



To: Achieve Beyond employees and others affiliated with Achieve Beyond

From: Joseph Matuza, Corporate Compliance Officer

Date: May 2023

RE: Compliance Program and Federal Deficit Reduction Act

Achieve Beyond is committed to preventing and detecting fraud, waste and abuse. In support of this commitment, Achieve Beyond has established a Corporate Compliance Program. The purpose of the Corporate Compliance Program is to establish appropriate controls that will help ensure consistent compliance with the federal and State laws which govern our activities, and to detect violations of the law by employees and others affiliated with Achieve Beyond. The Corporate Compliance Program applies to important compliance risk areas, including billing, payment, ordered services, medical necessity, quality of care, governance, mandatory reporting, credentialing and contractor oversight.

Elements of Achieve Beyond's Corporate Compliance Program include:

- A Compliance Officer who is responsible for the day-to-day operations of the Corporate Compliance Program.
- Written standards of conduct, policies and procedures that describes compliance expectations and promote Achieve Beyond's commitment to compliance for all employees, directors, officers, managers, contractors, agents (collectively, "Affected Individuals") and others affiliated with Achieve Beyond.
- A Corporate Compliance Committee that operates and monitors the Corporate Compliance Program and initiates the necessary actions to correct any compliance problems.
- Regular, effective education and training programs for all Affected Individuals whose job descriptions include activities that are subject to the Corporate Compliance Program.
- Procedures to encourage Affected Individuals, clients, and others affiliated with Achieve Beyond to openly bring to the Corporate Compliance Committee's attention any situation that may be a violation of law or the Corporate Compliance Program without fear of threats, intimidation, retaliation or punishment.
- A system that allows for confidential and anonymous reporting of compliance issues or concerns.

- A system to respond to allegations of improper or illegal activities and the enforcement of appropriate disciplinary action against Affected Individuals who have violated the Corporate Compliance policies.
- Fairly and firmly enforced disciplinary policies that encourage good faith participation in the Compliance Program, that articulate expectation for reporting compliance issues and assisting in their resolution and that outline sanctions against Affected Individuals for: a) failing to report suspected problems; b) participating in non-compliant behavior; or c) encouraging, directing, facilitating or permitting non-compliant behavior.
- Compliance audits and/or other evaluation techniques to monitor compliance and assist in the reduction of potential problem areas.

A goal of the Corporate Compliance Program is to educate Affected Individuals with respect to federal and State statutes and regulations with which they must comply. In this regard, the federal Deficit Reduction Act (“DRA”) requires Achieve Beyond to provide all employees, contractors or agents who work in Connecticut with “detailed information” about:

- the federal False Claims Act;
- the federal administrative remedies for false claims and statements;
- Connecticut State laws pertaining to civil or criminal penalties for false claims and statements;
- whistleblower protections provided under federal and State laws; and
- the role of federal and State laws in preventing and detecting fraud, waste and abuse.

This notice provides you with the information required by the DRA.

Federal and Connecticut Statutes Related to Filing False Claims and Whistleblower Protections

Numerous federal and State laws prohibit health care providers from submitting “false” or “fraudulent” claims to Medicare and Medicaid and other federally-funded health care programs. Presented below is a listing and description of various federal and State statutes related to the filing of false Medicare and Medicaid claims.

Federal Laws

A. False Claims Reporting

1. False Claims Act, 31 U.S.C. 3729-3733.

The federal False Claims Act imposes penalties and fines on individuals and entities that file false or fraudulent claims for payment from Medicare, Medicaid, or other federal health programs. The penalty for filing a false claim is \$13,508 - \$27,018 per claim and the recoverable damages are between two and three times the value of the amount falsely received. In addition, the false claims filer may have to pay the government’s legal fees.

The False Claims Act allows private individuals to file lawsuits in federal court, just as if they were federal prosecutors. If the suit eventually concludes with payments back to the government, the person who started the case can recover 25-30% of the proceeds if the government did not participate in the suit, or 15-25% if the government did participate in the suit.

2. Administrative Remedies for False Claims, 31 U.S.C. 3801-3812.

This statute allows for administrative recoveries by federal agencies. If a person submits a claim that the person knows is false, or contains false information, or omits material information, then the agency receiving the claim may impose a penalty of up to \$13,508 for each claim. The agency may also recover twice the amount of the claim.

A violation of this law occurs when a false claim is submitted, not when it is paid. Also, unlike the False Claims Act, the determination of whether a claim is false and the imposition of fines and penalties is made by the administrative agency, not by bringing lawsuits in the federal court system.

