Whistleblower Report

Urgent Federal Action Required:

Federal Compliance and Accountability Review: Mismanagement, Legal Violations, and Retaliation in Connecticut's Medicaid ABI Waiver Program.

Whistleblower Report Prepared by:

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Date: September 21, 2024

Submitted To:

1. President of the United States
Joe Biden
The White House
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Washington, DC 20500
Role: Oversees federal agencies, sets national priorities for healthcare, civil rights, and government accountability. Can influence Medicaid enforcement and reform.
Contact: Contact form for the President

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2. Vice President of the United States
Kamala Harris
The White House
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Washington, DC 20500
Role: Plays an active role in shaping policy decisions, including healthcare and civil rights.
Contact: Contact form for the Vice President

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3. Department of Health and Human Services (HHS)
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200 Independence Avenue, SW
Washington, DC 20201
Role: Oversees Medicaid programs and enforces federal healthcare laws to ensure compliance by states.
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4. Centers for Medicare & Medicaid Services (CMS)
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Role: Directly oversees Medicaid and Medicare, ensuring compliance with federal healthcare regulations.
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5. Office of Inspector General (OIG) – HHS
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6. Department of Justice (DOJ) Civil Rights Division
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7. Office for Civil Rights (OCR) – HHS
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8. U.S. Department of Labor (DOL) Wage and Hour Division
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9. U.S. Government Accountability Office (GAO)
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10. Equal Employment Opportunity Commission (EEOC)
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131 M Street NE
Washington, DC 20507
Role: Handles complaints related to employment discrimination, including disabilities in Medicaid implementation.
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11. U.S. Commission on Civil Rights
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Washington, DC 20425
Role: Investigates civil rights violations, including discrimination in Medicaid programs.
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12. U.S. Senate Finance Committee
Chair: Senator Ron Wyden (Democrat)
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Washington, DC 20510
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Contact: https://www.finance.senate.gov/contact

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13. U.S. Senate Special Committee on Aging
Chair: Senator Bob Casey (Democrat)
520 Senate Hart Office Building
Washington, DC 20510
Role: Oversees issues related to aging, including Medicaid and long-term care.
Contact: https://www.aging.senate.gov/

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14. U.S. Senate Committee on Health, Education, Labor, and Pensions (HELP)
Chair: Senator Bernie Sanders (Independent)
428 Senate Dirksen Office Building
Washington, DC 20510
Role: Oversees healthcare policy, Medicaid, and labor laws.
Contact: https://www.help.senate.gov/

Abstract

This report highlights systemic failures within Connecticut's Medicaid Acquired Brain Injury (ABI) Waiver Program, revealing extensive mismanagement of federal Medicaid funds, violations of federal labor laws, and retaliation against whistleblowers. The Connecticut Department of Social Services (DSS) has engaged in financial mismanagement by improperly allocating funds to agencies that fail to meet contractual obligations, in violation of the False Claims Act and the Social Security Act. Additionally, the report documents how the DSS has allowed the exploitation of disabled workers by paying sub-minimum wages without obtaining necessary 14(c) certification, contravening the Fair Labor Standards Act (FLSA). Whistleblowers, including the author, have faced retaliation, including blocked billing, tampering with timekeeping systems, public defamation, and obstruction of legal recourse, in violation of the Whistleblower Protection Act.

Furthermore, the DSS has operated a closed and non-transparent Medicaid referral system, denying beneficiaries their right to choose qualified providers, in violation of federal Medicaid regulations. Efforts to obtain information through Freedom of Information Act (FOIA) requests have been obstructed, further eroding transparency and accountability. Recent amendments by the DSS have also lowered professional standards for case managers, jeopardizing the care of brain injury survivors and violating federal Medicaid guidelines.

The report calls for immediate federal intervention, including comprehensive audits, enforcement of Medicaid compliance, recovery of misallocated funds, and stronger whistleblower protections. This systemic failure, if left unaddressed, risks further harm to vulnerable populations and undermines public trust in federally funded programs. Urgent action is required to restore integrity, accountability, and care standards within the ABI Waiver Program.

Table of Contents: Expert Legal Edition

- **6.1 Issue Overview**: FOIA Non-Compliance
- **6.2 Relevant Federal and State Laws**: FOIA, **42 U.S.C. § 1396a(a)(6)**, and **Section 1902(a)(27)**
- **6.3 Implications for Federal Funding**
- **Call for Immediate Action**: Enforcing FOIA Compliance
- **Conclusion**: Ensuring Transparency to Safeguard Federal Funding

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7. **Non-Transparent Medicaid Referral System**
   - **7.1 Issue Overview**: Closed Referral System Violations
   - **7.2 Legal Context**: **42 U.S.C. § 1396a(a)(23)** and ACA Requirements
   - **7.3 Impact on Beneficiaries**: Denial of Rights and Compromised Care Quality
   - **7.4 Case Studies**: Illinois and California
   - **Recommendations for Immediate Action**
   - **Conclusion**: Restoring Consumer Autonomy and Transparency

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8. **DSS Waiver Amendments — Lowering Standards and Jeopardizing Care Quality**
   - **8.1 Issue Overview**: DSS's Proposed Reduction in Case Manager Qualifications
   - **8.2 Legal Context**: Violations of **42 CFR § 441.302** and **42 U.S.C. § 1396d**
   - **8.3 Impact on Consumer Care**: Risks to Beneficiaries
   - **8.4 Precedents in Other States**: Texas and California
   - **Recommendations for Immediate Action**
   - **Conclusion**: Prioritizing Consumer Safety and Compliance

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9. **Whistleblower Good Faith and Legal Protections — A Call for Accountability**
   - **9.1 Legal Context and Protections**: *Whistleblower Protection Act (5 U.S.C. § 2302)* (WPA) and *False Claims Act (31 U.S.C. § 3729) (FCA)*
   - **9.2 Efforts to Seek Resolution**: Whistleblower Complaints and Evidence

