AUDIT RESULTS

Date:_____
Provider Name:_____
Provider Address:_____
Provider Number:_____

1. Scope of Audit

   A. This audit covers services that were paid by Medicare from 01/01/95 to 12/31/95.

   B. The audit revealed the following problems in your billing and practice patterns:

   - Four (4) or two (2)% were determined to be medically necessary as billed.
   - Thirty (30) or eighteen (18)% were determined to be medically necessary as there was no documentation to support the services billed.
   - One hundred thirty-five (135) or eighty (80)% were determined to be medically unnecessary at the level billed; the services should have been coded as procedure code 99 _____ management of a new or established patient, which requires at least two of these three key components: a problem focused interval history; a problem focused examination; medical decision making that is straightforward or of low complexity).

2. Issues/Determinations

   A Physician Reviewer, specializing in _____ was consulted during the audit process. Claims and submitted records of one hundred sixty-nine (169) services were reviewed. The Physician Reviewer's determination are detailed in the following discussion of issues and determinations.

   - From the information available in the charts, it appears that none of these patient visits required the level of service, which was billed.
   - In summary, these visits represent inappropriate billing for medically necessary reasons. These include: 1) Too frequent provision of services, 2) No documentation that an acute change in the patients condition had occurred, and 3) All claims are for a level of service which is not medically necessary.

Based on available information, we believe you knew or should have known that the service(s) were not medically necessary and reasonable. You knew or should have known the service(s) were not reasonable and necessary because documentation submitted for review was not

sufficient to support the medical necessity for procedure code 99 _____ for the evaluation and management of a new or established patient, which requires at least two of these three key components: an expanded problem focused interval history; an expanded problem focused examination; medical decision making a moderate complexity). Medicare will only pay for services that are determined to be "reasonable and necessary" under section 1862(a)(1) of the Social Security Act. If Medicare determines that a particular service, although it would be otherwise covered, is not "reasonable and necessary" under the Medicare program standards, Medicare will deny payment for that service.

We have made the determination that you were not "without fault" in causing the overpayment. Therefore, we are not waiving your obligation to repay. We cannot find you without fault because the management of a medical practice that includes a large number of Medicare beneficiaries must understand the conditions governing which services will be covered and payable under Part B of the Medicare program. Pertinent information was available from the law and regulations section 1862(a)(1) of the Social Security Act, Medicare Carrier Manual sections 2005.2 and 2050.2(1), and published articles in the Medicare B Newsletters of October 1991 and July 1992 titled "Waiver of Liability".

3. Calculations

A copy of our calculation worksheet is enclosed for your information. To calculate the potential overpayment amount for each denied procedure code, we used the following formula:

1. Total dollars overpaid in stratum/number of beneficiaries sampled in stratum = Average dollars overpaid per beneficiary.

2. Average dollars overpaid per beneficiary in stratum X Total beneficiaries in universe of the stratum = Projected overpayment.

STRATUM I	$280.29/4	=	$70.07	x	348	=	$24,385.23
STRATUM II							
STRATUM III							
STRATUM IV							
STRATUM V							

TOTAL PROJECTED OVERPAYMENT

The actual overpayment is _____. The sum of all projected procedure code potential overpayments during the actual overpayment amount is _____.

