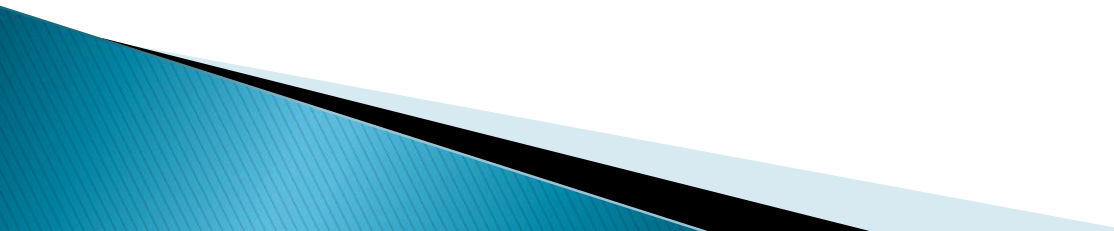


SUNNYDAYS

NJEIS 15: FRAUD, WASTE, and ABUSE

A Training for Sunny Days Personnel

Objectives

- ▶ To meet the NJEIS requirement **that call for training on** what constitutes fraud, waste, and abuse; **NJEIS #15**
 - ▶ To explain the obligation of everyone to prevent and detect fraud, waste, and abuse.
 - ▶ To provide information on how to report fraud waste and abuse.
 - ▶ To provide information on laws pertaining to fraud, waste and abuse.
- 

Why Do I Need Training?

Each year a significant amount of federal and state funds are improperly spent because of fraud, waste, and abuse. It affects everyone.

Including **YOU!**

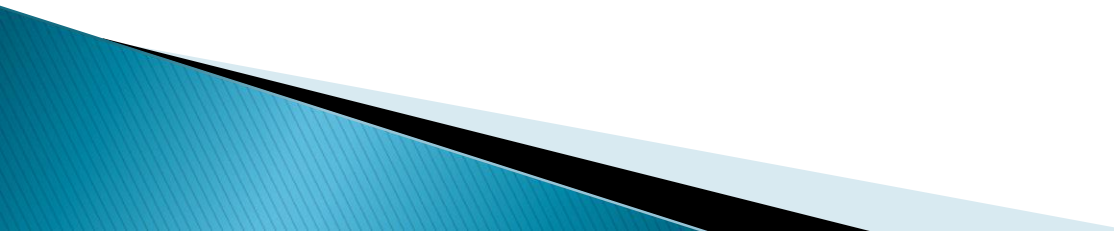
This training will help you prevent and detect fraud, waste and abuse.

YOU are part of the solution!



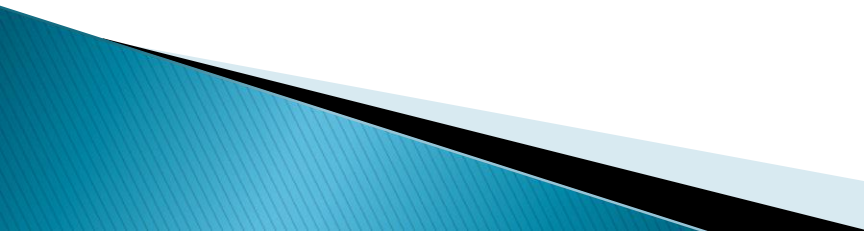
How Do I Fit In?

Every provider agency under a Letter of Agreement with the NJEIS must:

- ▶ Ensure that it complies with NJEIS-15;
 - ▶ Comply with FCA, PFCRA, AKA, DRA, NJFCA, MAHSA, HCCFA, UEA, CFA, and CEPA that prohibit practitioners and other staff from engaging in conduct that would amount to fraud, waste or abuse.
- 

What are my responsibilities?

You are a vital part of the effort to prevent and detect fraud, waste and abuse.

- ▶ **First** you are required to comply with all applicable statutory and regulatory requirements as well as NJEIS-15 and Sunny Days Fraud, Waste and Abuse Policy;
 - ▶ **Second** you have a duty to report any instances of fraud, waste and abuse you may be aware of;
 - ▶ **Third** you have a duty to follow the NJEIS Code of Conduct relating to ethical behavior and standards of conduct.
- 



SUNNYDAYS

Definitions of the legal terms used in this policy

Definitions

▶ Fraud

- Intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person.

