

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General (OIG-HHS) of the Department of Health and Human Services (collectively, the “United States”); Community Health Network, Inc. (“CHN”) (the “Defendant”); and Thomas P. Fischer (the “Relator”) (hereafter, collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. CHN is a non-profit corporation headquartered in Indianapolis, Indiana. CHN is incorporated in the State of Indiana, and its principal place of business is 7330 Shadeland Station, Suite 200, Indianapolis, Indiana, which is located in Marion County, Indiana. CHN and its non-profit and for-profit subsidiaries and affiliates comprise a full-service integrated health delivery system in central Indiana and consist of acute care and/or specialty hospitals, immediate care centers, primary care and specialty employed physicians, ambulatory care centers, freestanding surgery centers, outpatient imaging centers, and endoscopy centers. CHN submits claims to the Medicare program for reimbursement.

B. On July 21, 2014, Thomas P. Fischer filed a *qui tam* action in the United States District Court for the Southern District of Indiana, captioned *United States ex rel. Thomas P. Fischer v. Community Health Network, Inc. et al.*, Cause No. 1:14-cv-01215 (S.D. Ind.), pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”). Relator filed his First Amended Complaint on October 30, 2015. The United States partially intervened in Relator’s First Amended Complaint on August 7, 2019, and filed its Complaint in Intervention on January 6, 2020 (“the United States’ Complaint”). Relator filed his Second Amended Complaint on December 2, 2020.

C. This Agreement resolves the claims set forth in the United States' Complaint. It does not resolve the claims set forth in the Relator's Second Amended Complaint.

D. The United States contends that CHN submitted or caused to be submitted claims for payment to the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395lll ("Medicare").

E. The United States contends that it has certain civil claims against CHN arising from CHN submitting and causing the submission of false claims to Medicare as alleged in the United States' Complaint during the period from January 1, 2008 through December 31, 2020. That conduct is referred to below as the "Covered Conduct."

F. CHN denies the United States' allegations in Paragraph E and in the United States' Complaint.

G. This Agreement is neither an admission of liability by CHN nor a concession by the United States that its claims are not well founded.

H. Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Agreement and to Relator's reasonable expenses, attorneys' fees and costs.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. CHN shall pay to the United States \$345,000,000 (the "Settlement Amount"), of which \$167,000,000 is restitution, plus interest on the Settlement Amount at a rate of 4.75% per annum from November 3, 2023 through the date of payment, no later than ten (10) days after the Effective Date of this Agreement, by electronic funds transfer pursuant to the written instructions

that were provided by the Civil Division of the United States Department of Justice to CHN's counsel, Robert McBride, on December 4, 2023.

2. CHN's payment to Relator for attorneys' fees, costs, and expenses, related to the claims contained in the United States' Complaint pursuant to 31 U.S.C. § 3730(d)(1) shall be addressed separately from this Agreement, and such claims are explicitly reserved by Relator. Relator also explicitly reserves his right to pursue attorneys' fees, costs, and expenses for all remaining claims as pled in the Relator's Second Amended Complaint, at the time those claims are resolved by settlement and/or judgment.

3. Subject to the exceptions in Paragraph 6 (concerning reserved claims) below, and upon the United States' receipt of the Settlement Amount, plus interest due under Paragraph 1, the United States releases CHN from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of payment by mistake and unjust enrichment.

4. Subject to the exceptions in Paragraph 6 below, and upon the United States' receipt of the Settlement Amount, plus interest due under Paragraph 1, Relator, for himself and for his heirs, successors, attorneys (past and present), agents, and assigns, fully and finally releases CHN and its predecessors, successors, assigns, subsidiaries, parent corporations, partners, and affiliates, and each and all of its officers, directors, members, managers, shareholders, employees, independent contractors, attorneys, agents, partners, and representatives from any and all claims, whether in law or in equity, whether known or unknown, that (a) Relator has or may have on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733, and (b) related only to the allegations in the United States' Complaint. Relator explicitly reserves, and does not waive or release, all claims

on behalf of the United States or himself that are pled in the Relator's Second Amended Complaint.

