



State of New Jersey

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

OFFICE OF THE STATE COMPTROLLER
MEDICAID FRAUD DIVISION
P.O. BOX 025
TRENTON, NJ 08625-0025
TELEPHONE 609-826-4700

A. MATTHEW BOXER
State Comptroller

MARK ANDERSON
Director

SETTLEMENT AGREEMENT

WHEREAS, this Settlement Agreement is entered into between New Jersey CVS Pharmacy, L.L.C. (referred to herein as "CVS") and the Office of the State Comptroller, Medicaid Fraud Division ("MFD") and the Division of Medical Assistance and Health Services of the New Jersey Department of Human Services ("DMAHS"), (hereafter referred to as "the Parties") through their authorized representatives; and

WHEREAS, on September 11, 2009 MFD issued a Notice of Claim and Notice of Withholding to CVS setting forth its determination that for the period from October 1, 2007 through May 31, 2009, CVS received payments in excess of the amount payable under the New Jersey Medical Assistance and Health Services (Medicaid) program, and the New Jersey Pharmaceutical Assistance for the Aged and Disabled (PAAD) program as a result of CVS's billing and receiving reimbursement for prescriptions filled by Athanasios Mastrokostas, R.Ph., while he was employed by CVS for a period of time when Athanasios Mastrokostas had been excluded by the federal Office of the Inspector General from participation in federal health care programs (hereinafter referred to as the "claims at issue");

WHEREAS, the parties desire to amicably resolve all disputes between them as a result of the claims at issue giving rise to this administrative action and have reached a mutually acceptable resolution; and

WHEREAS, the parties agree that this Settlement Agreement is intended to be a final resolution of all issues arising out of the claims at issue, and is intended by each party to release the other party and

its representatives from liability arising out of the claims at issue in this matter unless MFD and DMAHS are mandated to act by federal or State law; mandated by order or judgment of a court or administrative agency (other than MFD and DMAHS); or based on evidence of criminal misconduct or intentional wrongdoing.

NOW THEREFORE, in consideration of the mutual promises contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to settle on the following terms:

(1) CVS agrees to repay to MFD the sum of \$900,000 less the amount withheld of \$325,782.98 within 30 calendar days following the fully executed copy of this agreement being served upon counsel for CVS. Payment shall be by certified check or money order in the amount of \$574,217.02 made payable to "Treasurer, State of New Jersey" and mailed as follows:

Via regular or certified mail –
N.J.D.M.A.H.S. - Medicaid Bureau of Budget and Accounting
Attn: Medicaid Fraud Division- Recovery Unit
P.O. Box 656
Trenton, NJ 08625-0656

(2) CVS further agrees to accept and immediately implement the amendment to the CVS corrective action plan. See attached as Exhibit A.

(3) Nothing in this Settlement Agreement waives the right of MFD and DMAHS or any other State or federal agency, including, among others, the New Jersey Division of Criminal Justice, from continuing with a pending or beginning a future civil or criminal investigation or other action for alleged conduct concerning CVS, or from taking any action for such conduct. Nothing in this Settlement Agreement waives the right of MFD to conduct an audit or investigation of prior or future years for the improper submission of any claims or conduct not specifically covered by this agreement and to take any action civilly or criminally for such conduct.

(4) Subject to the express terms of this Settlement Agreement as provided for in paragraphs 1-3 above, by the signatures set forth below, the authorization of which is hereby affirmed, the parties agree to the following Releases: In consideration of the provisions hereof including this release, CVS, individually and on behalf of its insurers, agents, employees, heirs, executors, personal representatives, successors and assigns, hereby releases and holds harmless MFD, DMAHS, the State of New Jersey and its Departments, Divisions, Commissions, Officials, and their insurers, agents, employees, heirs, executors, personal representatives and assigns, from all claims, demands, damages, causes of action, or suits which have been, could have been, or might have been prosecuted on account of any conduct of any party occurring at any time with respect to the events, information and disputes giving rise to this action, including but not limited to any claim for payment of counsel fees pursuant to 42 U.S.C. §1988 and/or common law.

(5) In consideration of the provisions hereof including this release, MFD and DMAHS hereby releases and holds harmless CVS, individually and on behalf of its current and former parent corporations, direct and indirect subsidiaries, brother or sister corporations, divisions, affiliates, current or former owners, officers, directors, insurers, agents, employees (with the exception of Athanasios Mastrokostats), heirs, executors, personal representatives; and the successors and assigns of any of them, from all claims, demands, damages, causes of action, or suits which MFD and DMAHS have or may have for the claims at issue.

(6) Nothing herein shall constitute an admission, concession, or finding of liability by any party.

(7) This Settlement Agreement shall be construed, enforced and governed by the laws of the State of New Jersey.

(8) This Settlement Agreement may be executed in Counterparts.

