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## ***HOSPITAL APPEALS SETTLEMENT***

### **ADMINISTRATIVE AGREEMENT**

Appellant Name: [**Hospital Name**]  
Provider Transaction Number (PTAN)(6-digit): [**PTAN**]  
National Provider Identifier (NPI): [**NPI(s)**]  
(Required - list all associated NPIs.)

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### **PARTIES**

This Administrative Agreement (*Agreement*) is between Hospital (as identified above) and the Centers for Medicare & Medicaid Services (*CMS*) (collectively referred to as the *Settlement Parties*) with respect to the Medicare fee-for-service claims identified in the attached Administrative Agreement Spreadsheet (*Spreadsheet*). This Agreement is effective as of the date of the last signature hereto.

### **BACKGROUND**

WHEREAS, Hospital has claims that meet the following eligibility criteria for settlement 1) the claim was denied by any entity that conducted a review on behalf of CMS; 2) the claim was not for items or services furnished to a Medicare Part C enrollee; 3) the claim was denied based on an inappropriate setting determination, that is, on the basis that the service(s) might have been reasonable and necessary, but treatment on an inpatient basis was not; 4) the first day of the admission was before October 1, 2013; 5) the Hospital timely appealed the denial; 6) as of the date of an executed Agreement submitted to CMS by the Hospital, the appeal decision was still pending at the Administrative Law Judge (*ALJ*) or Medicare Appeals Council (*Council*) Council levels of review, or the Hospital had not yet exhausted its appeal rights at the ALJ or Council level; and 7) the Hospital did not receive payment for the service as a Part B claim. Eligible claims must also currently be in a denied status within the Medicare system.

WHEREAS, Hospital and CMS desire to resolve the dispute regarding the claims identified in the Spreadsheet of this Agreement by entering into an administrative agreement; and

WHEREAS, the purpose of this agreement is to solely terminate the dispute surrounding the denied claims specified in the Spreadsheet of this Agreement.

NOW THEREFORE, Hospital and CMS, intending to be legally bound, hereby enter into the following Administrative Agreement.

## **TERMS**

### **1. General Terms of Settlement, Payment Calculation**

- **Basic Agreement:** The claims at issue are specified in the Spreadsheet of this Agreement. CMS agrees to calculate payment based upon a percentage term of **66%**.
- **Percentage (%) terms in this Agreement:** For pre-payment denials at issue in this Agreement, the percentage agreed to by CMS is a percentage of the Medicare approved amount less the applicable deductible and/or co-insurance (that is, the percentage is applied only after the deductible and/or co- insurance has been subtracted from the Medicare approved amount), if any. For post-payment denials at issue in this Agreement, the percentage agreed to by CMS is the percentage by which CMS will reduce the overpayment(s) at issue. The percentage agreed to by CMS shall be in full and final satisfaction of all of the Hospital's claims at issue that are specified in the Spreadsheet of this Agreement. The Hospital agrees that it will not attempt to rebill any of the services in the Spreadsheet under Part B.
- The Hospital agrees that, as of the date of the last signature in this Agreement, it will not seek additional payment from any Medicare beneficiary or collect any deductible or coinsurance amount regarding any claim resolved through this Agreement that is not subject to a repayment plan existing as of the effective date of this Agreement. The Hospital may retain any Medicare beneficiary deductible or coinsurance amounts already paid as of the effective date of this Agreement.
- CMS will not reprocess any claim in order to effectuate this Agreement.
- CMS payments, if any, to Hospital will be made in accordance with CMS' usual business practices, including any applicable recoupment and/or offset.
- Any payment due based upon the settlement terms in this document may be subject

to offset, at the time of payment, for any amounts that may be due and owing to any department, agency, or agent of the United States by Hospital.

- CMS retains the right to recoup any duplicate or incorrect payments made for claims that were included on the Spreadsheet of this Agreement inadvertently. CMS also retains the right to not make payment for claims that were included on the Spreadsheet of this Agreement inadvertently but that are not eligible for settlement. This includes, but is not limited to, payments that may have been made in the appeals process or secondary to Part B billing.
- CMS will issue payment, as appropriate, by electronic funds transfer or check within one hundred and eighty (180) days from the effective date of this Agreement or Agreement on the calculation of the Medicare net amount after applicable reductions for pre- payment denials and/or the recalculation after the percentage reduction for post- payment denials, whichever is later.

**2. Interest:**

- CMS will pay the agreed amount to the Hospital in accordance with this Agreement within one hundred and eighty calendar (180) days of the last signature on the Agreement. If payment is not made by day one hundred and eighty (180), CMS will pay interest to the Hospital for the period beginning on day one hundred and eight one (181) through the date of payment. The interest rate shall be Current Value of Funds Rate as promulgated by the United States Department of Treasury.

