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October 30, 2022

State of New Jersey
Office of the State Comptroller
Acting State Comptroller: Kevin Walsh
Medicaid Fraud Division
P.O. Box 025
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By Electronic Mail

[REDACTED]: Audit Manager-[REDACTED]

[REDACTED]: Chief Auditor-[REDACTED]

RE: October 18, 2022 Correspondence - John Gore, Medicaid Provider No. [REDACTED]

Dear Mr. Walsh,

On behalf of our client, Clear Conscience Counseling, LLC ("Company"), we thank you for the opportunity to respond to your October 18, 2022, correspondence. We respectfully note that no part of this letter attempts to question your methodology. The purpose of this letter is to highlight certain existing and attached documentation for your consideration regarding some of your findings. We hope that this letter provides for additional consideration as may be relevant to your draft audit report.

A. DISAGREEMENTS

Gore Billed for Clinical Level Services Provided by Unlicensed Professionals.

None of the employees working on the Company's behalf during the Audit period remain at the Company making it extremely difficult to locate and seek assistance from such severed employees. We note that the Company outsourced its Human Resources function to a third-party firm called Zenefits. However, according to the correspondence dated October 18, 2022, the New Jersey Office of the State Comptroller (OSC) found:

(1) 14 exceptions for Gore having failed to verify professional licenses involving six servicing providers who OSC determined were not licensed during the period that they performed clinical level intensive in-community services;

(2) 64 exceptions for Gore having failed to maintain criminal background checks for 19 behavioral assistants (BAs) prior to such BAs providing services;

(3) 57 exceptions for Gore having failed to maintain Behavioral Assistance Training Certifications for 24 BAs;

(4) 61 exceptions for Gore having failed to maintain proof of education for 23 BAs;

(5) 18 exceptions for Gore having failed to maintain current and valid driver's licenses for 11 BAs; and

(6) 9 exceptions for Gore having failed to obtain proof of minimum age requirement for 6 BAs, prior to such BAs providing services.

Through research conducted by the Oberheiden, P.C. (“Firm”), Zenefits did provide a record of the “on boarding complete” to the Company. This “on boarding” did include the following items:

1. Professional licenses
2. Criminal background checks
3. Behavioral Assistance training
4. Proof of education
5. Valid driver’s license
6. Birthdate

However, Zenefits told the company that they do not maintain archives or backups of data. Perhaps the OCS would have better fortune at gathering the Human Resources information. See Exhibits A1. Efforts were made to evaluate the Company’s backups and archives to some, but limited effect.

Furthermore, some documents were stolen during a December 2020 burglary at Company. Please refer to the documentation of the burglary in the prior submission.

Human error will occur in healthcare. Out of 818 claims audited, there were only 10 errors translating to a greater than 98.5% error free claims. The standard *allowed* error rate for Medicare is 95%. For such a far-reaching scope of the draft audit, we find it notable that absolute perfection is the ultimate goal.

B. COMPLIANCE

To ensure that the Company reaches and maintains compliance with the New Jersey Medicaid Program, Dr. Gore will take steps to install and operate a Corporate Compliance Program under the Affordable Care Act Section 6401 and the United States Sentencing Guidelines 8B2.1. The Seven Elements of an effective compliance program include Standards and Procedures; Governance and Oversight; Education and Training; Monitoring and Auditing; Reporting; Internal Enforcement and Discipline; and Response and Prevention.

C. CONCLUSION

We appreciate the time and effort devoted by the OSC in analyzing the Company and our client understands that it needs to perform better when it comes to performing services for Medicaid. Again, our reliance upon an outsourced Human Resources vendor and a burglary are two reasons behind this failure. Both circumstances pre-date the Audit. Accordingly, we respectfully request a reexamination and reconsideration of the Audit.

Sincerely,

Oberheiden P.C.

APPENDICES:

Appendix A – Zenefits exhibits

OSC Note - Appendix A was omitted to maintain confidentiality