

AGREEMENT

I. PARTIES

This Agreement (Agreement) is entered into between the United States of America, acting through the United States Department of Justice on behalf of the Center for Medicare and Medicaid Services (CMS), (collectively "United States") and Highmark, Inc. ("Highmark") (hereafter referred to as "the Parties"), through their authorized representatives.

II. PREAMBLE

A. Whereas, Highmark is a Pennsylvania based not-for-profit corporation that is a licensed Blue Cross and Blue Shield Plan. Highmark was incorporated as a not-for-profit corporation in Pennsylvania in 1996 when it was formed through the consolidation of Blue Cross of Western Pennsylvania and Pennsylvania Blue Shield. Highmark underwrites various indemnity and managed care health insurance products. Highmark operates as Highmark Blue Cross Blue Shield in 29 counties in Western Pennsylvania and as Highmark Blue Shield in the remainder of the Commonwealth. In addition, two of Highmark's unincorporated divisions serve as Medicare contractors. Veritus Medicare Services ("Veritus") is a Medicare Part A fiscal intermediary. HGS

Administrators ("HGS") is a Medicare Part B carrier. Veritus and HGS are paid by the United States to perform various claims processing and other functions pursuant to contracts with CMS.

B. Whereas, Elizabeth Drescher (the "relator") is an individual resident of the Commonwealth of Pennsylvania. On July 12, 2000, the relator filed a qui tam action in the United States District Court for the Eastern District of Pennsylvania captioned United States of America ex rel. Elizabeth Drescher v. Highmark, Inc., (hereafter "the Civil Action"), Civil Action No. 00-3513. The United States filed a Complaint-In-Intervention on April 7, 2003. This action was later assigned Civil Action No. 03-4883.

C. Whereas, Medicare is a secondary payor of medical costs for an employee of: 1) an employer with 20 or more employees; and 2) an employer of 19 or fewer employees who is a member of a multiple employer plan or group which has at least one member with 20 or more employees, unless the small employer has the small employer exception (hereinafter the "MSP program").

D. Whereas, Highmark voluntarily conducted a review to capture actual employee count data from its customers

for purposes of determining whether Medicare should be the primary or secondary payor. Based on the results of Highmark's review, Highmark refunded \$2,517,114.00 to CMS.

- E. Whereas, the current statutory and regulatory framework does not specify an insurer's obligation to collect employee data for its group health plan customers.
- F. Whereas, Highmark voluntarily undertook to create new data capturing and utilization measures in order to obtain accurate employee count information.
- G. Whereas, a model MSP process has been created to address how data regarding employee counts can be captured and how information regarding the small employer exception will be disseminated and utilized. The model is attached hereto as Exhibit A.
- H. Whereas, the parties do not intend that this Agreement or Highmark's commitment to implementation of a MSP process consistent with Exhibit A be deemed an admission of liability now, or in the future.
- I. Whereas, to avoid the delay, uncertainty, inconvenience and expense of protracted litigation of the above claims and in the interest of implementing a model MSP claims process, the parties reach a full and final

settlement pursuant to the terms and conditions below.

III. TERMS AND CONDITIONS

NOW THEREFORE, in reliance on the representations contained herein and in consideration of the mutual promises, covenants, and obligations set forth below in this Agreement, and for good and valuable consideration as stated herein, the Parties agree as follows:

1. Highmark agrees to pay to the United States the sum of Two Million Thirty Thousand Eight Hundred Forty Dollars (\$2,030,840.00). This sum shall constitute a debt immediately due and owing to the United States on the Effective Date of this Agreement. This sum shall be paid no later than 10 business days after Highmark receives written payment instructions from the United States.
2. Highmark will commence implementation of its MSP claims process consistent with the Model (Exhibit A) on the Effective Date of this Agreement. It is understood that the Model will be subject to updates and revisions to maintain compliance with any future changes in the federal regulatory requirements.
3. Highmark for a period of three years, through the services of an Independent Organization will verify

that Highmark has established and maintained MSP procedures consistent with the Model (Exhibit A). The protocol for such review is that beginning on January 1, 2007 and thereafter for a period of two years, Highmark's Internal Audit Department shall confirm that Highmark's MSP policies and procedures are consistent with Exhibit A. On an annual basis, and continuing for a period of three years, an Independent Organization chosen by Highmark shall verify Highmark's Internal Audit Department's findings and provide written notification to CMS within 30 days of completion. The Independent Organization's review will be limited to an evaluation of Highmark's MSP policies and procedures for consistency with the model at Exhibit A. It is not intended that this review, analyze or evaluate Highmark's actual MSP claims processing results. Any organization that is professionally qualified to review the existence of Highmark's policies and procedures shall be authorized to serve as an Independent Organization.

Specific Audit Procedures

A. Working Aged Process

1. Validate that Highmark has established and maintained policies and procedures for obtaining annually, employee size data from those Group Health Plan ("GHP") customers with fewer than 20 enrollees.
2. Validate that Highmark has established and maintained policies and procedures requiring Highmark to send follow-up questionnaires to those employers who do not respond to Highmark's initial questionnaire.
3. Validate that Highmark has established and maintained policies and procedures requiring Highmark to maintain employee size data in a database that is timely updated. The review shall further ensure that a mechanism exists for this data to be utilized in Highmark's processing of MSP claims.
4. Validate that Highmark has established and maintained policies and procedures regarding adjusting previously paid claims, whenever Highmark determines that a GHP employs 20 or more individuals.

