

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into between the North Carolina Office of the Attorney General on behalf of the State of North Carolina (“North Carolina”) and both Arjumand Syed, M.D., and New Hope Urgent Care, PLLC, a North Carolina corporation (hereinafter referred collectively as “Syed”), each of whom are North Carolina Medicaid Providers. Each of the above are hereafter referred to as “the Parties” through their authorized representative.

RECITALS

A. Syed was a Medicaid Provider since at least 2017 and provides internal medicine and substance abuse treatment to Medicaid beneficiaries in and around Durham County, North Carolina. Medicaid Providers may submit claims to the North Carolina Medicaid Program for services that are medically necessary for the care of Medicaid beneficiaries and which comply with Medicaid Clinical Policy.

B. The State contends that it has certain civil claims against Syed arising from the following conduct, during the dates of January 1, 2018 through July 11, 2021, for Syed’s submission of claims to the North Carolina Medicaid Program for medical services, to wit, as follows:

Claims for CPT 99214 – Evaluation & Management for an established patient in an office or outpatient location, which the State contends had no supporting clinical documentation, were not medically necessary, and which were performed in violation of Division of Health Benefits Clinical Coverage Policy (the “Covered Conduct”).”

C. North Carolina contends that Syed’s submission of such claims for payment to the North Carolina Medicaid Program (Medicaid), Title XIX of the Social Security Act, 42 U.S.C. §§ 1396-1396v, violates the North Carolina False Claims Act, N.C.G.S. §§ 1-605, et seq., and the Medical Assistance Provider Claims Act, N.C.G.S. §§ 108A-70.10, et seq.

D. Syed denies the allegations in Paragraphs B. and C. This Agreement is neither an admission of liability by Syed nor a concession by the State that its claims are not well founded.

E. 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. Syed shall pay to North Carolina the aggregate principal amount of one hundred seventy thousand dollars (\$170,000.00) (the “Settlement Amount”), of which \$85,000.00 is restitution. No later than forty five (45) days after full execution of this Agreement, Syed shall pay to the State of North Carolina the entire amount set forth above to be credited by the Government towards the Settlement Amount. Said payment shall be made by **certified check**, payable to the North Carolina Fund for Medical Assistance and **delivered** to the Medicaid Investigations Division (“MID”), 5505 Creedmoor Road, Suite 300, Raleigh, NC 27612 (“MID address. Upon any default by Syed of the terms contained in Paragraph 1 or any other terms of this Agreement, the Government shall have the unconditioned right to accelerate payment and require that the full Settlement Amount then-outstanding be immediately due and payable.

2. Subject to the exceptions in Paragraph 4 (concerning excluded claims) below, and conditioned upon Syed’s full payment of the Settlement Amount, North Carolina releases Arjumand Syed, M.D., and New Hope Urgent Care, PLLC, from the North Carolina Medical Assistance Provider Fraud Claims Act, N.C.G.S. 108A-70.10, et seq.; the North Carolina False Claims Act, N.C.G.S. § 1-605, et seq.; the common law theories of payment by mistake, unjust enrichment, and fraud; and any other right to recoupment or recovery of the Medicaid payments related to the Covered Conduct.

3. In the event that Syed fails to pay any amount as provided in Paragraph 1, above,

within five (5) business days of the date upon which such payment is due, Syed shall be in Default of their payment obligations (“Default”). North Carolina will provide written notice of the Default, and Syed shall have an opportunity to cure such Default within thirty (30) business days from the date of the receipt of the notice. Notice of Default will be delivered via certified mail to Syed, or to such other representative as Syed shall designate in advance in writing. If Syed fails to cure the Default within thirty (30) business days of receiving the Notice of Default, the remaining unpaid balance of the Settlement Amount shall become immediately due and payable, and interest shall accrue at the rate of 12% per annum compounded daily from the date of Default on the remaining unpaid total (principal, balance and interest due). In the event of a Default, the State may, in its sole discretion, choose to set aside the Agreement and bring an action against Arjumand Syed, M.D., and/or New Hope Urgent Care, PLLC, for the Covered Conduct.

