

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2017 JAN -2 A 9:08

Y
RBS

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

vs.

AMWILL ASSISTED LIVING, INC.,

Respondent.

CASE NO.: 13-3377MPI
PROVIDER NO.: 690588900
C.I. NO.: 13-1386-000
NPI NO.: 1497939417
LICENSE NO.: 9975

FINAL ORDER

THIS CAUSE came before me for issuance of a Final Order on a Final Audit Report (“FAR”) dated August 15, 2013 (C.I. No. 13-1386-000). By the Final Audit Report, the Agency for Health Care Administration (“AHCA” or “Agency”), informed the Respondent, Amwill Assisted Living, Inc., (hereinafter “PROVIDER”), that the Agency was seeking to recover Medicaid overpayments in the amount of \$12,096.28, and impose a fine sanction of \$2,419.26 pursuant to Sections 409.913(15), (16), and (17), Florida Statutes, and Rule 59G-9.070(7)(e), Florida Administrative Code, and costs of \$54.15 for a total amount of \$14,569.69. The Final Audit Report provided full disclosure and notice to the PROVIDER of procedures for requesting an administrative hearing to contest the alleged overpayment.

The PROVIDER filed a petition with the Agency requesting a formal administrative hearing on or about September 5, 2013. The Agency forwarded PROVIDER’S hearing request to the Division of Administrative Hearings (Division) for a formal administrative hearing. The Division scheduled a formal hearing for November 22, 2013. On November 12, 2013, the PROVIDER filed a Motion with the Administrative Law Judge, requesting

withdrawal of their Petition for Formal Hearing, and the Administrative Law Judge issued an Order Closing File on November 12, 2013, relinquishing jurisdiction of the case to the Agency.

FINDINGS OF FACT

The PROVIDER received the Final Audit Report that gave notice of PROVIDER'S right to an administrative hearing regarding the alleged Medicaid overpayment. The PROVIDER filed a petition requesting an administrative hearing, and then caused that petition to be WITHDRAWN and the administrative hearing case to be CLOSED. PROVIDER chose not to dispute the facts set forth in the Final Audit Report dated August 15, 2013. The facts alleged in the FAR are hereby deemed admitted, including the total amount of \$14,569.69, which includes a fine sanction of \$2,419.26. The Agency hereby adopts the facts as set forth in the FAR including the amount of \$14,569.69 which is now due and owing, from PROVIDER to the Agency.

CONCLUSIONS OF LAW

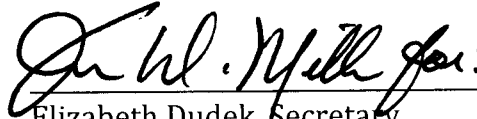
The Agency incorporates and adopts each and every relevant statement and conclusion of law set forth in the Final Audit Report dated August 15, 2013. The admitted facts support the legal conclusion that the amount of \$14,569.69 is now due and owing from PROVIDER to the Agency.

ORDER

Based on the foregoing, it is:

ORDERED AND ADJUDGED that PROVIDER remits forthwith, the sum of \$14,569.69. The PROVIDER'S request for an administrative hearing is hereby **DISMISSED**.

DONE AND ORDERED on this the 23rd day of December, 2013, in Tallahassee,
Leon County, Florida.



Elizabeth Dudek, Secretary
Agency for Health Care Administration

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO A JUDICIAL REVIEW WHICH SHALL BE INSTITUTED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF AHCA, AND A SECOND COPY ALONG WITH FILING FEE AS PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE AGENCY MAINTAINS ITS HEADQUARTERS OR WHERE A PARTY RESIDES. REVIEW PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

Copies Furnished to:

William F. Sutton, Jr., Esquire
NASON, YEAGER, GERSON, WHITE & LIOCE, P. A.
2600 Lake Lucian Drive, Suite 180
Maitland, Florida 32751
bsutton@nasonyeager.com
(Via Electronic Mail)

Jeffries H. Duvall, Assistant General Counsel
Agency for Health Care Administration

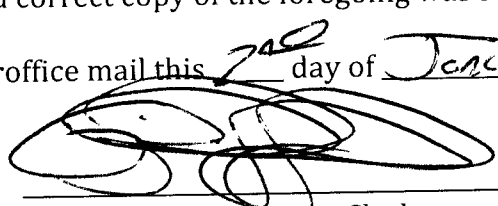
Eric W. Miller, Inspector General
Agency for Health Care Administration

Richard Zenuch, Bureau Chief
Medicaid Program Integrity

Finance & Accounting
HQA (via email)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served to the above named addresses by email or interoffice mail this 7th day of January, 2018.