- **9.3 Legal Precedents**: Supporting Whistleblower Protections
- **9.4 Federal Agencies' Role**: DOJ, CMS, and OCR Involvement
- **Conclusion**: Protecting Whistleblowers and Ensuring Accountability

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10. **Conclusion and Recommendations**

- **10.1 Key Recommendations for Federal Action**
  - **Comprehensive Federal Audit** (CMS, GAO)
  - **Enforce Federal Medicaid Compliance**
  - **Recover Misallocated Federal Funds**
  - **Strengthen Oversight of Care Management Agencies**
  - **Protect Whistleblowers and Enforce Accountability**
- **Action-Oriented Recommendations for Federal Intervention**
  - Federal Audit and Investigation (CMS, GAO, OIG)
  - Legal Enforcement and Recovery of Funds (DOJ, CMS)
  - Implementation of Federal Oversight and Corrective Action
- **Why Connecticut Can't Self-Audit**
- **Conclusion**: A Federal Path to Accountability and Compliance

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11. **Report on Retaliation, Systemic Obstruction, and Discrimination**

- **1. Billing Obstruction and Administrative Manipulation**
- **2. Tampering with Timekeeping Systems**
- **3. Public Censorship and Defamation at Hearings**
- **4. Evidence Deletion and Denial of Civil Rights**
- **5. Denial of FOIA Requests and Accommodations**
- **6. Public Insults and Intimidation**
- **7. Secret Public Health Hearings and Lack of Transparency**
- **8. Denial of Accommodations at Public Presentations**

- **9. Introduction of Unqualified Providers and Coerced Services**
- **10. Endangerment of Client Safety**
- **11. Steering and Poaching of Consumers**
- **Conclusion**: A Crisis of Accountability and Transparency
- **Recommendations for Federal Action**

Request for Basic Accommodations and Electronic Communications

Dear Friends and Advocates

Executive Summary

This report exposes critical systemic failures and legal violations within Connecticut's Medicaid Acquired Brain Injury (ABI) Waiver Program. These ongoing issues jeopardize the welfare of vulnerable Medicaid recipients, lead to the mismanagement of state and federal taxpayer dollars, and foster retaliation against whistleblowers who courageously expose these abuses. Immediate federal intervention is required to ensure compliance, enforce accountability, and prevent further misuse of public funds.

Key Findings

1. Mismanagement of Federal Medicaid Funds

- **Issue**: The Connecticut Department of Social Services (DSS) has been mismanaging Medicaid funds, resulting in the improper allocation of resources and failure to provide necessary services to ABI Waiver beneficiaries.
- **Legal Violations**: This mismanagement violates the *False Claims Act (31 U.S.C. § 3729)* and the *Social Security Act (42 U.S.C. § 1396a)*, putting millions of taxpayer dollars at risk.
- **Action Needed**: A federal audit is essential to evaluate the misuse of Medicaid funds and recover misallocated amounts under the *False Claims Act (31 U.S.C. § 3729)*.

2. Non-Compliance with Federal Labor Laws

- **Issue**: Disabled workers participating in the ABI Waiver Program are being paid below the minimum wage without the required 14(c) certification, violating the *Fair Labor Standards Act (FLSA) (29 U.S.C. § 206)*.
- **Impact**: This undermines the rights of workers and compromises the quality of care provided to Medicaid beneficiaries.
- **Action Needed**: Immediate federal enforcement of wage laws and the cessation of sub-minimum wage practices are necessary to restore compliance with labor standards.

3. Retaliation Against Whistleblowers

- **Issue**: Whistleblowers, including David Medeiros and ABI Resources, have faced retaliation for exposing Medicaid guideline violations. This retaliation is in direct violation of the *Whistleblower Protection Act (5 U.S.C. § 2302)* (5 U.S.C. § 2302) and the *False Claims Act (31 U.S.C. § 3729)*.
- **Impact**: Suppressing whistleblowers prevents the identification of systemic failures and financial mismanagement.
- **Action Needed**: Federal protections for whistleblowers must be enforced, and a thorough investigation into retaliatory actions by DSS is required.

4. Non-Transparent Medicaid Referral System

- **Issue**: DSS operates a closed referral system that restricts Medicaid beneficiaries' ability to select qualified providers, violating 42 U.S.C. § 1396a(a)(23), which guarantees consumer choice.
- **Impact**: Brain injury survivors and other beneficiaries are funneled toward certain providers without full knowledge of alternatives, affecting the quality of care.
- **Action Needed**: A federal review of the referral system is required to ensure transparency and uphold consumer autonomy in choosing care providers.

5. Failure to Provide FOIA Requests and Transparency

- **Issue**: DSS consistently fails to comply with the *Freedom of Information Act (FOIA) (5 U.S.C. § 552)*, obstructing access to vital information regarding the ABI Waiver Program.
- **Impact**: The lack of transparency exacerbates financial mismanagement and prevents adequate oversight of taxpayer funds.
- **Action Needed**: Federal enforcement of FOIA compliance is necessary to restore public accountability and prevent further financial abuses.

Conclusion and Call for Federal Action

This report outlines a troubling pattern of systemic mismanagement, legal violations, and retaliatory practices within Connecticut's Medicaid system. These issues endanger Medicaid recipients, squander federal and state resources, and suppress whistleblowers who seek to shed light on these failures. To address these challenges, immediate federal action is required to:

1. Conduct a federal audit of Connecticut's Medicaid ABI Waiver Program.
2. Recover misallocated taxpayer funds.
3. Enforce federal labor laws and protect whistleblowers from retaliation.
4. Ensure transparency and accountability in Medicaid's referral system.

