

Re: Status Of CMS Enforcement Of Basic Related-Party Transaction Rules

From: Joe Vincoli <joevincoli@gmail.com>
To: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
Cc: "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, ED SANCHEZ <ed.sanchez@palmettogba.com>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, "Dunlap, George" <george.dunlap@mecklenburgcountync.gov>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, stephen.wood@palmettogba.com, Patsy Barkley <patsy.barkley@palmettogba.com>, ncopengov@elon.edu, javonda.woods-ladson@palmettogba.com
Date: Mon, 02 Sep 2024 05:25:51 +0000

Susan,

Please confirm receipt and 'reply to all'.

Thank you.

Joe Vincoli

On Sat, Aug 31, 2024 at 12:51 AM Joe Vincoli <joevincoli@gmail.com> wrote:

Susan,

I am respectfully asking for Senator Budd's help to get me an answer from CMS concerning its enforcement of a basic CMS regulation concerning Related-Party Transaction Rules.

When you worked for Senator Burr I sent you this email in 2021:

from: Joe Vincoli <joevincoli@gmail.com>
to: susan_hatfield@burr.senate.gov
date: Jul 7, 2021, 1:08 PM
subject: Vincoli CMS Request
mailed-by: gmail.com

Susan,

Thank you for taking my call today.

Here is a brief summary of what I am trying to find out.

In a recent 4th Circuit Court of Appeals ruling, the court held that Medicare's regulations regarding how hospital expenses for the health care services it provides to its own employees (known as 'domestic care') are to be reported were 'sufficiently ambiguous' so that the present case which raised issues alleging fraudulent reporting was dismissed. (U.S. ex rel Complin v. North Carolina Baptist Hospital, No. 19-1243, 2020 WL 3167634 (4th Cir. June 15, 2020)).

As the judges stated below, "...we are inclined to agree with the district court and magistrate judge that there remains a decided "lack of clarity" as to application of the Related-Party Rule to the Hospitals here".

*On appeal, as before the district court, Vincoli argues that any ambiguity about the application of the Related-Party Rule was resolved by the decision of the Medicare Provider Reimbursement Review Board in St. Francis Hospital Greenville, South Carolina Provider No.: 42-0023 v. Intermediary BlueCross BlueShield Association/Palmetto Government Benefits Administrators, 2007 WL 1774634 (P.R.R.B. Apr. 19, 2007). Given the "complex and highly technical regulatory" regime at issue. Complin, 2016 WL 7471311, at *15 (Magistrate Judge Recommendation), we are inclined to agree with the district court and magistrate judge that there remains a decided "lack of clarity" as to application of the Related-Party Rule to the Hospitals here, Complin, 2019 WL 430925, at *10; see also, e.g., id. at *8-*10 (discussing magistrate judge's intricate analysis of whether MedCost qualifies as a TPA for purposes of the Related-Party Rule exception). More fundamentally, as the district court and magistrate judge explained, the St. Francis Hospital decision is non-precedential and non-binding, see Complin, 2019 WL 430925, at *3-*4, and that kind of non-authoritative guidance generally "is not enough to warn a regulated defendant away from an otherwise reasonable interpretation" of a regulation for purposes of establishing FCA scienter, Purcell, 807 F.3d at 290 (citation omitted).*

Given that five federal judges agreed that "there remains a decided 'lack of clarity'" as it relates to the regulatory provisions that control this reporting process, I am trying to find out what CMS has done or is doing since this ruling was issued in order to provide clarity to the hospital community concerning this matter.

Thanks for your help and please let me know if you need any additional information.

Best regards,

Joe Vincoli

Senator Burr followed up with CMS concerning my inquiry and received the following response from CMS:

From: Sloan, Ralph W. (CMS)

Sent: Tuesday, July 27, 2021 7:07 PM

To: Hatfield, Susan (Burr) <Susan_Hatfield@burr.senate.gov>

Subject: Congressional Inquiry - Mr. Joe Vincoli - Cost Report Issues (Ref # 659472) - CMS Response

Importance: High

Ms. Hatfield,

Thank you again for the congressional inquiry on behalf of Mr. Joe Vincoli. Mr. Vincoli is requesting clarification of Medicare's regulations on how hospital expenses for the health care services it provides to its own employees (known as "domestic care") are to be reported on the CMS Cost Reports when the hospital uses a third-party administrator that is owned by the hospital. Palmetto GBA, the Jurisdiction M Medicare Administrative Contractor, reviewed Mr. Vincoli's request and has provided the following response:

Palmetto GBA maintains that related-party rules apply in this situation. Costs applicable to services furnished by the third-party administrator to the hospital are includable in the allowable cost of the hospital at the cost to the related party. However, such cost must not exceed the price of comparable services that could be purchased elsewhere. Domestic claim charges must be reduced to cost. Cost must also exclude any copayments and deductibles paid by employees.

I trust that this information has been responsive to your needs. If you have any questions or need additional information in regard to this congressional inquiry, please let me know.

Thanks.

Best,

Ralph

Ralph W. Sloan, CPA

Centers for Medicare & Medicaid Services

Office of Program Operations and Local Engagement

Atlanta Innovation & Financial Management Group

(As I trust you know by now the term 'domestic care' refers to the care provided by the employer/medical provider (eg, a hospital) to its own employees.)

The key regulatory statement in Mr. Sloan's response is this line: Domestic claim charges must be reduced to cost.

In the intervening years from 2021 to 2024, CMS conducted (at my behest) an audit concerning Atrium's use and ownership of MedCost (MTN 695838).

Through a recent FOIA request I received over 700 pages of documents related to this audit.

Among those 700 documents is an email from Palmetto auditor, Stephen Wood, to CMS officials (Michael Treitel and Ayub Ibrahim) dated September 11, 2023. (It is the last document (by time/date) in the entire 700+ pages). In it he states the following:

Good morning Michael & Ayub,

Palmetto just received a FOIA request from Joe Vincoli late yesterday. Palmetto has documentation from Atrium/Medcost related to reviewing their relationship to ensure it meets the related party rule exception; however, Palmetto has not had time review [sic] the documentation [meaning the documentation from Atrium/MedCost]. Palmetto's original supposition to the situation is as follows:

In order to meet the exception, 4 criteria must be met according to PRM 15-1, Section 1010:

- 1. The organizations must be bona fide separate organizations.*
- 2. A substantial part of the supplying organization's (Medcost) business activity must be carried on with organizations not related to the provider.*
- 3. Services, facilities, or supplies cannot be a basic element of patient care.*
- 4. The charge to the provider is in line with the charge for such services in the open market and no more than the charge made under comparable circumstances to others by the organization for such services.*

Palmetto believed the criteria for items 1 & 3 were already met; however, items 2 and 4 required the additional information from Medcost in order to determine if the exception to the related party principle is met.

