



**JEFF JACKSON**  
**ATTORNEY GENERAL**

**STATE OF NORTH CAROLINA**  
**DEPARTMENT OF JUSTICE**

**ERIC WILSON**  
**CHIEF OF STAFF**

January 6, 2025

North Carolina Senate President Pro Tempore Phil Berger  
North Carolina House of Representatives Speaker Tim Moore  
Co-Chairs, Joint Legislative Commission on Governmental Operations

Senator Danny Earl Britt, Jr.  
Senator Warren Daniel  
Representative Ted Davis, Jr.  
Representative Dudley Greene  
Representative Charles W. Miller  
Representative Carson Smith  
Co-Chairs, Appropriations Subcommittee on Justice and Public Safety

North Carolina General Assembly  
Raleigh, North Carolina 27601-1096

RE: G.S. §114-2.5; Report on Settlement Agreement for Report on Settlement Agreement for Carter Clinic, PA

Dear Members:

Section 114-2.5 of the North Carolina General Statutes requires the Attorney General to report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Appropriations Subcommittees on Justice and Public Safety regarding all settlements and court orders which result in more than \$75,000.00 being paid to the State. Pursuant to that statute, I am writing regarding the settlement of claims for Medicaid reimbursement to the state and federal governments in the above-referenced matter. Pursuant to federal law (42 C.F.R. § 433.320) recoveries in these cases are shared on a pro rata basis by the state and federal governments.

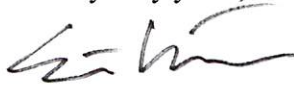
A settlement has been executed between Carter Clinic, PA and the State of North Carolina.

The settlement resolves allegations that from January 1, 2020 through May 27, 2024, Carter Clinic submitted false claims to the Medicaid program by billing for medically unnecessary urine drug testing and peer support services.

Under the terms of North Carolina's settlement, the State of North Carolina will recover \$891,937.50. Of that amount the federal government will receive \$547,203.66 for North Carolina's federal portion of Medicaid recoveries. The North Carolina Medicaid Program will receive \$175,370.02 as restitution and interest. In addition, pursuant to Article IX, Section 7 of the North Carolina Constitution and G.S. § 115C-457.1, the penalty portion of the settlement in the amount of \$156,800.63 will be paid to the Civil Penalty Forfeiture Fund for the support of North Carolina public schools. Pursuant to G.S. § 115C-457.2 and G.S. § 1-608(c), the North Carolina Department of Justice will receive \$12,563.19 for investigative costs and costs of collection.

We will be happy to respond to any questions you may have regarding this report.

Very truly yours,



Eric Wilson  
Chief of Staff

LB:ng

cc: Sean Hamel, NCGA Fiscal Research Division  
Mark White, NCGA Fiscal Research Division  
Morgan Weiss, NCGA Fiscal Research Division

**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” or “State”) and Carter Clinic, P.A., (“Carter”), a North Carolina Medicaid Provider, and Myleme Nyerere Ojinga Harrison, M.D. Each of the above is hereafter referred to as “the Parties” through their authorized representative.

**RECITALS**

A. Carter Clinic, P.A., is a North Carolina company headquartered in Raleigh, North Carolina. Carter has been a Medicaid Provider since at least 2010 and operates a clinical laboratory and offers clinical laboratory services for Medicaid beneficiaries in and around the State of North Carolina, including but not limited to urine drug testing (“UDT”). Additionally, Carter provides outpatient Substance Use Disorder treatment and counseling, including but not limited to Peer Support Services, at its various medical offices throughout the State. 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. North Carolina contends that it has certain civil claims against Carter arising from the following conduct, during the dates of January 1, 2020, through May 27, 2024, for Carter’s submission of claims to the North Carolina Medicaid Program for medical services, to wit, as follows:

To wit, North Carolina contends that (1) Carter clinicians ordered frequent and repetitive definitive UDTs on its patient population, a majority of which it was treating for substance use disorder(s). For that patient population, Carter performed definitive testing at a level of at least 15-21 classes of drugs per sample (CPT G0482) without alteration as to the level of testing performed by Carter throughout the duration of the Medicaid beneficiaries’ treatment, irrespective of the

