

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General (OIG-HHS) of the Department of Health and Human Services (HHS) (collectively, the “United States”); SHC Home Health Services of Florida, LLC, SHC Home Health Services-Jacksonville, LLC, SHC Home Health Services-Jensen Beach, LLC, SHC Home Health Services-Lakeland, LLC, SHC Home Health Services-Longwood, LLC, SHC Home Health Services-Ocala, LLC, SHC Home Health Services-Port Charlotte, LLC, and SHC Home Health Services-ChIPLEY, LLC (collectively “Signature HomeNow”); and Barbara Mellott-Yezman and Patricia Rench, both individuals, (collectively “Relators”) (hereafter, United States, Signature HomeNow and Relators are collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. Signature HomeNow operates home healthcare services in Florida and has its corporate headquarters located in Louisville, Kentucky. Signature HomeNow bills Medicare for home health services it provides to Medicare beneficiaries.

B. On December 23, 2015, Barbara Mellott-Yezman and Patricia Rench filed a qui tam action in the United States District Court for the Southern District of Florida captioned United States ex rel. Barbara Mellott-Yezman and Patricia Rench v. SHC Home Health Services-Ocala, LLC et al., Case No. 15-cv-24713, pursuant to the qui tam provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”). Among other allegations, the Civil Action alleges that Signature HomeNow knowingly submitted fraudulent and otherwise false claims for payment to Medicare for patients who were not homebound; knowingly submitted fraudulent and

otherwise false claims for payment to Medicare for patients who did not have proper referrals or orders to receive home health services; and improperly certified Medicare beneficiaries for home health services who were not otherwise qualified to receive such services.

C. The United States contends that Signature HomeNow submitted or caused to be submitted claims for payment to the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395lll (“Medicare”).

D. The United States contends that it has certain civil claims against Signature HomeNow for conduct occurring during the period from May 1, 2013 through May 29, 2017. Specifically, the United States contends that Signature HomeNow improperly admitted and provided services to Medicare beneficiaries who: (i) were not homebound; (ii) did not require certain skilled care; (iii) did not have a valid or otherwise appropriate plans of care in place; and/or (iv) did not have appropriate face-to-face encounters needed in order to be appropriately certified to receive home health services. That conduct is referred to below as the “Covered Conduct.”

F. This Settlement Agreement is neither an admission of any allegation or liability by Signature HomeNow nor a concession by the United States that its claims are not well founded.

G. Relators claim entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement (the “Relators’ Share”) and to Relators’ reasonable expenses, attorneys’ fees and costs.

H. 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 Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. On the Closing Date of the Asset Sale (as such terms are defined below), Signature HomeNow shall, jointly and severally, pay to the United States two million, one hundred thousand dollars (\$2,100,000.00) (the “Settlement Amount”), of which \$2,100,000.00 is restitution, by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney’s Office for the Western District of Kentucky, plus a contingency payment as outlined in Subparagraph 1.a. below (if applicable).

a. Contingency Payment: Signature HomeNow anticipates entering into an asset purchase agreement with a third-party on March 1, 2022 for the sale of substantially all of Signature HomeNow’s assets (the “Asset Sale”). The closing of the Asset Sale is expected to occur on April 1, 2022 (together with any extension of the closing, the “Closing Date”). On the Closing Date (and by wire transfer), in addition to the Settlement Amount, Signature HomeNow shall pay the United States 25 percent of the net sale proceeds (defined as the purchase price less (a) the Settlement Amount, (b) reasonable transaction costs, (c) any federal, state, and local taxes or fees, (d) outstanding debts of Signature HomeNow on the books of Signature HomeNow as of the Closing Date to unrelated third parties, and (e) the outstanding advance from its parent company for Signature HomeNow’s payroll obligations and FICA taxes (all of which shall be set forth on a closing payment statement, which shall be approved in advance of the Closing Date, by the United States)). Said payments under this Paragraph 1.a. shall be referred to as the “Contingency Amount.” In all events, the United States shall be paid under this

Paragraph 1.a. before any dividend or return of capital is made to equity holders, provided that Signature HomeNow shall be permitted to make distributions, prior to payment in full of the United States under this Paragraph, to their equity holders to the extent necessary to permit such equity holders to pay all taxes for which they are responsible as a result of the operations of Signature HomeNow (after application of any tax loss carryforwards available to such ultimate taxpayers as a result of the operations of Signature HomeNow).

b. All payments of the Settlement Amount and Contingency Amount (if applicable) owed under this Agreement shall be made payable to the “United States” by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney’s Office for the Western District of Kentucky, which shall be provided to Signature HealthCare by the United States within five (5) days prior to the Closing Date. Signature shall provide the United States with notice of the Closing Date at least 10 days prior to the actual closing.

