



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 Bilinguals Inc. to provide all employees, contractors or agents who work in New Jersey with “detailed information” about:

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

New Jersey State Laws

New Jersey false claims and healthcare fraud laws prohibit anyone from submitting false or fraudulent claims for payment from Medicaid or other State health programs and prevent many other types of healthcare fraud and abuse. Many of the provisions overlap with the federal law.

A. False Claims and Healthcare Fraud and Abuse Laws

1. New Jersey False Claims Act, N.J. Stat. Ann. §§ 2A:32C-1 et seq. The New Jersey False Claims Act imposes penalties and fines for each fraudulent claim on individuals and entities that:
 - (a) Knowingly present or cause to be presented to an employee, officer or agent of the State, or to any contractor, grantee, or other recipient of State funds, a false or fraudulent claim for payment or approval;

- (b) Knowingly make, use, or cause to be made or used a false record or statement to get a false or fraudulent claim paid or approved by the State;
- (c) Conspire to defraud the State by getting a false or fraudulent claim allowed or paid by the State;
- (d) Have possession, custody, or control of public property or money used or to be used by the State and knowingly deliver or cause to be delivered less property than the amount for which the person receives a certificate or receipt;
- (e) Are authorized to make or deliver a document certifying receipt of property used or to be used by the State and, intending to defraud the entity, make or deliver a receipt without completely knowing that the information on the receipt is true;
- (f) Knowingly buy, or receive as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property; or
- (g) Knowingly make, use, or cause to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the State.

The potential penalty for committing one of the aforementioned acts is joint and several liability for (1) a civil penalty of not less than and not more than the civil penalty allowed under the federal False Claims Act (currently \$13,508 - \$27,018 per claim), and (2) payment of three times the damages sustained by the State for each false claim.

The New Jersey False Claims Act allows private individuals to file lawsuits in State court. If the suit eventually concludes with payments back to the State, the person who started the case can recover a percentage of the proceeds based on whether the State did or did not participate in the suit.

2. New Jersey Medical Assistance and Health Services Act, N.J. Stat. Ann. §§ 30:4D-17. Violations of the New Jersey Medical Assistance and Health Services Act include: (1) fraudulent receipt of payments or benefits; (2) false claims, statements, or omissions, or conversion of benefits or payments; (3) kickbacks, rebates and bribes; and (4) false statements or representations regarding conditions or operations of an institution or facility to qualify for payment. A private individual may bring an action to enforce this statute. The civil penalties for any person, firm, corporation, partnership, or other legal entity who violates this statute include payment of interest on the amount of the excess benefits or payments at the maximum legal rate, payment in the sum of not less than and not more than the civil penalty allowed under the federal False Claims Act, as it may be adjusted for inflation pursuant to the Federal Civil Penalties Inflation

Adjustment Act of 1990, for each excessive claim for assistance, benefits or payments.

3. New Jersey Health Care Claims Fraud Act, N.J. Stat. Ann. §§ N.J.S. 2C:21-4.2-4.3. Individuals who knowingly or recklessly provide a false statement, record or bill for health care services to the government are guilty of a crime and are subject to penalties including monetary fines and temporary or permanent suspension or forfeiture of their professional license.

B. Whistleblower Protections

New Jersey False Claims Act, N.J. Stat. Ann. § 2A:32C-10. An employee who is discharged, demoted, suspended, threatened, harassed, denied promotion to or in any manner discriminated against because of the employee's lawful acts under the New Jersey False Claims Act is entitled to all relief necessary to make the employee whole, including reinstatement, double back pay with interest, special damages, punitive damages if applicable, and litigation costs and attorneys' fees.

An employee who is discharged, demoted, suspended, threatened, harassed, denied promotion to or in any manner discriminated against because of participation in conduct which directly or indirectly resulted in a false claim being submitted to the State shall be entitled to the aforementioned protections if they voluntarily disclosed information to a State or law enforcement agency or acted in furtherance of a false claims action, and they had been harassed, threatened with termination or demotion, or otherwise coerced by the employer or its management into engaging in the fraudulent activity in the first place.

New Jersey Conscientious Employee Protection Act, N.J. Stat. Ann. §§ 34:19-5. An employee who believes they are the victim of employer retaliation may seek restitution in the form of: reinstatement to the same or equivalent position; reinstatement with full fringe benefits and seniority rights; compensation of lost wages, benefits and other remuneration; payment of reasonable costs and attorneys' fees; and punitive damages. Employers who are found guilty of violating this Act may be assessed a civil fine of up to \$10,000 for the first violation and up to \$20,000 for each subsequent violation, payable to the State Treasurer.

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).