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. 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?

Thank you,

Stephen Wood

My subsequent FOIA requests submitted to CMS/Palmetto have indicated that there are no more documents and ***that there is no ongoing audit.***

According to the information available to a tax-payer, the audit just goes 'POOF'.

What is truly scary about all this is that there are five federal judges who have failed to analyze the one simple legal question at the core: who are the ***parties*** involved in ***'the transaction'***?

The hospitals argue that MedCost meets the exception under PRM 15-1 Section 1010 (1. bona fide separate, 2. other business, ***3. Services, facilities, or supplies cannot be a basic element of patient care***, 4. charges in line); and therefore, because MedCost meets those criteria, Atrium can charge its employees a 'market rate' for domestic care.

But WHO IS THE PARTY THAT PROVIDED THE PATIENT CARE?

Does MedCost provide patient care services? No.

Auditor Wood's first statement reflects this confusion: ***Palmetto has documentation from Atrium/Medcost related to reviewing their relationship to ensure it meets the related party rule exception.*** (emphasis added).

Later auditor Wood states: *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.**** (emphasis added).

Who is providing the health care services? MedCost?

No.

Atrium?

Yes.

Are Atrium and MedCost one entity (*IT*) or are they two entities (*THEY*)?

While the judges focused on the red herring of whether or not MedCost was a TPA and whether or not Atrium's relationship with MedCost met the exception; the auditor understood that the real question had nothing to do with MedCost. The real question is whether or not Atrium met the Related-Party Rule exception when it provided domestic care services to its employees.

Clearly MedCost does not provide patient care services to Atrium's employees; Atrium provides patient care services to its employees.

I am asking Senator Budd to find out:

- 1) What is the status of this audit?;
- 2) If it is closed, is the regulation enforceable?;
- 3) If it is enforceable, what is being done to enforce it?, and,
- 4) If it's not enforceable, what is CMS doing to make it enforceable?

PLEASE, PLEASE, PLEASE: Do not send me the generic 'I thank you for sharing...I too am very concerned about Domestic Care Costs...Thank you for your reply...' I have received far too many of those in the past from Virginia Foxx and others.

ALSO, I ASK YOU (WITH ALL DUE RESPECT) NOT TO FORWARD THIS EMAIL TO THE HOSPITALS.

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Date: Sat, 31 Aug 2024 07:51:18 +0000

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Sent: Tuesday, July 27, 2021 7:07 PM

To: Hatfield, Susan (Burr) <Susan_Hatfield@burr.senate.gov>

Subject: Congressional Inquiry - Mr. Joe Vincoli - Cost Report Issues (Ref # 659472) - CMS Response

Importance: High

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I trust that this information has been responsive to your needs. If you have any questions or need additional information in regard to this congressional inquiry, please let me know.

Thanks.

Best,

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Ralph W. Sloan, CPA

Centers for Medicare & Medicaid Services

Office of Program Operations and Local Engagement

Atlanta Innovation & Financial Management Group

Division of Financial Management

(As I trust you know by now the term 'domestic care' refers to the care provided by the employer/medical provider (eg, a hospital) to its own employees.)

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CMS000161_0000003_0002

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DONNIE LAMBETH TAUGHT ME THAT LESSON.

Thank you,

Joe Vincoli

Correcting typo Re: MTN 695838

From: Joe Vincoli <joevincoli@gmail.com>
To: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
Cc: ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, stephen.wood@palmettogba.com, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Johnson, Jennifer (CMS/CM)" <jennifer.johnson6@cms.hhs.gov>
Date: Fri, 26 Jul 2024 04:35:29 +0000

On Fri, Jul 26, 2024 at 12:24 AM Joe Vincoli <joevincoli@gmail.com> wrote:

Ms. Hatfield,

As you may recall, I first contacted you about the issue of what Atrium charges its own employees for health care services when you worked for Senator Burr.

At that point CMS told Senator Burr that if a hospital owns or controls its claims payer then domestic care expenses must be reduced to cost.

Ultimately an audit was undertaken (MTN 695838).

I submitted a FOIA request for documents related to that audit.

Although I was initially told by Palmetto GBA that 'no documents' existed related to any audit on this matter, I appealed and then received 799 pages of documents.

The last (based on date) email in all of those documents is a November 2023 email from Palmetto GBA employee Stephen Wood to CMS asking for clarification concerning his ongoing audit of whether or not the hospital met 'the exception' or, in the alternative, the 'St. Francis PRRB' ruling voided the hospital's claim for exemption from the related party rules.

As indicated below, according to Palmetto GBA, as of June 2024 *"...there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA."*

It boggles the mind that a professional auditor would ask government officials for guidance and not receive a response in six months.

Certainly, Palmetto GBA would not allow Mr. Wood to decide, on his own, to discontinue the audit without guidance from CMS.

One would think that it would not be acceptable for CMS officials (Treitel and Ibrahim) to 'pick up the phone' and tell the auditor to 'shut it down'.

I will not let this issue be buried.

I want to assure all the recipients on this email that I will continue to file FOIA requests, constituent services requests to my elected officials, and OIG reports until I get an answer.

Please confirm receipt.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

From: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>
Date: Tue, Jul 9, 2024 at 7:10 AM
Subject: Atrium Audit -Request for documents from Jan 29, 2024 to June 30, 2024 (MTN 695838)
To: joevincoli@gmail.com <joevincoli@gmail.com>
Cc: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>

Please see attached, there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no

ongoing review of this issue being performed by Palmetto GBA.

Thank you,

Javonda Woods-Ladson

Customer Service Coordinator

Phone 803-763-4004



<https://www.palmettogba.com/disclaimer>

Public Records Request for time period July 1, 2024 and August 30, 2024

From: Joe Vincoli <joevincoli@gmail.com>
To: "Snyder, Erin P" <erin.snyder@atriumhealth.org>
Cc: "Dunlap, George" <george.dunlap@mecklenburgcountync.gov>, Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, stephen.wood@palmettogba.com, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, ncopengov@elon.edu, javonda.woods-ladson@palmettogba.com, ED SANCHEZ <ed.sanchez@palmettogba.com>, Patsy Barkley <patsy.barkley@palmettogba.com>, rcraver <rcraver@wsjournal.com>, Michelle Crouch <mccrouch@northcarolinahealthnews.org>, Sen. Joyce Krawiec <joyce.krawiec@ncleg.net>, Sen. Joyce Krawiec <joyce.krawiec@ncleg.gov>
Date: Fri, 30 Aug 2024 05:21:44 +0000

Ms. Snyder,

Under NC Public Records law I am requesting a copy of all communications between Atrium (aka Charlotte Mecklenburg Hospital Authority ('CMHA')) and Palmetto (or CMS) from July 1, 2024 to August 30, 2024 related to Atrium's cost report filings and its classification and use of MedCost.