4. Notwithstanding the releases given in paragraph 2 of this Agreement, or any other term of this Agreement, the following claims 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, including mandatory or permissive exclusion from government health care programs;
- d. Any liability to North Carolina (or its agencies) for any conduct other than the Covered Conduct;
- e. any civil or administrative liability under any statute, regulation, or rule not expressly covered by the release in Paragraph 2 above, including, but not limited to, any and all of the following claims: (i) claims involving unlawful or illegal conduct based on State or federal antitrust violations; and (ii) claims involving unfair and/or

deceptive acts and practices and/or violations of consumer protection laws, and;

f. Any liability based upon obligations created by this Agreement.

5. Syed waives and shall not assert any defenses it may have 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 to any criminal prosecution or administrative action relating to the Covered Conduct. This Agreement bars those remedies in such a criminal prosecution or administrative action. Beyond these defenses, which are specifically waived, Syed retains and reserves their rights to assert any other defenses in any criminal prosecution or administrative action that might be brought.

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

7. The Settlement Amount shall not be decreased as a result of the denial of claims for payment and which now being withheld from payment by the Medicaid Program or any Medicaid contractor or intermediary or any state payor on behalf of the Medicaid Program, related to the Covered Conduct; and Syed agrees not to resubmit to the Medicaid Program, any state payor or any of the other above entities acting on behalf of the Medicaid Program, any previously denied claims related to the Covered Conduct, and agrees not to appeal any such denials of claims related to the Covered Conduct.

8. 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 as provided in this paragraph. Syed agrees that it waives and shall not seek payment for any of the health care billings related to the

Covered Conduct from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third-party payors based upon the claims defined as Covered Conduct.

9. Arjumand Syed, M.D., and New Hope Urgent Care, PLLC, warrant that they have each reviewed their respective financial situation(s) and that they are currently solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and shall, to the fullest extent possible, remain solvent during payment to North Carolina of the Settlement Amount. Further, the Parties warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants, and obligations set forth constitute a contemporaneous exchange for new value given to Arjumand Syed, M.D., and New Hope Urgent Care, PLLC, within the meaning of 11 U.S.C. § 547(c)(1), and (b) conclude that these mutual promises, covenants, and obligations due, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value that is not intended to hinder, delay, or defraud any entity to which either Arjumand Syed, M.D., or New Hope Urgent Care, PLLC, was or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

10. If within 91 days of the Effective Date of this Agreement or of any payment made under this Agreement, either Arjumand Syed, M.D., and/or New Hope Urgent Care, PLLC, commences, or a third party commences, any case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors (a) seeking to have any order for relief of either Arjumand Syed, M.D., and/or New Hope Urgent Care, PLLC's debts, or seeking to adjudicate Arjumand Syed, M.D., and/or New Hope Urgent Care, PLLC, as bankrupt or insolvent; or (b) seeking appointment of a receiver, trustee, custodian, or other similar official for Arjumand Syed, M.D., and/or New Hope Urgent Care, PLLC, or for all or any substantial part of Arjumand Syed, M.D., and/or New Hope Urgent Care, PLLC's assets, Arjumand Syed, M.D., and

New Hope Urgent Care, PLLC, agree as follows:

a. Arjumand Syed, M.D. and/or New Hope Urgent Care, PLLC's obligations under this Agreement may not be avoided pursuant to 11 U.S.C. § 547, and both Arjumand Syed, M.D., and New Hope Urgent Care, PLLC, shall not argue or otherwise take the position in any such case, proceeding, or action that: (i) Arjumand Syed, M.D. and/or New Hope Urgent Care, PLLC's obligations under this Agreement may be avoided under 11 U.S.C. § 547; (ii) Arjumand Syed, M.D., and/or New Hope Urgent Care, PLLC, was insolvent at the time this Agreement was entered into, or became insolvent as a result of the payment made to North Carolina; or (iii) the mutual promises, covenants, and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to Arjumand Syed, M.D., or New Hope Urgent Care, PLLC.

