



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 Virginia with “detailed information” about:

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

Virginia Commonwealth Laws

A. False Claims Reporting

1. Virginia Fraud Against Taxpayers Act, Va. Code Ann. § 8.01-216.3. The Virginia Fraud Against Taxpayers Act imposes penalties and fines on any person who:
 - (1) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
 - (2) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
 - (3) Conspires to commit a violation of the Act;
 - (4) Has possession, custody, or control of property or money used, or to be used, by the Commonwealth and knowingly delivers, or causes to be delivered, less than all such money or property;

(5) Has possession, custody, or control of an illegal gambling device, knowing such device is illegal, and knowingly conceals, avoids, or decreases an obligation to pay or transmit money to the Commonwealth that is derived from the operation of such device;

(6) Manufactures for sale, sells, or distributes an illegal gaming device knowing that such device is or is intended to be operated in the Commonwealth;

(7) Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Commonwealth and, intending to defraud the Commonwealth, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(8) Knowingly buys or receives as a pledge of an obligation or debt, public property from an officer or employee of the Commonwealth who lawfully may not sell or pledge the property; or

(9) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Commonwealth or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Commonwealth.

The potential penalty for any of the aforementioned violations is (1) a civil penalty of \$10,957 - \$21,916 per claim (which shall automatically be adjusted to equal the amounts of such penalties in the Federal False Claims Act as adjusted for inflation), (2) payment of no less than two times the amount of damages sustained by the Commonwealth, and (3) reasonable attorneys' fees and costs of any civil action to recover penalties and damages.

The Virginia Fraud Against Taxpayers 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.

B. Whistleblower Protections

Virginia Fraud Against Taxpayers Act, § 8.01-216.8. An employee, contractor, or agent who is discharged, demoted, suspended, threatened, harassed or in any manner discriminated against in the terms and conditions of employment because of their lawful acts under Virginia Fraud Against Taxpayers Act, is entitled to all relief necessary to make that employee, contractor, or agent whole, including reinstatement, double back pay with interest, special damages, and litigation 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).