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
Provider: [redacted]
Owner: [redacted]
MFCU File Number: [redacted]

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, 2015 to August 31, 2018 (the "Investigation Period"), [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 [redacted] submitted claims to Medicaid during the Investigation Period, and received Medicaid reimbursement to which it was not entitled.

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:

- 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 (2016-1 Version at 46) (2016-2 Version at 46) (2014-1 Version at 45-46).

Section 2: SUMMARY OF FINDINGS

Investigators from MFCU, including financial analysts and detectives, identified that [redacted] 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:

- Tolls Not Incurred - [redacted] 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. [redacted] claimed that it paid tolls exceeding $50 on 1094 trips, amounting to $55,250, when none

of the trips claimed could have incurred tolls in that amount, because rational or efficient routing would not have passed through toll points amounting to nearly that amount per trip.

Section 3: [redacted] FALSE CERTIFICATIONS FILED WITH NYS MEDICAID PROGRAM

Despite engaging in the above conduct, [redacted] 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. [redacted] 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 resulted in [redacted] receipt of Medicaid reimbursement to which it was not entitled.

Section 4: FAILURE TO COMPLY

The failure by [redacted] and you to comply with this letter may result in further action by the OAG, 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 knowingly[1] 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.

[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).

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

By:

Emily Auletta
Special Assistant Attorney General
NYS Office of the Attorney General
The Capitol
Albany, NY 12224
(518) 776-2342
emily.auletta@ag.ny.gov