

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

2019 OCT 29 P 1:51

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

vs.

HCR MANOR CARE SERVICES OF
FLORIDA, LLC., d/b/a HEARTLAND
HOME HEALTH CARE AND HOSPICE,

Respondent.

DOAH Case No.: 19-2882F
DCA Case No.: 1D19-1857
PROVIDER No.: 000141800
NPI No.: 1275666273
LICENSE No.: 50370971
MPI Case No.: 2016-0006546

RENDITION NO.: AHCA-19-0364-S-MDO

FINAL ORDER

THIS CAUSE comes before the AGENCY FOR HEALTH CARE ADMINISTRATION (the "Agency") concerning a Final Audit Report (the "FAR") dated August 14, 2017. The FAR concluded there was an overpayment from HCR Manor Care Services of Florida, LLC, d/b/a Heartland Home Health Care (the "Provider") in the amount of \$127,015.43, plus sanctions of \$25,403.09. Costs were assessed at \$75.55 for a total amount due of \$152,494.07.

Thereafter, the Provider filed a Petition for Formal Administrative Hearing with respect to the FAR, which was forwarded by the Agency Clerk at the Division of Administrative Hearings ("DOAH") and a hearing was held. Over time, the Provider paid the amount of \$127,015.43 to the Agency. The Administrative Law Judge ("ALJ") found that the Agency was entitled to recover an overpayment of \$58,468.22 plus a fine of \$11,693.64. The ALJ further found that the Agency prevailed regarding two or the three claims and was therefore entitled to investigative, legal, and expert witness costs. The Agency issued its Final Order on April 19, 2019.

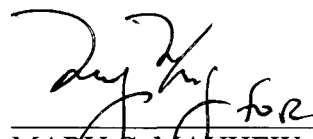
The Provider timely filed a Notice of Appeal of the Final Order with the First District Court of Appeal in Case No. 1D19-1857. After the parties did not reach an agreement on the amount of costs, the Agency timely filed a Petition for Recovery of Petitioner's Fees and Costs with DOAH, which became Case No. 19-2882F.

The parties then resolved all issues and executed the attached Settlement Agreement. In accordance with the settlement agreement, on September 10, 2019, the Agency filed its Notice of Voluntary Dismissal of the DOAH case. On September 11, 2019, an Order Closing Case and Relinquishing Jurisdiction was issued by DOAH as a result of the Notice of Voluntary Dismissal. On October 16, 2019, the Provider filed its Notice of Settlement and Stipulation for Dismissal with the appellate court. The appellate court entered its order dismissing the appeal in Case No. 1D19-1857 on October 17, 2019.

It is therefore **ORDERED** and **ADJUDGED**:

1. The parties have complied with the terms of the settlement agreement.
3. The above-styled case is closed.

DONE and ORDERED this 29 day of October, 2019, in Tallahassee,
Leon County, Florida.



MARY C. MAYHEW, 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:

Brittany Adams Long, Esquire
RADEY LAW FIRM
301 S. Bronough Street, Suite 200
Tallahassee, Florida 32301
balong@radeylaw.com
(Electronic mail)

Kelly Bennett, Chief, MPI
(Electronic mail)

Bureau of Financial Services
(Electronic mail)

Joseph G. Hern, Jr., Esquire
Kimberly Murray, Esquire
Thomas Hoeler, Esquire
Office of General Counsel
(Electronic mail)

Stefan R. Grow, General Counsel
(Electronic mail)

Division of Health Quality Assurance
Health Facility Regulation
BHFR@ahca.myflorida.com
(Electronic mail)

Division of Health Quality Assurance
Bureau of Central Services
CSMU-86@ahca.myflorida.com
(Electronic mail)

Steven A. Grigas, Esquire
Bruce D. Platt, Esquire
AKERMAN LLP
106 East College Avenue
Tallahassee, Florida 32301
Steven.grigas@akerman.com
Bruce.platt@akerman.com
(Electronic mail)

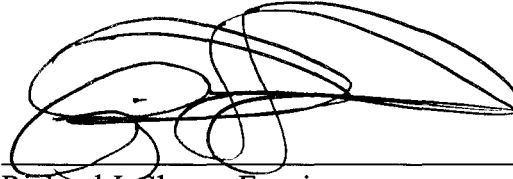
Bryan Nowicki, Esquire
Joshua Taggatz, Esquire
REINHART, BOERNER VAN DEUREN
22 East Mifflin Street
Madison, WI 53701
bnowicki@reinhartlaw.com
jtaggatz@reinhartlaw.com
(Electronic mail)

Shena L. Grantham
MAL & MPI Chief Counsel
(Electronic mail)

J. Nixon Daniel, III, Esquire
Terrie L. Didier
BEGGS & LANE, RLLP
501 Commendencia Street
Pensacola, Florida 32502
jnd@beggslane.com
tld@beggslane.com
(Electronic 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 the 29th day of October, 2019.



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

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

DOAH Case No. 19-2882F
DCA Case No. 1D19-1857

v.