Richard Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Bldg. 3, MS #3
Tallahassee, Florida 32308-5403
(850) 412-3630

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

AGENCY FOR HEALTH CARE ADMINISTRATION

Petitioner,
vs.

CASE No. 13-3377MPI

AMWILL ASSISTED LIVING, INC.

Respondent.

MOTION TO WITHDRAW REQUEST FOR FORMAL ADMINISTRATIVE HEARING

COMES NOW Petitioner, AMWILL ASSISTED LIVING, INC. (hereinafter "Respondent"), by and through its undersigned attorneys, moves to withdraw its request for a formal administrative hearing and, in so doing, agrees to relinquishment of this matter to the Agency for Health Care Administration ("AHCA"), and as grounds asserts as follows:

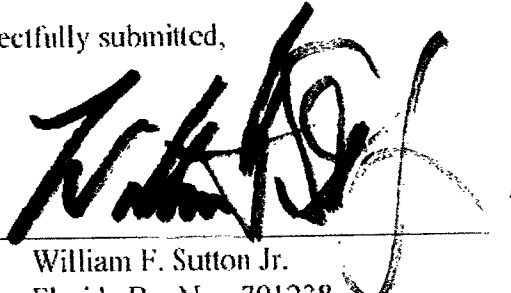
1. On or about September 5, 2013, Respondent, through counsel, requested a formal administrative hearing to contest AHCA's decision to seek repayment of Medicaid moneys in the amount of \$12,096.28, plus a fine of \$2,419.26 and costs of \$54.15 based on AHCA's Final Audit Report C.I. No. 13-1386-000 (the "Final Agency Audit Report").
2. Respondent formerly operated an assisted living facility located at 840 S.W. 8th Street, Pompano Beach, Florida 33060. Respondent's facility has not operated in over a year.
3. On or about October 1, 2013, Respondent sold its remaining assets and real property to another operator for an amount equal to the remaining debt on the property. As a result, Respondent has no assets, no facilities and no ongoing operations.
4. Respondent, a Florida corporation, has dissolved as a corporate entity.

5. Under the circumstances, Respondent sees no benefit in pursuing a formal administrative hearing regarding the aforementioned Medicaid payments. As a result, Respondent wishes to withdraw its request for a formal administrative hearing and, in so doing, agrees to relinquishment of this case back to AHCA.

6. Undersigned counsel has conferred with AHCA's counsel, who has no objection to Respondent's motion.

Respectfully submitted,

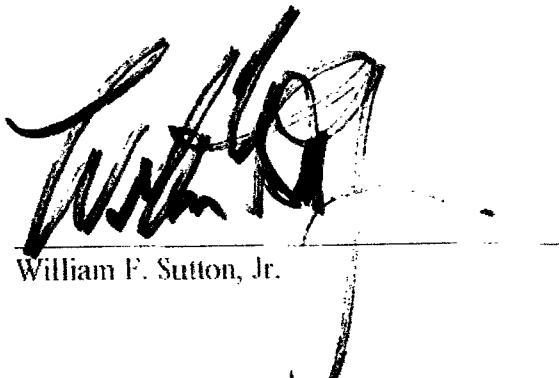
By:



William F. Sutton Jr.
Florida Bar No.: 701238
NASON YEAGER GERSON
WHITE & LIOCF, P.A.
1645 Palm Beach Lakes Blvd., Ste. 1200
West Palm Beach, Florida 33401
Telephone: (561) 686-3307
E-mail: bsutton@nasonycager.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy hereof was furnished this 12th day of November, 2013 via Email Jeffries.duval@ahca.myflorida.com and U.S. Mail to Jeffries H. Duvall, Esq., Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop #3, Tallahassee, Florida 32308.