I would also like to request a copy of all communications between CMHA and the Charlotte Mecklenburg County Commissioners concerning this matter from the same time period.

I would also like a copy of all communications between Atrium/CMHA (or any of its other entities) and MedCost concerning this matter from the same time period.

I would also like to request a copy of all communications between Atrium management and the individual board members/commissioners of CMHA as well as communications between the CMHA board members/commissioners themselves as it relates to this matter from July 1, 2024 to August 30, 2024.

I would also like to request a copy of all communications between Atrium management and the individual board members/commissioners of CMHA as well as communications between the CMHA board members/commissioners themselves that name or reference 'Joseph Vincoli' or 'Joe Vincoli' from July 1, 2024 to August 30, 2024.

I would also like to request a copy of all communications between CMHA board members/commissioners and any elected (or former) officials in the State of North Carolina that reference this matter or name 'Joseph Vincoli' or 'Joe Vincoli' from July 1, 2024 and August 30, 2024.

I would also like to request the name and address of the Chairman of the CMHA board so that I can communicate my displeasure with Atrium's failure to provide timely responses to my previously submitted public records requests.

As you know, I have been submitting FOIA requests concerning this matter since 2022.

Here's a reply from you on November 14, 2022 in response to the FOIA request I submitted two years ago:

*From: Snyder, Erin P <Erin.Snyder@atriumhealth.org>
Date: Mon, Nov 14, 2022 at 3:57 PM
Subject: Response to Follow-Up Public Records Request 10-10-22
To: Joe Vincoli <joevincoli@gmail.com>*

Dear Mr. Vincoli,

In response to your request on October 10, 2022, for "all communications between Atrium and Palmetto from August 31, 2022 to date (related to Atrium's cost report filings and its classification and use of MedCost)," please see the attached documents.

Based on your public records requests, I am inferring that you believe that Atrium Health is somehow in violation of the law. If my inference is correct, I would welcome the chance to talk with you and hear your concerns directly. If Atrium is doing something wrong, I want to correct it. As a lawyer and an employee of Atrium Health, I have an obligation and responsibility to foster a culture of integrity and compliance.

May I meet with you and buy you a cup of coffee? Alternatively, if you are represented by counsel, I would welcome the chance to speak with them directly.

*Sincerely,
Erin Snyder*

CMS000161_0000007_0001

Erin Snyder

*Vice President and Managing Counsel
Litigation and Investigations
Legal Department
704-355-3063 (office)
(she/her/hers)*

Since then I have lost faith in the public records process due to the increasing delays in Atrium's provision of public documents in a timely manner and I'm hoping you can help restore that. In your email of November 2022 you expressed what appeared to be a sincere interest in 'compliance'. I hope that interest continues to this day.

Please let me know if any aspect of this request presents an undue burden and I will be glad to modify it as is appropriate.

As always, thank you for your cooperation in fulfilling this public records request.

Please confirm receipt.

Joe Vincoli
220 Epping Road
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From: Joe Vincoli <joevincoli@gmail.com>
To: "Snyder, Erin P" <erin.snyder@atriumhealth.org>
Cc: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, ED SANCHEZ <ed.sanchez@palmettogba.com>, Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, george.dunlap@mecknc.gov
Date: Wed, 31 Jul 2024 03:13:37 +0000

Ms. Snyder,

Under NC Public Records law I am requesting a copy of all communications between Atrium (aka Charlotte Mecklenburg Hospital Authority ('CMHA')) and Palmetto (or CMS) from July 1, 2024 to July 31, 2024 related to Atrium's cost report filings and its classification and use of MedCost.

I would also like to request a copy of all communications between CMHA and the Charlotte Mecklenburg County Commissioners concerning this matter from the same time period.

I would also like a copy of all communications between Atrium/CMHA (or any of its other entities) and MedCost concerning this matter from the same time period.

I would also like to request a copy of all communications between Atrium management and the individual board members/commissioners of CMHA as well as communications between the CMHA board members/commissioners themselves as it relates to this matter from July 1, 2024 to July 31, 2024.

I would also like to request a copy of all communications between Atrium management and the individual board members/commissioners of CMHA as well as communications between the CMHA board members/commissioners themselves that name or reference 'Joseph Vincoli' or 'Joe Vincol' from July 1, 2024 to July 31, 2024.

I would also like to request a copy of all communications between CMHA board members/commissioners and any elected (or former) officials in the State of North Carolina that reference this matter or name 'Joseph Vincoli' or 'Joe Vincol' from July 1, 2024 July 31, 2024.

Also, could you please provide me with the formal email address for the Chairman of the CMHA board?

Please let me know if any aspect of this request presents an undue burden and I will be glad to modify it as is appropriate.

As always, thank you for your cooperation in fulfilling this public records request.

Please confirm receipt.

Joe

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

Fwd: LinkedIn Poll

From: Joe Vincoli <joevincoli@gmail.com>
To: "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mccrouch@northcarolinahealthnews.org>
Cc: "Dunlap, George" <george.dunlap@mecklenburgcountync.gov>, Sen. Joyce Krawiec <joyce.krawiec@ncleg.net>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, ED SANCHEZ <ed.sanchez@palmettogba.com>, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
Date: Wed, 14 Aug 2024 04:47:41 +0000

----- Forwarded message -----

From: Joe Vincoli <joevincoli@gmail.com>
Date: Tue, Aug 13, 2024 at 9:44 PM
Subject: LinkedIn Poll
To: Robin Fields <robin.fields@propublica.org>

Joe VincoliJoe Vincoli
(He/Him) • You (He/Him) • You

On 8/12/24 I submitted a request to The White House for an explanation concerning the status of MTN 695838. What will their response be?

- 1) The audit is now under seal
- 2) The feds have killed it
- 2) Thank you for your question

I would like to know what has been done by your administration since November of 2023 as it relates to an audit being conducted by Palmetto GBA (reference number MTN 695838).

