

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

FLORIDA HOSPITAL ASSOCIATION, INC.,

Petitioner,

vs.

CASE NO. 07-0978RP

DEPARTMENT OF FINANCIAL  
SERVICES, DIVISION OF WORKERS'  
COMPENSATION,

Respondent.

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HCA HEALTH SERVICES OF FLORIDA, INC.,  
d/b/a ST. LUCIE MEDICAL CENTER, AND  
MIAMI BEACH HEALTHCARE GROUP, LTD.,  
d/b/a AVENTURA HOSPITAL AND MEDICAL  
CENTER,

Petitioners,

vs.

CASE NO. 07-0979RP

THE DEPARTMENT OF FINANCIAL  
SERVICES, DIVISION OF WORKERS'  
COMPENSATION,

Respondent.

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SETTLEMENT AGREEMENT

This Agreement is made and entered into by and between the Florida Department of Financial Services, Division of Workers' Compensation ("Department"), the Florida Hospital Association ("FHA"), HCA Health Services of Florida, Inc. d/b/a/ St. Lucie Medical Center ("St.

Lucie”) and Miami Beach Healthcare Group, Ltd, d/b/a Aventura Hospital and Medical Center (“Aventura”).

WHEREAS, the Florida Department of Financial Services, Division of Workers’ Compensation, pursuant to Chapter 440, Florida Statutes, has certain duties and responsibilities with respect to administering Florida’s Workers’ Compensation Law, including proposing rules to implement such statutes; and

WHEREAS, the Florida Hospital Association is a non-profit Florida corporation asserting standing to represent the interests of its approximately 160-member hospitals, virtually all of whom treat patients covered by Florida’s Workers’ Compensation Program; and

WHEREAS, St. Lucie and Aventura are acute care hospitals that also provide both inpatient and outpatient services to patients covered by Florida’s Workers’ Compensation Program; and

WHEREAS, pursuant to section 120.54, Florida Statutes, the Department has proposed amendments to Rule 69L-7.501, Florida Administrative Code, entitled Florida Workers’ Compensation Reimbursement Manual for Hospitals; and

WHEREAS, the proposed amendments to Rule 69L-7.501 were noticed for final adoption in Vol. 33, No. 3, of the Florida Administrative Weekly, (January 19, 2007); and

WHEREAS, the proposed amendments to Rule 69L-7.501 would incorporate by reference a proposed 2006 Edition of the Florida Workers’ Compensation Reimbursement Manual for Hospitals; and

WHEREAS, the FHA, St. Lucie and Aventura timely filed petitions, and St. Lucie and Aventura filed an amended petition, with the Florida Division of Administrative Hearings to determine the invalidity of the proposed rule; and

WHEREAS, the proposed rule and a final hearing on such challenges is scheduled to commence on April 16, 2007; and

WHEREAS, the above parties desire to resolve the pending challenge to the proposed rule;

NOW THEREFORE, and without conceding the correctness of any position taken by any party to this proceeding, the parties agree to the following:

1. The Department will immediately initiate the process to obtain approval from the Three Member Panel to amend sections VIII.B., VIII.E., IX.A., IX.D., IX.E., and X.B. of the proposed 2006 Edition of the Florida Workers' Compensation Reimbursement Manual for Hospitals to incorporate the changes to those sections as set forth in Attachment A to this Settlement Agreement. FHA, St. Lucie, and Aventura agree that they shall as part of the record of the Three Member Panel's consideration affirmatively support the changes to the proposed 2006 Edition of the Florida Workers' Compensation Reimbursement Manual for Hospitals set forth in Attachment A, and the Department shall recommend that the Three Member Panel approve the changes set forth in Attachment A;

2. In the event the Three Member Panel approves the changes set forth in Attachment A and authorizes the Department to incorporate those changes into the proposed 2006 Florida Workers' Compensation Reimbursement Manual for Hospitals, the Department shall cause to have published in the next available issue of the Florida Administrative Weekly a Notice of Change that will notice the changes to the proposed 2006 Edition of the Florida Workers' Compensation Reimbursement Manual for Hospitals to be incorporated into Rule 69L-7.501, Florida Administrative Code, as set forth in Attachment A;

3. Pending publication of the proposed rule changes, the parties agree to ask the Administrative Law Judge to hold in abeyance the final hearing scheduled to commence on April 16, 2007. If no other party challenges the proposed rule changes following publication of the Notice of Change in the Florida Administrative Weekly, FHA, St. Lucie, and Aventura will voluntarily dismiss their rule challenge petitions in the above-styled proceedings with prejudice within three (3) days after expiration of the 20-day period for challenges to proposed changes provided in Section 120.56(2)(a), Florida Statutes. All parties agree to bear their own costs and attorneys' fees.