HCR MANOR CARE SERVICES OF
FLORIDA, LLC, D/B/A HEARTLAND
HOME HEALTH CARE AND HOSPICE,

MPI Case No.: 2016-0006546
PROVIDER ID No.: 000141800
NPI No.: 1275666273
LICENSE No.: 50370971

Respondent.

SETTLEMENT AGREEMENT

Petitioner, the **STATE OF FLORIDA, AGENCY FOR HEALTH CARE ADMINISTRATION** (“AHCA” or “Agency”), and Respondent, **HCR MANOR CARE SERVICES OF FLORIDA, LLC, D/B/A HEARTLAND HOME HEALTH CARE AND HOSPICE** (“PROVIDER”), by and through the undersigned, hereby stipulate and agree as follows:

1. The parties enter into this settlement agreement (“Agreement”) for the purpose of memorializing the resolution of this matter.
2. PROVIDER is a Medicaid provider in the State of Florida, provider number 000141800, and was a provider during the audit period.
3. In its Final Audit Report, sent by certified mail to the PROVIDER on August 14, 2017, the Agency notified PROVIDER that a review of Medicaid claims performed by

Agency for Health Care Administration v. HCR Manor Care Services of Florida, LLC, d/b/a Heartland Home
Health Care and Hospice
(MPI Case No.: 2016-0006546)
Settlement Agreement

Health Integrity, LLC (now, Qlarant Quality Solutions, LLC) and the Agency's Office of the Inspector General, Medicaid Program Integrity ("MPI"), during the period of July 1, 2011, through December 31, 2014, indicated that claims related to three recipients, in whole or in part, were inappropriately paid by Medicaid. The Agency sought repayment of this overpayment, in the amount of one hundred twenty-seven thousand, fifteen dollars and forty-three cents (\$127,015.43). Additionally, the Agency applied sanctions in accordance with sections 409.913(15), (16), and (17), Florida Statutes, and Rule 59G-9.070(7), Florida Administrative Code. Specifically, the Agency assessed the following sanctions against PROVIDER: a fine in the amount of twenty-five thousand, four hundred and three dollars and nine cents (\$25,403.09) pursuant to Rule 59G-9.070(7)(e), Florida Administrative Code; and costs in the amount of seventy-five dollars and fifty-five cents (\$75.55) pursuant to section 409.913(23)(a), Florida Statutes. The total amount due was one hundred fifty-two thousand, four hundred ninety-four dollars and seven cents (\$152,494.07).

4. In response to the Final Audit Report, PROVIDER filed a Petition for Formal Administrative Hearing (the "Petition"). Over time, PROVIDER also paid the amount of \$127,015.43 to AHCA through recoupments.

5. The Agency referred the Petition to the Division of Administrative Hearings ("DOAH") and a hearing was held in Case No. 18-1848MPI. The Administrative Law Judge ("ALJ") found that AHCA was entitled to recover an overpayment for hospice services for two of the three patients in the amount of fifty-eight thousand, four hundred and sixty eight dollars and twenty-two cents (\$58,468.22). The ALJ found that the appropriate fine was eleven thousand, six hundred and ninety-three dollars and sixty-four cents (\$11,693.64). The ALJ further

Agency for Health Care Administration v. HCR Manor Care Services of Florida, LLC, d/b/a Heartland Home
Health Care and Hospice
(MPI Case No.: 2016-0006546)
Settlement Agreement

found that AHCA prevailed regarding two of the three claims and ordered AHCA to provide evidence of its investigative, legal, and expert witness costs incurred in the proceeding in accordance with section 409.913(23), Florida Statutes. PROVIDER was given an opportunity to contest AHCA's claim.

6. The Agency issued its Final Order on April 19, 2019. In the Final Order, the Agency adopted the ALJ's conclusions of law and findings of fact, except where noted. The Agency explained that the PROVIDER owed the Agency \$58,468.22 in overpayments for services provided to Medicaid recipients and imposed a fine of \$11,693.65. The Agency noted that because PROVIDER had already paid the Agency \$127,015.43 (the total amount listed in the Final Audit Report), PROVIDER was entitled to a refund of fifty-six thousand, eight hundred and fifty-three dollars and fifty-seven cents (\$56,853.57) ($\$127,015.43 - \$58,468.22 - \$11,693.64 = \$56,853.57$). In addition, the Final Order found that because the Agency prevailed in this matter, it was entitled to recover the investigative, legal, and expert witness costs it incurred in the matter. The Agency ordered that if the parties were unable to reach agreement of the amount, either party could file a request for a hearing with the ALJ who presided over the matter within 30 days of rendition of the Final Order.

7. PROVIDER timely filed a Notice of Appeal of the Final Order with the First District Court of Appeal in Case No. 1D19-1857. After the parties did not reach agreement on the amount of costs, the Agency timely filed a Petition of Recovery of Petitioner's Fees and Costs with DOAH, which became Case No. 19-2882F.