Documents I have received through a FOIA request indicate that in November of 2023 the Palmetto GBA auditor asked CMS officials for guidance on a specific issue related to how much hospitals that own their own claims payer can report to Medicare that the hospital paid itself for the care it rendered to its own employee.

Put simply, when a hospital employee receives care from their employer/hospital the hospital is in the unusual situation of being the 'provider of medical services' and the 'benefit plan sponsor'. For many hospitals this means using their own funds to pay themselves for their work. The question at hand is 'what should those employees (and the plan) pay? Market? Cost? Full Retail?'

In July of 2024 I submitted a follow-up FOIA request and was subsequently informed that CMS had not, as of 7/24 responded in writing to the auditor at Palmetto GBA.

I would like to point out that the auditor's emails to CMS officials during this time period raised concerns about potential fraud.

While there may be reasonable explanations for there being no response from CMS to the auditor 'in writing', I find it very troubling that CMS has not responded in writing to the auditor.

To assist you in preparing your reply, I am providing the contact info for the federal employee at CMS with whom I have been instructed to contact as it relates to this matter:

Jacqueline Brown
JJ and JM A/B MAC Contracting Officer Representative

Southern MAC Program Management Division

CM/MCMG
(214) 767-6393 Office
(443) 380-6473 fax

Work Iphone (816) 590-0996

jacqueline.brown@cms.hhs.gov

Thank you for your service to our country.

Re: Correcting typo Re: MTN 695838

From: Joe Vincoli <joevincoli@gmail.com>
To: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
Cc: ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, stephen.wood@palmettogba.com, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Johnson, Jennifer (CMS/CM)" <jennifer.johnson6@cms.hhs.gov>
Date: Sat, 03 Aug 2024 03:08:26 +0000



Joe Vincoli **Author**

Plaintiff's Consultant specializing in ERISA (fiduciary) and Medicare Cost Report (42 CFR Section 413.17, reducing domestic care expenses to cost) compliance of self-funded and self-administered hospital health plans.

1h

I think it's more nefarious. The auditor cared; he got vaporized. It happens all the time. See 'The Challenger' disaster if you doubt it.

Like **Reply**



Joe Vincoli **Author**

Plaintiff's Consultant specializing in ERISA (fiduciary) and Medicare Cost Report (42 CFR Section 413.17, reducing domestic care expenses to cost) compliance of self-funded and self-administered hospital health plans.

46m

Here's an email I sent to CMS in 2022. The legal argument Burr recites is a garbled version of the hospital's current argument...an argument that the auditor told CMS in 2023 was 'voided' by the St. Francis ruling. Sen. Burr could not have written this response. That's how it works.

On Wed, May 25, 2022 at 8:14 PM Joe Vincoli <joevincoli@gmail.com> wrote:

Like **Reply**



Joe Vincoli **Author**

Plaintiff's Consultant specializing in ERISA (fiduciary) and Medicare Cost Report (42 CFR Section 413.17, reducing domestic care expenses to cost) compliance of self-funded and self-administered hospital health plans.

17m

What's absurd and disturbing about Burr's response is that even though he argues the hospital meets the 'exception' he closes with this line:

"In the cases of exceptions, the hospital may claim reimbursement for the charges in amounts equal to the cost

of the hospital."

Like Reply



Joe Vincoli Author

Plaintiff's Consultant specializing in ERISA (fiduciary) and Medicare Cost Report (42 CFR Section 413.17, reducing domestic care expenses to cost) compliance of self-funded and self-administered hospital health plans.

(edit 2m d)

Based on Senator Burr's comment, ALL ATRIUM employees who received 340B drugs over the last 26 years should have paid the hospital's 'cost', not market.

Like Reply

Retired at International Paper 1h

Roger Pyle

It appears to me that no one else cares enough to pursue it.

Like Reply

On Sat, Aug 3, 2024 at 12:32 AM Joe Vincoli <joevincoli@gmail.com> wrote:



Joe Vincoli(He/Him) • You

Plaintiff's Consultant specializing in ERISA (fiduciary) and Medicare Cost Report (42 CFR Section 413.17, reducing domestic care expenses to cost) compliance of self-funded and self-administered hospital health plans.



Atrium owns its claims payer MedCost.

Atrium (then 'Carolinas Medical Center...but always 'Charlotte-Mecklenburg Hospital Authority, a "governmental entity" under North Carolina state law) purchased it in 1996.

Since then, it appears that Atrium has been reporting to CMS that it was using a 'third party administrator'. According to an auditor's notes (recently obtained), Atrium never disclosed to CMS that it owned MedCost.

In the early 2020's I contacted Senator Burr about this issue. That led to a CMS audit of the matter (*MTN* 695838).

In November of 2023 the same auditor (under contract) wrote to CMS officials:

During this process, Palmetto has received multiple emails from Joe Vincoli with information he believes would undo the provider's assertion that they... meet the exception. One of his emails...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.

In response to a June 2024 FOIA request submitted by me, Palmetto/CMS informed me:

Date: Tue, Jul 9, 2024 at 7:10 AM

Subject: Atrium Audit -Request for documents from Jan 29, 2024 to June 30, 2024 (MTN 695838)

Please see attached, there have been no communications related to the review of Atrium Health as it

relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA.

If there are any auditors reading my posts I ask: what do you think?

How could a two year audit vaporize mid-stream?

On Thu, Jul 25, 2024 at 9:35 PM Joe Vincoli <joevincoli@gmail.com> wrote:

On Fri, Jul 26, 2024 at 12:24 AM Joe Vincoli <joevincoli@gmail.com> wrote:

Ms. Hatfield,

As you may recall, I first contacted you about the issue of what Atrium charges its own employees for health care services when you worked for Senator Burr.

At that point CMS told Senator Burr that if a hospital owns or controls its claims payer then domestic care expenses must be reduced to cost.

Ultimately an audit was undertaken (MTN 695838).

I submitted a FOIA request for documents related to that audit.

Although I was initially told by Palmetto GBA that 'no documents' existed related to any audit on this matter, I appealed and then received 799 pages of documents.

The last (based on date) email in all of those documents is a November 2023 email from Palmetto GBA employee Stephen Wood to CMS asking for clarification concerning his ongoing audit of whether or not the hospital met 'the exception' or, in the alternative, the 'St. Francis PRRB' ruling voided the hospital's claim for exemption from the related party rules.

As indicated below, according to Palmetto GBA, as of June 2024 "*...there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA.*"

It boggles the mind that a professional auditor would ask government officials for guidance and not receive a response in six months.

