

## **Exhibit D**



Atlanta Office  
171 17th Street NW, Suite 2100  
Atlanta, GA 30363-1031  
Direct phone: 404.873.8692  
Direct fax: 404.873.8693  
E-mail: glenn.hendrix@agg.com

April 3, 2015

CMS FOIA Officer  
Centers for Medicare & Medicaid Services  
Mailstop N2-20-16  
7500 Security Boulevard  
Baltimore, MD 21244

**Re: Request for Information Under the Freedom of Information Act ("FOIA")**

Dear CMS Freedom of Information Act Officer:

Under the Freedom of Information Act, 5 U.S.C. subsection 552, I am requesting access to the following information:

All documentation and information relating to the Centers for Medicare and Medicaid Services report, titled "*Observations on Therapy Utilization Trends*," which was provided on May 1, 2014 with the Proposed FY 2015 SNF PPS Rule, which was issued as a final rule on July 31, 2014 and published in the Federal Register on August 5, 2014, 79 FR 45628.

The information requested includes, but is not limited to:

All documentation and information relating to the data that was reviewed in connection with both the Resident Classification, and Therapy Utilization, including but not limited to:

- the selection of the data;
- the sources of the data;
- the methods by which the data was analyzed;
- the factors that were considered and incorporated in the model that was used to analyze the data; and
- the backgrounds, experience, and qualifications of the people who conducted the reviews of the data.

All documentation and information related to the writing of the report, *Observations on Therapy Utilization Trends*, including but not limited to:

- the identities, backgrounds, experience and qualifications of the people who were engaged in writing the report;
- whether the drafters and reviewers of the report included people who had participated in the analysis of the data;
- where people were involved in both phases of the report, the roles and extent of the roles they played in each phase;
- the identities, backgrounds, experience and qualifications of all people who either reviewed or had any input in the report;
- the identities, backgrounds, experience and qualifications of all people to whom the report was distributed before its publication on May 1, 2014, including people outside of CMS;
- all conversations, discussions, and reviews of the report, including but not limited to the decision to publish the report in connection with the proposed rule, and the decision to seek public comments on the report along with comments on the proposed rule;
- all drafts of the report.

I also am requesting access to the following information:

All documentation and information relating to the topic of the report and its conclusions, as they were included in the publication of the Final FY 2015 SNF PPS Rule in the Federal Register on August 5, 2014.

The information requested includes, but is not limited to:

All documentation and information relating to the comments that were received in response to the invitation to provide comments on the data presented in the report, "*Observations on Therapy Utilization Trends*," including but not limited to:

- all comments received in response to the invitation to provide comments;
- the drafting of the *Response* to the comments, which appears in the Federal Register, including the decisions of what to include and the opinions expressed in the *Response*; and
- the identities, backgrounds, experience and qualifications of the people who reviewed the comments from the public and the drafts and final presentation of the *Response*.

In order to help you determine my status for the purpose of assessing fees, you should know that I am affiliated with a private business and am seeking information for use in the company's business. I am willing to pay fees for this request up to a maximum of \$5,000. If you estimate that the fees will exceed this limit, please inform me first.

**Arnall  
Golden  
Gregory** LLP

CMS FOIA Officer  
April 3, 2015  
Page 3

I request that the information I seek be provided in electronic format, and I would like to receive it on a personal computer disk. I further ask that my request receive expedited processing because I represent clients for whom an understanding of these issues is essential to their business and continued future.

If you have any questions about handling this request, you may reach me by telephone or email at the addresses reflected on this page.

Sincerely,

ARNALL GOLDEN GREGORY LLP



Glenn P. Hendrix