Without prompt federal oversight, these systemic failures will continue to erode the integrity of Medicaid, harming the very individuals the program is meant to protect.

2. Introduction and Purpose of the Report

This report outlines **critical systemic failures** within Connecticut's Medicaid Acquired Brain Injury (ABI) Waiver Program, focusing on the **mismanagement of federal Medicaid funds**. The improper allocation of taxpayer dollars threatens the sustainability of essential services intended for vulnerable populations, including brain injury survivors and disabled individuals. In addition to financial mismanagement, the report highlights **violations of federal labor laws** and **legal protections** for whistleblowers, disabled workers, and Medicaid beneficiaries.

Key Issues

1. **Mismanagement of Federal Medicaid Funds**
   Issue: The Connecticut Department of Social Services (DSS) has **significantly mismanaged** federal Medicaid funds, leading to improper payments to agencies that fail to meet their service obligations.
   Impact: This misuse of taxpayer dollars exposes Connecticut to **federal investigations** and penalties under the *False Claims Act (31 U.S.C. § 3729)* **(FCA)** and other federal regulations.
2. **Failure to Provide Critical Services**
   Issue: Brain injury survivors and disabled individuals under the ABI Waiver Program have been **denied access** to essential services, worsening the program's shortcomings.
   Impact: Vulnerable populations are deprived of necessary care, undermining the core purpose of Medicaid and jeopardizing the well-being of individuals relying on its support.
3. **Non-Compliance with Federal Labor Laws**
   Issue: Agencies operating under the ABI Waiver Program have violated the ***Fair Labor Standards Act (FLSA) (29 U.S.C. § 206)*** by paying **sub-minimum wages** to disabled workers without obtaining proper 14(c) certification.
   Impact: These labor violations harm workers and reduce the quality of services provided to Medicaid beneficiaries, further diminishing the program's integrity.

4. **Violation of Whistleblower Protections**
   Issue: Whistleblowers, including David Medeiros and ABI Resources, have faced **retaliation** for exposing systemic failures and violations within the DSS.
   Impact: Retaliation stifles accountability, obstructs transparency, and prevents essential reforms, fostering a culture of impunity that allows systemic issues to persist unchecked.

Purpose of the Report

This report has three primary objectives:

1. **Expose Violations of Federal and State Laws**
   The report documents violations of federal statutes, including the **Social Security Act**, the ***Americans with Disabilities Act (ADA) (42 U.S.C. § 12132)***, the **Rehabilitation Act**, and the ***Fair Labor Standards Act (FLSA) (29 U.S.C. § 206)***. These laws protect Medicaid beneficiaries, disabled workers, and whistleblowers, all of whom are negatively impacted by the systemic failures in Connecticut's ABI Waiver Program.
2. **Call for Immediate Federal Intervention**
   Federal oversight is urgently needed to ensure that Connecticut complies with Medicaid guidelines and federal labor laws. Immediate intervention will protect taxpayer dollars, halt the mismanagement of funds, and safeguard Medicaid beneficiaries who depend on these critical services.
3. **Advocate for Transparency, Accountability, and Reform**
   This report demands **comprehensive reform** of the ABI Waiver Program, focusing on **transparency** and **accountability** from DSS. The failure to comply with the ***Freedom of Information Act (FOIA) (5 U.S.C. § 552)***, along with the obstruction of public records, undermines federal funding and erodes public trust in the program.

Call to Action

This report provides a clear directive for federal agencies to address the systemic failures within Connecticut's Medicaid ABI Waiver Program by taking the following steps:

- **Conduct a Full Audit**: Federal agencies must initiate a **comprehensive audit** of the ABI Waiver Program to assess the scope of financial mismanagement and the misuse of Medicaid funds.
- **Enforce Compliance with Federal Labor Laws**: Strengthen enforcement of **federal labor laws** within the ABI Waiver Program to ensure that disabled workers receive fair wages and that whistleblowers are protected from retaliation.
- **Recover Misallocated Taxpayer Funds**: Federal authorities must recover misallocated taxpayer dollars and **reallocate** them to improve care and services for Medicaid beneficiaries.
- **Ensure Public Accountability**: Enforce **FOIA compliance** to guarantee transparency, and initiate comprehensive reforms within DSS to restore public trust and secure the integrity of the Medicaid program.

Immediate federal intervention is necessary to prevent further harm to Medicaid's most vulnerable beneficiaries and to restore the program’s mission of providing essential care and services to those in need. Without prompt action, these systemic failures will continue to undermine the integrity of Medicaid and harm the individuals the program is designed to serve.

3. Mismanagement of Federal Medicaid Funds in Connecticut's ABI Waiver Program

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3.1 Issue Overview

Federal Medicaid funds are essential to ensuring that vulnerable populations, such as brain injury survivors, have equitable access to healthcare services. However, in Connecticut's Acquired Brain Injury (ABI) Waiver Program, these funds are being **significantly mismanaged**. The Connecticut Department of Social Services (DSS) continues to compensate care management agencies that fail to meet their service obligations. This lack of oversight **compromises the program's integrity**, misappropriates taxpayer dollars, and denies Medicaid beneficiaries the care they are legally entitled to receive.

Key Points:

- **Who**: The Connecticut Department of Social Services (DSS) and the contracted care management agencies under the ABI Waiver Program.
- **What**: Misuse of federal Medicaid funds by compensating agencies for services that are either inadequately delivered or not provided at all.
- **Where**: Across Connecticut, affecting Medicaid beneficiaries enrolled in the ABI Waiver Program.
- **When**: These financial mismanagement issues have persisted since the program's inception, with recent reports emerging in November 2023.
- **How**: DSS allocates Medicaid funds without adequate oversight, allowing agencies to receive payments despite failing to meet service delivery requirements.
- **Why**: Systemic failures in financial oversight and contract management by DSS, compounded by state budget constraints.

