



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF CRIMINAL JUSTICE
MEDICAID FRAUD CONTROL UNIT

January 7, 2025

VIA PERSONAL SERVICE:

[REDACTED]

**Re: CEASE AND DESIST NOTICE
AND DEMAND FOR REPAYMENT
Provider: [REDACTED]
Owner: [REDACTED]
MFCU File Number: 18-0713**

Dear [REDACTED]:

After an investigation conducted pursuant to New York Executive Law § 63(3) and 42 U.S.C. § 1396b(q)(3), the Office of the New York State Attorney General (“OAG”), Medicaid Fraud Control Unit (“MFCU”) has determined that from January 1, 2017 through February 1, 2020 (the “Investigation Period”), [REDACTED] (“[REDACTED]”) violated New York State laws and regulations concerning claims for reimbursement submitted to the New York Medicaid program for transportation services.

CEASE AND DESIST

You and [REDACTED] are hereby advised to immediately cease and desist from engaging in the conduct described below. Furthermore, you are hereby advised that you are responsible for ensuring that anyone providing services for or on behalf of [REDACTED], including drivers, sub-contractors, dispatchers, consultants, employees, agents, and others associated with [REDACTED], cease and desist from engaging in the conduct described below.

Section 1: VIOLATIONS OF LAW

MFCU's investigation has determined that ██████ submitted false claims to Medicaid during the Investigation Period, and/or received Medicaid reimbursement to which it was not entitled and is liable to re-pay the Medicaid program for violating the laws and regulations set forth below.

The financial findings relating to the violations described in Section 1 are set forth on Attachment A.

Unacceptable Practices under the Medical Assistance Program, 18 NYCRR § 515.2(a):

An unacceptable practice is conduct by a person which is contrary to:

- (1) the official rules and regulations of the department;
- (2) the published fees, rates, claiming instructions or procedures of the department;
- (3) the official rules and regulations of the Departments of Health, Education and Mental Hygiene, including the latter department's offices and divisions, relating to standards for medical care and services under the program; or
- (4) the regulations of the Federal Department of Health and Human Services promulgated under title XIX of the Federal Social Security Act.

(b) Conduct included.

An unacceptable practice is conduct which constitutes fraud or abuse and includes the practices specifically enumerated in this subdivision.

False Claims. The submission of false claims for reimbursement to the Medicaid program is expressly prohibited by 18 NYCRR § 515.2(b)(1), which makes it an unacceptable practice to: (i) submit or cause to be submitted a claim or claims for: (a) unfurnished medical care, services, or supplies; (ii) inducing, or seeking to induce, any person to submit a false claim under this subdivision. The claims at issue herein are false because they were submitted in violation of the following regulations:

- **Services Not Provided** - Submitted claims for services not actually furnished. 18 NYCRR § 504.3(e). *See also* New York State Medicaid Program Transportation Manual Policy Guidelines (the "Manual") (2023 Version at 30) (2019 Version at 47) (2016 Version at 47).
- **No Corresponding Medical Appointment** - Submitted claims for transportation provided to Medicaid recipients who were not traveling to medical services paid for by Medicaid. 18 NYCRR § 505.10 (a); *see also* Manual (2023 Version at 11 and 30) (2019 Version at 6 and 47) (2016 Version at 6 and 47).
- **Tolls Not Incurred** - Submitted claims for tolls not actually incurred. The Medicaid program reimburses only for the actual costs incurred by a transportation provider while transporting a Medicaid enrollee. When tolls are incurred, the toll is assessed per vehicle, not per rider, and should be billed according to the actual toll charged. *See* Manual (2023 Version at 28-29) (2019 Version at 46).

Section 2: SUMMARY OF FINDINGS

Investigators from MFCU, including financial analysts and detectives, identified the violations set forth on Attachment A by comparing official NYS Medicaid program paid claims data, showing the claims as submitted to the NYS Medicaid Program by ██████████, the payments made to ██████████ by the State in reliance thereon, and records and information from other reliable sources. For the claims paid to ██████████ by the NYS Medicaid Program, ██████████ received payment into a commercial bank account designated and controlled by ██████████ and ██████████ also had full online access through the Medicaid Transportation Administrator under ██████████ unique Medicaid Provider number (██████████), and any billing system used by ██████████, as to the details and status of each claim in the form that ██████████ submitted and the Medicaid program paid. None of the claims included in the findings on Attachment A were ever voided, reversed, refunded, or modified by ██████████. The following findings are summaries of the data and methods used but are not complete statements of all the ways in which ██████████ claims were false.

██████████ submitted claims and accepted payment of Medicaid funds for services that were not actually furnished, or furnished in violation of applicable laws, rules and regulations, as evidenced in the following ways:

- No Corresponding Medical Appointment – ██████████ submitted claims for transportation claimed to be provided to at least 16 Medicaid recipients who were not traveling to medical services paid for by Medicaid, based on comparing ██████████ claims to reliable institutional service providers such as clinics and hospitals. These claims amounted to \$55,378.47. Claims for unmatched medical services are also reliable indicators of the fraudulent practice of bribes and kickbacks to beneficiaries.

- Tolls Not Incurred – ██████████ submitted claims for tolls not actually incurred. For reference, one of the highest possible tolls for a passenger vehicle using EZ-Pass on the New York State Thruway in 2024 is \$20.54 for driving over 447 miles from New York City to Grand Island near Buffalo; a more typical two-exit journey of 28 miles would incur an EZ-Pass toll under \$2.00.

