

Citizens Options Unlimited, Inc.

Compliance Program Policies and Procedures

SUBJECT: Responding to Government Inquiries

EFFECTIVE: Board of Directors

EFFECTIVE: 5/24/23

Reviewed: 6/5/24, 6/4/25

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I. POLICY

It is Citizens Options Unlimited, Inc.’s (“Agency”) policy to comply with the law and cooperate with legitimate governmental investigations or inquiries.

II. DEFINITIONS

A. Civil Investigative Demand. A “civil investigative demand” (CID) is a tool used to obtain documents and information relevant to a False Claims Act investigation. A CID may be issued by the U.S. Department of Justice (DOJ), e.g., U.S. Attorneys.

B. Failure to Grant Immediate Access. “Failure to grant immediate access” means—

1. The failure to produce or make available for inspection and copying the requested material upon “reasonable request” (as defined below), or to provide a compelling reason why they cannot be produced, within 24 hours of such request to the U.S. Department of Health and Human Services’ (DHHS) Office of Inspector General (OIG) or a State Medicaid Fraud Control Unit (MFCU).
2. When the OIG or MFCU has reason to believe that the requested material is about to be altered or destroyed, the failure to provide access to the requested material at the time the request is made.

C. Law Enforcement Officer. For purposes of this policy and procedures, “law enforcement officer” refers to any officer or investigator from the U.S. DOJ, or a designee (e.g., a U.S. Attorney), the OIG, MFCU, or Office of Medicaid Inspector General (OMIG).

D. Reasonable Notice. Under New York law, “reasonable notice” means a written request made by a properly identified agent of the NY State Department of Health (DOH), OMIG or the MFCU made either during hours that Agency is open for business, or mailed to Agency at the address on file with the Agency. The request must include a statement of the authority for the request, the definition of “reasonable notice,” and advise Agency of the penalties for failure to comply.

E. Reasonable Request. Under federal regulations, “reasonable request” means a written request made by a properly identified agent of the U.S. DHHS (including the OIG), of a State survey agency or of the MFCU during hours that the facility, agency or institution is open for business. The request must include a statement of the authority for the request, the rights of

the entity in responding to the request, the definition of reasonable request and immediate access, and the penalties for failure to comply.

F. Regulators. For purposes of this policy and procedure, “regulators” refers to agents of the NY State DOH.

G. Section 504.3 Request. Section 504.3 of Title 18 of the N.Y. Codes, Rules and Regulations requires Medicaid providers to prepare and maintain contemporaneous records demonstrating their right to receive payment under the Medicaid program and to furnish such records upon request. A “Section 504.3 request” for records may be issued by: (i) the NY State Department of Social Services; (ii) the U.S. DHHS Secretary; (iii) the NY State MFCU; and (iv) the NY State DOH, including the OMIG.

H. Subpoena. “Subpoenas” require the production of documents or testimony. A subpoena may be issued by, among other government agencies, : (i) the U.S. Department of Justice (e.g., the U.S. Attorney’s Office; FBI, DEA); (ii) the OIG; (iii) the MFCU; and (iv) the OMIG. Subpoenas from other law enforcement agencies may or may not require a judge’s order.

III. PROCEDURES

A. On-Site Regulators. Regulators from DOH, may come to Agency to conduct on-site surveys or inquiries. All regulators entering Agency should be directed to the Chief Executive Officer or in his or her absence, the Chief Administrative Officer, or the Chief Operating Officer. Affected Individuals should not turn over any Agency records without prior approval from the Chief Executive Officer, the Chief Administrative Officer or the Chief Operating Officer.

B. Accommodating Law Enforcement Officers. Upon receipt of a “reasonable request” (as defined above), law enforcement officers from the OIG, or upon “reasonable notice” (as defined above), law enforcement officers from the New York MFCU, DOH, or OMIG are to be granted timely access to Agency’s facilities and its records for the purpose of conducting audits, investigations, reviews, or other statutory functions. All law enforcement officers entering Agency’s facilities must be directed to the Chief Executive Officer or in his or her absence, the Chief Administrative Officer who shall request the name, title, business identification and badge # (if applicable) of each officer. Affected Individuals should not turn over any Agency records without prior approval from the Chief Executive Officer, the Chief Administrative Officer or the Chief Operating Officer.

C. Accommodating Requests for Interviews. Agency encourages Affected Individuals to fully cooperate with law enforcement officers and investigations.