Definitions

▶ Waste

- Activities involving payment or the attempt to obtain reimbursement for items or services where there was no intent to deceive or misrepresent but the outcome of poor or inefficient claiming or inappropriate IFSP development causes unnecessary costs to EIS or Sunny Days or families.
- Includes any action or inaction that does not rise to the level of fraud or abuse, but results in overpayments or misspent funds.

Definitions

▶ Abuse

- Activities by any party that are inconsistent with sound fiscal, business, or education practices, which result in unnecessary costs to the EIS, or in reimbursement of services that are not necessary or that fail to meet professionally recognized standards for developmental/education services.

Definitions

- ▶ Claim

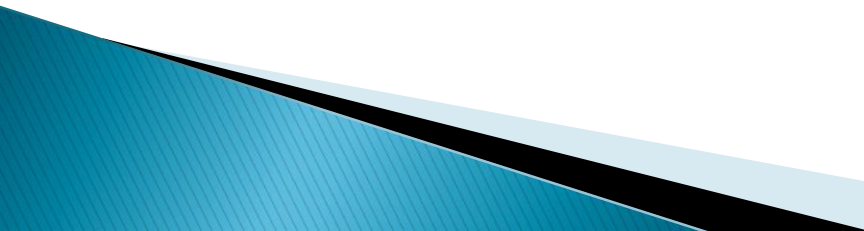
- Request for payment related to EIS

Definitions

- ▶ **Knowing/Knowingly**
 - A person, with respect to information:
 - **Has actual knowledge of the information**
 - **Acts in deliberate ignorance of the truth or falsity of the information**
 - **Acts in reckless disregard of the truth or falsity of the information; or it is practically certain from the conduct of the person that a certain result will occur**

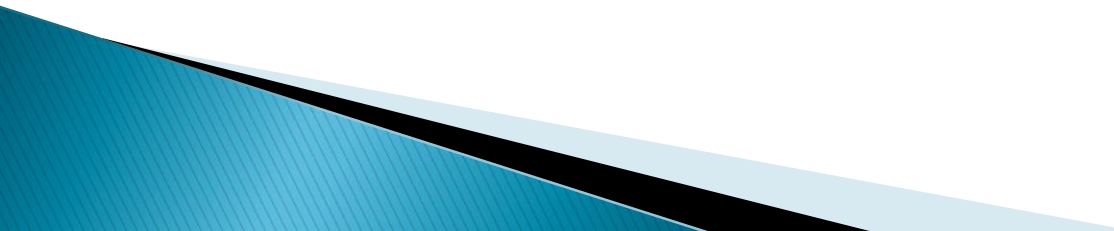
Definitions

▶ Participant

- A child and/or family receiving or attempting to access EIS.
 - A practitioner providing EIS, on behalf of a provider agency, to a child and/or family.
 - An agency operating under a Letter of Agreement to ensure the provision of EIS to children and families on behalf of the EIS, including service coordination.
 - Employees and managers working for the Lead Agency and EIS.
- 

Differences Between Fraud, Waste and Abuse

There are differences between fraud, waste and abuse. One of the primary differences is intent and knowledge. Fraud requires the person to have an intent to obtain payment and the knowledge that their actions are wrong. Waste and abuse may involve obtaining an improper payment, but do not require the same intent and knowledge.




NJEIS as a Payor of Last Resort

Inquire about the family resources, especially Medicaid services like at medical daycares and ABA daycares.

Early intervention should not duplicate services when other federally funded services (Medicaid) is being utilized by the family.