B. Whistleblower Protections

1. Federal False Claims Act (31 U.S.C. 3730(h)). An employee who is “discharged, demoted, suspended, threatened, harassed or in any manner discriminated against” because of the employee’s lawful acts under the federal False Claims Act is entitled to reinstatement, double back pay with interest, special damages, and litigation costs and attorneys’ fees.

Connecticut State Laws

The Connecticut False Claims Act (“CFCA”) prohibits anyone from submitting false or fraudulent claims for payment or approval under a state-administered health or human services program. Many of the provisions overlap with the federal law.

A. False Claims Act

1. Conn. Gen. Stat. Sec. 4-275 (False Claims). A person violates the CFCA if they
- (a) Knowingly present, or cause to be presented, a false or fraudulent claim for payment or approval under a state-administered health or human services program;
 - (b) Knowingly make, use or cause to be made or used, a false record or statement material to a false or fraudulent claim under a state-administered health or human services program;
 - (c) Conspire to commit a violation of this section;

- (d) Having possession, custody or control of property or money used, or to be used, by the state relative to a state-administered health or human services program, knowingly deliver, or cause to be delivered, less property than the amount for which the person receives a certificate or receipt;
 - (e) Being authorized to make or deliver a document certifying receipt of property used, or to be used, by the state relative to a state-administered health or human services program and intending to defraud the state, make or deliver such document without completely knowing that the information on the document is true;
 - (f) Knowingly buy, or receive as a pledge of an obligation or debt, public property from an officer or employee of the state relative to a state-administered health or human services program, who lawfully may not sell or pledge the property;
 - (g) Knowingly make, uses or cause to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the state under a state-administered health or human services program; or
 - (h) Knowingly conceal or knowingly and improperly avoid or decrease an obligation to pay or transmit money or property to the state under a state-administered health or human services program.
2. Conn. Gen. Stat. Sec. 4-275 (Penalties). Any person who violates the provisions above shall be liable to the state for (1) a civil penalty of not less than \$5,500 or more than \$11,000, as adjusted from time to time by the federal Civil Penalties Inflation Adjustment Act of 1990, (2) three times the amount of damages that the State sustains because of the act of that person, and (3) the costs of investigation and prosecution of such violation. Liability shall be joint and several for any violation committed by two or more persons.
 3. Conn. Gen. Stat. Sec. 4-277 (Qui Tam Actions). The CFCA allows persons to bring civil actions in the superior court for the judicial district of Hartford against any person who violates the CFCA, on behalf of the person who brings the action and the State. Such action must be brought in the name of the State and may only be withdrawn upon written consent by the Attorney General and the Court.
 4. Conn. Gen. Stat. Sec. 4-284 (Employee Protections). Any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent or associated others in furtherance of an action under the CFCA, or other efforts to stop one or more violations of the CFCA. Such relief shall include reinstatement, two times the amount of back pay plus interest, and special damages, including litigation costs and reasonable attorneys' fees.

B. Whistleblower Protections

1. Conn. Gen. Stat. Sec. 4-61dd (Whistleblowing). No employee or officer of a “large state contractor” (e.g., Medicaid) may take or threaten to take any personnel action against an employee in retaliation for disclosing information of any matter involving corruption or violation of state or federal laws or regulations. An employee of a large state contractor who is disciplined (or a threatened with discipline) as a result of a report of reporting the employer’s corruption, violation of federal or State law or regulations or gross waste of funds can make an administrative complaint to the Chief Human Rights Referee. The Referee may award the employee reinstatement, back pay, reestablishment of employee benefits, reasonable attorneys’ fees and other damages.

2. Conn. Gen. Stat. Sec. 31-51 (Protection of Employee Who Discloses Employer’s Illegal Activities or Unethical Practices). No employer may discharge, discipline or otherwise penalize any employee because that person reports a violation or suspected violation of any state or federal law or regulation or because the employee is requested by the public body to participate in an investigation, hearing or inquiry. After exhausting all administrative remedies, any employee who is disciplined for reporting an employer’s violation or suspected violation of any federal, State or local law or regulation or who participates in an investigation by a public body may seek reinstatement, back pay, reestablishment of employee benefits, court costs and attorneys’ fees.

If you become aware of any compliance issues or have any questions regarding the information contained in this notice, please contact Joseph Matuza, Achieve Beyond’s Corporate Compliance Officer, at (718) 762-7633 (x 190).