10/30/2026

Chief Operating Officer & Deputy Administrator
Centers for Medicare & Medicaid Services
Mail Stop DO-01-60
7500 Security Blvd.
Baltimore, MD 21244-18050

Freedom of Information Act Appeal
RE: Control Number 09102024C002 PIN VJZE

Dear Chief Operating Officer & Deputy Administrator,

I am writing to formally appeal the Department's ruling issued on 10/30/2026 denying release of redacted information in documents that were responsive to this FOIA request.

Specifically, I am appealing the Department's claim that all of the redactions that were made were 'pre-decisional'.

The FOIA in question concerned documents related to Medicare audit MTN 695838.

This audit addressed the question of whether or not a hospital that owned its own TPA/PPO had been correctly reporting and disclosing its relationship with said TPA/PPO.

The hospital (dba 'CMHA', 'CMC', and 'Atrium') owned 50% of this entity and had been using it for twenty plus years but had never disclosed to CMS that it was a Related Party.

On 9/11/2023 PalmettoGBA auditor Stephen Wood (who was lead on the audit) sent CMS officials an email asking for a determination.

He writes:

> *During this process, Palmetto has received multiple emails from Joe Vincoli with information he believes would undo the provider's assertion that they and Medcost meet the exception.* [To the Related Party Rule]. *One of his emails (attached) included references to a PRRB ruling which determined TPA services relate to patient care costs for the provider's employees. Based on the ruling, the provider's claim of meeting the exception criteria would be voided.*
>
> *If the determination holds, additional questions would be raised regarding the reimbursement impact of the information. The majority of Atrium's facilities are PPS reimbursed; therefore, there is not a direct dollar-for-dollar correlation. However, the health insurance costs would be reported for wage index purposes and used to set future rates.*
>
> *Should Palmetto proceed under the context that the Atrium and Medcost are related and determine the extent to which health insurance costs are not properly reported?*

Let me repeat the crux of his question: "***If the determination holds,*** *additional questions would be raised regarding the reimbursement impact of the information."*

Mr. Wood is asking this question at the end of a two-year audit of the hospital.

He is asking for a final decision.

"If the determination holds..." refers to the PRRB Ruling in *St. Francis vs BCBS/PalmettoGBA* (attached) which determined that a hospital using a TPA/PPO that it owned should report 'domestic care' transactions 'at cost' under The Related Party Rule since the hospital (as the provider of the medical service) is conducting a transaction with the hospital (as the employer's self-funded plan sponsor).

(Note that the Intermediary in the 2007 ruling is PalmettoGBA.)

So, sixteen years later (in September of 2023), the current PalmettoGBA auditor (Stephen Wood) asks CMS to make a decision as to whether or not its previous determination holds.

Based on documents provided to me at this date, It appears that Mr. Wood received CMS's final determination on 10/25/23 and/or 11/3/23. (See attached document (Bates number CMS000161_0000074) where Mr. Ed Sanchez of PalmettoGBA informs Jacqueline Brown of CMS, et. al., that something was decided during meetings held on those two days.)

What was discussed and decided is redacted (under B5).

And, as it turns out, it appears, based on evidence and belief, that whatever was decided was, in fact, CMS's final decision as to whether or not PalmettoGBA's previous determination held.

I know this happened because the hospital under audit (which is subject to North Carolina's Public Records Law) has repeatedly informed me throughout 2024 to the present that they have not received any further contacts, queries, or documents from CMS related to MTN 695838 after September 2023..

The obvious conclusion is that a final decision was made by CMS and that decision was that the determination did not hold.

The only other conclusion is that after sixteen years (from 2007 to 2023) PalmettoGBA and CMS are still having 'pre-decisional' discussions.

As such, the text that is redacted in Mr. Sanchez's email must include, at least in some part, the 'final decision' which is not, therefore, pre-decisional.

In closing, if this were the EPA rather than CMS, and Mr. Wood was a chemist who had come to the conclusion that the discharge from a chemical plant was toxic and had asked the EPA to decide 'if the

discharge is toxic or not'.... then the EPA's 'final policy interpretation' (or 'Working Law') would be evidenced by whether an enforcement action was brought by the agency or whether the chemical plant was still dumping the waste.

In this case, the hospital's use and ownership continued after 2023 which strongly suggests that CMS made its 'final decision/final policy interpretation' in 2023.

Sincerely,

Joe Vincoli

Joe Vincoli
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Clemmons, NC 27012

Attachments