Consequences

- ▶ **Recoupment of funds linked to fraud, waste or abuse, together with interest and any applicable civil penalties;**
 - ▶ **Disqualification of a practitioner from serving within the EIS;**
 - ▶ **Termination of the Letter of Agreement between Sunny Days, Inc. and the EIS for the provision of early intervention services;**
 - ▶ **Referral of any evidence of suspected fraud or other criminal activity to the Medicaid Fraud Section, Office of Insurance Fraud Prosecutor, NJ Division of Criminal Justice or applicable state sanctions.**
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**Everyone MUST comply
with the following LAWS!**

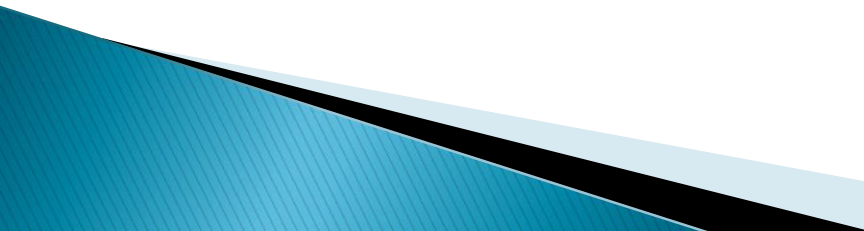


Federal False Claims Act (FCA)

U.S.C. §§ 3729–3733

- ▶ Provides penalties of between \$5,500 and \$11,000 per false claim and triple damages for anyone who knowingly submit or causes the submission of false or fraudulent claims to the U.S. for government funds or property.
- ▶ The act prohibits, among other things, the submission of inappropriate claims for NJEIS services, since the NJEIS is funded, in part, by federal funds.

The Federal Program Fraud Civil Remedies Act (PFCRA) 31 U.S.C. §§ 3801–3812

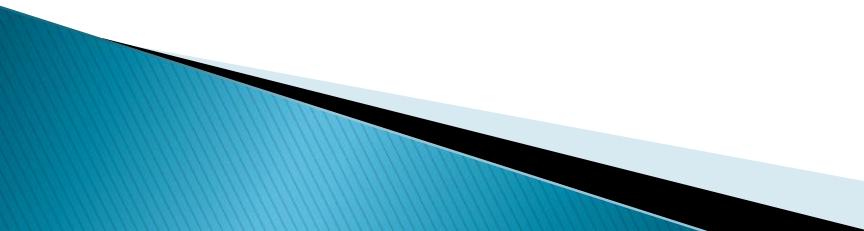
- ▶ Provides federal administrative remedies for false claims and statements, including those made to federally funded health care programs.
 - ▶ Current civil penalties are \$5,500 for each false claim or statement, and an assessment in lieu of damages sustained by the federal government of up to double damages for each false claim for which the government makes a payment.
- 

Federal Anti-Kickback Statute (AKA) 42 U.S.C. §1320a-7b

- ▶ Under this statute it is illegal to knowingly and willfully solicit or receive anything of value directly or indirectly, overtly or covertly, in cash or in kind, in return for referring an individual or...ordering or arranging for any good or service for which payment may be made in whole or in part under a federal health care program including programs for children families accessing NJEIS services through NJ Medicaid and NJ Family Care.

Deficit Reduction Act of 2005 (DRA) 42 U.S.C. §1396(a)(68)

Participants in the NJEIS shall follow federal and state laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs, including programs for children and families accessing NJEIS services through New Jersey Medicaid and New Jersey Family Care.

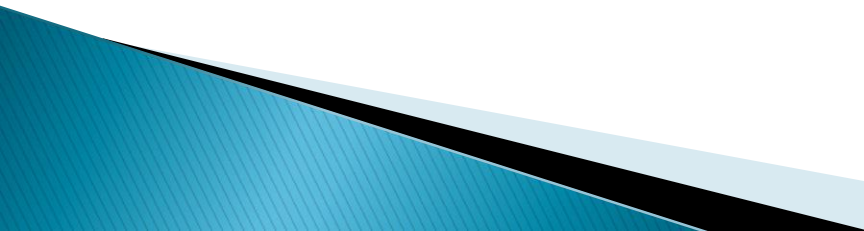


The New Jersey False Claims Act (NJFCA)

N.J.S.A. § § 2A:32C-1 through 2A:32C-17

- ▶ Authorizes the Attorney General to initiate false claims litigation similar to what is authorized under the Federal False Claims Act and has similar whistleblower provisions.
- ▶ Amends the NJ Medicaid statute to make violations of the NJFCA to give rise to liability under N.J.S.A. 30:4D-17(e).
- ▶ Amends the NJ Medicaid statute to increase the \$2000 per false claim civil penalties under N.J.S.A. 30:4D-17(e)(3) to the same level provided for under the Federal False Claims Act.