5. In consideration of the obligations of CHN in this Agreement and the Corporate Integrity Agreement ("CIA"), entered into between OIG-HHS and CHN, and upon the United States' receipt of full payment of the Settlement Amount, plus interest due under Paragraph 1, the OIG-HHS shall release and refrain from instituting, directing, or maintaining any administrative action seeking exclusion from Medicare, Medicaid, and other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) against CHN under 42 U.S.C. § 1320a-7a (Civil Monetary Penalties Law) or 42 U.S.C. § 1320a-7(b)(7) (permissive exclusion for fraud, kickbacks, and other prohibited activities) for the Covered Conduct, except as reserved in this paragraph and in Paragraph 6 (concerning reserved claims), below. The OIG-HHS expressly reserves all rights to comply with any statutory obligations to exclude CHN from Medicare, Medicaid, and other Federal health care programs under 42 U.S.C. § 1320a-7(a) (mandatory exclusion) based upon the Covered Conduct. Nothing in this paragraph precludes the OIG-HHS from taking action against entities or persons, or for conduct and practices, for which claims have been reserved in Paragraph 6, below.

6. Notwithstanding the releases given in Paragraphs 3 and 4 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, including mandatory exclusion from Federal health care programs;

- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability of individuals;
- g. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- h. Any liability for failure to deliver goods or services due;
- i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct;
- j. Any liability based upon the claims set forth in the Relator's Second Amended Complaint on behalf of the United States.

7. Relator and his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Moreover, the United States and Relator and his heirs, successors, attorneys, agents, and assigns agree that they each retain all of their rights pursuant to the False Claims Act on the issue of the share percentage that Relator should receive of the Settlement Amount.

8. CHN waives and shall not assert any defenses CHN may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

9. CHN fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that CHN has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct or the United States' investigation or prosecution thereof.

10. CHN fully and finally releases the Relator, his heirs, successors, attorneys, agents and assigns, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that CHN has asserted, could have asserted, or may assert in the future against the Relator, related to the Covered Conduct and the Relator's investigation and prosecution thereof.

11. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare contractor (*e.g.*, Medicare Administrative Contractor, fiscal intermediary, carrier) or any state payer, related to the Covered Conduct; and CHN agrees not to resubmit to any Medicare contractor or any state payer any previously denied claims related to the Covered Conduct, agrees not to appeal any such denials of claims, and agrees to withdraw any such pending appeals.

12. CHN agrees to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47; and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395lll and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of CHN, its present or former officers, directors, employees, shareholders, and agents in connection with:

(1) the matters covered by this Agreement;

- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- (3) CHN's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment CHN makes to the United States pursuant to this Agreement and any payments that CHN may make to Relator, including costs and attorneys' fees; and
- (6) the negotiation of, and obligations undertaken pursuant to the CIA to:
 - (i) retain an independent review organization to perform annual reviews as described in Section III of the CIA; and
 - (ii) prepare and submit reports to the OIG-HHS

are unallowable costs for government contracting purposes and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program ("FEHBP") (hereinafter referred to as Unallowable Costs). However, nothing in paragraph 12.a.(6) that may apply to the obligations undertaken pursuant to the CIA affects the status of costs that are not allowable based on any other authority applicable to CHN.

b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for in nonreimbursable cost centers by CHN, and CHN shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States or any State Medicaid program, or seek payment for such Unallowable Costs through any

cost report, cost statement, information statement, or payment request submitted by CHN or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment:

CHN further agrees that within 90 days of the Effective Date of this Agreement it shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid and FEHBP fiscal agents, any Unallowable Costs (as defined in this paragraph) included in payments previously sought from the United States, or any State Medicaid program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by CHN or any of its subsidiaries or affiliates, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the Unallowable Costs. CHN agrees that the United States, at a minimum, shall be entitled to recoup from CHN any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted cost reports, information reports, cost statements, or requests for payment.

Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States reserves its rights to disagree with any calculations submitted by CHN or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on CHN or any of its subsidiaries or affiliates' cost reports, cost statements, or information reports.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States to audit, examine, or re-examine CHN's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

13. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity, except to the extent provided for in Paragraph 14 (waiver for beneficiaries paragraph), below.

