Connecting Individuals with Disabilities to Their Community

COMMUNITY BRIDGES FALSE CLAIMS ACT POLICY

I. PURPOSE:

All providers of long term supports and services, and other health care provider organizations, receiving Medicaid funding of more than $5,000,000 annually are required to inform contractors, agents, and staff about: Federal and State False Claim Acts; protections for whistleblowers; and the provider organization's efforts to prevent and detect fraud and abuse.

This Policy serves to inform Community Bridges' contractors, agents, and employees of the provisions, penalties, and whistleblower protections associated with Federal and State False Claims Acts, to remind contractors of our good faith efforts to prevent and detect false claims, and to remind employees and inform agents of our Compliance Program.

II. DEFINITIONS:

1. "Abuse" generally includes provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost, or in reimbursement for services that are above those actually rendered, or that are not medically necessary.
2. "Fraud" means an intentional deception or misrepresentation to achieve an unauthorized benefit.
3. The terms "knowing" and "knowingly" generally mean that a person, with respect to information: has actual knowledge of the information; and acts in deliberate ignorance of the truth or falsity of the information; or acts in reckless disregard of the truth or falsity of the information; even without proof of specific intent to defraud.
4. "Claim" includes any billing to Medicaid, Medicare, or other State or Federal programs.
5. "Person" means any natural person or organization.
6. Generally speaking, a claim submitted to the Government with false or fraudulent information is considered a false claim. Some classic examples of false claims include: billing for time that was not actually expended; or billing for services that were not actually performed.

III. FEDERAL FALSE CLAIMS ACT

The Federal False Claims Act is the primary enforcement mechanism employed by the Federal Government to combat health program fraud. The False Claims Act allows the

Government to bring civil or criminal actions in cases where false claims are made with actual knowledge, reckless disregard, or conscious disregard for the falsity of the claim. Specific intent to defraud is not required. The penalties for such false claims can be substantial.

Illegal Actions under the Federal False Claims Act

The Federal False Claims Act prohibits any person or organization from:

- **Knowingly presenting, or causing to be presented, to the Government a false or fraudulent claim for payment;**
- **Knowingly making, using, or causing to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;**
- **Conspiring to defraud the Government by getting a false or fraudulent claim allowed or paid; and/or**
- **Knowingly making, using, or causing 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 Government.**

Persons or organizations violating the Act are subject to liability to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages which the Government sustains as a result of the illegal act/s. In addition, since violations of the law are defined as felonies, those responsible may also be prosecuted and subject to applicable Federal criminal penalties. The Federal Government decides in each case whether to pursue civil and/or criminal remedies based on the situation.

Federal Whistleblower Protections related to False Claims

The Federal False Claim Act includes a provision that allows employees or other private citizens to file a civil lawsuit on behalf of the Government and to request that the Government join in the suit. In return, the citizen may share a percentage of any recovery or settlement provided to the Government. These types of actions are referred to as "qui tam" (who as well) actions, and the individual is a "whistleblower" who brings forward evidence of the alleged wrongdoing. The purpose of qui tam is to provide an incentive for whistleblowers to come forward to help the Government discover and avoid paying fraudulent claims by awarding whistleblowers a percentage of the recovery.

The Federal False Claims Act also provides protections to employees who may be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against by an employer because of lawful whistleblower activity engaged in

by the employee. The Act entitles employees to relief to "make them whole," including reinstatement with the same seniority status they would have had but for the discrimination, twice the back pay, interest on back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

IV. NEW HAMPSHIRE MEDICAID FRAUD AND FALSE CLAIMS ACT

New Hampshire has a Medicaid Fraud and False Claims Act that is similar to the Federal False Claims Act, and that provides both civil and criminal penalties for violators. Major prohibitions in the Act are as follows.