New Jersey Medical Assistance and Health Services Act (MAHSA) N.J.S.A § 30:4D-17(a)-(d) –Criminal Provisions

- ▶ Participants in the-funded NJEIS shall refrain from engaging in fraud or other criminal violations relating to Title XIX (Medicaid)-funded programs.**
 - ▶ Prohibited conduct includes, but is not limited to: (a) fraudulent receipt of payments or benefits; (b) false claims, statements or omissions, or conversion of benefits or payments; (c) kickbacks, rebates and bribes; and (d) false statements or representations about conditions or operations of an institution or facility to qualify for payments. Participants engaging in criminal violations may be excluded from participation in Medicaid and other health care programs under N.J.S.A §30:4D-17.1(a).**
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New Jersey Medical Assistance and Health Services Act (MAHSA)
N.J.S.A §§ 30:4D-7(h) and 30:4D-17(e)-(i) – Civil Provisions

▶ Participants in the NJEIS:

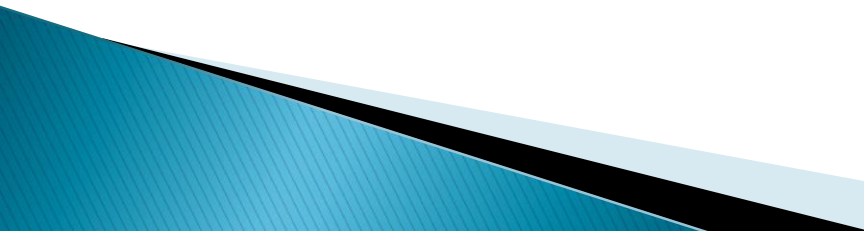
(1) shall repay with interest any amounts received as a result of unintentional violations; and (2) are liable to pay up to triple damages and (as a result of the NJFCA) between \$5,500 and \$11,000 per false claim when violations of the Medicaid statute are intentional, or when there is a violation of the NJFCA. Participants engaging in civil violations may be excluded from participation in Medicaid and other health care programs under N.J.S.A. § 30:4D-17.1(a).

Health Care Claims Fraud Act (HCCFA)

N.J.S.A §§ 2C:21-4.2, 2C:21-4.3 and 2C:51-5

- ▶ Participants in the NJEIS shall not: (1) knowingly commit health care claims fraud in the course of providing NJEIS services; (2) recklessly commit health care claims fraud in the course of providing NJEIS services; and (3) commit acts of health care claims fraud as described in (1) and (2), if the commission of such acts would be performed by an individual other than the professional who provided NJEIS services (e.g., claims processing staff).

Uniform Enforcement Act (UEA) N.J.S.A. § 45:1–21(b) and (o)

- ▶ Licensed professionals are prohibited from engaging in conduct that amounts to “dishonesty, fraud, deception, misrepresentation, false promise or false pretense” or involves false or fraudulent advertising.
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New Jersey Consumer Fraud Act (CFA)

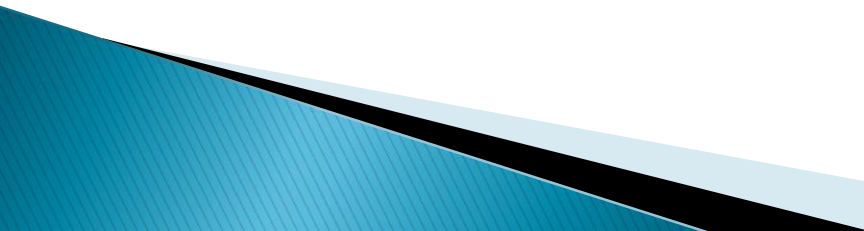
N.J.S.A. §§ 56:8-2, 56:8-3.1, 56:8-13, 56:8-14, and 56:8-15

- ▶ Provider agencies and the individuals working for them shall be prohibited from the unlawful use of “any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression, or omission of any material fact”, with the intent that others rely upon it, in connection with the sale, rental or distribution of any product or service by the provider agency or its employees, or with the subsequent performance of that provider agency or its employees.

