

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY  
FOR HEALTH CARE ADMINISTRATION,

FILED  
AHCA  
AGENCY CLERK

2016 MAR 16 P 2:25

Petitioner,

vs.

LAZARO MIGUEL GARCIA,

C.I.: No. 14-1332-000  
Provider No. 376490700  
NPI No. 1811203946  
License No. ME67163

Respondent.

**FINAL ORDER**

THIS CAUSE concerns a Medicaid audit conducted by the Agency for Health Care Administration (“Agency”). The subject of the audit was Lazaro Miguel Garcia (“Respondent”).

The Agency served its Final Audit Report (“FAR”), dated September 4, 2014, on the Respondent. The FAR contained findings that Respondent had been overpaid in the amount of \$123,839.80. The Agency, in the FAR, assessed sanctions in the amount of \$49,535.92 and costs in the amount of \$1,972.16. A copy of the FAR is annexed hereto as Exhibit 1.

On October 17, 2014, the Respondent filed a Petition for Formal Administrative Hearing. A copy of the Petition for Formal Hearing is annexed hereto as Exhibit 2.

Thereafter, the Respondent provided additional information in the form of medical records and billing information which reduced the overpayment amount to \$110,988.80. Based on the new information and submissions, the Agency reduced the sanctions to \$44,395.52. The costs associated with the audit increased to \$2,364.43. The total amount due and outstanding is presently one hundred fifty seven thousand seven hundred forty eight dollars and seventy five cents (\$157,748.75).

On February 9, 2016, the parties filed a Stipulation withdrawing the Respondent’s Petition for Formal Hearing and agreeing to the amount of \$157,748.75 as the total amount due and owing

(inclusive of the overpayment, costs and sanctions). A copy of the Stipulation of Withdrawal is annexed hereto as Exhibit 3.

Based on the foregoing,

**IT IS THEREFORE ORDERED AND ADJUDGED THAT:**

Respondent's request for a formal administrative hearing is deemed withdrawn and the Agency's September 4, 2014 Final Audit Report shall be upheld as final with the exception of the amounts due as agreed upon in the Stipulation of Withdrawal. Respondent shall govern himself accordingly.

Unless payment has already been made, payment in the amount of \$157,748.75 is now due from Respondent as a result of the agency action. Such payment shall be made in full within 30 days of the rendition of this Final Order unless other payment arrangements have been made. The payment shall be made by check payable to Agency for Health Care Administration, and shall be mailed to the Agency for Health Care Administration, Attn. Medicaid Accounts Receivable, Office of Finance and Accounting, 2727 Mahan Drive, Mail Stop 14, Tallahassee, FL 32308.

DONE and ORDERED on this the 15<sup>th</sup> day of March, 2010, in Tallahassee, 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:

Javier Banos, Esquire  
Counsel for Respondent  
3126 Coral Way  
Miami, Florida 33145  
Telephone: (305) 359-4491  
[jbanos@lawservices.us](mailto:jbanos@lawservices.us)  
(E-Mail)

James Ross, Esquire  
(Interoffice Mail)

Dr. Lazaro Miguel Garcia  
3626 NW 7<sup>th</sup> Street  
Miami, Florida 33125

Finance & Accounting  
(Interoffice Mail)

Shena Grantham  
Medicaid Administrative Lit. Chief Counsel  
(Interoffice Mail)

Stuart F. Williams  
General Counsel  
(Interoffice Mail)

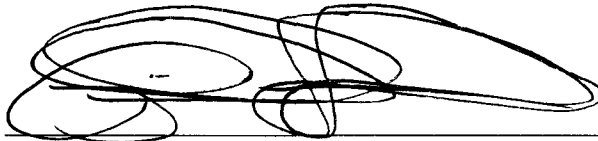
Robi Olmstead  
Administrator  
MPI  
(Interoffice Mail)

Health Quality Assurance  
(E-Mail)

Kelly Bennett, Chief, MPI  
(Interoffice Mail)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the above named addressees by U.S. Mail or other designated method on this 15<sup>th</sup> day of March, 2016



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Richard J. Shoop, Esquire  
Agency Clerk  
State of Florida  
Agency for Health Care Administration  
2727 Mahan Drive, MS #3  
Tallahassee, Florida 32308-5403  
(850) 412-3689/FAX (850) 921-0158



RICK SCOTT  
GOVERNOR

ELIZABETH DUDEK  
SECRETARY

**CERTIFIED MAIL No.: 7010 1060 0001 6939 4601**

September 4, 2014

Provider No: 376490700  
NPI No: 1811203946  
License No.: ME67163

Lazaro Miguel Garcia  
3626 NW 7th Street  
Miami, FL 33125

In Reply Refer to  
**FINAL AUDIT REPORT**  
C.I.: No. 14-1332-000

Dear Provider:

The Agency for Health Care Administration (Agency), Office of the Inspector General/Medicaid Program Integrity, has completed a review of claims for Medicaid reimbursement for dates of service during the period January 1, 2010, through December 31, 2012. A preliminary audit report dated July 31, 2014 was sent to you indicating that we had determined you were overpaid \$123,839.80. Based upon a review of all documentation submitted, we have determined that you were overpaid \$123,839.80 for services that in whole or in part are not covered by Medicaid. A fine of \$49,535.92 has been applied. The cost assessed for this audit is \$1,972.16. The total amount due is \$175,347.88.

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 \$49,535.92 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.

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, 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)

1. The 2008 Florida Medicaid Provider General Handbook, pages 2-57 and 5-8, defines incomplete records as records that lack documentation that all requirements or conditions for service provision have been met. A review of your medical records revealed that some services for which you billed and received payment were incomplete or the documentation was not provided. Payments made to you for these services are considered an overpayment. (No Doc., Insufficient Doc.)
2. The 2007 and 2010 Physician Services Coverage and Limitations Handbooks, pages 2-2 and 2-3, specify that Medicaid reimburses for services that are individualized, specific, consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, not in excess of the recipient's needs, and reflect the level of services that can be safely furnished. A review of your medical records by a peer consultant in accordance with Sections 409.913 and 409.9131, F.S revealed that the level of service for some claims submitted were not supported by the documentation. The appropriate code was applied and the payment adjusted. Payments made to you for these services, in excess of the adjusted amount, are considered an overpayment. (LOS)
3. The 2008 Florida Medicaid Provider General Handbook, page 5-4, states that when presenting a claim for payment under the Medicaid program, a provider has an affirmative duty to present a claim for goods and services that are medically necessary. A review of your medical records by a peer consultant in accordance with Sections 409.913 and 409.9131, F.S revealed that the medical necessity for some claims submitted was not supported by the documentation. Payments made to you for these services are considered an overpayment. (NMN)
4. The 2007 and 2010 Physician Services Coverage and Limitations Handbooks, pages 2-110 and 2-112 respectively, state that the maximum fee for radiology services includes the professional component and the technical component. To be reimbursed the maximum fee, the physician must provide both components. A review of your medical records revealed that you billed and received payment for the maximum fee for services when a physician outside of your group performed the professional component. The payment was adjusted to the amount allowed for the technical component. Payments made to you for these services, in excess of the adjusted amount, are considered an overpayment. (TC only)

5. The 2007 and 2010 Physician Services Coverage and Limitations Handbooks, page 2-98 respectively, describe an established patient as one who has received services from a physician or provider in the same specialty within a group, within the past three years. A review of your medical records revealed that some services rendered to the established patients were billed and paid as new patient visits. The appropriate code was applied and the payment adjusted. Payments made to you for these services, in excess of the adjusted amount, are considered an overpayment. (Not new pt)
6. The 2007 and 2010 Physician Services Coverage and Limitations Handbooks, page 2-110 and 2-112 respectively, require that when a non-invasive radiological study is performed in an office setting, the physician billing the maximum fee must either directly or indirectly supervise the technical component of the study and perform the interpretation and results of the study. The maximum fee includes the professional component and the technical component of the radiological service. A review of your medical records revealed that you billed and received payment for the maximum fee for services when the professional component was performed by a radiologist outside of your group. Payments made to you for these services are considered an overpayment. (Medicaid does not reimburse in ofc. setting w/o PC & TC)
7. The 2008 Florida Medicaid Provider General Handbook, page 2-57, requires that the author of each (medical record) entry must be identified and must authenticate the entry by signature, written initials or computer entry. A review of your medical records revealed that some services, for which you billed and received payment, were not signature certified. Payments made to you for these services are considered an overpayment. (No signature)

### OVERPAYMENT CALCULATION

A random sample of 35 recipients respecting whom you submitted 346 claims was reviewed. For those claims in the sample, which have dates of service from January 1, 2010, through December 31, 2012, an overpayment of \$5,117.16 or \$14.78947977 per claim, was found. Since you were paid for a total (population) of 9,623 claims for that period, the point estimate of the total overpayment is  $9,623 \times \$14.78947977 = \$142,319.16$ . There is a 50 percent probability that the overpayment to you is that amount or more.