Certainly, Palmetto GBA would not allow Mr. Wood to decide, on his own, to discontinue the audit without guidance from CMS.

One would think that it would not be acceptable for CMS officials (Treitel and Ibrahim) to 'pick up the phone' and tell the auditor to 'shut it down'.

I will not let this issue be buried.

I want to assure all the recipients on this email that I will continue to file FOIA requests, constituent services requests to my elected officials, and OIG reports until I get an answer.

Please confirm receipt.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

From: **JAVONDA WOODS-LADSON** <JAVONDA.WOODS-LADSON@palmettogba.com>

Date: Tue, Jul 9, 2024 at 7:10 AM

Subject: Atrium Audit -Request for documents from Jan 29, 2024 to June 30, 2024 (MTN 695838)

To: joevincoli@gmail.com <joevincoli@gmail.com>

Cc: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>

Please see attached, there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA.

Thank you,

Javonda Woods-Ladson

Customer Service Coordinator

Phone 803-763-4004



<https://www.palmettogba.com/disclaimer>

Re: Status Of CMS Enforcement Of Basic Related-Party Transaction Rules

From: Joe Vincoli <joevincoli@gmail.com>
To: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
Cc: "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, ED SANCHEZ <ed.sanchez@palmettogba.com>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, "Dunlap, George" <george.dunlap@mecklenburgcountync.gov>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, stephen.wood@palmettogba.com, Patsy Barkley <patsy.barkley@palmettogba.com>, ncopengov@elon.edu, javonda.woods-ladson@palmettogba.com
Date: Mon, 02 Sep 2024 05:25:51 +0000

Susan,

Please confirm receipt and 'reply to all'.

Thank you.

Joe Vincoli

On Sat, Aug 31, 2024 at 12:51 AM Joe Vincoli <joevincoli@gmail.com> wrote:

Susan,

I am respectfully asking for Senator Budd's help to get me an answer from CMS concerning its enforcement of a basic CMS regulation concerning Related-Party Transaction Rules.

When you worked for Senator Burr I sent you this email in 2021:

from: Joe Vincoli <joevincoli@gmail.com>
to: susan_hatfield@burr.senate.gov
date: Jul 7, 2021, 1:08 PM
subject: Vincoli CMS Request
mailed-by: [gmail.com](mailto:joevincoli@gmail.com)

Susan,

Thank you for taking my call today.

Here is a brief summary of what I am trying to find out.

In a recent 4th Circuit Court of Appeals ruling, the court held that Medicare's regulations regarding how hospital expenses for the health care services it provides to its own employees (known as 'domestic care') are to be reported were 'sufficiently ambiguous' so that the present case which raised issues alleging fraudulent reporting was dismissed. (U.S. ex rel Complin v. North Carolina Baptist Hospital, No. 19-1243, 2020 WL 3167634 (4th Cir. June 15, 2020)).

As the judges stated below, "...we are inclined to agree with the district court and magistrate judge that there remains a decided "lack of clarity" as to application of the Related-Party Rule to the Hospitals here".

*On appeal, as before the district court, Vincoli argues that any ambiguity about the application of the Related-Party Rule was resolved by the decision of the Medicare Provider Reimbursement Review Board in St. Francis Hospital Greenville, South Carolina Provider No.: 42-0023 v. Intermediary BlueCross BlueShield Association/Palmetto Government Benefits Administrators, 2007 WL 1774634 (P.R.R.B. Apr. 19, 2007). Given the "complex and highly technical regulatory" regime at issue. Complin, 2016 WL 7471311, at *15 (Magistrate Judge Recommendation), we are inclined to agree with the district court and magistrate judge that there remains a decided "lack of clarity" as to application of the Related-Party Rule to the Hospitals here, Complin, 2019 WL 430925, at *10; see also, e.g., id. at *8-*10 (discussing magistrate judge's intricate analysis of whether MedCost qualifies as a TPA for purposes of the Related-Party Rule exception). More fundamentally, as the district court and magistrate judge explained, the St. Francis Hospital decision is non-precedential and non-binding, see Complin, 2019 WL 430925, at *3-*4, and that kind of non-authoritative guidance generally "is not enough to warn a regulated defendant away from an otherwise reasonable interpretation" of a regulation for purposes of establishing FCA scienter, Purcell, 807 F.3d at 290 (citation omitted).*

Given that five federal judges agreed that "there remains a decided 'lack of clarity'" as it relates to the regulatory provisions that control this reporting process, I am trying to find out what CMS has done or is doing since this ruling was issued in order to provide clarity to the hospital community concerning this matter.

Thanks for your help and please let me know if you need any additional information.

Best regards,

Joe Vincoli

Senator Burr followed up with CMS concerning my inquiry and received the following response from CMS:

From: Sloan, Ralph W. (CMS)

Sent: Tuesday, July 27, 2021 7:07 PM

To: Hatfield, Susan (Burr) <Susan_Hatfield@burr.senate.gov>

Subject: Congressional Inquiry - Mr. Joe Vincoli - Cost Report Issues (Ref # 659472) - CMS Response

Importance: High

Ms. Hatfield,

Thank you again for the congressional inquiry on behalf of Mr. Joe Vincoli. Mr. Vincoli is requesting clarification of Medicare's regulations on how hospital expenses for the health care services it provides to its own employees (known as "domestic care") are to be reported on the CMS Cost Reports when the hospital uses a third-party administrator that is owned by the hospital. Palmetto GBA, the Jurisdiction M Medicare Administrative Contractor, reviewed Mr. Vincoli's request and has provided the following response:

Palmetto GBA maintains that related-party rules apply in this situation. Costs applicable to services furnished by the third-party administrator to the hospital are includable in the allowable cost of the hospital at the cost to the related party. However, such cost must not exceed the price of comparable services that could be purchased elsewhere. Domestic claim charges must be reduced to cost. Cost must also exclude any copayments and deductibles paid by employees.

I trust that this information has been responsive to your needs. If you have any questions or need additional information in regard to this congressional inquiry, please let me know.

Thanks.

Best,

Ralph

Ralph W. Sloan, CPA

Centers for Medicare & Medicaid Services

Office of Program Operations and Local Engagement

Atlanta Innovation & Financial Management Group

(As I trust you know by now the term 'domestic care' refers to the care provided by the employer/medical provider (eg, a hospital) to its own employees.)

The key regulatory statement in Mr. Sloan's response is this line: Domestic claim charges must be reduced to cost.

In the intervening years from 2021 to 2024, CMS conducted (at my behest) an audit concerning Atrium's use and ownership of MedCost (MTN 695838).