8. In order to amicably resolve this matter without further administrative or appellate proceedings, PROVIDER and AHCA agree as follows:

Agency for Health Care Administration v. HCR Manor Care Services of Florida, LLC, d/b/a Heartland Home
Health Care and Hospice
(MPI Case No.: 2016-0006546)
Settlement Agreement

(1) AHCA agrees to voluntarily dismiss its Petition for Recovery of Fees and Costs in case number 19-2882F. Dismissal will be final upon execution of the Final Order in this case.

(2) PROVIDER agrees to voluntarily dismiss its Notice of Appeal in case number 1D19-1857 within 5 days of the issuance of the Final Order issued in this case.

(3) PROVIDER and AHCA agree that the payments described above, including the refund to PROVIDER, resolve and settle this case completely and release both parties from any administrative or civil liabilities arising from the findings relating to the claims determined to have been overpaid as referenced in audit MPI Case Number 2016-0006546.

(4) PROVIDER agrees that it shall not re-bill the Medicaid Program in any manner for claims that were not covered by Medicaid, which are the subject of the review in this case.

9. The parties reserve the right to enforce this Agreement under the laws of the State of Florida, the Rules of the Medicaid Program, and all other applicable rules and regulations.

10. This settlement does not constitute an admission of wrongdoing or error by either party with respect to this case or any other matter.

11. The signatories to this Agreement, acting in a representative capacity, represent that they are duly authorized to enter into this Agreement on behalf of the respective parties.

Agency for Health Care Administration v. HCR Manor Care Services of Florida, LLC, d/b/a Heartland Home
Health Care and Hospice
(MPI Case No.: 2016-0006546)
Settlement Agreement

12. This Agreement shall be construed in accordance with the provisions of the laws of Florida. Venue for any action arising from this Agreement shall be in Leon County, Florida.

13. This Agreement constitutes the entire agreement between PROVIDER and AHCA, including anyone acting for, associated with, or employed by the parties, concerning this matter and supersedes any prior discussions, agreements, or understandings. There are no promises, representations, or agreements between PROVIDER and AHCA other than as set forth herein. No modification or waiver of any provision shall be valid unless a written amendment to the Agreement is completed and properly executed by the parties.

14. This is an Agreement of Settlement and Compromise, made in recognition that the parties may have different or incorrect understandings, information, and contentions as to facts and law, and with each party compromising and settling any potential correctness or incorrectness of its understandings, information, and contentions as to facts and law, so that no misunderstanding or misinformation shall be a ground for rescission hereof.

15. PROVIDER expressly waives in this matter its right to any hearing pursuant to sections 120.569 or 120.57, Florida Statutes; the making of findings of fact and conclusions of law by the Agency; all further and other proceedings to which it may be entitled by law or rules of the Agency regarding this proceeding; and any and all issues raised herein. PROVIDER further agrees that it shall not challenge or contest any Final Order entered in this matter which is consistent with the terms of this Settlement Agreement in any forum now or in the future available to it, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

16. The parties agree to bear their own attorney's fees and costs related to the current

Agency for Health Care Administration v. HCR Manor Care Services of Florida, LLC, d/b/a Heartland Home
Health Care and Hospice
(MPI Case No.: 2016-0006546)
Settlement Agreement

matters.

17. This Agreement is and shall be deemed jointly drafted and written by all parties to it and shall not be construed or interpreted against the party originating or preparing it.

18. To the extent that any provision of this Agreement is prohibited by law for any reason, such provision shall be effective to the extent not so prohibited, and such prohibition shall not affect any other provision of this Agreement.

19. This Agreement shall inure to the benefit of and be binding on each party's successors, assigns, heirs, administrators, representatives, and trustees.

20. All times stated herein are of the essence of this Agreement.

21. This Agreement shall be in full force and effect upon execution by the respective parties in counterpart.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK

HCR MANOR CARE SERVICES OF FLORIDA, LLC, D/B/A HEARTLAND HOME HEALTH CARE AND HOSPICE

Nadia M. Capillon
(Signed) Authorized Representative of
HCR Manor Care Services of Florida, LLC,
D/B/A Heartland Home Health Care and Hospice

Dated: Sept 10, 2019

BY: Nadia M. Capillon, RDO
(Print Name and Title)

John Tappin
Dated: Sept. 10, 2019
Attorney for Provider Signature

BY: Joshua Tappin
(Print Name and Title)

AGENCY FOR HEALTH CARE ADMINISTRATION

2727 Mahan Drive, Bldg. 3, Mail Stop #3
Tallahassee, FL 32308-5403

Molly McKinstry
Molly McKinstry
Deputy Secretary, HQA

Dated: 10/11, 2019

Stefan Grow
Stefan Grow, Esquire
General Counsel

Dated: 10/9, 2019

Shena L. Grantham
Shena L. Grantham, Esquire
MAL & MPI Chief Counsel

Dated: 10/1, 2019

Brittany Adams Long
Brittany Adams Long, Esquire
Radey Law Firm
Outside Counsel

Dated: Sept. 11, 2019

Agency for Health Care Administration v. HCR Manor Care Services of Florida, LLC, d/b/a Heartland Home Health Care and Hospice
(MPI Case No.: 2016-0006546)
Settlement Agreement