DEFICIT REDUCTION ACT AND FALSE CLAIMS POLICY INFORMATION FOR All NEW YORK WORKFORCE MEMBERS

The Company is committed to preventing health care fraud, waste and abuse and complying with applicable state and federal fraud, waste and abuse laws. To ensure compliance with such laws, the Company has mechanisms in place to detect and prevent fraud, waste and abuse. It also supports the efforts of federal and state authorities in identifying fraud, waste and abuse.

I FRAUD, WASTE AND ABUSE LAWS:

A. ***FEDERAL LAWS***

1. ***Federal False Claims Act*** - The Federal False Claims Act ("FCA") imposes liability on any person who submits a claim to the federal government that he/she knows (or should know) is false. The FCA also imposes liability on an individual who: i) knowingly submits a false record to obtain payment from the government; or ii) obtains money from the government to which he/she may not be entitled, and then uses false statements or records in order to retain the money.

   In addition to having actual knowledge that the claim is false, a person who acts in reckless disregard or in deliberate ignorance of the truth of falsity of the information can also be found liable under the FCA. Proof of specific intent to defraud is not required. However, honest mistakes or mere negligence are not the basis of false claims. The FCA provides for civil penalties of five thousand five hundred dollars and eleven thousand dollars per false claim plus three times the amount of damages that the government sustains.

2. ***Federal Program Fraud Civil Remedies Act of 1986*** - The Federal Program Fraud Civil Remedies Act of 1986 is a statute that establishes an administrative remedy against any person who presents or causes to be presented a claim or written statement that the person knows or has reason to know is false, fictitious, or fraudulent due to an assertion or omission to certain federal agencies (including the Centers for Medicare and Medicaid Services). The word "claim" in the statute includes any request or demand for property or money, e.g., grants, loans, insurance or benefits, when the United States Government provides or will reimburse any portion of the money.

   The Federal Government may investigate and, with the Attorney General's approval, commence proceedings if the claim is less than one hundred and fifty thousand dollars. The Act provides for civil monetary sanctions to be imposed in administrative hearings, including penalties of five thousand five hundred dollars per claim and an assessment, in lieu of damages, of two times the amount of the original claim.

B. ***STATE LAWS***

1. ***New York False Claims Act*** - A person may not knowingly present a false claim to a state or local government or make a false record or statement to ensure payment of a false claim by a state or local government, or use a false statement to decrease an obligation to pay money to a state or local government. Honest mistakes or mere negligence are not the basis of false claims. The New York False Claims Act provides for civil penalties of between six thousand dollars and twelve thousand dollars plus three times the amount of damages which the state and/or local government sustain.

2. ***False Statements Law*** - It is illegal for a person or corporation to use false statements to obtain (or try to obtain) public funds for Medicaid services or supplies, and such conduct may result in damages and monetary penalties.

3. ***Martin Act for Health Care Fraud*** - The Martin Act adds provisions to the New York Public Health Law with a broad definition of fraudulent practices that allows the Attorney General to investigate and criminally prosecute health care fraud. This law also permits the Attorney General to investigate health

care fraud by compelling witnesses to be examined under oath, issuing subpoenas for documents, impounding records and requiring the cooperation of other public officers.

4. ***Mandatory Compliance Programs*** - The New York Social Services Law requires certain Medicaid providers to establish and implement a compliance plan. The affected Medicaid providers include Article 28 providers (hospitals, skilled nursing facilities, diagnostic and treatment centers), Article 36 providers (licensed and certified agencies, long term care and AIDS home care programs), and Articles 16 and 31 Mental Hygiene providers. In addition, all health care providers *"for which Medicaid is a substantial portion of their business operations"* must adopt and implement compliance programs.

5. ***New York Anti-Kickback Law*** - Medicaid providers shall not accept or give (or agree to accept or give) anything in exchange for the referral of Medicaid services or to purchase, lease or order any Medicaid good, facility, service or item.

