

May 17, 2019

Via Electronic Mail and USPS Certified Mail

(7015-1520-0002-3043-2036)
(7015-1520-0002-3043-2043)

Ms. Markie High
SGS Southeastern Unified Program Integrity Contractor
3450 Lakeside Drive, SGS Suite 201
Miramar, FL 33027

Palmetto GBA
P.O. Box 100277
Columbia, SC 29202-3277
Attn: Records Custodian

Re: Freedom of Information Act Demand: Wellness Solutions Geriatrics, PLLC,
Reference No. WMM33A0000183097
CSE-170118-00021

Greetings:

Please be advised this Firm represents Wellness Solutions Geriatrics in the above referenced matter.

On March 14, 2019, Wellness Solutions Geriatrics, PLLC (hereinafter "WSG"), formally requested that SafeGuard Services provide WSG, through counsel, with the specific reasons for the findings of overpayment referenced in the above referenced correspondence. As previously discussed, of the approximately 146 procedures reviewed for the approximately 60 patient files submitted to SafeGuard by WSG, the reviewer comments indicated, in all but 4 instances, "the information provided does not support the need for this service". Further, when I requested that SafeGuard Services provide specific information as to why the documentation failed, in the opinion of the reviewer, to "support the need for the services", SafeGuard refused to comment further on the review.

As we have previously discussed with SafeGuard representatives, the generic denial leaves a lot of room for speculation. Specifically, WSG has previously requested that SafeGuard state how and why the documentation provided failed to support the need for the services. Did SafeGuard find issues with the physician's orders, the timing of the services, documentation of medical necessity, etc.?¹

¹ See Attached Correspondence dated March 19, 2019.

As you are aware, CMS requires providers to progress through five levels of a Medicare appeal for denials of payments. The administrative appeals process is intended to provide "an initial determination" relating to a claim...² As you are also aware, when a request is made for a redetermination, the party in disagreement with the determination "should include any evidence that the party believes should be considered by the contractor in making its redetermination".³ Finally, the Medicare Program Integrity Manual §4.8.2 provides as follows:

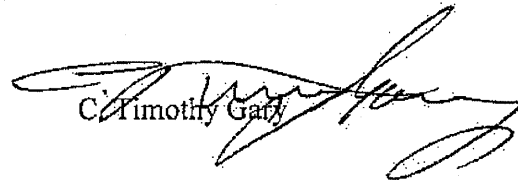
The UPIC shall include any position papers or rationale and support for its decision so that the appeals adjudicator can consider it during the appeals process. However, UPICs shall be aware that an appeals case file is discoverable by the appellant. This means that the appellant can receive a complete copy of the case file.

Based upon the authorities set forth herein, as well as the basic rights to due process, WSG has repeatedly requested that SafeGuard Services provide the basis for the determination that the services provided were not supported by appropriate documentation and that SafeGuard Services state with specificity the basis for this finding. The request by WSG is fundamental to an adequate and informed appeal of the initial finding. As you are aware, SafeGuard Services has caused approximately One Million, Five Hundred Thousand Dollars (\$1,750,000.00) to be held by CMS in this dispute. The impact of that decision has been to effectively destroy the practice and cause over one hundred employees to be forced out of their jobs. For SafeGuard to continue on this course without even acknowledging the requirement of a detailed explanation of its actions constitutes the text book definition of arbitrary and capricious actions.

Given the repeated refusal by SafeGuard Services to provide the requested information, WSG now formally demands access to the information previously requested, and referenced herein pursuant to the Freedom of Information Act as set forth in 5 U.S.C. §552. Please note that failure to respond to this request within twenty (20) days of the date of this correspondence will result in additional enforcement actions.

We respectfully request your response by June 7, 2019.

Sincerely,



C. Timothy Gatz

cc: Mr. Ed Sanchez, Palmetto GBA
Andrew Sparks, Esq.

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² See 42 CFR § 405.900

³ See 42 CFR §405.946

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March 19, 2019

Via Electronic Mail and USPS Certified Mail.

Ms. Markie High
SGS Southeastern Unified Program Integrity Contractor
3450 Lakeside Drive, SGS Suite 201
Miramar, FL 33027

Re: Wellness Solutions Geriatrics, PLLC, Reference No. WMM33A0000183097
CSE-170118-00021

Dear Ms. High:

This letter responds to SafeGuard Services' February 26, 2019 Notice of Overpayment.

Confirming our conversation of March 14, 2019, Wellness Solutions Geriatrics, PLLC (hereinafter "WSG"), formally requests that SafeGuard Services provide WSG, through counsel, with the specific reasons for the findings of overpayment referenced in the above referenced correspondence and the attached computer disc. As we discussed, of the approximately 146 procedures reviewed for the approximately 60 patient files submitted to SafeGuard by WSG, the reviewer comments indicated, in all but 4 instances, "the information provided does not support the need for this service". Further, when I requested that SafeGuard Services provide specific information as to why the documentation failed, in the opinion of the reviewer, to "support the need for the services", SafeGuard refused to comment further on the review.

As we discussed, the generic denial included in this correspondence leaves a lot of room for speculation. Specifically, WSG requests that SafeGuard state how and why the documentation provided fails to support the need for the services. Did SafeGuard find issues with the physician's orders, the timing of the services, documentation of medical necessity, etc.?

As you are aware, CMS requires providers to progress through five levels of a Medicare appeal for denials of payments. The administrative appeals process is intended to provide "an initial determination" relating to a claim...¹ As you are also aware, when a request is made for a redetermination, the party in disagreement with the determination "should include any evidence that the party believes should be considered by the contractor in making its redetermination."² Finally, the Medicare Program Integrity Manual §4.8.2 provides as follows:

1. See 42 CFR § 405.900
2. See 42 CFR § 405.916

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The UPIC shall include any position papers or rationale and support for its decision so that the appeals adjudicator can consider it during the appeals process. However, UPICs shall be aware that an appeals case file is discoverable by the appellant. This means that the appellant can receive a complete copy of the case file.

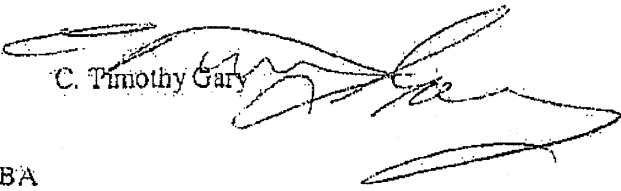
Based upon the authorities set forth herein, as well as the basic rights to due process, WSG again requests that SafeGuard Services provide the basis for the determination that the services provided were not supported for appropriate documentation and that SafeGuard Services state with specificity the basis for this finding. The request by WSG is fundamental to an adequate and informed appeal of the initial finding. As you are aware, SafeGuard Services has caused approximately One Million, Five Hundred Thousand Dollars (\$1,500,000.00) to be held by CMS in this dispute. The impact of that decision has been to effectively destroy the practice and cause over one hundred employees to be forced out of their jobs. For SafeGuard to continue on this course without even acknowledging the requirement of a detailed explanation of its actions constitutes the text book definition of arbitrary and capricious actions.

In the alternative to providing the information requested above, WSG requests that Palmetto GBA hold SafeGuard Services' review to be a final determination and allow WSG to proceed to judicial review by the United States District Court, given that immediate need for relief by WSG, resulting from the actions of SafeGuard Services to date.

We respectfully request your response by March 22, 2019.

Sincerely,

C. Timothy Gary



cc: Mr. Ed Sanchez, Palmetto GBA
Andrew Sparks, Esq.

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