



Charnanda T. Reid

From: Charnanda T. Reid
Sent: Tuesday, January 19, 2016 10:12 AM
To: FOIA_Request@cms.hhs.gov
Cc: Frank Kirschbaum
Subject: Freedom of Information Act Request for Information Regarding Brier Creek Integrated Pain & Spine, PLLC

To whom it may concern:

This email is a Freedom of Information Act request; 5 U.S.C. § 552.

This firm represents Brier Creek Integrated Pain & Spine, PLLC ("BCIPS"). CMS has subjected BCIPS to overpayment audits over the last two years.

We hereby request, on behalf of BCIPS, that copies of the following documents be provided to us:

1. CMS's complete audit file for any audit of BCIPS, including:
 - a. The information on the statistical projection used to arrive at the overpayment request (if applicable);
 - b. The notes, correspondence, and memos (handwritten or typed) of the auditors setting forth the specific reasons for the denials;
 - c. The hand-written audit sheets;
 - d. The names and credentials of all of those who participated in the audit and denial decisions;
 - e. The medical records reviewed as part of the audit;
 - f. All data analysis that led to or was either considered or used as a part of the audit of BCIPS;
 - g. All records reviewed by CMS or its contractors as part of its audit(s) of BCIPS; and
 - h. Any other information used by the auditors in making the audit decisions.
2. The names and credentials of any and all persons who have reviewed BCIPS submissions for payment, from January 1, 2013 to the present.
3. All notes, memoranda, correspondence, and other documents related to, concerning, or supporting CMS's assertion on May 23, 2014 of "credible allegations of fraud" by BCIPS.
4. All notes, memoranda, correspondence, and other documents and data relating to or documenting any investigation of BCIPS or its providers by CMS or its contractors from January 1, 2013 to the present.

5. All notes, memoranda, correspondence and other documents and data evidencing, supporting or relating to CMS's determination in November 2014 that "reliable information [of] an additional overpayment exists."
6. All documents related to any "good cause" determination by CMS pursuant to 42 C.F.R. § 405.986 to reopen and/or revise a determination or redetermination related to BCIPS.
7. All notes, memoranda, correspondence, and other documents supporting CMS's position that the number of drug screenings per beneficiary billed by BCIPS (or its providers) far exceeded the peer average.
8. All documents related to CMS's decision to suspend payments to BCIPS.
9. All internal notes, correspondence, and/or memos that mention BCIPS.
10. All correspondence between CMS or its contractors, on the one hand, and any third party, on the other hand, that mentions BCIPS.
11. All internal notes, correspondence, and/or memos that mention Dr. Robert Wadley.
12. All correspondence between CMS or its contractors, on the one hand, and any third party, on the other, that mentions Dr. Robert Wadley.
13. All documents and correspondence relating to, concerning, or reflecting any communications between CMS or its contractors, on the one hand, and any representative of or reporter from The Wall Street Journal, on the other hand, regarding (a) Dr. Robert Wadley, (b) BCIPS, (c) AvuTox, and/or (d) the concept of paying one flat rate for a comprehensive definitive drug testing panel (CDDP), as opposed to allowing providers to use multiple individual billing codes for such comprehensive testing.
14. All documents and correspondence from January 1, 2013 to the present related to, discussing, or reflecting Palmetto GBA's decisions with regard to the CDDP Panel, including but not limited to any and all decisions by Palmetto GBA to (a) include the CDDP Panel in a particular LCD or (b) exclude the CDDP from a particular LCD.

15. Any contract(s) between CMS and AdvanceMed pursuant to which AdvanceMed conducted BCIPS post-payment review.
16. All correspondence between CMS and AdvanceMed discussing AdvanceMed's denial of claims in its post-payment review of claims, or providing AdvanceMed instructions regarding the post-payment denial of claims.
17. All documents relating to AdvanceMed's denial of BCIPS claims in its post-payment review of claims.
18. All documents and correspondence from January 1, 2013 to the present related to, discussing, or reflecting Palmetto GBA's decision to either allow or disallow reimbursement to physician office labs (POLs) performing urine drug screening (UDS) using Liquid Chromatography Tandem Mass-Spectrometry (LC-MS) technology.
19. All documents and correspondence from January 1, 2013 to the present related to, discussing, or reflecting any communications between Palmetto GBA and any reference lab, Alere Toxicology, or Quest Diagnostics regarding POLs performing UDS using LC-MS technology.
20. All documents and correspondence relating to, discussing, or reflecting Palmetto GBA's formulation, in the Fall of 2013, of the first Local Coverage Determination (LCD) defining medical necessity for UDS procedures, including the decision to designate a reflex test as the method for determining medical necessity.
21. All documents and correspondence relating to, discussing, or documenting any communications with Barry Alexander concerning the substance of Palmetto GBA's first proposed LCD relating to the medical necessity of UDS procedures.
22. All documents and correspondence relating to or discussing Palmetto GBA's retirement, in March 2014, of its first proposed LCD relating to the medical necessity of UDS procedures and the reasons for that retirement.
23. All documents and correspondence relating to, discussing, or reflecting Palmetto GBA's formulation, in March 2014, of the second LCD defining medical necessity for UDS procedures.
24. All documents and correspondence relating to, discussing, or documenting a meeting that took place in Columbia, South Carolina, in April of 2014, involving Barry Alexander Elaine Jeter, M.D., attorney Jennifer Bolen, and the Chief Executive Officer (CEO) of Palmetto GBA, which meeting concerned the substance of Palmetto GBA's second proposed

LCD relating to the medical necessity of UDS procedures and the proposed across-the-board disallowance of reimbursement to POLs performing UDS procedures using LC-MS technology.

25. Any and all communications between CMS and attorney Jennifer Bolen regarding BCIPS or CMS's coverage determinations relating to BCIPS Medicare patients.

26. All documents, communications, and correspondence relating to or discussing Palmetto GBA's retirement, in May 2014, of its second proposed LCD relating to the medical necessity of UDS procedures and the reasons for that retirement.

27. All documents, communications, and correspondence relating to or discussing Palmetto GBA's decision to abandon its previously proposed policy of designating a reflex test as the method for determining medical necessity for UDS procedures.

28. All documents, communications, and correspondence related to CMS's decision to lift the suspension of payments to BCIPS.

In order to help determine our status to assess fees, you should know that we are a commercial requester. Please note we are willing to make an advance payment should that be necessary.

Please note that we are aware that we are entitled to make this request under the Freedom of Information Act and we are prepared to make an administrative appeal if necessary. In your response to our request, please indicate to us the name of the official to whom such an appeal should be addressed.

We are aware that if our request is denied, we are entitled to know the grounds for the denial. We are also aware that while the law allows your agency to withhold specified categories of exempted information, you are required by law to release any segregable portions that are left after the exempted material has been deleted from the data that we are seeking.

Please forward your response and the requested documents to us at the address listed in the signature block. Thank you for your prompt assistance in this matter, and please do not hesitate to contact us should you have any questions.

Sincerely,
Frank Kirschbaum
Charnanda T. Reid
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