Conscientious Employee Act (CEPA) N.J.S.A. § 34:19-1, et seq.

- ▶ Provider agencies are prohibited from taking retaliatory action against employees who: (a) disclose or threaten to disclose to a supervisor or any public agency an activity, policy or practice of the provider agency or another business with which the provider agency shares a business relationship, that the employee reasonably believes to be illegal, fraudulent and/or criminal;

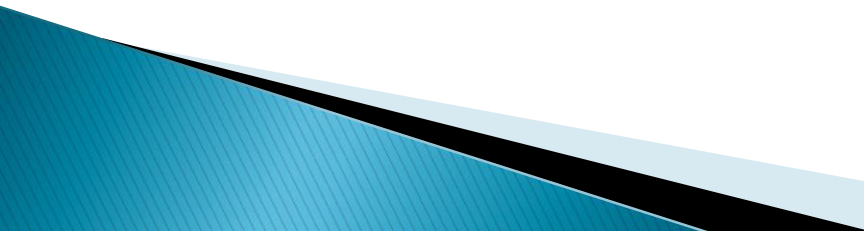
CEPA (Continued)

- ▶ (b) Provides information or testimony to any public agency conducting an investigation, hearing or inquiry into any violation of the law, rule or regulation by the provider agency or another business with which the provider agency shares a business relationship; or
 - ▶ (c) Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is illegal, fraudulent, criminal or incompatible with a clear mandate of public policy concerning the public health, safety or welfare, or protection of the environment.
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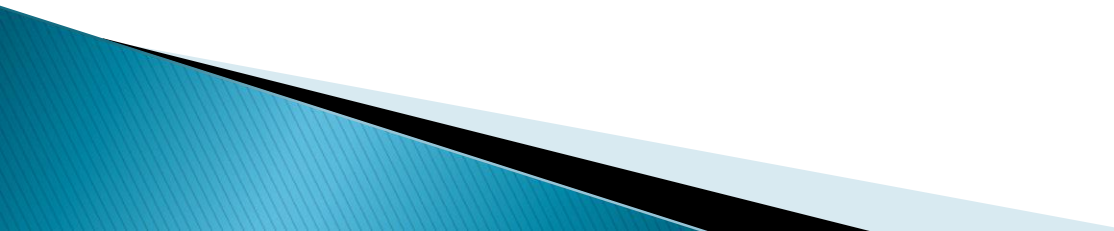
Report Fraud, Waste and Abuse

- ▶ Report any concerns to Karen Olanrewaju,
Sunny Days NJ Program Director
732-761-0088.
- ▶ If you wish to report anonymously and
confidentiality, you can call the toll free
hotline established by the Federal Office of
Inspector General in the U.S. Dept. of Health
and Human Services:
1-800-HHS-TIPS (1-800-447-8477).

