

## **SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE (“Settlement Agreement”) is entered into this 31<sup>st</sup> day of October, 2022 (“Effective Date”) by and between Five Star Adult Medical Day Care Center, and owner, Svetlana Maryash (hereinafter collectively “Five Star”), and the State of New Jersey, Office of the State Comptroller, Medicaid Fraud Division (“MFD”). Five Star and MFD are hereinafter collectively referred to as the “Parties” and each individually as a “Party.”

WHEREAS, MFD conducted a review and found that between January 1, 2016 through December 31, 2021, Five Star was reimbursed by the Department of Human Services, Division of Medical Assistance and Health Services (DMAHS) and/or its fiscal agent and/or the Managed Care Organizations (MCO) for claims: while the recipients were admitted to an inpatient facility, such as a hospital or skilled nursing/long term care center, in violation of N.J.A.C. 10:164-1.5); in excess of five (5) days per week, in violation of N.J.A.C. 10:164-1.4(a); and while the recipients were receiving services from another adult medical day care provider, in violation of N.J.A.C. 10:49-9.8 (“Covered Conduct”); and

WHEREAS, MFD determined that, based on the Covered Conduct, Five Star received an overpayment from the Medicaid program, totaling \$52,115.30; and

WHEREAS, MFD issued a Notice of Claim, Notice of Withhold and Certificate of Debt in this matter and money has been withheld pursuant to the Notice of Withhold by DMAHS and/or its fiscal agent and/or one or more MCO (these funds are hereinafter referred to as “Withheld Funds”); and

WHEREAS, the parties desire to amicably resolve the dispute regarding the alleged overpayment and have reached a mutually acceptable resolution of the controversies that exist between them; and

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 their dispute on the following terms:

(1) Five Star agrees to pay the total sum of fifty-two thousand one hundred fifteen dollars and thirty cents (\$52,115.30) (“Total Payment Amount”) to MFD as follows:

- a. Five Star agrees to release \$52,115.30 of Withheld Funds to MFD and MFD agrees that this \$52,115.30 of Withheld Funds will be applied in full satisfaction of the Total Payment Amount. Five Star waives and relinquishes all rights or claims to \$52,115.30 of the Withheld Funds. Within five (5) days of execution of this Settlement Agreement, MFD shall notify DMAHS and each MCO immediately to take the necessary steps to terminate withholding of otherwise payable funds. The parties understand that the Withheld Funds cannot be determined until MFD has completed an accounting of such funds. MFD shall make all reasonable efforts to provide to Five Star an accounting of Withheld Funds no later than sixty (60) days after the Effective Date of this Settlement Agreement.

(2) In the event that the Withheld Funds are greater than the Total Payment Amount, MFD agrees to remit payment to Five Star the amount of Withheld Funds that exceeds the Total Payment Amount within thirty (30) days of an accounting of the Withheld Funds by MFD. In the event that the Withheld Funds are less than the Total Payment Amount, Five Star agrees to repay such shortage (i.e. the difference between the Total Payment Amount (\$52,115.30) and the Withheld Funds to MFD within thirty (30) days of receipt of the accounting of Withheld Funds (“the Shortage Payment”).

(3) Nothing in this Settlement Agreement precludes Five Star from disputing the

amount of the Withheld Funds by any means permitted by law.

(4) For any payments that may be necessary under the terms of this settlement agreement, payment to MFD shall be by certified check, bank check, or attorney trust check made payable to "Treasurer, State of New Jersey," and shall be mailed or delivered as follows:

Attention: Processing Bureau  
Treasurer, State of New Jersey  
Division of Revenue  
200 Woolverton Street, Building 20  
Lockbox 656  
Trenton, New Jersey 08646

"Five Star Adult Medical Day Care Center, Svetlana Maryash – [REDACTED]" must be included in the memo line so that payment is properly credited.

(5) As soon as practicable after receipt of the Total Payment Amount from Five Star, MFD shall file a Warrant to Discharge with the Clerk of the Superior Court of New Jersey indicating that the Certificate of Debt filed against Five Star is satisfied and should be removed from the Court's docketed list of judgments, with a copy of such filing sent to Five Star.

(6) If payment as provided for in this Settlement Agreement is more than ten (10) days late, Five Star will be in default of this Settlement Agreement, and the total remaining unpaid balance plus interest accruing from the date of default will immediately become due ("the Default Amount"). Should Five Star not cure the default within five (5) business days of receiving notice of default, the Default Amount immediately will be collected through any means available to MFD as provided by law.

(7) Five Star agrees to act in full compliance with all applicable state and federal rules and regulations, including but not limited to submitting only claims that accurately and completely reflect the services provided. To that end, Five Star, agrees to only submit claims for services

provided for which Five Star possesses sufficient documentation to support such claims and will implement policies to ensure that the underlying issues that caused or contributed to the Covered Conduct will be appropriately addressed and thereby not repeated.

(8) The parties agree that this Settlement Agreement is intended to be a final resolution of all issues arising out of the Covered Conduct, referenced above, including MFD's review, and is intended by each party to release the other party and its representatives from liability arising out of the Covered Conduct, including MFD's review, unless MFD is mandated to act by federal or State law, or mandated by order or judgment of a court or administrative agency (other than MFD).

(9) Nothing in this Settlement Agreement waives the rights of 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 Five Star or from taking any action for such conduct. Nothing in this Settlement Agreement waives the rights of MFD to conduct an audit or investigation for the improper submission of any claims or conduct not specifically covered by this Settlement Agreement, and to take any action civilly or criminally for such conduct, subject to and as limited by applicable law.

(10) The terms of this Settlement Agreement may be modified only by a subsequent written agreement signed by all Parties.

(11) Subject to the express terms of this Settlement Agreement as provided for in paragraphs **1-10** above, by the signatures set forth below, the authorization of which is hereby affirmed, Five Star and MFD agree to the following Release: in consideration of the provision hereof including this release, each party agrees to release the other party and its employees, representatives, officers and directors from liability, obligations and damages arising out of the Covered Conduct and MFD's review.

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

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

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

(15) This Settlement Agreement is effective upon the Effective Date reflected on the first page of the Settlement Agreement.

(16) 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 understanding. 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, on the following page, have executed the foregoing Settlement Agreement:

FORM AND CONTENT ACCEPTED AND AGREED TO BY:

**FIVE STAR ADULT MEDICAL DAY  
CARE CENTER**

DATE: 10/26/2022

By: 

Svetlana Maryash, individually and as  
authorized signatory for Five Star Adult  
Medical Day Care Center

**KEVIN D. WALSH  
ACTING STATE COMPTROLLER**

DATE: 10/31/2022

By: Josh Lichtblau  
Josh Lichtblau, Director  
Medicaid Fraud Division

DATE: 10/31/2022

By: Nina Galletto  
Nina Galletto, Supervising Regulatory Officer  
Medicaid Fraud Division