3.2 Legal Context

The mismanagement of federal Medicaid funds by DSS within the ABI Waiver Program constitutes **violations of federal law** and raises concerns about DSS's ability to manage public resources effectively. The key legal violations include:

- ***Section 1902(a)(23) of the Social Security Act****:* This guarantees Medicaid beneficiaries the right to freely choose their healthcare providers. This right is undermined when services are inadequately delivered or absent.
- ***False Claims Act (31 U.S.C. § 3729) (FCA)****:* Agencies receiving payments for undelivered services may be liable for submitting **false claims**. Violations of the FCA can result in significant financial penalties for fraudulent use of federal funds.

3.3 Impact on Federal Taxpayers

The mismanagement of Medicaid funds poses **serious implications** for federal taxpayers, whose contributions are being misused to compensate agencies that fail to meet their contractual obligations. This waste of resources compromises healthcare services and undermines trust in state-administered federal programs.

Key Impacts:

- **Improper Payments**: Federal Medicaid funds are being allocated to agencies that fail to deliver contracted services, wasting taxpayer dollars and contributing to poor healthcare outcomes for Medicaid beneficiaries.
- **Oversight Failures**: DSS's inability to ensure contract compliance reflects a broader failure to manage Medicaid funds effectively, raising concerns about the integrity of Connecticut’s Medicaid administration.

Broader Implications for Federal Taxpayers

- **Widespread Mismanagement**: The failures seen in the ABI Waiver Program may indicate similar inefficiencies in other DSS-managed programs, putting federal taxpayers at greater financial risk.
- **Increased Oversight Costs**: Federal agencies such as the **Centers for Medicare & Medicaid Services (CMS)** may be forced to allocate additional resources to monitor Connecticut's Medicaid program, increasing the financial burden on taxpayers.

3.4 Financial Burden on Federal Taxpayers

As Medicaid is a **jointly funded federal-state program**, failures in Connecticut's administration create a growing financial burden on federal taxpayers.

- **Wasted Resources**: Federal funds meant for critical healthcare services are being funneled into underperforming agencies, diverting resources from their intended use.
- **Increased Oversight Costs**: The need for federal agencies to monitor DSS's compliance with Medicaid regulations requires additional resources, pulling funds away from other essential healthcare initiatives.

3.5 Potential Violations of the *False Claims Act (31 U.S.C. § 3729)* (FCA)

The mismanagement of Medicaid funds raises significant legal risks under the ***False Claims Act (31 U.S.C. § 3729) (FCA)***. If agencies are found to have received payments for undelivered services, DSS and the contracted agencies could face substantial penalties.

- **Legal Exposure**: A federal investigation may confirm that agencies submitted fraudulent claims to Medicaid, exposing DSS to penalties and reputational damage.
- **Recovery of Misused Funds**: Federal authorities may initiate legal action to **recover misallocated Medicaid funds**, but the recovery process is likely to be both costly and time-consuming, potentially diverting further resources from healthcare services.

3.6 Undermining Federal Healthcare Programs

The mismanagement of Medicaid funds erodes the **effectiveness and integrity** of federal healthcare programs like Medicaid, leading to long-term risks for beneficiaries and weakening the relationship between federal and state governments.

- **Health Outcomes at Risk**: When Medicaid beneficiaries do not receive the services they are entitled to, their health deteriorates, leading to higher healthcare costs over time.
- **Erosion of Federal Trust**: Ongoing failures in DSS's Medicaid administration undermine federal trust in Connecticut's ability to manage Medicaid funds, potentially jeopardizing future federal funding allocations.

3.7 Systemic Issues in Connecticut's Medicaid Programs

The failures identified in the ABI Waiver Program likely reflect broader **systemic problems** across Connecticut's Medicaid system, posing an even greater financial risk to federal taxpayers.

- **Larger Financial Impact**: If similar mismanagement occurs in other Medicaid programs, the financial burden on both state and federal taxpayers could be significantly greater than currently estimated.
- **Urgent Federal Intervention**: Immediate **federal oversight** is necessary to ensure compliance with Medicaid regulations, protect taxpayer dollars, and prevent further mismanagement.
- **Proposed Amendments Dilute Care Quality**:
  The 2024 amendments to the Medicaid ABI Waiver Program proposed by DSS shift focus from **individual qualifications** to **agency licensure**, leading to a **reduction in care quality**. The move away from ensuring **certified Brain Injury Specialists** are involved risks providing substandard care to vulnerable ABI survivors. This shift reflects a broader systemic issue where **agency convenience** is prioritized over **person-centered care**.

- **Misrepresentation by DSS**:
  DSS has falsely represented these certification changes as improvements, even though these standards were already in place. This **misrepresentation** underscores a pattern of **misleading the public**, further diminishing trust in the department's commitment to genuine reform.
- **DSS Misrepresentation of Certification Requirements**:
  The **Department of Social Services (DSS)** has falsely represented the certification of **Brain Injury Specialists** as a new requirement in its proposed amendments. However, this certification has long existed, and DSS's **misrepresentation** undermines the transparency of the reform process and raises concerns about the agency's integrity. Survivors and advocates assert that DSS's misleading claims obscure the fact that meaningful changes are not being made to improve care quality.
- **Corruption Allegations Within DSS**:
  There are growing concerns of **corruption** within DSS, as it appears the proposed amendments are designed to **shield systemic issues** rather than address them. These corruption allegations further justify the need for a **federal investigation** into DSS's practices. Transparency failures and the refusal to provide essential information, such as the **Provider Directory**, have only worsened the situation, preventing public scrutiny.

Conclusion: The Critical Need for Federal Oversight

The ongoing mismanagement of federal Medicaid funds in Connecticut's ABI Waiver Program reflects deeper systemic failures within the state's Medicaid system. These failures deprive vulnerable individuals of essential healthcare services and waste federal taxpayer dollars. Without **immediate federal intervention**, the misuse of funds will continue, eroding healthcare outcomes for Medicaid beneficiaries and undermining trust in public programs.