2. Conditioned upon the United States receiving the Settlement Amount from Signature HomeNow, the United States shall pay to Relators by electronic funds transfer 17 percent of the Settlement Amount and the Contingency Amount (if applicable) as soon as feasible after the United States’ receipt of the Settlement Amount and Contingency Payment (if applicable).

3. Subject to the exceptions in Paragraph 5 (concerning reserved claims) below, and subject to Paragraph 8 (concerning disclosure of assets) below, and upon the United States’ receipt of the relevant Settlement Amount and Contingency Amount (if applicable), the United States releases Signature HomeNow together with its direct and indirect subsidiaries and the corporate successors and assigns of any of them, from any civil or administrative monetary claim the

United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of payment by mistake, unjust enrichment, and fraud.

4. Subject to the United States' receipt of the Settlement Amount and the Contingency Amount (if applicable) Relators, for themselves and for their heirs, successors, attorneys, agents, and assigns, release Signature HomeNow, and its officers, managers, members, employees, lenders, landlords, agents, and any successors, purchasers, predecessors and previous asset owners of all of them, with prejudice from any and all claims, causes of action, complaints, suits, demands, damages, costs, expenses, liabilities, grievances, or other losses—whether known or unknown, asserted or unasserted—of any kind or nature that may exist as of the date of execution of this Agreement (collectively, “Claims”), including but not limited to any Claims that in any way arise from or are related to (i) the Civil Action, the Covered Conduct, or each Relator's employment with Signature Home Now, (ii) any civil monetary claim the Relators had prior to, has of the date of, or may have after the date of, the Effective Date individually or on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733, and (iii) the Medicare Secondary Payer Statute, and/or 42 U.S.C. § 1395y(b)(3)(A).

5. Notwithstanding the releases given in Paragraph 3 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States 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 or enforcement right, including mandatory or permissive exclusion from Federal health care programs;
 - d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
 - e. Any liability based upon obligations created by this Agreement;
 - f. Any liability of individuals;
 - g. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
 - h. Any liability for failure to deliver goods or services due; and
 - i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.
6. Relators and their heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Relators' receipt of the Relators' Share, Relators and their heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.
7. Simultaneously with this Agreement, Relators are executing a separate agreement with Signature HomeNow to resolve Relators' claims for attorneys' fees, expenses and costs under 31 U.S.C. § 3730(d).

8. Signature HomeNow has provided financial disclosures and supporting documents (together “Financial Disclosures”) to the United States and the United States has relied on the accuracy and completeness of those Financial Disclosures in reaching this Agreement. Signature HomeNow warrants that the Financial Disclosures are complete, accurate, and current as of the date they were provided to the United States. If, after the Asset Sale, the United States learns of asset(s) in which Signature HomeNow had an interest of any kind as of the Effective Date of this Agreement (including, but not limited to, promises by insurers or other third parties to satisfy Signature HomeNow’s obligations under this Agreement) that were not disclosed in the Financial Disclosures, or if the United States learns of any false statement or misrepresentation by Signature HomeNow on, or in connection with, the Financial Disclosures, and if such nondisclosure, false statement, or misrepresentation changes the estimated net worth set forth in the Financial Disclosures by \$1,000,000.00 or more, the United States may at its option: (a) rescind this Agreement and reinstate its suit or file suit based on the Covered Conduct, or (b) collect one hundred percent (100%) of the net value of Signature HomeNow’s previously undisclosed assets. Signature HomeNow agrees not to contest any collection action undertaken by the United States pursuant to this provision, and agrees that it will immediately pay the United States the greater of (i) a ten-percent (10%) surcharge of the amount collected in the collection action, as allowed by 28 U.S.C. § 3011(a), or (ii) the United States’ reasonable attorneys’ fees and expenses incurred in such an action. In the event that the United States, pursuant to this paragraph rescinds this Agreement, Signature HomeNow waives and agrees not to plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any civil or administrative claims that (a) are filed by the United States within 120 calendar days of written notification to Signature HomeNow that this

Agreement has been rescinded, and (b) relate to the Covered Conduct, except to the extent these defenses were available on the Effective Date of this Agreement.

9. Signature HomeNow waives and shall not assert any defenses Signature HomeNow 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 prosecution or administrative action.

10. Signature HomeNow fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Signature HomeNow has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct or the United States' investigation or prosecution thereof.

11. The Settlement Amount and Contingency Amount (if applicable) shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare contractor (e.g., Medicare Administrative Contractor, fiscal intermediary, carrier or any state payer), related to the Covered Conduct; and Signature HomeNow agrees not to resubmit to any Medicare contractor or any state payer any previously denied claims related to the Covered Conduct, agrees not to appeal any such denials of claims, and agrees to withdraw any such pending appeals.

