

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into among the State of Indiana, acting through the Office of the Indiana Attorney General's Medicaid Fraud Control Unit ("State of Indiana") and Southeastern Medical Center ("SEMC"), through its authorized representatives. The State of Indiana and SEMC will collectively be referred to as "the Parties" in this Agreement.

RECITALS

- A. SEMC is an Illinois for-profit corporation with its principal place of business in Hammond, Indiana.
- B. SEMC is a participating provider in the Indiana Medicaid Program that provides medical services to Indiana Medicaid recipients, including orthopedics, physical examinations, trigger point injections, and pain management. As used in this Agreement, the "Indiana Medicaid Program," "Indiana Health Coverage Programs," or "Medicaid" refers to the State of Indiana's Medical Assistance Program established pursuant to Title XIX of the Social Security Act, including managed care entities as defined by 42 U.S.C. § 1396u-2.
- C. SEMC, through its employees and agents, submitted or caused to be submitted claims for payment to the Medicaid Program for spinal manipulation services alleged to have been performed by its practitioners.
- D. The State of Indiana alleges that between January 1, 2016, and June 1, 2021, SEMC submitted claims to Indiana Medicaid for "Spinal Manipulation under Anesthesia", under CPT code 22505. SEMC was not providing spinal manipulation under general anesthesia as required to use CPT code 22505, and

documentation for numerous patients did not support that spinal manipulations were occurring at all. The State alleges that these submissions constitute the submission of false or fraudulent claims to the Indiana Medicaid Program, in violation of Indiana Code § 5-11-5.7-1 *et seq.*, and the common law. The conduct in this paragraph shall be referred to as the "Covered Conduct."

- E. SEMC admits that the CPT code 22505 claims contained in the Covered Conduct were not performed under general anesthesia, but expressly denies the claims submitted in the Covered Conduct were false claims or that it engaged in any wrongdoing or fault in connection with the Covered Conduct. Nothing in this Agreement, any obligation herein, or the fact of this settlement shall constitute, be construed to be, or be understood as an admission that SEMC violated or breached any law, regulation, obligation, or contract, or engaged in any wrongdoing.
- F. To avoid the delay, expense, and uncertainty associated with litigation, the Parties mutually desire to reach a full and final settlement of all civil or administrative monetary causes of actions arising from the Covered Conduct. This Settlement Agreement is made in compromise of disputed claims and is neither an admission of liability by SEMC nor a concession by the State of Indiana that the alleged false claims contained in the covered conduct are not well founded.
- G. The "Effective Date" of this Agreement shall be the date of signature of the last signatory to this Agreement.

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TERMS AND CONDITIONS

1. SEMC shall pay to the State of Indiana the sum of \$700,000.00 ("Settlement Amount"). The Settlement Amount shall be composed of \$465,419.52 in restitution and \$234,580.48 in additional recoveries. The Settlement Amount shall constitute a debt immediately due and owing to the State of Indiana on the Effective Date of this Agreement. The debt shall be forever discharged by payment to the State of Indiana under the following terms and conditions:
 - a. SEMC will pay the Settlement Amount to the State of Indiana in a single, lump-sum payment of \$700,000.00 due within 60 days of the Effective Date of this Agreement
 - b. Payment shall be made by wire transfer or electronic funds transfer to the State of Indiana pursuant to written instructions to be provided by the State's counsel.
2. In consideration of this Agreement and payment of the Settlement Amount as set forth herein, and subject to the exceptions from release set forth below, the State of Indiana releases and discharges SEMC and its predecessors, successors, transferees, heirs, and assigns from any monetary civil or administrative cause of action that the State has for any claims submitted or caused to be submitted to the Indiana Medicaid program for the Covered Conduct.
3. The Settlement Amount will not be decreased because of the denial of any claims for payment now being withheld from payment by the Indiana Medicaid Program for the Covered Conduct. SEMC agrees not to resubmit to Medicaid or any other state program payer any previously denied claims, which denials were based on

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the Covered Conduct, and agrees not to appeal or cause the appeal of any such denials or claims.