William F. Sutton, Jr.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

AGENCY FOR HEALTH CARE
ADMINISTRATION,

Petitioner,

vs.

Case No. 13-3377MPI

AMWILL ASSISTED LIVING, INC.,

Respondent.

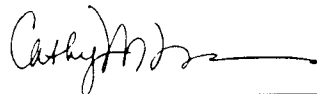
ORDER CLOSING FILE AND RELINQUISHING JURISDICTION

This cause having come before the undersigned on Petitioner's Motion to Withdraw Request for Formal Administrative Hearing ("Motion"), filed on November 12, 2013, and the undersigned being fully advised in the premises, it is, therefore,

ORDERED that:

1. The Motion is GRANTED.
2. The final hearing scheduled for November 22, 2013, is canceled.
3. The file of the Division of Administrative Hearings is closed. Jurisdiction is relinquished to the Agency for Health Care Administration.

DONE AND ORDERED this 12th day of November, 2013, in Tallahassee, Leon County, Florida.



CATHY M. SELLERS
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 12th day of November, 2013.

COPIES FURNISHED:

Jeffries H. Duvall, Esquire
Agency for Health Care Administration
Fort Knox Building 3, Mail Stop 3
2727 Mahan Drive
Tallahassee, Florida 32308
jeffries.duvall@ahca.myflorida.com

William F. Sutton, Jr., Esquire
Nason, Yeager, Gerson, White and Lioce, P.A.
Suite 180
2600 Lake Lucian Drive
Maitland, Florida 32751



RICK SCOTT
GOVERNOR

ELIZABETH DUDEK
SECRETARY

FEDERAL EXPRESS MAIL No.: 8029 1876 0668

August 15, 2013

Provider No: 690588900
NPI No: 1497939417
License No.: 9975

AMWIL ASSISTED LIVING INC
840 SW 8TH STREET
POMPANO BEACH, FL 33060

In Reply Refer to
Amended FINAL AUDIT REPORT
C.I. No.: 13-1386-000

Dear Provider:

The Agency for Health Care Administration (Agency), Office of Inspector General, Bureau of Medicaid Program Integrity, has completed a review of claims for Medicaid reimbursement for dates of service during the period January 1, 2008 through December 31, 2011. A final audit report dated July 25, 2013 was sent to you indicating that we had determined you were overpaid \$12,096.28. Based upon a review of all documentation submitted, we have determined that you were overpaid \$12,096.28 for services that in whole or in part are not covered by Medicaid. A fine of \$2,419.26 has been applied. The cost assessed for this audit is \$54.15. The total amount due is \$14,569.69.

Be advised of the following:

- (1) In accordance with Sections 409.913(15), (16), and (17), Florida Statutes (F.S.), and Rule 59G-9.070, Florida Administrative Code (F.A.C.), the Agency shall apply sanctions for violations of federal and state laws, including Medicaid policy. This letter shall serve as notice of the following sanction(s):
 - A fine of \$2,419.26 for violation(s) of Rule Section 59G-9.070(7) (e), F.A.C.
- (2) Pursuant to Section 409.913(23) (a), F.S., the Agency is entitled to recover all investigative, legal, and expert witness costs.

2727 Mahan Drive, MS# 6
Tallahassee, Florida 32308



Visit AHCA online at
<http://ahca.myflorida.com>

The Medicaid program is authorized by Title XIX of the Social Security Act and Title 42 of the Code of Federal Regulations. The Florida Medicaid Program is authorized by Chapter 409, F.S., and Chapter 59G, F.A.C. This review and the determination of overpayment were made in accordance with the provisions of Section 409.913, F.S. In determining the appropriateness of Medicaid payment pursuant to Medicaid policy, the Medicaid program utilizes procedure codes, descriptions, policies, limitations and requirements found in the Medicaid provider handbooks and Section 409.913, F.S. In applying for Medicaid reimbursement, providers are required to follow the guidelines set forth in the applicable rules and Medicaid fee schedules, as promulgated in the Medicaid policy handbooks (in accordance with Chapter 59G, F.A.C.), billing bulletins, and the Medicaid provider agreement. Medicaid cannot pay for services that do not meet these guidelines.