Key Recommendations for Federal Action

1. **Comprehensive Federal Audit**:
   Conduct a thorough audit of Connecticut's ABI Waiver Program to uncover the extent of financial mismanagement and systemic issues.
2. **Recovery of Federal Funds**:
   Utilize legal mechanisms, including the ***False Claims Act (31 U.S.C. § 3729)*** , to recover misallocated federal funds from underperforming agencies.
3. **Strengthened Oversight and Accountability**:
   Implement stronger oversight measures at both the state and federal levels to ensure that Medicaid funds are used appropriately and that services are delivered as required.
4. **Establishment of a Federal Oversight Committee**:
   Create a federal oversight committee to monitor Connecticut's compliance with Medicaid regulations and prevent future mismanagement.
5. **Legal Accountability**:
   Hold individuals and agencies accountable for the mismanagement of funds, ensuring that federal taxpayer dollars are properly allocated to support essential healthcare services.

4. Non-Compliance with Federal Labor Laws — Sub-Minimum Wage Payments Without 14(c) Certification

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4.1 Issue Overview

Connecticut's Medicaid Acquired Brain Injury (ABI) Waiver Program is in violation of **federal labor laws** by allowing home support agencies to pay **sub-minimum wages** to disabled workers without obtaining the necessary **14(c) certification** from the U.S. Department of Labor (DOL). Under the ***Fair Labor Standards Act (FLSA) (29 U.S.C. § 206)***, employers can only pay sub-minimum wages to workers with disabilities if they maintain a valid 14(c) certificate. Multiple home support agencies in the ABI Waiver Program are bypassing this legal requirement, resulting in the **exploitation of disabled workers**. The Connecticut Department of Social Services (DSS) has failed to enforce these regulations, further exacerbating the mismanagement and legal violations within the program.

Key Points:

- **Who**: Home support agencies under the ABI Waiver Program that employ Medicaid beneficiaries for supported employment, prevocational training, Independent Living Skills Training (ILST), companion services, and recovery assistant services.
- **What**: Agencies are illegally paying disabled workers below the minimum wage without obtaining the legally required 14(c) certificates, in violation of the FLSA.
- **Where**: Throughout Connecticut, affecting Medicaid recipients employed under the ABI Waiver Program.
- **When**: These illegal wage practices have persisted since the program's inception, with reports emerging as of November 2023.

- **How**: Agencies justify sub-minimum wage payments based on the services they provide but circumvent the legal procedures for obtaining certification.
- **Why**: DSS has failed to enforce federal labor laws, allowing these illegal practices to continue unchecked, leading to the exploitation of disabled workers.

4.2 Legal Context

Under the ***Fair Labor Standards Act (FLSA) (29 U.S.C. § 206)***, the 14(c) certification allows employers to pay sub-minimum wages to workers with disabilities whose productive capacity is impaired. Employers must comply with the following legal requirements:

- **14(c) Certification**: Employers must apply for and obtain a 14(c) certificate from the U.S. Department of Labor before paying sub-minimum wages.
- **Regular Documentation**: Employers are required to regularly document workers' productive capacity and ensure that wages are aligned with workers' abilities.
- **Certificate Renewal**: 14(c) certificates must be renewed periodically to maintain compliance.

Failing to secure or maintain a 14(c) certificate violates the **FLSA**, exposing employers and agencies to **federal penalties**, wage liabilities, and enforcement actions by the DOL. Connecticut's ongoing failure to ensure compliance leaves the state vulnerable to **federal sanctions** and potential lawsuits for wage theft.

4.3 Impact on Disabled Workers

- **Exploitation of Disabled Workers**:
  Disabled individuals, including brain injury survivors, are being illegally underpaid without legal recourse. These individuals depend on supported employment programs for financial independence, but the state's violation of federal wage laws forces them into poverty and increases their dependence on public benefits.

- **Legal and Financial Liability**:
  Connecticut is exposed to **substantial fines and penalties** from the U.S. Department of Labor for failing to comply with federal labor laws. The state may also be required to pay back wages to affected workers, resulting in significant financial liabilities that could further strain the state's budget.
- **Reputational Damage and Federal Funding Risks**:
  Continued non-compliance with federal labor laws tarnishes Connecticut's reputation for managing federally funded programs like Medicaid. These violations could lead to **penalties from federal agencies**, increased scrutiny of the state's Medicaid programs, and possibly a **reduction in future federal funding allocations** for the ABI Waiver Program.

4.4 Case Study: Oregon

In a similar situation, **Oregon** faced a **class-action lawsuit** filed on behalf of disabled workers who were paid sub-minimum wages without valid 14(c) certifications. The case resulted in a **substantial settlement**, including back wages and damages for the affected workers, setting a legal precedent for future cases across the country.

- **Increased DOL Enforcement**:
  In recent years, the U.S. Department of Labor has stepped up enforcement of 14(c) violations. In **2022**, the DOL recovered **millions of dollars in back wages** for disabled workers who were illegally underpaid. This enforcement trend indicates that Connecticut's continued non-compliance could prompt similar legal actions and result in **costly penalties**.
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Recommendations for Immediate Action

1. **Cease Sub-Minimum Wage Payments Without Certification**:
   DSS must **immediately halt** all sub-minimum wage payments under the ABI Waiver Program until the proper 14(c) certifications are obtained. This is essential to bring the program into compliance with federal labor laws and protect the rights of disabled workers.
2. **Conduct a Full Review of Wage Practices**:
   A comprehensive, **independent audit** of wage practices within the ABI Waiver Program is necessary to assess the extent of the violations. Agencies found to be non-compliant should be required to compensate workers appropriately and face **legal penalties**.
3. **Implement Proper Oversight and Enforcement Mechanisms**:
   DSS must establish **robust oversight mechanisms** to ensure that wage payments comply with federal labor laws. This should include regular wage audits and proactive enforcement of 14(c) certification requirements.
4. **Protect the Rights of Disabled Workers**:
   Connecticut should prioritize the **protection of disabled workers** by ensuring that all employment practices under the ABI Waiver Program adhere to federal and state labor laws. The state must also work toward providing **fair wages** that promote financial independence and reduce the risk of exploitation for disabled individuals.