12. Signature HomeNow 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 Signature HomeNow, its present or former officers, directors, employees, shareholders, and agents in connection with:

- i. the matters covered by this Agreement;
- ii. the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- iii. Signature HomeNow's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- iv. the negotiation and performance of this Agreement; and
- v. the payment Signature HomeNow makes to the United States pursuant to this Agreement and any payments that Signature HomeNow may make to Relators, including costs and attorneys' fees

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 Signature HomeNow, and Signature HomeNow 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 statement, or payment request submitted by Signature HomeNow or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Signature HomeNow 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 Signature HomeNow or any of its subsidiaries or affiliates, 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. Signature HomeNow agrees that the United States, at a minimum, shall be entitled to recoup from Signature HomeNow 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.

Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States reserves its rights to disagree with any calculations submitted by Signature HomeNow or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Signature HomeNow 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 to audit, examine, or re-examine Signature HomeNow's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

13. 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 to the extent provided for in Paragraphs 3, 4, 6, 10, and 14 below.

14. Signature HomeNow agrees that it waives and shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third party payors based upon the claims defined as Covered Conduct.

15. The Settlement Amount and Contingency Amount represents the amount the United States is willing to accept in compromise of its civil claims arising from the Covered Conduct due solely to Signature HomeNow's financial condition as reflected in the Financial Disclosures referenced in Paragraph 8.

16. The United States may, in its sole discretion, render this Agreement null and void if the Closing Date does not occur on or before May 1, 2022.

17. Upon receipt of the payments described in Paragraph 1, above, the Parties shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal of the Civil Action pursuant to Rule 41(a)(1), in the form attached hereto as Exhibit A: (1) dismissing with prejudice to the United States and to the Relators all claims asserted against Signature HomeNow in the Civil Action for the Covered Conduct as set forth in this Agreement and (2) dismissing with prejudice

to the Relators and without prejudice to the United States any remaining claims asserted in the Civil Action.

18. Except as provided in Paragraph 7 above, each Party shall bear their own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

19. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

20. This Agreement is governed by the laws of the United States. The exclusive venue for any dispute relating to this Agreement is the United States District Court for the Southern District of Florida. 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.

21. Except for the separate agreement between the Relators and Signature HomeNow, this Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties. Forbearance by the United States from pursuing any remedy or relief available to it under this Agreement shall not constitute a waiver of rights under this Agreement.

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

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

24. This Agreement is binding on Signature HomeNow's successors, transferees, heirs, and assigns, but not a third-party purchaser in the event of the Asset Sale, so long as such transaction

(and the payment related thereto) has been performed in accordance with the terms of this Agreement.

25. This Agreement is binding on Relators' successors, transferees, spouses, heirs, and assigns.

26. All Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

27. This Agreement is effective on the date of signature of the last signatory to this Agreement (the "Effective Date"). Digital and electronic transmissions and signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

MICHAEL A. BENNETT
United States Attorney, WDKY

DATED: _____

BY: _____
Benjamin S. Schecter
Jessica R. C. Malloy
A. Matthew Weyend
Assistant United States Attorneys

JUAN ANTONIO GONZALEZ
United States Attorney, SDFL

DATED: _____

BY: **James A. Weinkle**
James A Weinkle
Assistant United States Attorney


Digitally signed by James A. Weinkle
Date: 2022.03.03 16:43:31 -05'00'

DATED: _____

BY: _____
LISA M. RE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
United States Department of Health and Human Services

SIGNATURE HOMENOW

DATED: 3/3/22

BY: 

Lynn Fieldhouse
General Counsel, Chief Litigation-Risk Officer
Signature Home Now
SHC Home Health Services of Florida, LLC
SHC Home Health Services-Jacksonville, LLC
SHC Home Health Services-Jensen Beach, LLC
SHC Home Health Services-Lakeland, LLC
SHC Home Health Services-Longwood, LLC
SHC Home Health Services-Ocala, LLC
SHC Home Health Services-Port Charlotte, LLC
SHC Home Health Services-Chipley, LLC

DATED: 3/3/22


BY: 

Brad Robertson
Counsel for
Signature Home Now
SHC Home Health Services of Florida, LLC
SHC Home Health Services-Jacksonville, LLC
SHC Home Health Services-Jensen Beach, LLC
SHC Home Health Services-Lakeland, LLC
SHC Home Health Services-Longwood, LLC
SHC Home Health Services-Ocala, LLC
SHC Home Health Services-Port Charlotte, LLC
SHC Home Health Services-Chipley, LLC

BARBARA MELLOTT-YEZMAN AND PATRICIA RENCH - RELATORS

DATED: 3/3/2022

BY:

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Barbara Mellott-Yezman

DATED: 3/3/2022

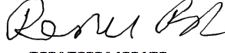
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Patricia Rench


DATED: 3/3/2022

BY:

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Renee Brooker
Tycko & Zavareei
Counsel for Barbara Mellott-Yezman and Patricia Rench

DATED: 3/4/2022

BY:

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Natalie Khawam
Whistleblower Law Firm LLP
Counsel for Barbara Mellott-Yezman and Patricia Rench