4. SEMC fully and finally release the State of Indiana, its agencies, employees, servants, and agents from any claims (including attorneys' fees, costs, and expenses of any kind) that SEMC may have asserted, could have asserted, or may assert in the future against the State of Indiana, its agencies, employees, servants, and agents related to the Covered Conduct and the State's investigation related to the Covered Conduct.
5. SEMC waives and will not assert any defenses to any criminal prosecution or administrative action relating to the Covered Conduct if such defense is based in whole or in part on a contention that, under the Double Jeopardy Clause of the Fifth and Fourteenth Amendments to the United States Constitution or Article 1, Section 14 of the Indiana Constitution, or the Excessive Fines Clause of the Eighth and Fourteenth Amendments to the United States Constitution or Article 1, Section 16 of the Indiana Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. SEMC agrees that this Agreement is not punitive in purpose or effect.
6. If SEMC fails to deliver payment according to Paragraph 1 of this Agreement, the State of Indiana reserves all rights to seek appropriate relief in the enforcement of this Agreement.
7. Notwithstanding any term of this Agreement, the State of Indiana specifically does not release any person or entity from any of these liabilities:
 - a. Any criminal liability;

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- b. Any criminal, civil, or administrative liability arising under state revenue codes, including, but not limited to, those contained in Title 6 of the Indiana Code;
 - c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory exclusions from the Indiana Medicaid Program;
 - d. Any liability to the State or any agencies thereof for any conduct other than the Covered Conduct;
8. Nothing in this agreement is binding upon any of the following:
- a. The United States or any department thereof;
 - b. Any boards or commissions of the Indiana Professional Licensing Agency or any other licensing body of the State of Indiana;
 - c. Any prosecuting attorney or other official authorized to prosecute crimes under Indiana law.
9. Except as otherwise provided in this Agreement, this Agreement is intended to be only for the benefit of the Parties, and the Parties do not release any liability as to any other person or entity.
10. Nothing in any provision of this Agreement constitutes any agreement by the State concerning the characterization of the Settlement Amount for purposes of the State's revenue code.
11. The Parties each represent that this Agreement is freely and voluntarily entered without any degree of duress or compulsion whatsoever.

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12. Each Party to this agreement shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.
13. This Agreement is governed by the laws of the State of Indiana, and venue for addressing and resolving any disputes relating to this Agreement shall be the state courts of appropriate jurisdiction in Indiana. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by the Parties to this Agreement and shall not, therefore, be construed against any of the Parties for that reason.
14. The undersigned State signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement on behalf of the State acting through their respective agencies and departments.
15. This Agreement shall be binding on all successors, transferees, heirs, and assigns of the Parties.
16. All parties consent to the State's disclosure of this Agreement, at the State's sole discretion, to the public, and as required by the Indiana Access to Public Records Act.
17. The signatures of the Parties delivered by facsimile, email, or other electronic means shall constitute acceptable binding signatures for purposes of this Agreement, and facsimile or electronic copies of this Agreement shall be deemed to constitute duplicate originals.
18. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same Agreement.

A handwritten signature in dark ink, appearing to be "R. J. G.", is located in the bottom right corner of the page.

19. This Agreement constitutes the complete agreement between the Parties with respect to this matter and shall not be amended except by a written amendment signed by all Parties.

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THE STATE OF INDIANA

DATED: _____

BY: _____

Matthew Whitmire, Director MFCU
State of Indiana
Office of the Attorney General
Medicaid Fraud Control Unit

DATED: Nov. 30, 2022

BY: _____


Allison Taylor
Executive Director of Medicaid
Office of Medicaid Planning and Policy

Southeastern Medical Center

DATED: 9/23/22

BY: Kishan Chand
Dr. Kishan Chand
On Behalf of Southeastern Medical Center

DATED: 9/23/22

BY: I Bebekoski
Izabela Bebekoski
Counsel for Southeastern Medical Center