14. CHN agrees that it waives and shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third party payors based upon the claims defined as the Covered Conduct.

15. Upon receipt of the payment described in Paragraph 1, above, the Parties shall promptly sign and file in the Civil Action a Joint Stipulation of Partial Dismissal with prejudice of the United States' Complaint, pursuant to Rule 41(a)(1)(A)(ii). This Joint Stipulation shall have no impact on (1) Relator's claims against CHN under 31 U.S.C. § 3730(d) for expenses, attorneys' fees and costs arising out of the United States' Complaint; (2) Relator's claim under 31 U.S.C. § 3730(d) for a share of the Settlement Amount; or (3) the claims alleged in the Relator's Second Amended Complaint.

16. Other than as stated herein, each Party shall bear its own legal and other costs incurred in connection with claims set forth in the United States' Complaint, including the preparation and performance of this Agreement.

17. Each party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

18. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Southern District of Indiana. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

19. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

20. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

21. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

22. This Agreement is binding on CHN's successors, transferees, heirs, and assigns.

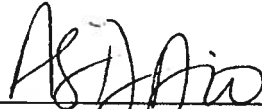
23. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

24. All Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

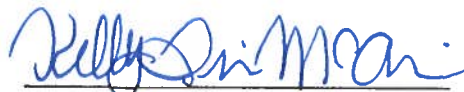
25. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles and electronic transmissions of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

DATED: 12/18/23


BY: 
Arthur S. Di Dio
Senior Trial Counsel
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: 12/18/23

BY: 
Kelly Quinn McAuliffe
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

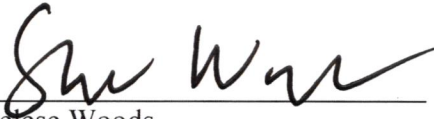
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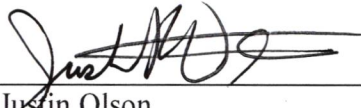
Zachary A. Myers
United States Attorney
Southern District of Indiana

DATED: 12/18/23

BY: 

Shereese Woods
Chief, Civil Division
Southern District of Indiana

DATED: 12/18/23

BY: 

Justin Olson
Assistant United States Attorney
Southern District of Indiana

THE UNITED STATES OF AMERICA

DATED: 12/16/23

BY: 

Susan E. Gillin
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
United States Department of Health and Human Services

DEFENDANT

DATED: 12/15/2023

BY: ^{DocuSigned by:}
Bryan A. Mills
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Bryan Mills
Chief Executive Officer, CHN
CHN

DATED: _____

BY: _____
George B. Breen
Richard W. Westling
Erica Sibley Bahnsen
Daniel C. Fundakowski
Elizabeth A. Harris

Marc T. Quigley
Thomas J. Costakis
Blake P. Holler
Libby Yin Goodknight

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Jeremy A. Morris

Counsel for Defendant

DEFENDANT

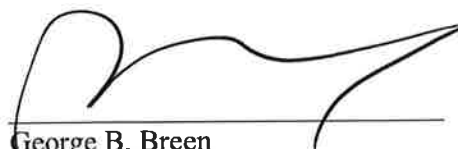
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CHN

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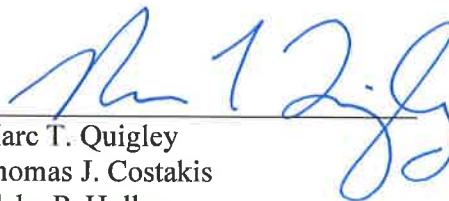
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CHN

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12/15/23



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Counsel for Defendant

DEFENDANT

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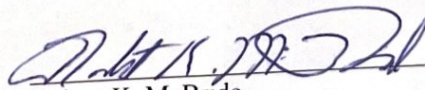
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Blake P. Holler
Libby Yin Goodknight

15 DEC 2023


Robert K. McBride
Jeremy A. Morris

Counsel for Defendant

RELATOR

DATED: 12/14/23

BY: Thomas P. Fischer
Thomas P. Fischer

DATED: 12/14/23

BY: Jay P. Holland
Jay P. Holland
Counsel for Thomas P. Fischer