

October 15, 2019

Via Electronic Mail and USPS Certified Mail

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 September 27, 2019, Wellness Solutions Geriatrics, PLLC (hereinafter "WSG"), filed an appeal of the overpayment determination made by Safeguard Services, LLC. (Please see attached). As discussed therein, WSG has previously requested that SafeGuard Services provide WSG, through counsel, with the specific reasons for the findings of overpayment referenced in the above referenced correspondence. This information is a necessary and indispensable component of WSG's appeal of the previous findings.

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...<sup>1</sup> 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".<sup>2</sup> 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.

<sup>1</sup> See 42 CFR § 405.900

<sup>2</sup> See 42 CFR §405.946

Based upon the authorities set forth herein, as well as the basic rights to due process, WSG has repeatedly requested that it be provided with 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.

Given the repeated refusal by SafeGuard Services to provide WSG with specifically articulated details related to the review of the claims and the specific reasons for the denial, 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. Specifically, the request for information is for a complete copy of the review file, including but not limited to, all reviewer notes, documents relied upon, specifics related to the reasons and rationale relied upon in by the reviewer / reviewers in reaching the overpayment determination.

We respectfully request your response by November 3, 2019.

Sincerely,

  
C. Timothy Gary

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

NASHVILLE 85864-1 710249M

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