1. Personnel Interviews. Affected Individuals may speak voluntarily with law enforcement officers, and Agency will not attempt to obstruct any government inquiry or prevent any Affected Individuals from speaking with such officers. However, Affected Individuals should be aware that they are permitted to refuse to speak with any officer and have the right to request that a representative of Agency or legal counsel be present before they speak

with an officer. If a law enforcement officer goes to any Affected Individual's home, the individual has the right to refuse to speak with the officer and to have an Agency representative or counsel present. Affected Individuals may also request that the interview take place at Agency.

- Before speaking with law enforcement officers, it is recommended that the Affected Individuals ask for the officer's name and telephone number and identification, and then contact his or her supervisor and the Chief Executive Officer who should then contact legal counsel.
- Affected Individuals are also reminded that, while they may speak with government agents in their personal capacity, they may not present themselves as an official representative of Agency without first obtaining authorization from Agency.

2. Law Enforcement Officers with a Subpoena, Civil Investigative Demand or Section 504.3 Notice. If investigators from a law enforcement agency appear at Agency with a subpoena, a CID or a Section 504.3 request for specific records, the following should occur:

- Immediately Contact Chief Executive Officer. Once the individual being served with the Subpoena, CID or a Section 504.3 request has obtained proper identification from the law enforcement officer or investigator, he or she should contact the Chief Executive Officer immediately his or her absence, the Chief Administrative Officer. No records or information should be given to any law enforcement officer or investigator without prior approval of the Chief Executive Officer who may first consult with outside counsel, as necessary and appropriate. Generally, a subpoena, CID or a Section 504.3 request must give Agency adequate time to reply; thus, a law enforcement officer should not arrive at Agency expecting an immediate response to such documents.
- Contact Legal Counsel. The Chief Executive Officer should contact legal counsel upon receiving a subpoena, CID or a Section 504.3 request. Although Agency intends to fully cooperate with all lawful investigations, some of the requested material may be privileged and should be reviewed by attorneys prior to disclosure.
- Accurate Response. Any response to a subpoena, CID or a Section 504.3 request must be accurate and complete.

3. Law Enforcement Officers with a Search Warrant. A valid search warrant enables law enforcement officers to enter a premise, search for evidence of criminal activity, and seize that evidence for use in a criminal prosecution. Law

enforcement officers with a search warrant, however, do not have unlimited authority. Agency aims to minimize disruption should law enforcement officers execute a search warrant. If a law enforcement officer presents a search warrant at Agency, Affected Individuals should do the following:

- Advise the Chief Executive Officer, the Chief Operating Officer and the Chief Administrative Officer of Agency of the Search. The individual should immediately tell the Chief Executive Officer, the Chief Operating Officer and the Chief Administrative Officer about the search warrant and the presence of the investigators.
- Contact Legal Counsel Immediately. Any Affected Individual served with a warrant should request the opportunity to call legal counsel. If this request is refused, the individual, in a respectful manner, should indicate that the refusal violates Agency's rights and should document the refusal in detail.
- Request a Copy of the Search Warrant and Accompanying Affidavit. A search warrant contains limits as to what areas may be searched and what property may be seized. Affected Individuals should be aware of these limits and ensure that the officers confine their search to its proper boundaries.
- Do Not Consent to the Search. Although it is important to be cooperative with the investigators, it is equally important to tell them that Agency objects to the search and is complying under compulsion of law.
- Protect Personnel. Investigators will normally use the execution of a search warrant as an opportunity to question the Affected Individual. The search warrant, however, does not give the investigators authority to require Affected Individuals to answer questions. Affected Individuals should be cooperative and respectful but may refuse to answer questions without an attorney present. Affected Individuals may be sent home or to another section of the office during the execution of a search warrant. Some persons will be selected to remain with counsel and monitor the search.
- Keep Records Regarding the Search. The search should be carefully monitored and recorded. Records should include the names and backgrounds of the investigators, times, dates and scope of the search, areas searched, and a detailed list of items seized. Affected Individuals should request permission to video the search; if such request is refused, the refusal should be documented. Investigators should never be left alone in any area of Agency during a search.

- **Be Cooperative.** Affected Individuals should be cooperative and not do anything that will impede, obstruct or antagonize the investigators during their search. Such impediments could be considered obstruction of justice and lead to a person's arrest.

IV. NO DESTRUCTION OR ALTERATION OF RECORDS OR EVIDENCE

Affected Individuals may never destroy, alter or change *in any way* any of Agency's records in response to a request from the government for such records. Even additions to records intended, in good faith, to add appropriate entries to "complete" the records are *absolutely* prohibited once a subpoena or government request for a document has been received. Any such action will subject the Affected Individuals involved to immediate discharge from employment or affiliation with Agency and possible criminal prosecution.

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