



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.

Achieve Beyond's Corporate Compliance Program includes the following elements:

- 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 Maryland with “detailed information” about:

- the federal False Claims Act;
- the federal administrative remedies for false claims and statements;
- Maryland 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 Maryland 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.

**Maryland State Laws**

**A. False Claims and Reporting**

1. Maryland False Health Claims Act, MD. Code, Health-Gen. § 2-602. The Maryland False Health Claims Act imposes penalties and fines on individuals and entities that:
  - (1) Knowingly present or cause to be presented a false or fraudulent claim for payment or approval;
  - (2) Knowingly make, use, or cause to be made or used a false record or statement material to a false or fraudulent claim;
  - (3) Conspire to commit a violation under the Act;

(4) Have possession, custody, or control of money or other property used by or on behalf of the State under a State health plan or a State health program and knowingly deliver or cause to be delivered to the State less than all of that money or other property;

(5) Being authorized to make or deliver a receipt or other document certifying receipt of money or other property used or to be used by the State under a State health plan or a State health program, and intending to defraud the State or the Department, make or deliver a receipt or document knowing that the information contained in the receipt or document is not true;

(6) Knowingly buy or receive as a pledge of an obligation or debt publicly owned property from an officer, employee, or agent of a State health plan or a State health program who lawfully may not sell or pledge the property;

(7) Knowingly make, use, or cause to be made or used, a false record or statement material to an obligation to pay or transmit money or other property to the State;

(8) Knowingly conceal, or knowingly and improperly avoid or decrease, an obligation to pay or transmit money or other property to the State; or

(9) Knowingly make any other false or fraudulent claim against a State health plan or a State health program.

The potential penalty for violating the Act is (1) up to \$10,000 per claim, and (2) payment of up to three times the amount of damages that the State sustains as a result of each false claim.

The Maryland False Health Claims Act allows private individuals to file lawsuits in State court and the State must join the suit in order for the suit to proceed. If the suit eventually concludes with payments back to the State, the person who started the case can recover a percentage of the proceeds.

2. Maryland Medicaid Fraud statute MD. Code, Crim. Law. §§ 8-509-517.  
Individuals who (1) knowingly and willfully defraud or attempt to defraud a State health plan in connection with the delivery of or payment for a health care service, (2) knowingly and willfully obtain or attempt to obtain by means of a false representation money, property, or anything of value in connection with the delivery of or payment for a health care service that wholly or partly is reimbursed by or is a required benefit of a State health plan, (3) knowingly and willfully defraud or attempt to defraud a State health plan of the right to honest services, or (4) with the intent to defraud, make a false representation relating to a health care service or a State health plan, are in violation of the Medicaid Fraud statute and may be subject to penalties including monetary fines, imprisonment, or both. Health care providers who violate the Medicaid Fraud statute are also liable to the State for a civil monetary penalty up to three times the amount of the overpayment.

## **B. Whistleblower Protections**

Maryland False Health Claims Act, MD. Code, Health-Gen. § 2-607. An employee, contractor, or grantee who believes they have had a retaliatory action taken against them because of their lawful acts in furtherance of an action under the Maryland False Health Claims Act, may seek in a civil action: an injunction; reinstatement to same seniority status; reinstatement of full fringe benefits and seniority rights; twice the amount of lost wages, benefits and other remuneration, including interest; reasonable costs and attorneys' fees; punitive damages; assessment of civil penalties; and any other relief necessary to make the employee, contractor, or grantee whole.

Maryland Health Care Workers' Whistleblower Protection Act, MD. Code, Health Occupations. §§ 1-502-505. An employer may not retaliate against an employee for: (1) disclosing or threatening to disclose to a supervisor or board an activity, policy, or practice of the employer that is in violation of a law, rule, or regulation; (2) providing information to or testifying before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by the employer; or (3) objecting to or refusing to participate in any activity, policy, or practice in violation of a law, rule, or regulation. However, prior to such disclosure, said employee must have a good faith belief that the employer is conducting an activity that poses a substantial and specific danger to the public health or safety, and must have exhausted all administrative remedies.

An employee who believes they are the victim of employer retaliation may seek restitution in the form of: an injunction; reinstatement to the same or equivalent position; removal of any adverse personnel record entries based on or related to the retaliation; ; reinstatement of full fringe benefits and seniority rights; compensation for lost wages, benefits and other remuneration; and payment of reasonable 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).