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BRIAN R. MARTINOTTI
J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, BERGEN COUNTY

IN RE: ZELNORM LITIGATION	)	
	)	**CIVIL ACTION NO. 280**
	)	
	)	

QUALIFIED PROTECTIVE ORDER

Certain counsel representing plaintiffs in the above captioned matter (collectively, "certain Plaintiffs' counsel) have retained The Garretson Firm Resolution Group ("GFRG") to provide the Centers for Medicare and Medicaid Services ("CMS"), The Medicare Secondary Payer Department and the Medicaid programs of each state, territory and the District of Columbia ("the Single State Agencies") with a list of clients/plaintiffs represented by certain Plaintiffs' counsel (a complete list of those clients/plaintiffs to CMS and a list to the Single State Agencies of those clients/plaintiffs residing now in each respective Agency's state or territory) (collectively, "the Lists"), to determine which of plaintiffs are beneficiaries in the Medicare and / or Medicaid health care plans. The Single State Agencies as well as CMS have asserted, or will assert, statutory liens or reimbursement claims against the settlement proceeds of those plaintiffs in the above-captioned matter who are also Medicaid and / or Medicare eligible. The entry of a HIPAA-compliant qualified protective order is necessary in this action in order to permit the Single State Agencies and CMS to transmit protected health information, regarding the clients/plaintiffs of certain Plaintiffs' counsel who have retained the services of GFRG, directly to GFRG to assist in the resolution of the agency's interest. The Court being sufficiently advised, IT IS HEREBY ORDERED as follows:

1. This Qualified Protective Order shall apply to all "protected health information" and "individually identifiable health information", as defined by 45 CFR § 160.103, or information that is otherwise protected from disclosure by the Privacy Act, 5 U.S.C. § 551a, the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 42 CFR Section 431 Subpart F, titled "Safeguarding Information on Applicants and Recipients" and other applicable state law, created, received or collected from Medicaid and / or Medicare-eligible Plaintiffs by Single State Agencies and CMS, including, but not limited to: (1) names and addresses, dates of birth, social security numbers, Medicaid or Medicare identification numbers and other demographic information that identifies, or could be used to identify Medicaid and /or Medicare-eligible Plaintiffs; (b) eligibility and entitlement information of Medicaid and / or Medicare-eligible Plaintiffs; (c) claims information relating to the past, present, or future health care of Medicaid and / or Medicare-eligible Plaintiffs; (d) claims information relating to the provision of healthcare to Medicaid and / or Medicare-eligible Plaintiffs; and, (e) claims information relating to the past, present, or future payment for the provision of healthcare to Medicaid and / or Medicare-eligible Plaintiffs.

2. In order to assist in the resolution of Medicaid and Medicare's interest, each individual Single State Agency and CMS is hereby authorized and directed to transmit to GFRG any information, including Medicaid and Medicare claims information and other protected health information, for those Medicaid and / or Medicare-eligible Plaintiffs in the above-caption matter against whom they have asserted liens or reimbursement claims.

3. GFRG shall not use or disclose any protected health information or individually identifiable health information subject to this Qualified Protective Order for any purpose other than this litigation. Similarly, the Single State Agency and CMS shall only use the Lists for the specific purposes of transmitting to GFRG any information, including Medicaid and / or Medicare claims information and other protected health information, for those Medicaid and / or Medicare-eligible Plaintiffs in the above-captioned matter against whom the Single State Agency and CMS has asserted liens or reimbursement claims, or in whose potential settlements the Single State Agency and CMS may have an interest. The Single State Agency and CMS shall only make the Lists available to those within their respective Agency who need access to the Lists for the specific purpose stated in this paragraph. If the Agency utilizes outside vendors or companies to perform part or all of their tort recovery practices, the outside vendors or companies shall be expressly bound by all terms and conditions of this Qualified Protective Order.

4. GFRG shall maintain any protected health information or individually identifiable health information subject to this Qualified Protective Order in a secure and safe area and shall exercise the same standard of due and proper care with respect to the storage, custody, use and/or dissemination of such protected health information as is exercised by GFRG with respect to its own confidential proprietary information.

5. At the conclusion of this litigation, GFRG shall certify to the Single State Agency and CMS that the protected health information or individually identifiable health information, including all copies made, has been destroyed.

6. For purposes of the Qualified Protective Order, the phrase "Medicaid and/or Medicare-eligible Plaintiffs" refers to those Plaintiffs who are beneficiaries of said programs or were beneficiaries of said programs at any time between the date of his or her first ingestion up to and including the effective date of the settlement for any Plaintiff. In this regard, the applicable time period covered by this Qualified Protective Order begins with the date of ingestion by each Medicaid and / or Medicare-eligible Plaintiff in the above-captioned matter and ends with the effective date of any settlement for any Plaintiff.

IT IS SO ORDERED.

Dated: November 9, 2010

Judge Brian R. Martinotti