No.	Beneficiary	HIC #	ICN #	Date of Service	A	D	$ Billed	$ Allowed	$ Deduct.	$ Paid	$ Overpd.	Comments
1				02/02/95		X	$80.00	$51.04	$0.00	$40.83	$12.69	code s/b 99
2				10/05/95		X	$78.00	$51.04	$0.00	$40.83	$40.83	no documentation
				11/02/95		X	$78.00	$51.04	$0.00	$40.83	$40.83	no documentation
3				5/24/95		X	$55.00	$51.04	$0.00	$40.83	$40.83	no documentation
				07/18/95		X	$55.00	$51.04	$0.00	$40.83	$40.83	no documentation
				09/05/95		X	$78.00	$51.04	$0.00	$40.83	$40.83	no documentation
4				07/19/95		X	$55.00	$51.04	$0.00	$40.83	$12.69	code s/b 99
				08/16/95		X	$55.00	$51.04	$0.00	$40.83	$12.69	code s/b 99
				09/20/95		X	$78.00	$51.04	$0.00	$40.83	$12.69	code s/b 99
				10/18/95		X	$78.00	$51.04	$0.00	$40.83	$12.69	code s/b 99
				11/08/95		X	$78.00	$51.04	$0.00	$40.83	$12.69	code s/b 99
4	TOTAL STRATUM 1				0	11	$788.00	$561.44	$0.00	$449.13	$280.29	
1				07/15/94		X	$39.53	$39.53	$0.00	$28.46	$0.32	code s/b 99
				08/19/94		X	$39.53	$39.53	$0.00	$28.46	$0.32	code s/b 99
				09/16/94		X	$39.53	$39.53	$0.00	$31.62	$3.48	code s/b 99
				10/17/94		X	$39.53	$39.53	$0.00	$31.62	$3.48	code s/b 99
				11/17/94		X	$39.53	$39.53	$0.00	$31.62	$3.48	code s/b 99
				12/06/94		X	$39.53	$39.53	$0.00	$31.62	$3.48	code s/b 99
				02/06/95		X	$39.53	$39.53	$0.00	$31.62	$3.48	code s/b 99
				03/15/95		X	$39.53	$39.53	$0.00	$31.62	$3.48	code s/b 99
2				12/23/94		X	$80.00	$46.91	$0.00	$37.53	$9.39	code s/b 99
				01/11/95		X	$80.00	$51.04	$51.04	$0.00	$0.00	code s/b 99
				03/10/95		X	$80.00	$51.04	$0.00	$40.83	$12.69	code s/b 99
				04/07/95		X	$80.00	$51.04	$0.00	$40.83	$12.69	code s/b 99
				05/05/95		X	$80.00	$51.04	$0.00	$40.83	$12.69	code s/b 99

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES ATTORNEYS MANUAL
TITLE 9--CRIMINAL DIVISION
CHAPTER 11--GRAND JURY
October 1, 1990

9-11.150 Advice of "Rights" of Grand Jury Witnesses

It is the Department's policy to advise a grand jury witness of the rights described below only if such witness is a "target" or "subject" (as hereinafter defined) of a grand jury investigation.

The Supreme Court declined to decide whether a grand jury witness must be warned of his/her Fifth Amendment privilege against compulsory self-incrimination before his/her grand jury testimony can be used against the witness. See United States v. Washington, 431 U.S. 181, 186 and 190-191 (1977); United States v. Wong, 431 U.S. 174 (1977); Mandujano, supra, at 582 n. 7. It is important to note, however, that in Mandujano the Court took cognizance of the fact that federal prosecutors customarily warn "targets" of their Fifth Amendment rights before grand jury questioning begins. Similarly, in Washington the Court pointed to the fact that Fifth Amendment warnings were administered as negating "any possible compulsion to self-incrimination which might otherwise exist" in the grand jury setting. See Washington, supra, at 188.

Notwithstanding the lack of a clear constitutional imperative, it is the internal policy of the Department that an "Advice of Rights" form, as set forth below, be appended to all grand jury subpoenas to be served on any "target" or "subject" (as hereinafter defined) of an investigation:

Advice of Rights

A. The grand jury is conducting an investigation of possible violations of federal criminal laws involving: (State here the general subject matter of inquiry, e.g., the conducting of. an illegal gambling business in violation of 18 U.S.C. s 1955).

B. You may refuse to answer any question if a truthful answer to the question would tend to incriminate you.

C. Anything that you do say may be used against you by the grand jury or in a subsequent legal proceeding.

D. If you have retained counsel, the grand jury will permit you a reasonable opportunity to step outside the grand jury room to consult with counsel if you do so desire.

In addition, these "warnings" should be given by the prosecutor on the record before the grand jury and the witness should be asked to affirm that the witness understands them.

A "target" is a person as to whom the prosecutor or the grand jury has substantial evidence linking him/her to the commission of a crime and who, in the judgment of the prosecutor, is a putative defendant. An officer or employee of an organization which is a target is not automatically to be considered as a target even if such officer's or employee's conduct

contributed to the commission of the crime by the target organization, and the same lack of automatic target status holds true for organizations which employ, or employed, an officer or employee who is a target. Although the Court in Washington, supra, held that "targets" of the grand jury's investigation are entitled to no special warnings relative to their status as "potential defendant[s]", the Department continues its longstanding internal practice to advise witnesses who are known "targets" of the investigation that their conduct is being investigated for possible violation of federal criminal law. This supplemental "warning" will be administered on the record when the target witness is advised of the matters discussed in the preceding paragraphs.