4. FHA, St. Lucie, and Aventura agree that they shall not, either individually or collectively, challenge in any rule challenge proceeding the changes to the proposed 2006 Edition of the Florida Workers' Compensation Reimbursement Manual for Hospitals that are set forth in Attachment A.

5. All parties hereto agree that this Settlement Agreement is entered into voluntarily and with full authority of the parties, with the advice of counsel, and with the intent to settle this litigation without the expense of an administrative trial.

Dated this 10<sup>th</sup> day of April, 2007.

FLORIDA DEPARTMENT OF FINANCIAL  
SERVICES

FLORIDA HOSPITAL ASSOCIATION

By: Don Davis  
Name: Don Davis  
Title: Bureau Chief, Data Quality & Collection

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

3. Pending publication of the proposed rule changes, the parties agree to ask the Administrative Law Judge to hold in abeyance the final hearing scheduled to commence on April 16, 2007. If no other party challenges the proposed rule changes following publication of the Notice of Change in the Florida Administrative Weekly, FHA, St. Lucie, and Aventura will voluntarily dismiss their rule challenge petitions in the above-styled proceedings with prejudice within three (3) days after expiration of the 20-day period for challenges to proposed changes provided in Section 120.56(2)(a), Florida Statutes. All parties agree to bear their own costs and attorneys' fees.

4. FHA, St. Lucie, and Aventura agree that they shall not, either individually or collectively, challenge in any rule challenge proceeding the changes to the proposed 2006 Edition of the Florida Workers' Compensation Reimbursement Manual for Hospitals that are set forth in Attachment A.

5. All parties hereto agree that this Settlement Agreement is entered into voluntarily and with full authority of the parties, with the advice of counsel, and with the intent to settle this litigation without the expense of an administrative trial.

Dated this 10<sup>th</sup> day of April, 2007.

FLORIDA DEPARTMENT OF FINANCIAL  
SERVICES

FLORIDA HOSPITAL ASSOCIATION

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: Bill Bell  
Name: Bill Bell  
Title: General Counsel

HCA HEALTH SERVICES OF FLORIDA, INC.  
d/b/a ST. LUCIE MEDICAL CENTER

MIAMI BEACH HEALTHCARE GROUP,  
LTD., d/b/a AVENTURA HOSPITAL and  
MEDICAL CENTER

By: Steven E. Clifton  
Name: Steven E. Clifton  
Title: VP and Assistant Secretary

By: Steven E. Clifton  
Name: Steven E. Clifton  
Title: VP and Assistant Secretary

4/10/2007

**WORKERS' COMPENSATION HOSPITAL REIMBURSEMENT MANUAL**  
**SUGGESTED SETTLEMENT TERMS**

**Section VIII: INPATIENT REIMBURSEMENT AND PER DIEM SCHEDULE**

1. Rewrite Section VIII. B. as follows:

**B. Charges for Surgical Implant (s).**

All hospitals shall report surgical implant charges according to the National Uniform Billing Committee Official UB-04 Data Specification Manual (National Uniform Billing Manual). For purposes of reimbursement under this Manual, surgical implant charges are those charges identified on the hospital billing form under Revenue Code 278. Reimbursement for surgical implants billed under Revenue Code 278, when charged for inpatient hospital services and supplies, shall be determined separately pursuant to Section IX of this Manual.

2. Rewrite the second paragraph of Section VIII. E. as follows:

Subject to any minimum partial payments required by Section XI herein, the insurer shall, deny, disallow, or adjust payment for charges included in the Total Gross Charges After Implant Carve-Out...

**Section IX: SURGICAL IMPLANTS**

1. Rewrite the first sentence of Section IX. A. to read as follows:

**A. Cost Formula**

Requests for reimbursement for surgical implant(s) (also referred to as "implantables" by the National Uniform Billing Manual) required during inpatient hospitalization billed under Revenue Code 278 shall not exceed sixty percent over the acquisition cost(s) for the implant (s).

2. Rewrite the first sentence of Section IX. D. as follows:

**D. Certification of Implant Amount for Reimbursement**

Certification on a bill that the aggregate amount requested for reimbursement for the surgical implant(s) billed under Revenue Code 278 does not exceed in aggregate sixty percent (60%) over the acquisition costs as specified in Section IX: A. may be submitted as follows:

**ATTACHMENT A**

3. Add a new paragraph at the end of Subsection E of Section IX as follows:

- E. Nothing in this Manual is intended to create, alter, diminish, or negate any protections regarding the confidentiality of any cost information produced during the course of such an audit.

#### **Section X: OUTPATIENT REIMBURSEMENT**

1. Rewrite the First Paragraph in Section X. B. as follows:

- B. Hospital charges for scheduled outpatient surgery shall be reimbursed sixty percent (60%) of usual and customary charges and shall include all charges for radiology and clinical laboratory services when performed no more than three days prior to the date such surgery is performed.