b. If , M.D., and/or New Hope Urgent Care, PLLC's obligations under this Agreement are avoided for any reason, including, but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code, North Carolina, at its sole option, may rescind the releases in this Agreement and bring any civil and/or administrative claim, action, or proceeding against Arjumand Syed, M.D., and/or New Hope Urgent Care, PLLC, for the claims that would otherwise be covered by the releases provided in Paragraph 5 above. Arjumand Syed, M.D., and New Hope Urgent Care, PLLC, agree that (i) any such claims, actions, or proceedings brought by North Carolina are not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) as a result of the action, case, or proceedings described in the first clause of this Paragraph, and neither Arjumand Syed, M.D., nor New Hope Urgent Care, PLLC, shall argue or otherwise contend that North

Carolina's claims, actions, or proceedings are subject to an automatic stay; (ii) Arjumand Syed, M.D., and New Hope Urgent Care, PLLC, shall not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claims, actions, or proceeding that are brought by North Carolina within sixty (60) calendar days of written notification to Arjumand Syed, M.D., and/or New Hope Urgent Care, PLLC, that the releases have been rescinded pursuant to this Paragraph, except to the extent such defenses were available on the Effective Date of this Agreement and (iii) North Carolina may pursue its claim in the case, action, or proceeding referenced in the first clause of this Paragraph, as well as in any other case, action, or proceeding.

c. Syed acknowledges that its agreement in this Paragraph is provided in exchange for valuable consideration provided in this Agreement.

11. Each of the Parties shall bear their own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

12. Each of the parties and signatory to this Agreement represents that they freely and voluntarily enter into this Agreement without any degree of duress or compulsion.

13. 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.

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

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

16. This Agreement may be executed in counterparts, each of which constitutes an

original and all of which constitute one and the same Agreement.

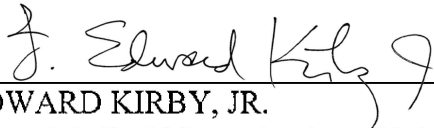
17. The invalidity, illegality, or unenforceability of any provisions of this Agreement shall not affect the validity, legality, or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

18. This Agreement is binding on the Parties' successors, transferees, heirs, and assigns.

19. All parties consent to the disclosure by North Carolina or any other disclosure required by law of this Agreement, and information about this Agreement, to the public.

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

STATE OF NORTH CAROLINA



F. EDWARD KIRBY, JR.
Director, Medicaid Investigations Division
Office of the Attorney General

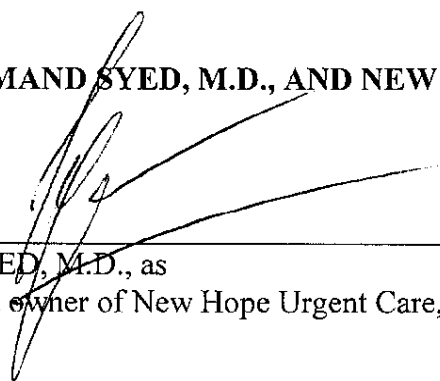
Dated: 8/8/2022

NC DEPARTMENT OF HEALTH & HUMAN SERVICES,
DIVISION OF HEALTH BENEFITS

DAVE RICHARD
Deputy Secretary, NC Medicaid
NC Department of Health & Human Services, Division of Health Benefits

Dated: _____

ARJUMAND SYED, M.D., AND NEW HOPE URGENT CARE, PLLC



ARJUMAND SYED, M.D., as
an individual, and owner of New Hope Urgent Care, PLLC

Dated: 8/8/2022

STATE OF NORTH CAROLINA

F. EDWARD KIRBY, JR.
Director, Medicaid Investigations Division
Office of the Attorney General

Dated: _____

**NC DEPARTMENT OF HEALTH & HUMAN SERVICES,
DIVISION OF HEALTH BENEFITS**

DocuSigned by:
Dave Richard
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DAVE RICHARD
Deputy Secretary, NC Medicaid
NC Department of Health & Human Services, Division of Health Benefits

Dated: 08/04/22 | 7:35 AM PDT

ARJUMAND SYED, M.D., AND NEW HOPE URGENT CARE, PLLC

ARJUMAND SYED, M.D., as
an individual, and owner of New Hope Urgent Care, PLLC

Dated: _____