We used the following statistical formula for cluster sampling to calculate the amount due the Agency:

$$E - t \sqrt{\frac{U(U-N)}{N(N-1)} \sum_{i=1}^N (A_i - YB_i)^2}$$

Where:

$$E = \text{point estimate of overpayment} = F \left[ \frac{\sum_{i=1}^N A_i}{\sum_{i=1}^N B_i} \right]$$

$$F = \text{number of claims in the population} = \sum_{i=1}^U B_i$$

$A_i$  = total overpayment in sample cluster

$B_i$  = number of claims in sample cluster

$U$  = number of clusters in the population

$N$  = number of clusters in the random sample

$$Y = \text{mean overpayment per claim} = \frac{\sum_{i=1}^N A_i}{\sum_{i=1}^N B_i}$$

$t = t$  value from the Distribution of  $t$  Table

All of the claims relating to a recipient represent a cluster. The values of overpayment and number of claims for each recipient in the sample are shown on the attachment entitled "Overpayment Calculation Using Cluster Sampling." From this statistical formula, which is generally accepted for this purpose, we have calculated that the overpayment to you is \$123,839.80 with a ninety-five percent (95%) probability that it is that amount or more.

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 in the amount of \$175,347.88, 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



Lazaro Miguel Garcia  
376490700  
C.I. No.: 14-1332-000  
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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.**

Section 409.913(12), F.S., provides exemptions from the provisions of Section 119.07(1), F.S. All information obtained pursuant to this review is confidential and exempt from the provisions of Section 119.07(1), F.S., until the Agency takes final agency action with respect to the provider and requires repayment of any overpayment or imposes an administrative sanction by Final Order.

Any questions you may have about this matter should be directed to: **Kris Creel, Investigator, 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,



Robi Olmstead  
AHCA Administrator  
Office of the Inspector General  
Medicaid Program Integrity

RO/KC/jc

Enclosure(s)

Copies furnished to:

Finance & Accounting  
(Interoffice mail)

Health Quality Assurance  
(E-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**  
**E-File Website: <http://apps.ahca.myflorida.com/Efile>**

Petitions for hearing filed pursuant to the administrative process of Chapter 120, Florida Statutes may be filed with the Agency by U.S. mail or courier sent to the Agency Clerk at the address listed above, by hand delivery at the address listed above, by facsimile transmission to (850) 921-0158, or by electronic filing through the Agency's website at <http://apps.ahca.myflorida.com/Efile>.

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.

Lazaro Miguel Garcia  
376490700  
C.I. No.: 14-1332-000  
Page 7

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.

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece,

Lazaro Miguel Garcia  
 3626 NW 7th Street  
 Miami, FL 33125  
 C.I.# 14-1332-000/PCU/KC/jc

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *SALLY DIAZ*

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

*9/11/14*

- Address different from item 1?  Yes
- or delivery address below:  No

3. Service type

- Certified Mail  Express Mail
- Registered  Return Receipt for Merchandise
- Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)

- Yes

2. Article Number  
(Transfer from service label)

7010 1060 0001 6934 4601

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

UNITED STATES POSTAL SERVICE

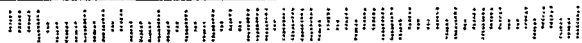


First-Class Mail  
 Postage & Fees Paid  
 USPS  
 Permit No. G-10

**RECEIVED**  
 SEP 11 2014  
 Medicaid Program Integrity

AHCA  
 Agency for Health Care Administration  
 Office of Inspector General  
 Bureau of MEDICAID PROGRAM INTEGRITY  
 227 MAHAN DRIVE, MAIL STOP #6  
 TALLAHASSEE, FLORIDA 32308

Janet/Practitioner Care Unit



**REQUEST FOR FORMAL HEARING**

FILED  
AHCA  
AGENCY CLERK

2014 OCT 17 P 3:40

Provider No. 3764907 00  
License No. ME0067163  
Lazaro Miguel Garcia, M.D.  
3626 NW 7 Street  
Miami, Florida 33125  
(305)643-4343 fx (305)643-3488

representative:-  
Javier Banos, ESQ  
3126 Coral Way  
Miami, Fla. 331453210  
(305)359-4491 fx (305)403-1061

**FAR: CI No 14-1332-000,  
dated 9/04/2014**

Please accept this document as my Respectful Request for a Hearing, and do review the detailed comments below

A mediation over the issues will always be welcomed.

I DISPUTE that the random sample of 35 patients was an accurate representation of my practice and patient demographics; from **there I have NO choice but to DISPUTE the calculations using Cluster Sampling, as per the Agency**

As I understand AHCA's mandate is to properly enforce the rules, safeguard patient's health care and supervise improper services or billing; not act indiscriminately assessing fines. The patients served by my office receive the utmost care; our commitment to their wellbeing is unquestioned, and the facts which we dispute, may be addressed in more detail, which will ultimately result in the amending the FAR findings

It has taken time, to have my billing company's professional nursing staff, ATTEMPT to review the Agency's COMMENTS on the patient care note (see 3 sample enclosed), where they CAN NOT MAKE out de criticism and discrepancies, as found by Agency's Staff

Further, I had separate Quality review personnel, and they also found MOST,... if not all!) of the Agency's comments and critiques, IMPOSSIBLE, to decipher.