██████████ claimed that it paid tolls of \$50 on 130 trips, amounting to \$6,505.00, when in fact the service region has no toll roads on which a toll could be \$50. For example, the highest possible toll on the NYS Thruway in the Capital District would not exceed \$12.04, yet ██████████ repeatedly billed \$50 for tolls.

Section 3: ██████████ FALSE CERTIFICATIONS FILED WITH NYS MEDICAID PROGRAM

Despite engaging in the above conduct, ██████████ certified to the State of New York that its claims for Medicaid payments were truthful. As you know, a provider that is eligible for Medicaid reimbursement on a fee-for-service basis is prohibited from submitting any claim for reimbursement for any medical care or services furnished in violation of any condition of participation in the Medicaid program. See 18 NYCRR §§ 504.3 and 515.2. ██████████ submitted a Medicaid provider certification to the New York State Department of Health and, on that basis,

was approved to be eligible for Medicaid reimbursement for transportation services. However, [REDACTED] certified that:

- The services were furnished in accordance with law and regulations.
- YOU read the Medicaid Provider Manual and complied with it.
- All claims data submitted was true, accurate and complete.
- YOU understood government funds would be used to pay [REDACTED], and YOU could be fined or prosecuted for falsely obtaining those funds.

[REDACTED] conduct, including its submission of false claims to Medicaid, resulted in [REDACTED] receipt of Medicaid reimbursement to which it was not entitled. Based on your conduct as [REDACTED] owner, you are also liable individually for [REDACTED] submission of claims and receipt of Medicaid reimbursement to which it was not entitled.

Section 4: FINANCIAL LIABILITY

An overpayment includes any amount not authorized to be paid under Medicaid, whether paid as the result of inaccurate or improper cost reporting, improper claiming, unacceptable practices, fraud, abuse or mistake. 18 NYCRR § 518.1 (c). As a result of the above-described findings, and in accordance with Executive Law § 63-c, 18 NYCRR § 518.1, and State Finance Law § 187, *et seq* (the “NY False Claims Act”), you are hereby advised that you owe New York State for up to treble the amount of \$61,883.47 per Attachment A, plus applicable penalties and interest. For purposes of resolving this matter, MFCU will accept double damages in the amount of \$123,766.94. If payment is made pursuant to Method # 1 below, additional penalties and interest will be waived.

Section 5: REPAYMENT METHODS

[REDACTED] may choose one of the following methods for repaying this obligation:

Method #1: Make full payment by bank check or wire transfer by January 22, 2025.

Checks should be made payable to: **New York State Medicaid Fraud Restitution Fund** and mailed to NYS Medicaid Fraud Control Unit, Attn: Finance Unit, 28 Liberty Street, New York, NY 10005.

Wire transfer instructions will be sent upon request.

Method #2: You may request an installment repayment agreement of up to one year. If your repayment terms exceed ninety (90) days, interest will accrue. The OAG’s acceptance of a repayment agreement is based on your repaying the Medicaid overpayment as agreed. The OAG will adjust the rate of recovery or require payment in full, if your unpaid balance is not being repaid as agreed. If you wish to enter into a repayment agreement, please contact MFCU by January 14, 2025.

Section 6: FAILURE TO COMPLY

The failure by [REDACTED] and you to comply with this letter may result in further action by the OAG. If [REDACTED] and you fail to address the financial obligation herein, MFCU may initiate legal action against you, [REDACTED], and any other related parties, including action under State Finance Law § 187, *et seq.*, for treble damages, in addition to the overpayment, and financial penalties of up to \$27,894 per false claim for knowingly¹ presenting or causing to be presented false claims to Medicaid.

The failure by [REDACTED] and you to comply with this letter might also lead MFCU to refer this matter to the Office of Medicaid Inspector General for sanctions including your possible exclusion to participate as a provider within the Medicaid program, the withholding of future payments in accordance with 18 NYCRR § 518.7, and other appropriate action. Intentional non-compliance with New York laws, rules and regulations may subject an offender to criminal charges.

[REDACTED] future claims will be examined by MFCU without further notice to you; if the above-noted practices continue, or these practices are continued by affiliated persons, any legal remedy may be applied.

Within the next three (3) business days, please contact this Office in writing at MFCUnotices@ag.ny.gov to acknowledge receipt of this notice. If no such acknowledgement is received, you will not be given further notice of enforcement action.

Please feel free to contact the undersigned Special Assistant Attorney General with any questions.

LETITIA JAMES
Attorney General of the State of New York

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ATTACHMENT:
Attachment A

¹ For purposes of a person's liability for treble damages and penalties for presenting or causing to be presenting false claims to Medicaid under New York State False Claims Act, "knowingly" is defined to include acting in "reckless disregard" or acting in "deliberate ignorance" of the truth or falsity of the information. *See* State Finance Law § 188(3).

Attachment A

[REDACTED]

Provider ID: [REDACTED]

Dates Reviewed: [REDACTED]

Finding Category	First Date of Service	Last Date of Service	Number of Claims	Amount Paid
No Corresponding Medical Appointment	[REDACTED]	[REDACTED]	574	\$ 55,378.47
Tolls Not Incurred	[REDACTED]	[REDACTED]	130	\$ 6,505.00
Total Single Damages Amount (No Overlaps)				\$ 61,883.47
Total Double Damages Amount (No Overlaps)				\$ 123,766.94