The following information was prepared by Marcy Savage, government relations consultant at Reid, McNally and Savage, on behalf of the NYS Council for Community Behavioral Healthcare.

OMIG Audit Protections/ Best Practices in A6813/S5329A include:

- **Defines Overpayments and Limit Extrapolation:** Includes a definition for overpayment and includes standards for when extrapolation may be used for overpayments consistent with federal CMS standards including a "sustained or high level of payment error of 50% or greater," identical payment errors were found in a prior audit, provider was previously sanctioned for identical payment errors, or similar.
- **Notice & Recovery Timeline:** Requires that recovery of an overpayment must not take place until at least 60 days after issuance of a final audit report, or if a provider requests a hearing within 60 days of receiving final audit report, not until a final determination is made.
- **Repeat Audits:** Prohibits the repeating of a review or audit within the last three years of the same contracts, cost reports, claims, bills, or expenditures unless OMIG has new information, good cause to believe the previous audit was erroneous, or a significantly different scope of investigation.
- **Regulations in Place of Time of Claim/Conduct:** Requires OMIG to apply the laws, regulations, policies, guidelines, standards, and interpretations of the appropriate agency that were in place at the time the claim or conduct occurred.
- **Correction of Administrative or Technical Defects:** Requires OMIG to inform the provider of an error and gives 60 days from notice of the mistake or 6 years from the date of service for provider to correct it and resubmit claim, as long as certain standards are met by provider.
- **Draft Audit Findings:** Requires OMIG to provide a detailed written explanation of the extrapolation method used at exit conference or in a detailed written explanation of any draft audit findings provided to the provider.
- **Statistically Valid Extrapolation Method:** Requires that OMIG may only use statistically, reasonably valid extrapolation methods for audits where extrapolation is permitted. Such method shall be established in regulations of OMIG.
- **Compliance Programs:** Requires OMIG to notify a provider if their compliance program is not satisfactory and allows the provider 60 days to submit a proposal for a satisfactory program and adopt expeditiously.

- **Annual Report to Consider Audit Impacts on Medical Services:** Requires OMIG to consult with the Commissioner of the State Department of Health (DOH) when preparing and filing its annual report on the impacts that all civil and administrative enforcement actions taken in the prior year had or will have on the quality and availability of medical services. Report shall also address the fiscal solvency of the providers subject to enforcement actions.
- **Applicability to All Medicaid Audits and those Conducting Audits:** Applies standards to audits under both Medicaid fee for service and managed care, and applies to anyone lawfully authorized to conduct an audit.
- **Federal Audits:** Includes a clause that the provisions of the bill will be interpreted consistent with federal requirements.