6. ***New York Self Referral Prohibition*** - Certain practitioners are not allowed to refer residents/patients to health care providers when the practitioner, or the practitioner's immediate family member, has a financial relationship with such health care provider. The law applies to practitioners who order clinical laboratory, pharmacy, radiation therapy or physical therapy or x-ray or imaging services. There are a number of exceptions to this prohibition which may make such referrals acceptable.

7. ***Misconduct for New York Licensed Professionals*** - It is misconduct for licensed professionals to engage in the following activities. Violation of the following laws may also constitute a violation of the federal or state False Claims Acts.

    i. Willfully or grossly negligently failing to comply with substantial provisions of Federal, state or local laws rules or regulations governing the practice of the profession;

    ii. Willfully making or filing a false report, or failing to file a report required by law or by the Education Department, or willfully impeding or obstructing such filing, or inducing another person to do so.

    iii. Medical professionals may not: a) directly or indirectly give or receive (or agree to give or receive) anything for the referral of a resident/patient or in connection with performing medical services; b) permit anyone to share in the fees for professional services, other than a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant or legally authorized trainee; c) directly or indirectly split a fee for goods, services or supplies prescribed for medical diagnosis, care or treatment or receive a credit, commission, discount or gratuity in connection with the furnishing of professional care or service; d) permit anyone to share in their legal fees for medical services, except for a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant authorized to practice medicine or a legally authorized trainee.

8. ***New York Penal Law Health Care Fraud Provisions*** - Health Care Fraud in the first through fifth degrees is included in the New York State Penal Law for filing false claims.

9. ***New York Penal Law Insurance Fraud Provisions*** - Insurance Fraud in the first through sixth degrees is included in the New York State Penal Law for filing false claims for insurance payments.

II WHISTLEBLOWER PROTECTION:

A. ***FEDERAL LAWS***

Employees may bring a civil action in the name of the government for a violation of the federal False Claims Act. These individuals, known as *"qui tam* relators," may share in a percentage of the proceeds from a False Claims Act action or settlement. The FCA provides for protection for employees from retaliation. Any employee who is discharged, demoted, suspended, threatened, harassed, or

discriminated against in terms and conditions of employment because of lawful acts conducted in furtherance of an action under the False Claims Act may bring an action seeking reinstatement, two times the amount of back pay plus interest, and other enumerated costs, damages and fees. However, if the employee brings an action against an employer that has no basis in law or fact, or is primarily for harassment, the employee bringing the lawsuit may have to pay the employer its fees and costs.

B. ***STATE LAW***

New York State Law also provides that employers are not able to retaliate against employees who disclose to a supervisor or to a public body (only after disclosing to a supervisor and allowing time for the company to correct such issue) an instance of health care fraud by the employer, who provide information before a public body investigating potential health care fraud by the employer, or who refuse to participate in a practice in violation of a law. This law also provides protections for employers against employees who bring an action under the law without basis in law or in fact.

III DETECTION AND PREVENTION OF FRAUD, WASTE AND ABUSE:

The Company has personnel dedicated to conducting periodic internal audits of our compliance with state and federal fraud and abuse laws. Issues identified on audit are reported to the Compliance Officer and may be elevated to regulatory agencies.

The Company maintains an anonymous compliance hotline to accept calls from employees and contractors concerning suspected fraud, waste and abuse. Employees and contractors are encouraged to report any issue of concern to the compliance hotline at 1-855-663-0144.

Some examples of reportable fraudulent activity may include:

- Offers of free gifts, services or care in exchange insurance information or for agreeing to get medical care.
- Billing insurance for services that are not provided or cost more than customary or expected.
- Providing services that are less than billed such as when a newly filled prescription bottle has less pills in it than what is indicated on the label.
- Persuading people to get healthcare services they do not need or billing for services that are not medically necessary.
- A person using someone else's insurance card information to get healthcare.
- Misuse or abuse of insurance paid medical services such as reselling drugs or medical supplies.
- Providing misleading information and forging or altering a medical records or prescriptions.
- Bribes or kickbacks for referrals, services or orders.
- Any violation of our Code of Conduct or business practice that does not seem right.

IV WHAT TO DO IF AN EMPLOYEE SUSPECTS FRAUD, WASTE OR ABUSE HAS OCCURRED:

The Company has a policy of non-intimidation and non-retaliation for good faith reporting of compliance concerns.