5. Validate that Highmark has established and maintained policies and procedures to obtain and retain documentation that Associations or its GHP members have obtained approval from CMS to elect the Small Employer Exception, pursuant to 42 U.S.C. § 1395y(b) (1) (A) and 42 C.F.R. §411.170 and 411.172.

B. MSP Disability Claim Process

1. Validate that Highmark has established and maintained policies and procedures that specify that Highmark will pay primary on all claims for any disabled individual, unless and until Highmark has obtained documentation from the GHP providing that the GHP employs fewer than 100 individuals.

C. MSP End Staged Renal Disease ("ESRD") Process

1. Validate that Highmark has established and maintained policies and procedures that mandate that Highmark will pay primary on claims for ESRD beneficiaries during the applicable coordination period (currently 30 months).

2. Validate that Highmark's has established and maintained policies and procedures that direct Highmark to pay primary on claims for Medicare-eligible ESRD subscribers, unless and until Highmark has obtained written documentation from the GHP, or the individual subscriber, establishing that the 30-month Coordination Period has been satisfied.

D. MSP Demand Letter Process

1. Validate that Highmark maintains a separate MSP Unit dedicated to responding to MSP demand letters.

2. Validate that Highmark has established and maintained policies and procedures to notify CMS' Medicare Carrier or Fiscal Intermediary, whenever Highmark learns that Medicare paid primary in error.

4. In consideration of this Agreement and the related Agreements with Relator it is understood that the United States and the Relator will dismiss the Relator's Complaint, and the United States' Complaint In Intervention with prejudice. Highmark similarly agrees to dismiss its Counterclaim with prejudice. It

is understood and agreed that this dismissal will not preclude CMS from pursuing any overpayment through the demand letter process for claims not reviewed by Highmark as part of the internal review described above.

5. In consideration of the obligations of Highmark as set forth in this agreement, conditioned upon Highmark's full payment of the Settlement Amount identified in paragraph 1, the United States (on behalf of itself, its officers, agents, agencies and departments) agrees to release Highmark from any civil monetary claim the United States has in law or in equity that relate to, arise from, or pertain to the MSP claims involving dates of service from January 1,1996 through May 27,2004, including all claims that were or could have been asserted in the relator's complaint and the United States Complaint in Intervention.
6. The United States agrees, on behalf of the OIG HHS and CMS, that nothing in this Agreement will be deemed to reflect evidence of Highmark's, Veritus's, or HGS's lack of responsibility to participate in any federal or state health care program.

7. Highmark, (on behalf of itself and its past and present parents, divisions, and subsidiaries, and affiliates, their predecessors, successors and assigns,) agrees to release the United States, its agencies, employees, servants, and agents from any civil monetary claim (including attorney's fees, costs, and expenses of every kind and however denominated) Highmark has in law or in equity that relate to, arise from, or pertain to the MSP claims involving dates of service from January 1, 1996 through May 27, 2004 including all claims that were or could have been asserted in Highmark's counter claim.
8. The Settlement amount that Highmark must pay pursuant to this Agreement shall not be decreased as a result of any off set for claims for administrative costs submitted by Highmark on any other Federal Health Care Program.
9. The Agreement is intended to be for the benefit of the Parties only, and by this instrument the Parties do not release any claims against any other person or entity.
10. Nothing in this Agreement constitutes an agreement by the United States concerning the characterization of

the amounts paid hereunder for purposes of the Internal Revenue Laws, Title 26 of the United States Code.

11. 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.
12. Highmark represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.
13. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement shall be the United States District Court for the Eastern District of Pennsylvania.
14. The undersigned Highmark signatory represents and warrants that he or she is authorized by the Board of Directors to execute this Agreement. The undersigned United States signatories represent that they are signing this Agreement in their official capacities and they are authorized to execute this Agreement through their respective agencies and departments.

15. The "Effective Date" of this Agreement shall be on the date of signature of the last signatory to the Agreement. Facsimiles of signatures shall constitute acceptable binding signatures for purposes of this Agreement.
16. This Agreement shall be binding on all successors, transferees, heirs, and assigns of the Parties.
17. This Agreement, together with the Model attached hereto as Exhibit A and incorporated herein by reference, constitute the complete agreement between the Parties. This Agreement shall not be amended except by written consent of the Parties.
18. This Agreement shall not act as a waiver of any rights of either party beyond the terms of this Agreement nor shall it provide any additional rights to the parties.
19. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same Agreement.

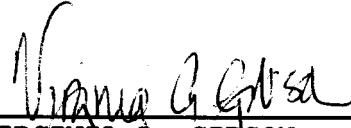
IN WITNESS WHEREOF, the parties, through their duly authorized representatives, hereunder set their hands.

UNITED STATES OF AMERICA

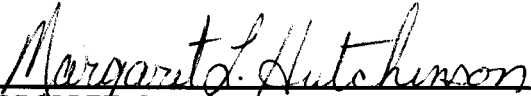
Dated: 6-19-06

BY: 
PATRICK L. MEEHAN
United States Attorney

Dated: 6-19-06

BY: 
VIRGINIA A. GIBSON
Assistant United States Attorney
Chief, Civil Division

Dated: 6-19-06

BY: 
MARGARET L. HUTCHINSON
Assistant United States Attorney

HIGHMARK, INC.

Dated: June 8, 2006

BY: 
President & CEO

Dated: June 9, 2006

BY: 
KATHLEEN E. KARELIS
Counsel for Highmark, Inc.