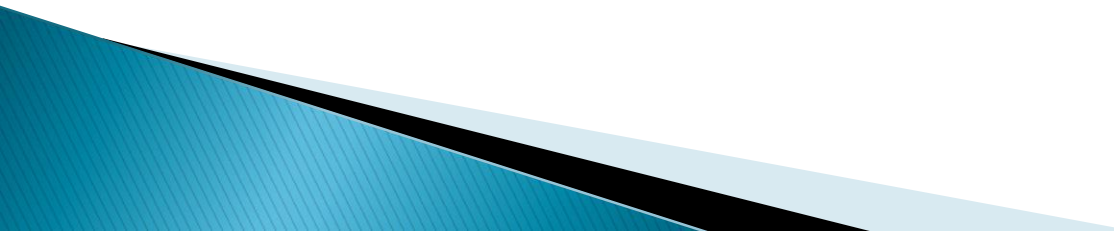
Procedures

- ▶ All instances of suspected fraud, waste, and abuse will be investigated.
 - ▶ Within 45 days Sunny Days will conclude its investigation and submit to EIS its findings
 - ▶ EIS will conclude their investigation into the allegations of fraud, waste, or abuse within 60 days.
 - ▶ EIS will refer any evidence of fraud or other criminal activity to Medicaid Fraud Section, Office of Insurance Fraud Prosecutor, NJ Division of Criminal Justice or applicable state.
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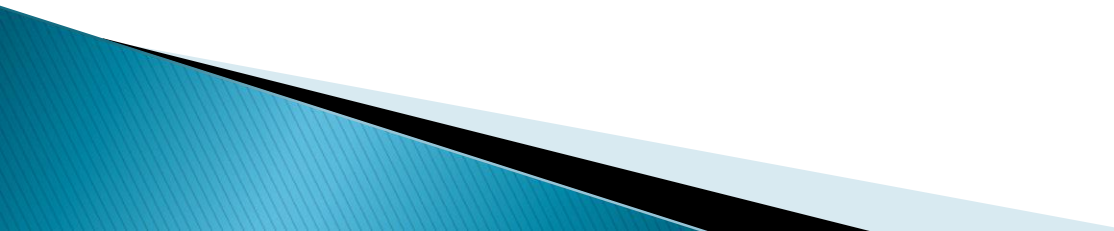
Procedures

- ▶ All service verification logs must be signed by the parent/caregiver at the end of the session in ink.
 - ▶ If there is an error put a line through it and initial the error. **Never use white out!!**
 - ▶ Service verification logs must have exact times in and out.
 - ▶ Parents/Guardian/ caregiver should never be asked to sign a blank log!
- 

Procedures

- ▶ Please note that billable hours are for face to face interaction with the child and family. This includes logging in session and notes.
 - ▶ Practitioners may not leave a session early to do their notes at home. If practitioners choose to log in notes after the session, they can only bill for the time in the home.
- 

Procedures

- ▶ If a family has to cut a session short for some reason you may only bill for the time you were actually there providing the session.
 - ▶ Ex. A parent has to run to the child's sibling's school to pick up an ill child and you were only able to complete half the session. You cannot bill for the full session.
- 



NJEIS 15: FRAUD, WASTE, and ABUSE

Questions?



Please contact your Clinical Educator

Kathleen Flatley, kflatley@sunnydays.com

Jacquie Jupin-Manzi jjupin-manzi@sunnydays.com

Scott Rieger, srieger@sunnydays.com

Carola d'Emery, cdemery@sunnydays.com



A few scenarios to review the applications of NJEIS 15

The policy as it works in the field.

Scenario 1

You are a practitioner providing services to a family in the family's home. Your session is supposed to last for 60 minutes but is cut short after only 15 minutes when the parent gets a call from the school and has to leave to pick up her other child who has become ill. The parent feels bad and tells you she is willing to sign for the whole hour because she does not have a cost share. What do you do?

- a) Take her up on it, telling yourself you were prepared to stay for the hour so you deserve it.
- b) Explain to her that you can't enter incorrect times on your log and that you will only be able to bill for the 15 minutes.
- c) Leave and don't bill for anything that day as it is essentially a no show.

Scenario 2

You are working with a family that lives really close to you. You love working with their 30 month old child and the family loves having you there. The child has made excellent progress and you are confident that he no longer requires the service you are providing. The parent doesn't want you to stop seeing the child but you know that you really don't need to be there any longer and the IFSP is not due to be reviewed for another 3 months. What do you do?

- a) Tell the family that he is doing well but you can still come until the child's third birthday.
- b) Recommend that your service be decreased or discontinued outlining the great progress the child has made.
- c) Tell the family you can come privately and ask how much of a cost share they are paying to come up with a price.

Scenario 3

You are a practitioner providing TET services to families. One of your evaluations involves the son of your sister's best friend, who is eligible for EI services. Your sister asks you to please make sure he receives as many services as possible.

What do you do?

- a) Tell your sister you cannot consider her request.
- b) Call in sick the day of the IFSP so a substitute will take your place . You want to avoid conflict with your sister and her friend.
- c) Attend the IFSP, do not mention your sister's friendship with Mom, and write strategies that will call for as many discipline specific practitioners as possible.

Attestation

I attest to the fact that:

- ▶ I have viewed this entire presentation;
- ▶ I know how to report suspected fraud, waste and abuse within the NJEIS;
- ▶ I understand whom to contact if I have questions about fraud, waste and abuse.
- ▶ I agree to be bound by the policy on fraud, waste and abuse as outlined herein.

;