Through a recent FOIA request I received over 700 pages of documents related to this audit.

Among those 700 documents is an email from Palmetto auditor, Stephen Wood, to CMS officials (Michael Treitel and Ayub Ibrahim) dated September 11, 2023. (It is the last document (by time/date) in the entire 700+ pages). In it he states the following:

Good morning Michael & Ayub,

Palmetto just received a FOIA request from Joe Vincoli late yesterday. Palmetto has documentation from Atrium/Medcost related to reviewing their relationship to ensure it meets the related party rule exception; however, Palmetto has not had time review [sic] the documentation [meaning the documentation from Atrium/MedCost]. Palmetto's original supposition to the situation is as follows:

In order to meet the exception, 4 criteria must be met according to PRM 15-1, Section 1010:

- 1. The organizations must be bona fide separate organizations.*
- 2. A substantial part of the supplying organization's (Medcost) business activity must be carried on with organizations not related to the provider.*
- 3. Services, facilities, or supplies cannot be a basic element of patient care.*
- 4. The charge to the provider is in line with the charge for such services in the open market and no more than the charge made under comparable circumstances to others by the organization for such services.*

Palmetto believed the criteria for items 1 & 3 were already met; however, items 2 and 4 required the additional information from Medcost in order to determine if the exception to the related party principle is met.

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. 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?

Thank you,

Stephen Wood

My subsequent FOIA requests submitted to CMS/Palmetto have indicated that there are no more documents and ***that there is no ongoing audit.***

According to the information available to a tax-payer, the audit just goes 'POOF'.

What is truly scary about all this is that there are five federal judges who have failed to analyze the one simple legal question at the core: who are the ***parties*** involved in ***'the transaction'***?

The hospitals argue that MedCost meets the exception under PRM 15-1 Section 1010 (1. bona fide separate, 2. other business, ***3. Services, facilities, or supplies cannot be a basic element of patient care***, 4. charges in line); and therefore, because MedCost meets those criteria, Atrium can charge its employees a 'market rate' for domestic care.

But WHO IS THE PARTY THAT PROVIDED THE PATIENT CARE?

Does MedCost provide patient care services? No.

Auditor Wood's first statement reflects this confusion: ***Palmetto has documentation from Atrium/Medcost related to reviewing their relationship to ensure it meets the related party rule exception.*** (emphasis added).

Later auditor Wood states: *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.**** (emphasis added).

Who is providing the health care services? MedCost?

No.

Atrium?

Yes.

Are Atrium and MedCost one entity (*IT*) or are they two entities (*THEY*)?

While the judges focused on the red herring of whether or not MedCost was a TPA and whether or not Atrium's relationship with MedCost met the exception; the auditor understood that the real question had nothing to do with MedCost. The real question is whether or not Atrium met the Related-Party Rule exception when it provided domestic care services to its employees.

Clearly MedCost does not provide patient care services to Atrium's employees; Atrium provides patient care services to its employees.

I am asking Senator Budd to find out:

- 1) What is the status of this audit?;
- 2) If it is closed, is the regulation enforceable?;
- 3) If it is enforceable, what is being done to enforce it?, and,
- 4) If it's not enforceable, what is CMS doing to make it enforceable?

PLEASE, PLEASE, PLEASE: Do not send me the generic 'I thank you for sharing...I too am very concerned about Domestic Care Costs...Thank you for your reply...' I have received far too many of those in the past from Virginia Foxx and others.

ALSO, I ASK YOU (WITH ALL DUE RESPECT) NOT TO FORWARD THIS EMAIL TO THE HOSPITALS.

DONNIE LAMBETH TAUGHT ME THAT LESSON.

Thank you,

Joe Vincoli

Re: Correcting typo Re: MTN 695838

From: Joe Vincoli <joevincoli@gmail.com>
To: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
Cc: ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, stephen.wood@palmettogba.com, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Johnson, Jennifer (CMS/CM)" <jennifer.johnson6@cms.hhs.gov>
Date: Mon, 05 Aug 2024 06:07:38 +0000



Joe Vincoli(He/Him) • You

Plaintiff's Consultant specializing in ERISA (fiduciary) and Medicare Cost Report (42 CFR Section 413.17, reducing domestic care expenses to cost) compliance of self-funded and self-administered hospital health plans.



Per CMS, since 11/23 there have been no emails between CMS and Atrium related to Atrium's reporting of employee health costs. Why?

You can see how people vote. [Learn more](#)

Someone killed the audit.

CMS needs more time to respond

The audit is now under seal.

Atrium met the exception.

On Fri, Jul 26, 2024 at 9:23 AM Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov> wrote:

Joe, I am in receipt of your narrative and concerns as outlined below.

Susan Hatfield

U. S. Senator Ted Budd

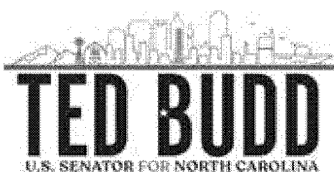
5380 US Hwy 158, Suite 202

Advance, NC 27006

Office (336) 941-4470

Fax (910) 772-0390

Direct (202) 960-5736



From: Joe Vincoli <joevincoli@gmail.com>

Sent: Friday, July 26, 2024 12:35 AM

To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>

Cc: ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>; Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; Michelle Crouch <mccrouch@northcarolinahealthnews.org>; Sloan, Ralph W. (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; stephen.wood@palmettogba.com; Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>

Subject: Correcting typo Re: MTN 695838

On Fri, Jul 26, 2024 at 12:24 AM Joe Vincoli <joevincoli@gmail.com> wrote:

Ms. Hatfield,

As you may recall, I first contacted you about the issue of what Atrium charges its own employees for health care services when you worked for Senator Burr.

At that point CMS told Senator Burr that if a hospital owns or controls its claims payer then domestic care expenses must be reduced to cost.

Ultimately an audit was undertaken (MTN 695838).

I submitted a FOIA request for documents related to that audit.

Although I was initially told by Palmetto GBA that 'no documents' existed related to any audit on this matter, I appealed and then received 799 pages of documents.

The last (based on date) email in all of those documents is a November 2023 email from Palmetto GBA employee Stephen Wood to CMS asking for clarification concerning his ongoing audit of whether or not the hospital met 'the exception' or, in the alternative, the 'St. Francis PRRB' ruling voided the hospital's claim for exemption from the related party rules.

As indicated below, according to Palmetto GBA, as of June 2024 *"...there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA."*

It boggles the mind that a professional auditor would ask government officials for guidance and not receive a response in six months.