Conclusion

The **systemic non-compliance** with federal labor laws, particularly under the 14(c) provision of the ***Fair Labor Standards Act (FLSA) (29 U.S.C. § 206)***, highlights **major failings** within Connecticut's Medicaid ABI Waiver Program. The **illegal underpayment** of disabled workers reflects the broader **mismanagement and exploitation** occurring within the program.

By **halting illegal wage practices**, conducting **comprehensive wage audits**, and implementing **strict oversight**, Connecticut can restore compliance and protect its most vulnerable workers. Without **immediate corrective action**, the state risks further legal challenges, significant financial penalties, and long-term reputational damage at both the state and federal levels.

Restoring program integrity depends on compliance with federal labor laws and safeguarding the rights of disabled workers under Medicaid.

5. Suppression of Whistleblowers and Retaliation in the Connecticut Medicaid ABI Waiver Program

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5.1 Issue Overview

The Connecticut Medicaid Acquired Brain Injury (ABI) Waiver Program has been plagued by **systemic suppression of whistleblowers** and **misuse of *Freedom of Information Act (FOIA) (5 U.S.C. § 552) provisions***. Whistleblowers who report issues such as **financial mismanagement**, **care deficiencies**, and **non-compliance with federal labor laws** have faced retaliation, including **job loss, harassment, and legal threats**. Additionally, FOIA requests aimed at exposing these violations are often delayed or unjustifiably denied, preventing transparency, and hindering proper oversight. These tactics, employed by the Connecticut Department of Social Services (DSS) and associated state agencies, shield the program from scrutiny, enabling **ongoing mismanagement**.

 DSS **Concealment and Corruption Allegations**:
The DSS's refusal to comply with **FOIA requests** and failure to provide **transparency** around public health decisions reflect systemic issues within the agency. These practices suggest **intentional concealment** of critical information from families and caregivers, which prevents effective oversight and accountability.

 Allegations **of Corruption**:
There are **ongoing allegations** that DSS is engaging in corrupt practices by proposing these amendments in an effort to obscure past failures rather than improve care delivery. This calls for **federal intervention** to restore trust and ensure integrity in the management of Medicaid funds.

- **DSS Transparency Failures and FOIA Non-Compliance**:
  DSS's refusal to comply with FOIA requests is a critical example of its ongoing transparency issues. Despite numerous requests, the **Provider Directory** has not been made publicly available, which hinders ABI survivors and their families from accessing

vital information necessary for making informed care decisions. This concealment raises questions about whether DSS is intentionally keeping the public in the dark to avoid scrutiny.

Key Points:

- **Who**: The Connecticut Department of Social Services (DSS) and other state agencies involved in managing the ABI Waiver Program.
- **What**: Whistleblowers face **retaliation**, including job loss, harassment, and legal threats, while FOIA requests are denied or delayed to prevent exposure of mismanagement.
- **Where**: Across Connecticut, affecting Medicaid beneficiaries, whistleblowers, and public advocates involved with the ABI Waiver Program.
- **When**: These practices have been ongoing since the program's inception, with recent reports as of November 2023.
- **How**: Suppression occurs through **bureaucratic delays**, unjustified FOIA denials, and retaliation against individuals who expose wrongdoing.
- **Why**: DSS and other agencies suppress whistleblowers to avoid accountability for **mismanaging federal funds**, concealing systemic issues, and evading legal consequences.

5.2 Legal Context

- ***Freedom of Information Act (FOIA) (5 U.S.C. § 552)* and State-Level Open Records Laws**:
  FOIA ensures public access to federal records, and state agencies managing federally funded programs like Medicaid are subject to similar **state-level open records laws**. In Connecticut, the Connecticut FOIA mandates that public records and government proceedings be accessible unless a specific exemption applies.

- **Violation**: By delaying or denying FOIA requests without valid legal justification, Connecticut state agencies are **violating transparency laws** and obstructing public accountability, particularly in federally funded programs.

- ***Whistleblower Protection Act (5 U.S.C. § 2302)*** **(WPA)**:
  The WPA protects employees and contractors from retaliation when reporting **fraud, waste, or abuse** within federal programs. Connecticut also has a **state-specific whistleblower protection law** that safeguards state employees and contractors who report violations or mismanagement within programs like Medicaid.
  - **Violation**: DSS's retaliatory actions against whistleblowers violate both **federal and state whistleblower protection laws**, exposing the state to potential **legal penalties**.

5.3 Impact on Whistleblowers

- **Lack of Transparency and Accountability**:
  The suppression of FOIA requests and retaliation against whistleblowers undermines public trust in the Medicaid ABI Waiver Program. Without access to critical records, advocates and auditors cannot verify the program's integrity, allowing **mismanagement to continue unchallenged**.
- **Discouraging Whistleblowers**:
  Retaliation creates a **chilling effect**, discouraging others from reporting wrongdoing. This culture of secrecy allows systemic issues to go unchecked, reducing accountability.
- **Obstruction of Justice**:
  By denying access to records and retaliating against whistleblowers, DSS and other agencies may be **obstructing justice** under federal and state laws. These actions could lead to lawsuits for **wrongful termination**, **defamation**, and violations of **open records laws**.