A "subject" of an investigation is a person whose conduct is within the scope of the grand jury's investigation.

Where a local district court insists that the notice of rights may not be appended to a grand jury subpoena, the advice of rights may be set forth in a separate letter and mailed to or handed to the witness when the subpoena is served.

9-11.150

U.S. Attys. Man. 9-11.150

END OF DOCUMENT

MEMORANDUM

Attorney Client Communication

TO: General Counsel of XXX **DATE:** January 1,2000

FROM: Defense Counsel

RE: Government Contact of XXX Employees

If you decide to inform any XXX employees that a federal investigator may contact them or other XXX employees, I suggest that you instruct them orally, and not in writing. You may want to inform them that:

1. The federal government is investigating _____.Thus, the federal government may seek information from XXX employees. XXX is fully cooperating with this investigation.

2. If any XXX employee is contacted by the government, that employee should immediately call _____ at the General Counsel's Office.

3. Whether an employee chooses to participate in an interview with a government investigator is the employee's own decision, but it need not be made without advice of counsel. Every employee is entitled to legal representation prior to agreeing to an interview or answering any questions whatsoever. Every employee is entitled to legal representation in any interview or other contact with the government.

4. Every employee can decide if they want to be represented by a lawyer, and who that lawyer should be. An attorney from the General Counsel's Office is available to represent the employee for his or her interview and all other contacts with the government, if the employee so chooses. If contacted, the employee can simply direct the investigator to the General Counsel's Office and ask that the investigator arrange the interview for a later time through the General Counsel's Office.

5. XXX is cooperating with the investigation, but such cooperation must be in an orderly fashion and through normal channels. No employee should give a government investigator any access to company property without first consulting with _____ of the General Counsel's Office. This includes access to real property as well as equipment or other objects. This also includes all business documents that are XXX property. No employee should be disclosing any XXX documents. As part of XXX's cooperation with the government in this investigation, it will arrange to produce documents through the General Counsel's Office. No one else is authorized to give out any XXX documents.

6. Most importantly, employees must be unequivocally told that they are to be truthful and honest in all of their dealings with members of the government. No one should give any information that is false or misleading in any way.

Appendix C

Effective Date of 1996 Amendments

Amendment by section 604 of Pub.L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub.L. 104-294, set out as a note under section 13 of this title.

Effective Date

Section effective Oct. 12, 1982, see section 9(a) of Pub.L. 97-291 set out as an Effective Date note under section 1512 of this title.

Legislative History

For legislative history and purpose of Pub.L. 97-291. see 1982 U.S. Code Cong. and Adm. News, p. 2515.
For legislative history and purpose of Pub.L. 99-646, see 1986 U.S. Code Cong. and Adm. News. p. 6139. See also, Pub.L. 100-690, 1988 U.S. Code Cong. and Adm. News, p. 5937; Pub.L. 103-322, 1994 U.S. Code Cong. and Adm. News, p. 1801; Pub.L. 104-292, 1996 U.S. Code Cong. and Adm. News, p. ___; Pub.L. 104-294, 1996 U.S. Code Cong., and Adm News. p. ___.

§ 1516. Obstruction of Federal audit

(a) Whosoever, with intent to deceive or defraud the United States, endeavors to influence, obstruct, or impede a Federal auditor in the performance of official duties relating to a person receiving in excess of $100,000, directly or indirectly, from the United States in any 1 year period under a contract or subcontract, shall be fined under this title or imprisoned not more than 5 years, or both.

(b) For purposes of this section-

(1) the term "Federal auditor" means any person employed on a full- or part-time or contractual basis to perform an audit or a quality assurance inspection for or on behalf of the United States; and

(2) the term "in any 1 year period" has the meaning given to the term "in any one-year period" in section 666.
(Added Pub.L. 100-690. Title VII. § 7078(a), Nov. 18, 1988, 102 Stat. 4406, and amended Pub.L. 103-322, Title XXXII, § 320609. Sept. 13, 1994, 108 Stat. 2120; Pub.L. 104-294, Title VI. § 604(b)(43), Oct. 11, 1996, 110 Stat. 3509.)