Certainly, Palmetto GBA would not allow Mr. Wood to decide, on his own, to discontinue the audit without guidance from CMS.

One would think that it would not be acceptable for CMS officials (Treitel and Ibrahim) to 'pick up the phone' and tell the auditor to 'shut it down'.

I will not let this issue be buried.

I want to assure all the recipients on this email that I will continue to file FOIA requests, constituent services requests to my elected officials, and OIG reports until I get an answer.

Please confirm receipt.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

From: **JAVONDA WOODS-LADSON** <JAVONDA.WOODS-LADSON@palmettogba.com>
Date: Tue, Jul 9, 2024 at 7:10 AM
Subject: Atrium Audit -Request for documents from Jan 29, 2024 to June 30, 2024 (MTN 695838)
To: joevincoli@gmail.com <joevincoli@gmail.com>
Cc: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>

Please see attached, there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA.

Thank you,

Javonda Woods-Ladson

Customer Service Coordinator

Phone 803-763-4004



<https://www.palmettogba.com/disclaimer>

MTN 695838

From: Joe Vincoli <joevincoli@gmail.com>
To: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
Cc: ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, stephen.wood@palmettogba.com, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Johnson, Jennifer (CMS/CM)" <jennifer.johnson6@cms.hhs.gov>
Date: Fri, 26 Jul 2024 04:24:36 +0000

Ms. Hatfield,

As you may recall, I first contacted you about the issue of what Atrium charges its own employees for health care services when you worked for Senator Burr.

At that point CMS told Senator Burr that if a hospital owns or controls its claims payer then domestic care expenses must be reduced to cost.

Ultimately an audit was undertaken (MTN 695838).

I submitted a FOIA request for documents related to that audit.

Although I was initially told by Palmetto GBA that 'no documents' existed related to any audit on this matter, I appealed and then received 799 pages of documents.

The last (based on date) email in all of those documents is a November 2023 email from Palmetto GBA employee Stephen Wood to CMS asking for clarification concerning his ongoing audit of whether or not the hospital met 'the exception' and, in the alternative, the 'St. Francis PRRB' ruling voided the hospital's claim for exemption from the related party rules.

As indicated below, according to Palmetto GBA, as of June 2024 *"...there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA."*

It boggles the mind that a professional auditor would ask government officials for guidance and not receive a response in six months.

Certainly, Palmetto GBA would not allow Mr. Wood to decide, on his own, to discontinue the audit without guidance from CMS.

One would think that it would not be acceptable for CMS officials (Treitel and Ibrahim) to 'pick up the phone' and tell the auditor to 'shut it down'.

I will not let this issue be buried.

I want to assure all the recipients on this email that I will continue to file FOIA requests, constituent services requests to my elected officials, and OIG reports until I get an answer.

Please confirm receipt.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

From: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>
Date: Tue, Jul 9, 2024 at 7:10 AM
Subject: Atrium Audit -Request for documents from Jan 29, 2024 to June 30, 2024 (MTN 695838)
To: joevincoli@gmail.com <joevincoli@gmail.com>
Cc: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>

Please see attached, there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA.

CMS000161_0000033_0001

Thank you,

Javonda Woods-Ladson

Customer Service Coordinator

Phone 803-763-4004



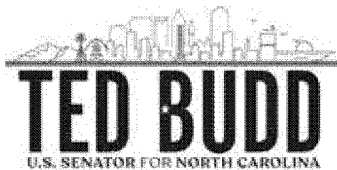
<https://www.palmettogba.com/disclaimer>

RE: Correcting typo Re: MTN 695838

From: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
To: Joe Vincoli <joevincoli@gmail.com>
Cc: ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, stephen.wood@palmettogba.com, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Johnson, Jennifer (CMS/CM)" <jennifer.johnson6@cms.hhs.gov>
Date: Fri, 26 Jul 2024 16:23:51 +0000

Joe, I am in receipt of your narrative and concerns as outlined below.

Susan Hatfield
U. S. Senator Ted Budd
5380 US Hwy 158, Suite 202
Advance, NC 27006
Office (336) 941-4470
Fax (910) 772-0390
Direct (202) 960-5736



From: Joe Vincoli <joevincoli@gmail.com>
Sent: Friday, July 26, 2024 12:35 AM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Cc: ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>; Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; Michelle Crouch <mcrouch@northcarolinahealthnews.org>; Sloan, Ralph W. (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; stephen.wood@palmettogba.com; Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>
Subject: Correcting typo Re: MTN 695838

On Fri, Jul 26, 2024 at 12:24 AM Joe Vincoli <joevincoli@gmail.com> wrote:

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Thank you,

Javonda Woods-Ladson
Customer Service Coordinator
Phone 803-763-4004

 **PALMETTO GBA**
A CELERIAN GROUP COMPANY
<https://www.palmettogba.com/disclaimer>

Status Of CMS Enforcement Of Basic Related-Party Transaction Rules

From: Joe Vincoli <joevincoli@gmail.com>
To: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
Cc: "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, ED SANCHEZ <ed.sanchez@palmettogba.com>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, "Dunlap, George" <george.dunlap@mecklenburgcountync.gov>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, stephen.wood@palmettogba.com, Patsy Barkley <patsy.barkley@palmettogba.com>, ncopengov@elon.edu, javonda.woods-ladson@palmettogba.com
Date: Sat, 31 Aug 2024 07:51:18 +0000

Susan,

I am respectfully asking for Senator Budd's help to get me an answer from CMS concerning its enforcement of a basic CMS regulation concerning Related-Party Transaction Rules.

When you worked for Senator Burr I sent you this email in 2021:

from: **Joe Vincoli** <joevincoli@gmail.com>
to: susan_hatfield@burr.senate.gov
date: Jul 7, 2021, 1:08 PM
subject: Vincoli CMS Request
mailed-by: gmail.com

Susan,

Thank you for taking my call today.

Here is a brief summary of what I am trying to find out.

In a recent 4th Circuit Court of Appeals ruling, the court held that Medicare's regulations regarding how hospital expenses for the health care services it provides to its own employees (known as 'domestic care') are to be reported were 'sufficiently ambiguous' so that the present case which raised issues alleging fraudulent reporting was dismissed. (U.S. ex rel Complin v. North Carolina Baptist Hospital, No. 19-1243, 2020 WL 3167634 (4th Cir. June 15, 2020)).

As the judges stated below, "...we are inclined to agree with the district court and magistrate judge that there remains a decided "lack of clarity" as to application of the Related-Party Rule to the Hospitals here".