5.4 Precedents of Whistleblower Retaliation and FOIA Abuse

- **Michigan – Flint Water Crisis**:
  During the Flint water crisis, public officials denied critical FOIA requests that could have exposed information about the contamination of the city's water supply. Legal action was taken against the state for **withholding information** that could have mitigated the crisis. This case underscores the dangers of **suppressing whistleblower reports** and obstructing access to public records.
- **California – Whistleblower Retaliation Case**:
  In California, a state employee who was terminated after reporting **financial mismanagement** in a federally funded program won a whistleblower retaliation case. The court awarded the employee lost wages and compensation for emotional distress, highlighting the **significant legal and financial consequences** that can result from retaliating against whistleblowers.

Recommendations for Immediate Action

1. **Release FOIA-Requested Records**:
   DSS and other relevant agencies must **immediately comply** with all outstanding FOIA requests related to the ABI Waiver Program. Any FOIA denials must be reviewed thoroughly, with clear **legal justifications** for withholding information.
2. **Investigate Retaliation Against Whistleblowers**:
   An **independent investigation** must be launched to assess whether DSS or other state agencies have retaliated against whistleblowers. Those found responsible should face legal consequences, and measures must be implemented to prevent future retaliation.
3. **Implement Stronger Whistleblower Protections**:
   Connecticut should **strengthen its whistleblower protection laws** to ensure that individuals reporting fraud, waste, or abuse are protected from retaliation. The state must foster a culture where whistleblowers are encouraged to come forward without fear of repercussions.
4. **Ensure Full Transparency**:
   DSS and related agencies must adopt **proactive transparency measures**, regularly

publishing data and records related to the administration of the ABI Waiver Program. This will allow for **independent oversight** and help restore public trust in the program's integrity.

Conclusion

The systemic suppression of whistleblowers and the misuse of FOIA in the Connecticut Medicaid ABI Waiver Program represent a **serious threat to transparency** and **accountability**. These actions violate federal and state laws, obstruct oversight efforts, and **perpetuate the mismanagement of taxpayer funds**.

Immediate corrective actions, such as releasing FOIA records and enhancing whistleblower protections, are essential to end this **culture of secrecy and retaliation**. Without decisive intervention, these practices will continue to erode the program's integrity, **jeopardize public trust**, and harm the Medicaid beneficiaries it is designed to serve.

6. Failure to Provide FOIA Requests — A Threat to Federal Funding

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6.1 Issue Overview

A significant factor contributing to the ongoing mismanagement of Medicaid funds in Connecticut's Acquired Brain Injury (ABI) Waiver Program is the state's repeated failure to comply with the ***Freedom of Information Act (FOIA)***. Under Connecticut FOIA ***(Conn. Gen. Stat. §§ 1-200 et seq.)***, state agencies are legally obligated to provide public access to records to ensure transparency and accountability. However, the Connecticut Department of Social Services (DSS) has consistently failed to meet these obligations, particularly regarding records related to the ABI Waiver Program.

This persistent FOIA non-compliance **obstructs public oversight**, limits transparency, and prevents stakeholders from holding DSS accountable for financial mismanagement and service delivery failures. Most critically, **non-compliance with transparency laws** threatens Connecticut's eligibility for **federal Medicaid funding**, as transparency is a core requirement for receiving these funds.

6.2 Relevant Federal and State Laws

- **Connecticut FOIA (Conn. Gen. Stat. §§ 1-200 et seq.)**:
  Connecticut law mandates that public agencies provide access to records upon request to promote transparency. DSS's **refusal to release records** related to the ABI Waiver Program violates this statute, obstructing public accountability and hindering necessary oversight of Medicaid programs.
- **Medicaid Regulations (42 U.S.C. § 1396a(a)(6))**:
  This federal statute requires states to provide necessary information to federal agencies such as the **Centers for Medicare & Medicaid Services (CMS)** to ensure compliance

with Medicaid regulations. DSS's **failure to release requested records** risks Connecticut's compliance with federal requirements, jeopardizing future Medicaid funding.

- ***Social Security Act, Section 1902(a)(27)***:
  States are required to provide federal agencies with access to records related to Medicaid-funded services. DSS's failure to comply with FOIA requests threatens this mandate and could trigger **sanctions** or **penalties**.
- ***Federal Freedom of Information Act (5 U.S.C. § 552)***:
  Although federal FOIA applies to federal agencies, the **principle of transparency** extends to state programs funded by federal dollars. Federal agencies rely on state records to ensure Medicaid compliance. Connecticut's **refusal to release records** undermines the federal government's ability to oversee its programs, heightening the risk of penalties.

6.3 Implications for Federal Funding

- **Obstruction of Federal Oversight**:
  By failing to provide requested records, DSS obstructs the ability of federal agencies, such as **CMS** and the **Department of Health and Human Services (HHS)**, to properly audit and review the ABI Waiver Program. Under **42 U.S.C. § 1396a(a)(6)**, states are required to submit necessary records to ensure compliance. DSS's refusal to comply could result in **sanctions** for obstructing federal oversight.
- **Non-Compliance with Federal Medicaid Requirements**:
  Transparency is a **precondition** for receiving federal Medicaid funds. DSS's FOIA non-compliance puts Connecticut at risk of being deemed **in breach of Medicaid regulations**, potentially resulting in delayed or reduced federal funding.

Impact on Future Federal Funding

- **Obstruction of Oversight and Potential Funding Reductions**:
  Without access to requested records, federal agencies like **CMS** cannot properly audit or investigate the ABI Waiver Program. Continued FOIA non-compliance could lead to **reduced or delayed federal funding** for Connecticut's Medicaid programs.
- **Increased Scrutiny from Federal Oversight Bodies**:
  Agencies such as the **Government Accountability Office (GAO)** and the **Office of Inspector General (OIG)** may increase their scrutiny of Connecticut's Medicaid programs due to FOIA non-compliance. These agencies may recommend **withholding future Medicaid funds** until Connecticut demonstrates compliance with transparency laws.
- **Risk of Withholding Future Federal Funds**:
  Continued refusal to release requested records could result in **withholding of future Medicaid funds** under **42 U.S.C. § 1396a(a)(6)** and **Section 1902(a)(27)** of the Social Security Act. **Full transparency** is essential to ensure state-administered programs comply with federal Medicaid regulations.