What is definitely true is that from a "brief 35 patient review", by technicians, a calculated overpayment of \$ 5,117.18 was arrived at (Agency's Overpayment Calculation Sheet-also enclosed) and from that amount, it is extrapolated to \$ 123,839.80, further adding costs, and a fine of \$ 49,535.92, totaling \$ 175,347.88; an amount IN EXCESS of most Physicians Annual Wages in Florida

There was no issue that patients had been seen, treated, treatment supervised by a Physician at all times; and subsequent care and visit were done..and proper follow-up and documentation.

Seems like the character of the "audit" in one of "technical deficiencies", if any!, since we COULD NOT definitely understand what the critique and questions raised, are!!

The amounts involved, formulas by Agency (*which CMS has stopped using years ago!!!*)only reflect the punitive nature of the exercise, and in any reasonable case; would amount to financial closure of the practitioner, and NO care to the State of Florida patients requiring medical attention, at fees WELL below private practice or private pay, fees!

I welcome the opportunity to at any level, to discuss my commentaries in person, or mediate the FAR findings; but please accept my request for a Formal Administrative Hearing to safeguard my economic interest, since the patients were well served, attention was given, costs have been suffered, and the FAR findings would only result in unnecessary financial punishment, in a small local practice to a needy population of Florida residents.

Dated at Miami, Florida this 10<sup>th</sup> day of October 2014

  
L. Miguel Garcia, M.D.

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY  
FOR HEALTH CARE ADMINISTRATION,

Petitioner,

vs.

LAZARO MIGUEL GARCIA,

C.I.: No. 14-1332-000  
Provider No. 376490700  
NPI No. 1811203946  
License No. ME67163

Respondent.  
\_\_\_\_\_/

**STIPULATION OF WITHDRAWAL**

The Petitioner, Agency for Health Care Administration (a/k/a and hereinafter "Petitioner", "AHCA" or "Agency"), and the Respondent, Lazaro Miguel Garcia (hereinafter "RESPONDENT, or "PROVIDER") hereby file this Joint Stipulation of Withdrawal and state:

1. Respondent wishes to withdraw his Petition for Formal Hearing in the above captioned action and does not object to the Agency entering a Final Order in the full amount of the overpayment in the amount of one hundred ten thousand, nine hundred eighty eight dollars and eighty cents (\$110,988.80), plus costs in the amount of two thousand, three hundred sixty four dollars and forty three cents (\$2,364.43) and sanctions in the amount of forty four thousand three hundred ninety five dollars and fifty two cents (\$44,395.52) for a grand total amount due and owing of one hundred fifty seven thousand, seven hundred forty eight dollars and seventy five cents (\$157,748.75).

2. The parties acknowledge that the Final Audit Report, dated September 4, 2014, upon which these proceedings are based lists an overpayment, sanctions and costs in an amount

**Exhibit 3**

greater than those amounts listed above. The parties acknowledge and agree that the \$157,748.75 listed herein is the amount outstanding and due. The difference in the amount of the Final Audit Report and the amount listed herein is due to re-reviews of outstanding claims in the audit based upon additional documentation and information Respondent submitted to the Agency.

3. Said withdrawal shall act to waive Respondent's rights to a Final Formal Hearing regarding the Final Audit Report dated September 4, 2014.

Respectfully submitted on this the 9<sup>th</sup> day of February 2016.

/s/ Javier Banos  
Javier Banos, Esquire  
Counsel for Respondent  
3126 Coral Way  
Miami, Florida 33145  
Telephone: (305) 359-4491  
jbanos@lawservices.us

/s/ James Ross  
James Ross, Esquire  
Associate General Counsel  
Florida Bar No. 0059461  
Agency for Health Care Administration  
Telephone: (305) 358-4500  
2727 Mahan Drive, MS #3  
Tallahassee, Florida 32308  
Telephone: (850) 412-3685  
Facsimile: (850) 921-0158  
James.Ross@ahca.myflorida.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served to the individuals named below by the method designated on this 9<sup>th</sup> day of February 2016.

/s/ James Ross  
James Ross

Javier Banos, Esquire Law Offices of Javier Banos, P.A. lawservicespa@gmail.com jbanos@lawservices.us	
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(by electronic mail)