If an employee or contractor observes or suspects a violation of the previously listed laws and/or fraudulent activity, the employee is required to report the matter by:

a) Contacting the supervisor or Compliance Officer

b) Calling the anonymous reporting compliance hotline at 1-855-663-0144

c) Reporting directly to the EAS Compliance Director at 716-633-3900.

d) Completing an on line report at www.elderwoodadministrativeservices.ethicspoint.com

e) Clicking the report form link in the compliance section of our website

A report may also be made by the employee directly to the Department of Justice or the New York State Office of the Medicaid Inspector General. However, we encourages employees to consider first reporting suspected fraud, waste or abuse to the compliance officer to allow us to quickly address potential issues. The Company will not retaliate against any employee for informing anyone in our organization, the federal or state governments of a possible violation of law.

V PHARMACY AND PRESCRIPTION PROGRAM TO CONTROL FRAUD, WASTE AND ABUSE: Examples of potential fraud, waste and abuse include but are not limited to:

A. INAPROPRIATE BILLING PRACTICES: Inappropriate billing practices at the pharmacy level occur when pharmacies engage in the following types of billing practices:

1) Incorrectly billing for secondary payers to receive increased reimbursement.
2) Billing for non-existent prescriptions.
3) Billing multiple payers for the same prescriptions, except as required for coordination on benefit transactions.
4) Billing for brand when generics are dispensed.
5) Billing for non-covered prescriptions as covered items.
6) Billing for prescriptions that are never picked up (i.e., not reversing claims that are processed when prescriptions are filled but never picked up).
7) Billing based on "gang visits", e.g., a pharmacist visits a nursing home and bills for numerous pharmaceutical prescriptions without furnishing any specific service to individual patients.
8) Inappropriate use of dispense as written ("DAW") codes.
9) Prescription splitting to receive additional dispensing fees.
10) Drug diversion.

B. *PRESCRIPTION DRUG SHORTING*

Pharmacist provides less than the prescribed quantity and intentionally does not inform the patient or make arrangements to provide the balance but bills for the fully-prescribed amount.

C. *BAIT AND SWITCH PRICING*

Bait and switch pricing occurs when a beneficiary is led to believe that a drug will cost one price, but at the point of sale the beneficiary is charged higher amount.

D. *PRESCRIPTION FORGING OR ALTERING*

Where existing prescriptions are altered, by an individual without the prescriber's permission to increase quantity or number of refills.

E. *DISPENSING EXPIRED OR ADULTERATED PRESCRIPTION DRUGS*

Pharmacies dispense drugs that are expired, or have not been stored or handled in accordance with manufacturer and FDA requirements.

F. *PRESCRIPTION REFILL ERRORS*

A pharmacist provides the incorrect number of refills prescribed by the provider.

G. *ILLEGAL REMUNERATION SCHEMES*

Pharmacy if offered, or paid, or solicits, or receives unlawful remuneration to induce or reward the pharmacy to switch patients to different drugs, influence prescribers to prescribe different drugs or steer patients to plans.

H. *TROOP MANIPULATION for Medicare Part D*

When a pharmacy manipulates TrOOP to either push a beneficiary through the coverage gap, so the beneficiary can reach catastrophic coverage before they are eligible, or manipulates TrOOP to keep a beneficiary in the coverage gap so that catastrophic coverage is never realized.

I. *FAILURE TO OFFER NEGOTIATED PRICES for Medicare Part D*

Occurs when a pharmacy does not offer a beneficiary the negotiated price of a Part D drug.

Deficit Reduction Act and
False Claims Policy for New York Workforce Members
ATTESTATION

I have received a copy of the Deficit Reduction Act and False Claims Act Information for New York Workforce Members handout.

I am committed to preventing health care fraud, waste and abuse and complying with applicable state and federal laws. I understand that I am required by law to report any such violations to the Company Compliance Officer and may report the Department of Justice or the New York State Office of Medicaid Inspector General.

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Employee Signature Date

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Employee Name Printed