Call for Immediate Action

To safeguard future Medicaid funding and ensure that federal dollars are properly allocated, **Connecticut must immediately comply** with all outstanding FOIA requests. DSS's failure to release critical records threatens the future of essential services provided by the ABI Waiver Program and other Medicaid-supported initiatives.

This lack of transparency **obstructs federal oversight** and could result in **severe financial penalties**. DSS must prioritize compliance with both state and federal transparency laws to avoid further scrutiny and **protect future Medicaid funding**.

Conclusion

The failure to comply with FOIA requirements poses a direct threat to the **financial stability** of Connecticut's Medicaid programs. Federal agencies depend on transparency to ensure that Medicaid funds are properly managed and that the state complies with federal guidelines. DSS's refusal to release critical information not only violates transparency laws but also **jeopardizes future federal funding allocations**.

Immediate corrective action, including the release of the requested records and full compliance with federal oversight, is essential to protect the health and welfare of Medicaid beneficiaries across Connecticut. Without these actions, the state risks **losing critical federal funding** that supports essential services for vulnerable populations under Medicaid.

7. Non-Transparent Medicaid Referral System

7.1 Issue Overview

The Connecticut Department of Social Services (DSS) operates a **closed and non-transparent referral system** for the Medicaid Acquired Brain Injury (ABI) Waiver Program, **restricting Medicaid beneficiaries' ability** to choose their care providers. While federal guidelines mandate that beneficiaries have the right to access home and community-based services, DSS's referral practices prevent them from fully exercising this right. The lack of transparency limits beneficiaries' awareness of available options and **steers them toward specific providers**, often without adequate consideration of their unique care needs or the quality of care provided.

Failure to Provide Provider Directories:
DSS has deliberately withheld **provider directories**, making it difficult for Medicaid beneficiaries to exercise their **federally protected right to choose** qualified care providers. This concealment undermines the **principles of consumer autonomy** embedded in federal Medicaid laws, as beneficiaries are forced into services without knowing all available options.

- **Inaccessibility of the Provider Directory**:
  One of the most concerning transparency failures is the **DSS's refusal to provide the Medicaid ABI Waiver Program Directory of Providers** to the public. This omission creates significant barriers for ABI survivors and their families, who are unable to verify the qualifications of care providers and make informed decisions. The concealment of this directory violates the **federal right to consumer choice** under **42 U.S.C. § 1396a(a)(23)**.

7.1 Issue Overview

- **Inaccessibility of the Provider Directory**:
  One of the most concerning transparency failures is the **DSS's refusal to provide the Medicaid ABI Waiver Program Directory of Providers** to the public. This omission

creates significant barriers for ABI survivors and their families, who are unable to verify the qualifications of care providers and make informed decisions. The concealment of this directory violates the **federal right to consumer choice** under **42 U.S.C. § 1396a(a)(23)**.

7.3 Impact on Beneficiaries

- **Risk of Exploitation and Subpar Services**:
  Without access to the **Provider Directory** and clear information about available services, Medicaid beneficiaries, particularly ABI survivors, are at increased risk of **exploitation**. The amendments proposed by DSS are seen as prioritizing **administrative convenience** and **cost-cutting** over the **care needs of consumers**. This lack of transparency could result in **substandard services** that fail to meet the complex needs of ABI survivors.

Key Points:

- **Who**: The Connecticut DSS and contracted care management agencies overseeing referrals under the ABI Waiver Program.
- **What**: DSS hides the provider list, funneling beneficiaries toward select providers without regard to individual needs or quality of care.
- **Where**: This affects Medicaid beneficiaries across Connecticut who rely on the ABI Waiver Program for necessary services.
- **When**: These practices have been in place since the program's inception, with recent reports surfacing in November 2023.
- **How**: DSS manages the referral process through contracted agencies, influencing beneficiary choices by limiting their provider options.
- **Why**: DSS appears to prioritize **cost minimization**, favoring lower-cost providers over those offering higher quality care, violating federal Medicaid requirements for **beneficiary choice**.

7.2 Legal Context

- **Section 1902(a)(23) of the Social Security Act**:
  This provision ensures Medicaid beneficiaries have the right to **choose any qualified provider**. DSS's closed referral system limits this choice, directly violating the beneficiaries' rights under federal law.
- **42 CFR § 431.51**:
  Federal regulations mandate that Medicaid beneficiaries must have the freedom to receive services from any qualified provider. DSS's **concealment of provider options** and steering toward specific providers violates this regulation.
- ***Consumer Protection and Affordable Care Act (ACA)***:
  The ACA emphasizes **consumer-centered care**, ensuring consumers have the autonomy to make informed healthcare decisions. By denying Medicaid beneficiaries access to a transparent referral system, Connecticut's practices violate these **consumer-centered principles**.

7.3 Impact on Beneficiaries

- **Denial of Beneficiary Rights**:
  The closed referral system denies Medicaid beneficiaries their legal right to choose from a range of qualified providers, violating federal Medicaid regulations and undermining **consumer autonomy**.
- **Compromised Quality of Care**:
  By steering beneficiaries toward providers based on cost rather than care needs, DSS reduces the **quality of care** for vulnerable populations. Brain injury survivors, in particular, are often denied access to specialized services critical to their recovery.
- **Bias Toward Certain Providers**:
  The referral system effectively creates **monopolies** for select providers, reducing