**3. Releases:**

- The Settlement Parties understand that this Agreement releases CMS from all of the following:
  - From all claims, demands, obligations, causes of actions, damages, costs, expenses, and compensation of any nature relating to the claims in the Spreadsheet of this Agreement;
  - From any type of damages, whether compensatory or punitive relating to the claims in the Spreadsheet of this Agreement; and
- The Settlement Parties understand that this Agreement does not release any of the following:
  - Any claim arising under criminal law;

- Any criminal, civil, or administrative claims, rights, or defenses arising under Title 26, United States Code (Internal Revenue Code);
- Any claims, rights, or defenses arising under 31 U.S.C. §§ 3729 et seq. (False Claims Act); 31 U.S.C. § 3801, et seq. (Program Frauds Civil Remedies Act); 42 U.S.C. §§ 1320a-7a (Civil Monetary Penalties Statute); or any common law cause of action for fraud;
- Any contribution or indemnity claims against entities or individuals other than the Settlement Parties;
- Any obligations created by this Agreement;
- Any claims, rights, or defenses not specifically released or relinquished in this Agreement;
- Any Medicare Secondary Payer (MSP) requirements or obligations;
- Any requirements or obligations related to Medicare Part C or Part D;
- Any Medicare obligations or requirements related to Medicare claims for items or services not identified in this Agreement's Spreadsheet.
- This Agreement is binding on Hospital as represented by PTAN number(s) identified above (and their successors, assigns, and agents), but not upon third parties.
- This Agreement releases any and all rights to further administrative review, judicial review, or waiver of recovery with respect to the claims identified in the Spreadsheet of this Agreement.

#### **4. Withdrawal of Existing Appeals**

- Receipt by CMS of an Agreement executed by the Hospital will serve to stay all appeals included in the Spreadsheet. If at any point the appeals are not able to be included in settlement, for any reason, CMS will reinstate those appeals into their position in the appeals process. In such case, CMS agrees that the requirements for good cause for late filing of an appeal request (described in 42 C.F.R. §§ 405.942(b), 405.962(b), 405.1014(b), and 405.1102(b)) will be deemed to be met.
- Hospital hereby withdraws its requests for hearing and requests for review for the claims identified in the Spreadsheet of this Agreement. Hospital understands that withdrawing its request(s) for hearing and request(s) for review will result in dismissal of all of the claims in the Spreadsheet of this Agreement. Hospital acknowledges that it

will not pursue further appeals on the claims identified in the Spreadsheet. If a representative is signing on behalf of the Hospital, the representative acknowledges that he or she has advised Hospital of the consequences of the withdrawal and dismissal of its request(s) for hearing and request(s) for review

- Hospital withdrawal of its request(s) for hearing and request(s) for review is effective as of the date of the last signature in this Agreement. Hospital acknowledges and agrees that, for appeals pending at the ALJ and Council level and covered under this Agreement, Hospital and its appointed representative (if any) will not receive a notice of dismissal or procedural order of dismissal from the ALJ or the Council. Hospital agrees that, when fully effectuated, this Agreement will serve as the procedural order of dismissal and notice described at 42 C.F.R § 405.1052(b) and 42 C.F.R. § 405.1114(a) for all settled appeals pending at the ALJ and Council level for all purposes. Claims settled under this Agreement are not appealable.

## **5. Miscellaneous:**

- No Admission -- This Agreement does not constitute an admission of fact or law by the Settlement Parties and shall in no way affect the rights, duties, or obligations the Settlement Parties may have with respect to other issues not covered by this agreement. This Agreement does not constitute an admission of liability by Hospital or CMS.
- This Agreement does not create precedent and does not create or represent any change in CMS policy.
- The Settlement Parties have entered into this Agreement voluntarily.
- Hospital agrees that it will not identify any claims subject to this Agreement, and as identified in the Spreadsheet of this Agreement, as bad debts for the purposes of any cost report.
- Costs and Attorney Fees --The Settlement Parties bear their own costs and attorney's fees in pursuance of this Agreement.
- Equal Access to Justice Act -- Hospital understands and agrees that it will not make any claims for, and CMS will not pay, fees under the Equal Access to Justice Act (EAJA) for pursuing administrative appeals and this Agreement on the claims

identified in the Spreadsheet of this Agreement.

- This Agreement constitutes the complete Agreement between the Settlement Parties. This Agreement may not be amended except by written consent of the Parties.
- This Agreement is governed by the laws of the United States. Any dispute between the Settlement Parties under this Agreement shall be resolved by a federal court of competent jurisdiction.
- Right to Void This Agreement -- CMS has the right to void this Agreement if there is reliable evidence that the initial determination regarding the claims at issue of this Agreement were procured by fraud as defined in 42 C.F.R. § 405.902.
- The persons who have executed this Agreement below represent that they are fully authorized to sign this Agreement on behalf of the Settlement Parties. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement

<b>Appellant or Representative Signature</b>	<b>Appellant or Representative Printed Name</b>	<b>Date</b>
<b>CMS Authorized Staff Signature</b>	<b>CMS Authorized Staff Printed Name</b>	<b>Date</b>