Below is a discussion of the particular guidelines related to the review of your claims, and an explanation of why these claims do not meet Medicaid requirements. The audit work papers are attached, listing the claims that are affected by this determination.

REVIEW DETERMINATION(S)

A Medicaid Provider is required to comply with Medicaid policy requirements (e.g. laws, rules, regulations, handbooks, policy). These requirements include, but are not limited to, providing goods and services in accordance with provisions of Medicaid policy and retaining medical, financial, and business records pertaining to the goods and services furnished. This review included a review of your claims reimbursed to you by Medicaid for goods and services to determine compliance with Medicaid policy. Payments for goods or services that are not documented and/or not billed in accordance to Medicaid policy are deemed to be overpayments. Our review has determined that you have failed to comply with Medicaid policy as outlined below.

- Medicaid fee-for-service payments have been identified for recipients while they were enrolled in the Medicaid Nursing Home Diversion Waiver Program. Medicaid providers are required to verify Medicaid recipient eligibility prior to rendering Medicaid services. The fee-for-service payments, shown on the attached work papers, were for services that were to be covered by the recipient's Nursing Home Diversion Waiver Provider. The total amount reimbursed to you for these fee-for-service payments has been identified as an overpayment.

If you are currently involved in a bankruptcy, you should notify your attorney immediately and provide a copy of this letter for them. Please advise your attorney that we need the following information immediately: (1) the date of filing of the bankruptcy petition; (2) the case number; (3) the court name and the division in which the petition was filed (e.g., Northern District of Florida, Tallahassee Division); and, (4) the name, address, and telephone number of your attorney.

If you are not in bankruptcy and you concur with our findings, remit by certified check the total amount reflected on page one, paragraph one, of this letter which includes the overpayment amount as well as any fines imposed and assessed costs. The check must be payable to the **Florida Agency for Health Care Administration**. Questions regarding procedures for submitting payment should be directed to Medicaid Accounts Receivable, (850) 412-3901. To ensure proper credit, be certain you legibly record on your check your Medicaid provider number and the C.I. number listed on the first page of this audit report. Please mail payment to:

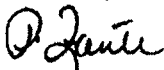
Medicaid Accounts Receivable - MS # 14
Agency for Health Care Administration
2727 Mahan Drive Bldg. 2, Ste. 200
Tallahassee, FL 32308

Pursuant to section 409.913(25)(d), F.S., the Agency may collect money owed by all means allowable by law, including, but not limited to, exercising the option to collect money from Medicare that is payable to the provider. Pursuant to section 409.913(27), F.S., if within 30 days following this notice you have not either repaid the alleged overpayment amount or entered into a satisfactory repayment agreement with the Agency, your Medicaid reimbursements will be withheld; they will continue to be withheld, even during the pendency of an administrative hearing, until such time as the overpayment amount is satisfied. Pursuant to section 409.913(30), F.S., the Agency shall terminate your participation in the Medicaid program if you fail to repay an overpayment or enter into a satisfactory repayment agreement with the Agency, within 35 days after the date of a final order which is no longer subject to further appeal. Pursuant to sections 409.913(15)(q) and 409.913(25)(c), F.S., a provider that does not adhere to the terms of a repayment agreement is subject to termination from the Medicaid program. Finally, failure to comply with all sanctions applied or due dates may result in additional sanctions being imposed.

You have the right to request a formal or informal hearing pursuant to Section 120.569, F.S. If a request for a formal hearing is made, the petition must be made in compliance with Section 28-106.201, F.A.C. and mediation may be available. If a request for an informal hearing is made, the petition must be made in compliance with rule Section 28-106.301, F.A.C. Additionally, you are hereby informed that if a request for a hearing is made, the petition must be **received by the Agency** within twenty-one (21) days of receipt of this letter. **For more information regarding your hearing and mediation rights, please see the attached Notice of Administrative Hearing and Mediation Rights.**

Any questions you may have about this matter should be directed to: **Sheri Creel, Auditor, Agency for Health Care Administration, Medicaid Program Integrity, 2727 Mahan Drive, Mail Stop #6, Tallahassee, Florida 32308-5403, telephone (850) 412-4600, facsimile (850) 410-1972.**

