

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE (“Settlement Agreement”) is entered into this 11th day of June, 2019 (“Effective Date”) by and between Ketan Thakkar, Sumeet Datwani, Amit Datwani and Hospital Pharmacy Corporation (collectively, “Hospital Pharmacy”), represented by Angelo J. Cifaldi, Esq. of Wilentz Goldman and Spitzer, PA and the State of New Jersey, Office of the State Comptroller, Medicaid Fraud Division (“MFD”). Hospital Pharmacy and MFD are hereinafter collectively referred to as the "Parties" and each individually as a “Party.”

WHEREAS, MFD conducted a pharmacy inventory analysis and found that during the period of review between June 23, 2015, and February 10, 2017, Hospital Pharmacy was reimbursed by the Division of Medical Assistance and Health Services (“DMAHS”) and/or its fiscal agent and/or the Managed Care Organizations (“MCO”) for prescription claims which failed to have the necessary supporting documentation, in violation of N.J.S.A. 30:4D-12(d) and N.J.A.C. 10:49-9.8 (this scope and period is hereafter referred to as “Covered Conduct”); and

WHEREAS, MFD determined that, based on the Covered Conduct, Hospital Pharmacy received an overpayment from the Medicaid program; 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; and

WHEREAS, Hospital Pharmacy supplied documentation to support some of the discrepant claims along with facts and information that it maintained would reduce the overpayment amount; and

WHEREAS, MFD took into consideration the additional documentation, facts and information that Hospital Pharmacy supplied; and

WHEREAS, the parties desire to amicably resolve all disputes regarding the Covered Conduct and have reached a mutually acceptable resolution of the controversies that exist between them;

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) Hospital Pharmacy agrees to pay restitution to the Medicaid program in the amount of Thirty-One Thousand Dollars (\$31,000.00) (the “Total Payment Amount”) on or before June 15, 2019. Within five (5) days of execution of this Settlement Agreement, MFD shall notify DMAHS and each MCO to immediately take the necessary steps to terminate withholding of otherwise payable funds.

(2) “Withheld Funds” refers to the monies withheld by DMAHS or the MCOs of otherwise payable claims to Hospital Pharmacy during the period of withholding. 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 Hospital Pharmacy an accounting of Withheld Funds no later than sixty (60) days after the effective date of this Settlement Agreement.

(3) The Withheld Funds shall be released to Hospital Pharmacy upon completion of the accounting.

(4) Nothing in this Settlement Agreement precludes Hospital Pharmacy from disputing the amount of the Withheld Funds by any means permitted by law.

(5) Within seven (7) business days of receipt of the final payment from Hospital Pharmacy, 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 Hospital Pharmacy is satisfied and should be removed from the Court's docketed list of judgments.

(6) Payment 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

"Hospital Pharmacy - MFD- [REDACTED]" must be included in the memo line so that payment is properly credited.

(7) If payment as provided for in this Settlement Agreement is more than ten (10) days late, Hospital Pharmacy will be in default of this Settlement Agreement and the outstanding and unpaid balance plus interest (the "Default Amount"), accruing from the date of default will immediately become due and collected through any means available to MFD as provided by law, and Hospital Pharmacy agrees to release the Withheld Funds to MFD up to the Default Amount.

(8) Hospital Pharmacy 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 and medications dispensed by Hospital Pharmacy. To that end, Hospital Pharmacy agrees that it will only submit claims for services provided for which it 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.

(9) The parties agree that this Settlement Agreement is intended to be a final resolution of all issues arising out of the Covered Conduct and is intended by each party to release the other party and its representatives from liability arising out of the Covered Conduct 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).

(10) 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, administrative or criminal investigation or other action for alleged conduct concerning Hospital Pharmacy or from taking any action for such conduct. Nothing in this Settlement Agreement waives the rights 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 Settlement Agreement, and to take any action civilly or criminally for such conduct.

(11) Subject to the express terms of this Settlement Agreement, by the signatures set forth below, the authorization of which is hereby affirmed, Hospital Pharmacy 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.

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

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

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

(15) This Settlement Agreement may be executed in counterparts.

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

(17) 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:

HOSPITAL PHARMACY CORPORATION

DATE:

By: 
Name: _____
Authorized Signatory for Hospital Pharmacy Corporation

DATE:

By: 
Name: Satish Pooni
Attorney for Hospital Pharmacy Corporation

DATE:

By: 
Ketan Thakkar, individually

DATE:

By: 
Sumeet Datwani, individually

DATE:

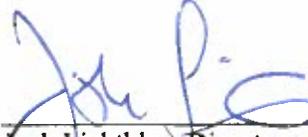
By: 
Amit Datwani, individually

PHILIP JAMES DEGNAN
STATE COMPTROLLER

DATE:

6/11/19

By:

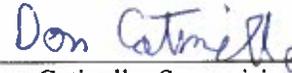


Josh Lichtblau, Director
Medicaid Fraud Division

DATE:

6/11/19

By:



Don Catinello, Supervising Regulatory Officer
Medicaid Fraud Division

DATE:

6/11/19

By:



Jillian Holmes, Regulatory Officer
Medicaid Fraud Division