HISTORICAL AND STATUTORY NOTES

Effective Date of 1996 Amendments

Amendment by section 604 of Pub.L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub.L. 104-294, set out as a note under section 13 of this title.

Legislative History

Legislative history and purpose of Pub.L. 100-690, see 1988 U.S. Code Cong. and Adm. News, p. 5937. See, also, Pub.L. 103-322, 1994 U.S. Code Cong. and Adm. News, p. 1801; Pub.L. 104-294, 1996 U.S. Code Cong. and Adm. News, p. ___.

§ 1517. Obstructing examination of financial institution

Whoever corruptly obstructs or attempts to obstruct any examination of a financial institution by an agency of the United States with jurisdiction to conduct an examination of such financial institution shall be fined under this title, imprisoned not more than 5 years, or both.
(Added Pub.L. 101-647, Title XXV, § 2503(a), Nov. 29, 1990, 104 Stat. 4861.)

HISTORICAL AND STATUTORY NOTES

Legislative History

For legislative history and purpose of Pub.L. 101-647, see 1990 U.S. Code Cong. and Adm. News, p. 6472.

§ 1518. Obstruction of criminal investigations of health care offenses

(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

(b) As used in this section the term "criminal investigator" means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.
(Added Pub.L. 104-191, Title II, § 245(a), Aug. 21, 1996, 110 Stat. 2017.)

HISTORICAL AND STATUTORY NOTES

Legislative History

For legislative history and purpose of Pub.L. 104-191, see 1996 U.S. Code Cong. and Adm. News, p. 1865.

CHAPTER 75-PASSPORTS AND VISAS

Sec.
1541. Issuance without authority.
1542 False statement in application or use of passport.
1544. Misuse of passport.
1545. Safe conduct violation.
1546. Fraud and misuse of visas, permits, and other documents.
1547. Alternative imprisonment maximum for certain offenses.

§ 1541. Issuance without authority

Whoever, acting or claiming to act in any office or capacity under the United Sates, or a State, without lawful authority grants, issues, or verifies any passport or other instrument in the nature of a passports to or for any person whomsoever, or Whoever, being a consular officer authorized to grant, issue or verify passports, knowingly and will-

U.S. Department of Justice
United Sates Attorney
District of Massachusetts

1003 J.W. McCormack Post Office and Courthouse
Boston, Massachusetts 02109

Re:

Dear

This letter confirms at the u.s. Attorney for the District of Massachusetts will consider an accurate and complete proffer from your client, _____, in connection with the above-captioned matter. The terms under which the contemplated proffer will be received are as follows:

1. No statements made or other information provided by you will be used by the U.S. Attorney directly against you except for purposes of cross-examination and impeachment should you be a witness in any proceeding and offer testimony or evidence materially different from any statements made or information provided during the proffer, or in: a prosecution based on false statements made or false information provided during the proffer.

2. The government may make derivative use of or may pursue any investigative leads suggested by any statements made or other information provided by you in the course of the proffer. Any evidence directly or indirectly derived from statements made or other information provided by you during the proffer may be used against you and others in any criminal case or other proceeding. This provision is necessary in order to eliminate the possibility of a hearing at which the government would have to prove that the evidence it would introduce is not tainted by any statements made or other information provided during the proffer. See Kastigar v United States, 406 U.S. 441 (1972).

The foregoing is the complete agreement between you and the government. If you agree that :this letter accurately describes the entire agreement between you and the government with regard to this proffer, please confirm this by signing in the appropriate place below.

Very truly yours ,

DONALD K. STERN
United Sates Attorney

By:

JAMES C. REHNQUIST
Assistant U.S. Attorney

Acknowledged and agreed to:

_____
Date

_____
Date

Counsel for Witness

JOINT DEFENSE AGREEMENT

This will confirm the mutual understanding of our joint defense obligations. The joint defense arises from our representation in connection with an investigation by the United States Attorney's Office involving certain of its employees in. respect to allegations of violations of the federal laws.