Sincerely,



Pamela Fante
Program Administrator
Office of Inspector General
Medicaid Program Integrity

PF/SC/SG

Enclosure(s)

Copies furnished to:

Finance & Accounting
(Interoffice mail)

Health Quality Assurance
(E-mail)

Nason, Yeager, Gerson, White, & Lioce P.A.
Attn: Bill Sutton
151 Southhall Lane, Suite 300
Maitland, FL 32751
(U.S. mail)

NOTICE OF ADMINISTRATIVE HEARING AND MEDIATION RIGHTS

You have the right to request an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes. If you disagree with the facts stated in the foregoing Final Audit Report (hereinafter FAR), you may request a formal administrative hearing pursuant to Section 120.57(1), Florida Statutes. If you do not dispute the facts stated in the FAR, but believe there are additional reasons to grant the relief you seek, you may request an informal administrative hearing pursuant to Section 120.57(2), Florida Statutes. Additionally, pursuant to Section 120.573, Florida Statutes, mediation may be available if you have chosen a formal administrative hearing, as discussed more fully below.

The written request for an administrative hearing must conform to the requirements of either Rule 28-106.201(2) or Rule 28-106.301(2), Florida Administrative Code, and must be received by the Agency for Health Care Administration, by 5:00 P.M. no later than 21 days after you received the FAR. The address for filing the written request for an administrative hearing is:

**Richard J. Shoop, Esquire
Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop # 3
Tallahassee, Florida 32308
Fax: (850) 921-0158
Phone: (850) 412-3630**

The request must be legible, on 8 ½ by 11-inch white paper, and contain:

1. Your name, address, telephone number, any Agency identifying number on the FAR, if known, and name, address, and telephone number of your representative, if any;
2. An explanation of how your substantial interests will be affected by the action described in the FAR;
3. A statement of when and how you received the FAR;
4. For a request for formal hearing, a statement of all disputed issues of material fact;
5. For a request for formal hearing, a concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle you to relief;
6. For a request for formal hearing, whether you request mediation, if it is available;
7. For a request for informal hearing, what bases support an adjustment to the amount owed to the Agency; and
8. A demand for relief.

A formal hearing will be held if there are disputed issues of material fact. Additionally, mediation may be available in conjunction with a formal hearing. Mediation is a way to use a neutral third party to assist the parties in a legal or administrative proceeding to reach a settlement of their case. If you and the Agency agree to mediation, it does not mean that you give up the right to a hearing. Rather, you and the Agency will try to settle your case first with mediation.

If you request mediation, and the Agency agrees to it, you will be contacted by the Agency to set up a time for the mediation and to enter into a mediation agreement. If a mediation agreement is not reached within 10 days following the request for mediation, the matter will proceed without mediation. The mediation must be concluded within 60 days of having entered into the agreement, unless you and the Agency agree to a different time period. The mediation agreement between you and the Agency will include provisions for selecting the mediator, the allocation of costs and fees associated with the mediation, and the confidentiality of discussions and documents involved in the mediation. Mediators charge hourly fees that must be shared equally by you and the Agency.

If a written request for an administrative hearing is not timely received you will have waived your right to have the intended action reviewed pursuant to Chapter 120, Florida Statutes, and the action set forth in the FAR shall be conclusive and final.

If you are in agreement with this audit and wish to make payment, please return this form along with your check.

Complete this form and send along with your check to:

Agency for Health Care Administration
Medicaid Accounts Receivable
2727 Mahan Drive, Mail Stop #14
Tallahassee, Florida 32308

**CHECK MUST BE MADE PAYABLE TO:
FLORIDA AGENCY FOR HEALTH CARE
ADMINISTRATION**

Provider Name	AMWIL ASSISTED LIVING INC
Provider ID	690588900
MPI Case Number	13-1386-000
Overpayment Amount	\$ 12,096.28
Fine Amount	\$ 2,419.26
Costs Assessed	\$ 54.15
Total Amount Due	\$ 14,569.69
Check Number	

Payment for Medicaid Program Integrity Audit