



State of North Carolina

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North Carolina Senate President Pro Tempore Marc Basnight
North Carolina House of Representatives Speaker James Black
Co-Chairs, Joint Legislative Commission on Governmental Operations

Senator Scott Thomas
Representative R. Phillip Haire
Co-Chairs, Appropriations Subcommittees on Justice and Public Safety

North Carolina General Assembly
Raleigh, North Carolina 27601-1096

RE: G.S. §114-2.5; Reports on Settlement Agreement for Gambro Healthcare, Inc.
and Albermarle Home Care Systems, Inc.

Gentlemen:

G.S. §114-2.5 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 matters. Pursuant to federal law (42 CRS 433.320) recoveries in these cases are shared on a pro-rata basis by the State and Federal governments.

On August 15, 2005 a Settlement Agreement was executed between Gambro Healthcare, Inc., the United States Department of Health and Human Services and the North Carolina Department of Justice. Gambro Healthcare, Inc. owns and operates dialysis practices and treatment centers throughout North Carolina and provided dialysis services for which the Medicaid Program made payment. The settlement covers the time period from January 1, 1991 through December 1, 2004. The State and Federal governments alleged that Gambro Healthcare, Inc. submitted claims to the Medicare and Medicaid Programs for upcoded services or services which were not reimbursable because they were tainted by illegal payments to physicians to influence referral. Pursuant to the Settlement Agreement, the United States received restitution and penalties in the amount of \$936,161.28. North Carolina received restitution and penalties in

the total amount of \$613,492.58. The North Carolina Medicaid Program received restitution in the amount of \$314,227.91. A portion of the state share will be returned to the affected counties based upon their financial participation in the Medicaid Program. 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 \$299,264.67 will be paid to the Civil Penalty Forfeiture Fund for the support of the public schools.

On September 5, 2005 a Settlement Agreement was executed between Albermarle Home Care Systems, Inc., the United States Department of Health and Human Services, and the North Carolina Department of Justice. Albermarle Home Care Systems, Inc. provided durable medical equipment and services for which the Medicaid Program made payment. The settlement covers the time period from October 1, 1996 through February 28, 2002. The State and Federal governments alleged that Albermarle Home Care Systems, Inc. submitted claims to the Medicare and Medicaid Programs for services, which were not reimbursable because they were not properly documented according to Medicare and Medicaid rules and regulations. Pursuant to the Settlement Agreement, the United States received restitution and penalties in the amount of \$1,366,966.00. North Carolina received restitution and penalties in the total amount of \$296,034.00. The North Carolina Medicaid Program received restitution in the amount of \$197,356.37. A portion of the state share will be returned to the affected counties based upon their financial participation in the Medicaid Program. 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 \$98,677.63 will be paid to the Civil Penalty Forfeiture Fund for the support of the public schools.

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

Very truly yours,

Kristi Hyman
Chief of Staff

KH:kds

cc: Jim Johnson, Director of Fiscal Research
Chloe Gossage, NCGA Fiscal Research Division
Nels Roseland, NCDOJ, Deputy Chief of Staff