1. We have mutually concluded that the United States Attorney's. Office investigation and any ensuing grand jury investigation (hereinafter, collectively the "Investigation") and any proceedings that may result therefrom raise matters of common interest to our respective clients and that the sharing of documents, information., factual materials, mental impressions, memoranda, interview reports, and communications with clients (hereinafter referred to as "joint defense materials"), will facilitate the rendering of professional legal services to our respective clients. It is further understood that these joint defense materials shall be used solely for purposes of defending the Investigation and any related litigation. These joint defense materials are privileged from disclosure to adverse or other parties as a result of the attorney client privilege, and other applicable privileges.

The nature of this case and the relationships among the clients make it likely that there are and will be legal and factual issues common to the clients, thus warranting the unencumbered sharing of information and analysis in preparation of a potential common defense of the Investigation. In the preparation of this case, it is and has been the desire and purpose of the clients that every lawful, ethical and proper steps be taken to ensure that they and their respective counsel share and exchange strategies, legal theories, confidences, information and documents which may be useful in each counsel's preparation of their respective client's case. Accordingly, clients and counsel have undertaken to engage in such exchanges and sharing in furtherance of their common. interests in a joint defense to the Investigation.

2. It is our mutual understanding that the sharing or disclosure of joint defense materials among us and our respective clients will not diminish in any way the confidentiality of such materials and will not constitute a waiver of any available privilege. The clients are also firm in their resolve to maintain and preserve the confidentiality assured by the attorney client privilege and the attorney work-product doctrine, and not to waive these privileges by such sharing of the information, legal strategies and theories, documents and confidences. Counsel have advised their respective clients and counsel may share and exchange such information, legal strategies and theories, documents and confidences in a common effort to defend in respect to the Investigation and prepare for litigation. But for this expectation of continued confidentiality and the absence of waiver of any attorney client privilege, the communication of privileged information by any counsel would not have been made and would not be made. In rendering legal advice as to joint defense agreements and their effectiveness in maintaining and preserving the attorney-client privilege, upon which advice the clients relied in entering into the common defense effort and joint-defense agreement, counsel specifically rely upon the decisions in United States v. McPartlin, 596 F.2d 1321, 1336-37 (7th Cir. 1979); Continental Oil Company v. United States, 330 F.2d 347 (9th Cir. 1964); Hyundee v. United States, 355 F.2d 18 (9th Cir. 1965); and In the Matter of a Grand Jury Subpoena Duces Tecum dated November 16, 1974, 406 F. Supp. 381 (S.D.N.Y. 1975).

3. We hereby agree that, without the prior consent of the party furnishing the materials, neither we or our clients will disclose joint defense materials received from each other to anyone except our respective clients, attorneys within our firms, or our employees or agents. I

4. Joint defense materials (including all copies thereof) shall be returned upon request at any time to the attorney who furnished them. Joint defense materials also shall be returned promptly to the attorney who furnished them in the event any attorney of his client concludes that the parties no longer have a common interest in the matter or if for any reason the joint defense effort or this agreement is terminated. At the conclusion of the Investigation or any proceedings resulting therefrom, all copies of the joint defense materials shall be returned to the attorney who furnished them. The obligations of the attorneys and their clients not to disclose joint defense materials. except in accordance with this agreement, shall not be affected by the return of such materials or termination of this Agreement.

5. If another person or entity requests or demands, by subpoena or otherwise, any joint defense materials obtained from another attorney or clients, counsel will immediately notify each of the parties to this Agreement and will assert the privilege with respect to these materials. The person or entity seeking the joint defense materials will be informed that such materials are privileged and may not be disclosed without the consent of the party furnishing them unless ordered by the Court.

6. We also understand and agree that modifications of this agreement be made if such modifications are in writing and are signed by all parties.

7. Any party to this agreement is free to withdraw from it upon giving prior express notification to all other signatories to this agreement, in. which case this agreement shall no longer be operative as to the withdrawing party, but shall continue to protect all communications and information covered by the agreement and disclosed to the withdrawing party prior to the party's notification of withdrawal. Immediately upon demand, a withdrawing party and his counsel shall immediately return all joint defense materials and copies thereof.

8. This agreement may be executed in counterpart by any respective signatory, which shall be incorporated as within the original.

THE FOREGOING TERMS OF THIS JOINT DEFENSE AGREEMENT ARE AGREED TO:

Certain Individual Employees of

By: _____ By: _____