(9) This Settlement Agreement shall not constitute a precedent in this or any matter, present or future.

(10) This Settlement Agreement is effective upon the last date it is executed by the parties.

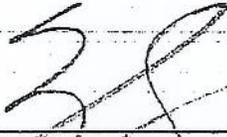
(11) This Settlement Agreement sets forth the entire agreement between and among the parties hereto with respect to the claims described herein and supersedes any other written or oral understandings. This Settlement Agreement does not reflect any other terms or conditions or agreements between or among the parties with respect to any other matter.

IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto have executed the foregoing Settlement Agreement:

FORM AND CONTENT ACCEPTED AND AGREED TO BY:

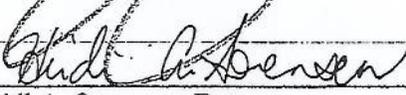
DATE:

BY:


Zenon P. Lankowsky, President
On Behalf of CVS

DATE:

BY:


Heidi A. Sorensen, Esq.
Foley & Lardner, LLP
Attorney for CVS.

DATE:

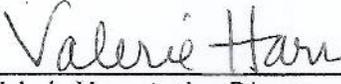
7/4/11

BY:


Mark Anderson, Director
Medicaid Fraud Division
Office of the State Comptroller

DATE:

BY:


Valerie Harr, Acting Director
Division of Medical Assistance and
Health Services

CVS-CAP AMENDMENT

ISSUE 7. Individuals excluded from Medicare and Medicaid Programs.

This Amendment applies to New Jersey CVS Pharmacy, L.L.C.'s operations in the State of New Jersey with respect to its employees or the employees of CVS Rx Services, Inc., employed at or supporting stores located in New Jersey and enrolled in the New Jersey Medical Assistance and Health Services Program (Medicaid, NJ FamilyCare, Work First New Jersey/General Assistance, Pharmaceutical Assistance to the Aged and Disabled (PAAD), Senior Gold Prescription Discount programs and any other programs administered in whole or in part by the Division of Medical Assistance and Health Services (DMAHS)). For purposes of this Amendment, CVS Pharmacy and CVS Rx Services will be referred to as "CVS."

All employees who will perform pharmacy related work are required to disclose any sanctions against a pharmacy license or a license to provide health care or any exclusions, terminations, or suspensions from participation in the Medicare or Medicaid programs. Each applicant must certify his/her answers to the following questions on the employment application.

1. Have you ever been convicted of, pled guilty, or pled no contest, or nolo contendere to a crime other than a minor traffic violation?
 - If an applicant indicates that he or she has been convicted of a crime, but has not disclosed that he or she is excluded, CVS must contact the Office of the State Comptroller Medicaid Fraud Division to confirm whether that person has been excluded prior to hiring.

2. Are you currently, have you ever been, or has the government ever proposed that you be, excluded from participation in federal health care programs (e.g. Medicare, Medicaid)? If yes, please describe the circumstances and indicate the period of exclusion.

Regardless of the prospective employees' answers to the questions listed above, CVS is required to check all prospective pharmacy/billing employees on the OIG, GSA and New Jersey Consolidated Debarment List databases prior to hiring the individual.

CVS must perform a second review within 30 days of the employment date to confirm that the new pharmacy/billing employees have been screened against the OIG, GSA and the New Jersey Consolidation Debarment List. A copy of the findings from the searches shall be retained, either electronically or otherwise, by CVS for a period of 7 years.

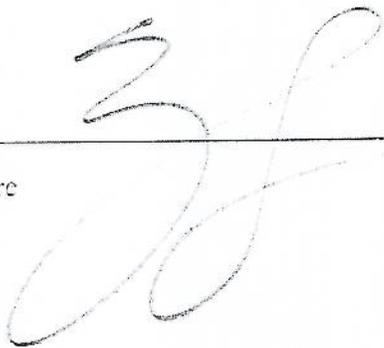
CVS is required to do follow-up exclusion list checks on all current pharmacy/billing employees monthly and retain, either electronically or otherwise, a copy of those findings for a period of 7 years.

CVS must require immediate disclosure by pharmacy/billing employees of any notice of possible debarment, exclusions, suspension or any other events that could make that individual ineligible to work within the Medicare/Medicaid program.

- Upon notice that an individual has become ineligible to work within the Medicare/Medicaid program as a result of being excluded debarred, disqualified, or suspended, CVS must remove that individual from any position that is related to the Medicaid program (including but not limited to billing, filling prescriptions, and compensation).

No individual CVS store is permitted to waive the requirements of this corrective action plan exclusion policy.

CVS ultimately remains responsible for checking the OIG, GSA and New Jersey Consolidated Debarment List databases, and to refrain from hiring excluded individuals to work under the Medicare and Medicaid programs.



Signature

Date