results and progression, or lack thereof, by the beneficiary in terms of his/her treatment for substance abuse. Furthermore, Carter failed to perform and/or obtain the results of said testing within a reasonable period of time following collection of the sample. The State contends that this definitive testing was not medically necessary or reasonable under North Carolina Medicaid policy. Yet, from January 1, 2020, through May 27, 2024, Carter billed, or caused to be billed, Medicaid for medically unnecessary definitive UDTs; and (2) Carter provided as part of its substance use disorder treatment Peer Support Services (H0038). A review of patients receiving said Peer Support Services at two offices located in Wilmington and Elizabethtown, North Carolina revealed a failure to appropriately document the service billed for with the patient (e.g., copied and pasted “Effectiveness of Intervention/Activity” sections, incorrect use of patient pronouns throughout the interaction, and repeated instances of documented information which could not have logically been obtained from that particular patient). Carter failed to adequately and properly employ Quality Assurance oversight in reviewing its Peer Support Services at these two office locations. The State contends that some of the Peer Support Services provided by Carter was not medically necessary or reasonable under North Carolina Medicaid policy. Yet, from January 1, 2020, through May 27, 2024, Carter billed, or caused to be billed, Medicaid for medically unnecessary Peer Support Services. This conduct is hereafter referred to as the “Covered Conduct.”

C. North Carolina contends that Carter’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. Carter denies the allegations in Paragraphs B. and C. This Agreement is neither an admission of liability by Carter 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. Carter shall pay to North Carolina the aggregate principal amount of eight hundred twenty-five thousand dollars (\$825,000.00) (the "Settlement Amount"), of which \$412,500.00 is restitution. No later than thirty (30) days after full execution of this Agreement, Carter shall pay to the State of North Carolina the amount of \$300,000.00 to be credited by the State towards the Settlement Amount. Thereafter, over a period of no more than thirty (30) months ("Payment Period") after the Initial Payment, Carter will pay the remaining \$525,000.00, plus interest at 4.25% per annum, pursuant to the payment schedule attached as **Exhibit A** (the "Payments Over Time") by 5:00 p.m. Eastern Standard Time on or before each due date. The Settlement Amount may be prepaid, in whole or in part, without penalty or premium. Said payments 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. Upon any default by Carter of the terms contained in Paragraph 1 or any other terms of this Agreement, North Carolina shall have the unconditioned right to accelerate payment in the manner set forth in Paragraph 3 below. In addition, Carter will execute a Confession of Judgment for the outstanding balance which is to be held by NCDOJ/MID and filed in the appropriate Court of Jurisdiction only in the event of a breach of this Agreement by Carter. Said Confession is attached hereto as **Exhibit B** to the Settlement Agreement.

2. Subject to the exceptions in Paragraph 4 (concerning excluded claims) below, and conditioned upon Carter's full payment of the Settlement Amount, North Carolina releases Carter and Dr. Harrison 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; any other right to recoupment or recovery of the Medicaid payments related to the Covered Conduct.

3. In the event that Carter 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, Carter shall be in default of their payment obligations (“Default”). North Carolina will provide written notice of the Default, and Carter 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 Carter, or to such other representative as Carter shall designate in advance in writing. If Carter 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 Carter 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. Carter waives and shall not assert any defenses it may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, 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, this Agreement bars a remedy sought in such criminal proceeding or administrative action. This Agreement bars those defenses in such a criminal prosecution or administrative action. Beyond these defenses, which are specifically waived, Carter retains and reserves their rights to assert any other defenses in any criminal prosecution or administrative action that might be brought.

6. Carter 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 Carter 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 are 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 Carter 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. Although the Parties are not aware of any cost-reporting obligations related to the covered conduct, to the extent applicable Carter agrees to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47; and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395lll and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Carter, its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) The matters covered by this Agreement;
- (2) The Governments' audit(s) and investigation(s) of the matters covered by this Agreement;
- (3) Carter's investigation, defense, and corrective actions undertaken in response to the Governments' audit(s) and investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) The negotiation and performance of this Agreement; and,
- (5) The payments Carter makes to North Carolina pursuant to this Agreement, are unallowable costs for government contracting purposes and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP), hereinafter referred to as "Unallowable Costs".

b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for by Carter, and Carter shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States or any State Medicaid program, or seek payment for such Unallowable Costs through any cost report, cost statement, information 4830-6716-3041.1 6 statement, or payment request submitted by Carter for cost-based reimbursement related services, or any of its subsidiaries or affiliates to the Medicare, Medicaid,

TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Carter further agrees that within 90 days of the Effective Date of this Agreement, it shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid and FEHBP fiscal agents, any Unallowable Costs (as defined in this paragraph) included in payments previously sought from the United States, or any State Medicaid program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by Carter or any of its subsidiaries or affiliates for cost-based reimbursement related services, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the Unallowable Costs. Carter agrees that the United States, or any affected State Medicaid program, at a minimum, shall be entitled to recoup from Carter any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously submitted cost reports, information reports, cost statements, or requests for payment for cost-based reimbursement related services,. Any payments due after the adjustments have been made shall be paid to the United States or any affected State Medicaid program pursuant to the direction of the Department of Justice and/or the affected State Medicaid agencies. The United States and any affected State Medicaid program reserve their rights to disagree with any calculations submitted by Carter or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Carter or any of its subsidiaries or affiliates' cost reports, cost statements, or information reports.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States or any affected State Medicaid Program to audit, examine, or re-examine Carter's books and records to determine that no Unallowable Costs have been claimed in accordance with the

provisions of this paragraph.

9. 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. Carter 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.

10. Carter warrants that it has reviewed its financial situation and that it is 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 Carter 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 Carter was or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

11. If within 91 days of the Effective Date of this Agreement or of any payment made under this Agreement, Carter 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 Carter's debts, or seeking to adjudicate Carter as bankrupt or insolvent; or (b) seeking appointment of a receiver, trustee, custodian, or other similar official for Carter, or for all or any substantial part of Carter's assets, Carter agrees as follows:

a. Carter's obligations under this Agreement may not be avoided pursuant to 11 U.S.C. § 547, and Carter shall not argue or otherwise take the position in any such case, proceeding, or action that: (i) Carter's obligations under this Agreement may be avoided under 11 U.S.C. § 547; (ii) Carter 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 Carter.

b. If Carter'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 Carter, for the claims that would otherwise be covered by the releases provided in Paragraph 5 above. Carter agrees that (i) any such claims, actions, or proceedings brought by North Carolina are not subject to an "automatic stay" as a result of the action, case, or proceedings described in the first clause of this Paragraph, and Carter shall not argue or otherwise contend that North Carolina's claims, actions, or proceedings are subject to an automatic stay; (ii) Carter 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 Carter 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. Carter acknowledges that its agreement in this Paragraph is provided in exchange for valuable consideration provided in this Agreement.

12. 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.

13. 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.

14. 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.

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

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

17. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

18. If any term or provision of this Agreement is invalid, illegal, or unenforceable, such term or provision be excluded and stricken from this Agreement to the extent of such invalidity, illegality, or unenforceability; all other terms and provisions herein shall remain in full force and effect.

19. Carter agrees to cooperate fully and truthfully with any State investigation of individuals or entities not released in this Agreement. Upon reasonable notice of such an investigation, Carter shall encourage, and agrees not to impair, the cooperation of its directors, officers, and employees, and shall use its best efforts to make available and encourage, the cooperation of former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such individuals and of Carter. Upon request, Carter agrees to furnish to the State complete and unredacted copies of all non-privileged documents including, but

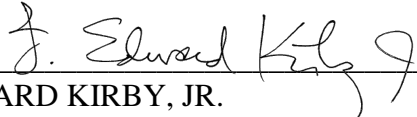
not limited to, reports, memoranda of interviews, and records in its possession, custody, or control, concerning any investigation of the Covered Conduct that it has undertaken, or that has been performed by another on its behalf, as well as complete and unredacted copies of any other non-privileged documents in its possession, custody, or control relating to the Covered Conduct. Carter shall be responsible for all costs it may incur in complying with this paragraph.

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

21. 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.

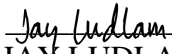
22. This Agreement is effective on the date of signature of the last signatory to the Agreement (the "Effective Date" of this Agreement). Facsimiles, PDFs, or similar electronic transmissions of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

**STATE OF NORTH CAROLINA**

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

Dated: 10/25/2024


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


DocuSigned by:  
  
\_\_\_\_\_  
JAY LUDLAM  
Deputy Secretary, NC Medicaid  
NC Department of Health & Human Services, Division of Health Benefits

Dated: 10/28/24 | 9:33 AM EDT

**DIVISION OF HEALTH BENEFITS**

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Dated: \_\_\_\_\_  
JAY LUDLUM  
Deputy Secretary, NC Medicaid  
NC Department of Health & Human Services, Division of Health Benefits

CARTER CLINIC, P.A.  
  
\_\_\_\_\_  
Dated: 10/23/2024  
MYLEME HARRISON, M.D., as Owner and CEO, Carter  
Clinic, P.A.

  
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Dated: 10/24/2024  
BRIAN CROMWELL, Counsel for Carter Clinic, P.A. (as to form only)