
- Disallow any pending payments for Residential Habilitation at the service location.

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Progressive Enforcement



It is ODP's policy that sanctions be applied in an equitable and judicious manner in accordance with the principles of *Progressive Enforcement*.

Progressive Enforcement compels compliance through the application of positive and progressively more restrictive actions.

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The Stages of Progressive Enforcement



The stages of Progressive Enforcement include:

1. Training and education
2. Technical assistance
3. Compliance monitoring
4. Request for corrective action
5. Warning of potential sanctions
6. Imposing the least restrictive sanction possible to compel compliance
7. Imposing more restrictive sanctions up to and including termination of Provider Agreement / appointment of Master


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Consideration as to Type of Sanction Utilized




ODP will consider the following factors when determining and implementing a sanction or combination of sanctions:

1. The seriousness of the situation
2. The continued (i.e. ongoing) nature of the situation
3. The repeated nature of the situation
4. How many of the reasons for sanctioning present as listed at § 6100.741(b)
5. The provider's licensing history, if applicable
6. The provider's history of compliance with Chapters 51 and 6100, with other Departmental regulations such as licensure regulations, and with applicable regulations of other State and Federal agencies.

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Consideration as to Type of Sanction Utilized



The seriousness of the situation

- CAP is one day late – Less serious
- Person is at imminent risk of serious injury or death – Very serious

The continued (i.e. ongoing) nature of the situation

- The provider did not complete progress notes for one person for one three-month period but did so moving forward – Less serious
- The provider has never completed a progress note for anyone and refuses to complete them – Very serious


The repeated nature of the situation

- The provider has never broken the rule before – Less serious
- The provider has been cited for breaking the same rule over a period of years – Very serious

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Consideration as to Type of Sanction Utilized



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How many of the reasons for sanctioning present as listed at § 6100.741(b)

- The provider was one week late in submitting a copy of a person's record – Less serious

- The provider was one week late in submitting a copy of a person's record; when the record was received, multiple documents contained forged signatures, and there was a forged prescription that did not come from a licensed prescriber – Very serious

The provider's licensing history, if applicable


- The provider was on a provisional license for six months three years ago – Less serious

- The provider is currently on a third provisional license – Very serious.

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Consideration as to Type of Sanction Utilized



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The provider's history of compliance with Chapters 51 and 6100, with other Departmental regulations such as licensure regulations, and with applicable regulations of other State and Federal agencies.


- The provider's QA&I review in 2017 found noncompliances with staff training documentation. Documentation was subsequently located – Less serious

- ODP recouped \$150,000 in paid claims in 2018 because there was no documentation to support that services were provided – Very serious


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Questions and Answers



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