Prohibited Acts under the New Hampshire Medicaid Fraud and False Claims Act

New Hampshire's Medicaid Fraud and False Claims Act provides that no person shall:

- **Knowingly make, present or cause to be made or presented, any false or fraudulent claim for payment for any good, service, or accommodation.**
- **Knowingly make, present, or cause to be made or presented, any false or fraudulent statement or representation for use in determining rights to benefits or payments;**
- **Knowingly make, present, or cause to be made or presented, any false or fraudulent report or filing which is or may be used in computing or determining a rate of payment for goods, services, or accommodations;**
- **Knowingly make, present, or cause to be made or presented, any claim for payment, for any good, service, or accommodation for which payment may be made, which is not medically necessary in accordance with professionally recognized standards;**
- **Knowingly make or cause to be made, any false or fraudulent book, record, document, data, or instrument, which is required to be kept as documentation:**
- **Knowingly make or cause to be made, with intent to defraud, any false or fraudulent statement or record, document, data, or instrument to any law enforcement officer, including any employee or agent of the attorney general, or the department of health and human services, in connection with any audit or investigation involving any claim for payment or rate of payment for any good, service, or accommodation;**
- **Destroy or conceal or cause to be destroyed or concealed any book, record, document, data, or instrument required to be kept or which is kept as documentation for any good, service, or accommodation;**
- **Knowingly make, present, or cause to be made or presented, any claim for payment which may only be furnished by a person who is licensed by an appropriate**

licensing authority, and the person who furnished the good, service, or accommodation:

1) **Was not licensed by the appropriate licensing authority; or**
2) **Was licensed by the appropriate licensing authority but such license was obtained through a misrepresentation of material fact, including cheating on any examination required for licensing;**

- **Knowingly solicit or receive any remuneration, including any bribe or rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for purchasing, leasing, ordering, or arranging for or recommending the purchase, lease, or ordering of any good, service, accommodation or facility, or knowingly offer or pay any remuneration, to induce a person to purchase, lease, order, or arrange for or recommend the purchase, lease, or ordering of any good services, or accommodation;**
- **Knowingly charge, solicit, accept or receive, in addition to any amount otherwise required to be paid, any gift, money, donation, or other consideration either as a precondition of admitting or expediting the admission of a patient to a hospital, skilled nursing facility, or intermediate care facility.**

Penalties

Any person or organization that violates the New Hampshire Medicaid Fraud and False Claims Act is subject to a State civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages that the State sustains as a result of the illegal action/s. Any such person may also be subject to State criminal prosecution and liability for a felony.

New Hampshire Whistleblower Protections

The New Hampshire "Whistleblowers' Protection Act" affords legal protections to employees who report violations of State or Federal law, such as the Federal False Claims Act or the State Medicaid Fraud and False Claims Act, or who refuse to execute illegal directives, or who participate in governmental investigations or hearings.

An employer is prohibited from discharging, threatening, or discriminating against any employee who:

- **In good faith, reports or causes to be reported a matter that the employee has a reasonable basis to believe is a violation;**
- **Participates in an investigation, hearing, or inquiry conducted by any Government entity or any court; or**
- **Refuses to execute a directive that violates a law.**

In the event of employer violation of New Hampshire's Whistleblowers' Protection Act, an aggrieved employee's legal remedies may include reinstatement with back pay and benefits, restoration of seniority rights, other appropriate injunctive relief, compensation for special damages, and an award of attorneys' fees and costs.

V. CONTRACTOR MONITORING

Community Bridges, in collaboration with the NH Department of Health and Human Services, engages in good faith review and monitoring of contractor submissions and other items – including but not limited to: contractor service / progress notes, reported attendance / hours, and billings; consumer, family, or other complaints; and related information or reports – to identify potential inconsistencies or deficiencies, to engage in appropriate communication with relevant parties, as needed, and to help ensure false claims prevention and detection.

VI. CORPORATE COMPLIANCE

Community Bridges is committed to conducting our business ethically and in conformity with all applicable Federal and State statutes and regulations. Our Corporate Compliance Program is intended to assure compliance with relevant Federal and State standards, to minimize any potential risk of fraud or abuse, and to affirm the key organizational themes of quality, customer service, and ethical business practice.

Community Bridges' Compliance Program has the following core elements:

1. **Corporate Compliance Manual and Code of Conduct;**
2. **Employee Handbook;**
3. **Whistleblower Policy;**
3. **Designated Corporate Compliance Officer;**
4. **Designated External Whistleblower Complaint Officer;**
5. **Open lines of communication;**
4. **Training and education;**
5. **Monitoring and auditing;**
6. **Response to detected deficiencies; and**
7. **Enforcement of contract standards and disciplinary standards.**

STATUTORY REFERENCES:

1. Medicaid State Plan Requirements, 42 USC §1396a(a)(68)
2. Federal False Claims Act, 31 USC §3729 to §3733

3. New Hampshire Medicaid Fraud and False Claims Act, RSA167:58 to 167:61-e
4. New Hampshire Whistleblowers' Protection Act, RSA 275-E