*On appeal, as before the district court, Vincoli argues that any ambiguity about the application of the Related-Party Rule was resolved by the decision of the Medicare Provider Reimbursement Review Board in St. Francis Hospital Greenville, South Carolina Provider No.: 42-0023 v. Intermediary BlueCross BlueShield Association/Palmetto Government Benefits Administrators, 2007 WL 1774634 (P.R.R.B. Apr. 19, 2007). Given the "complex and highly technical regulatory" regime at issue. Complin, 2016 WL 7471311, at *15 (Magistrate Judge Recommendation). **we are inclined to agree with the district court and magistrate judge that there remains a decided "lack of clarity" as to application of the Related-Party Rule to the Hospitals here.** Complin, 2019 WL 430925, at *10; see also, e.g., id. at *8-*10 (discussing magistrate judge's intricate analysis of whether MedCost qualifies as a TPA for purposes of the Related-Party Rule exception). More fundamentally, as the district court and magistrate judge explained, the St. Francis Hospital decision is non-precedential and non-binding, see Complin, 2019 WL 430925, at *3-*4, and that kind of non-authoritative guidance generally "is not enough to warn a regulated defendant away from an otherwise reasonable interpretation" of a regulation for purposes of establishing FCA scienter, Purcell, 807 F.3d at 290 (citation omitted).*

Given that five federal judges agreed that "there remains a decided 'lack of clarity' as it relates to the regulatory provisions that control this reporting process, I am trying to find out what CMS has done or is doing since this ruling was issued in order to provide clarity to the hospital community concerning this matter.

Thanks for your help and please let me know if you need any additional information.

Best regards,

Joe Vincoli

Senator Burr followed up with CMS concerning my inquiry and received the following response from CMS:

From: Sloan, Ralph W. (CMS)

Sent: Tuesday, July 27, 2021 7:07 PM

To: Hatfield, Susan (Burr) <Susan_Hatfield@burr.senate.gov>

Subject: Congressional Inquiry - Mr. Joe Vincoli - Cost Report Issues (Ref # 659472) - CMS Response

Importance: High

Ms. Hatfield,

Thank you again for the congressional inquiry on behalf of Mr. Joe Vincoli. Mr. Vincoli is requesting clarification of Medicare's regulations on how hospital expenses for the health care services it provides to its own employees (known as "domestic care") are to be reported on the CMS Cost Reports when the hospital uses a third-party administrator that is owned by the hospital. Palmetto GBA, the Jurisdiction M Medicare Administrative Contractor, reviewed Mr. Vincoli's request and has provided the following response:

Palmetto GBA maintains that related-party rules apply in this situation. Costs applicable to services furnished by the third-party administrator to the hospital are includable in the allowable cost of the hospital at the cost to the related party. However, such cost must not exceed the price of comparable services that could be purchased elsewhere. Domestic claim charges must be reduced to cost. Cost must also exclude any copayments and deductibles paid by employees.

I trust that this information has been responsive to your needs. If you have any questions or need additional information in regard to this congressional inquiry, please let me know.

Thanks.

Best,

Ralph

Ralph W. Sloan, CPA

Centers for Medicare & Medicaid Services

Office of Program Operations and Local Engagement

Atlanta Innovation & Financial Management Group

Division of Financial Management

(As I trust you know by now the term 'domestic care' refers to the care provided by the employer/medical provider (eg, a hospital) to its own employees.)

The key regulatory statement in Mr. Sloan's response is this line: Domestic claim charges must be reduced to cost.

In the intervening years from 2021 to 2024, CMS conducted (at my behest) an audit concerning Atrium's use and ownership of MedCost (MTN 695838).

CMS000161_0000035_0002

Through a recent FOIA request I received over 700 pages of documents related to this audit.

Among those 700 documents is an email from Palmetto auditor, Stephen Wood, to CMS officials (Michael Treitel and Ayub Ibrahim) dated September 11, 2023. (It is the last document (by time/date) in the entire 700+ pages). In it he states the following:

Good morning Michael & Ayub,

Palmetto just received a FOIA request from Joe Vincoli late yesterday. Palmetto has documentation from Atrium/Medcost related to reviewing their relationship to ensure it meets the related party rule exception; however, Palmetto has not had time review [sic] the documentation [meaning the documentation from Atrium/MedCost]. Palmetto's original supposition to the situation is as follows:

In order to meet the exception, 4 criteria must be met according to PRM 15-1, Section 1010:

- 1. The organizations must be bona fide separate organizations.*
- 2. A substantial part of the supplying organization's (Medcost) business activity must be carried on with organizations not related to the provider.*
- 3. Services, facilities, or supplies cannot be a basic element of patient care.*
- 4. The charge to the provider is in line with the charge for such services in the open market and no more than the charge made under comparable circumstances to others by the organization for such services.*

Palmetto believed the criteria for items 1 & 3 were already met; however, items 2 and 4 required the additional information from Medcost in order to determine if the exception to the related party principle is met.

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. 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?

Thank you,

Stephen Wood

My subsequent FOIA requests submitted to CMS/Palmetto have indicated that there are no more documents and ***that there is no ongoing audit.***

According to the information available to a tax-payer, the audit just goes 'POOF'.

What is truly scary about all this is that there are five federal judges who have failed to analyze the one simple legal question at the core: who are the ***parties*** involved in ***'the transaction'***?

The hospitals argue that MedCost meets the exception under PRM 15-1 Section 1010 (1. bona fide separate, 2. other business, ***3. Services, facilities, or supplies cannot be a basic element of patient care***, 4. charges in line); and therefore, because MedCost meets those criteria, Atrium can charge its employees a 'market rate' for domestic care.

But WHO IS THE PARTY THAT PROVIDED THE PATIENT CARE?

Does MedCost provide patient care services? No.

Auditor Wood's first statement reflects this confusion: ***Palmetto has documentation from Atrium/Medcost related to reviewing their relationship to ensure it meets the related party rule exception.*** (emphasis added).

Later auditor Wood states: *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.**** (emphasis added).

Who is providing the health care services? MedCost?

No.

Atrium?

Yes.

Are Atrium and MedCost one entity (*IT*) or are they two entities (*THEY*)?

While the judges focused on the red herring of whether or not MedCost was a TPA and whether or not Atrium's relationship with MedCost met the exception; the auditor understood that the real question had nothing to do with

MedCost. The real question is whether or not Atrium met the Related-Party Rule exception when it provided domestic care services to its employees.

Clearly MedCost does not provide patient care services to Atrium's employees; Atrium provides patient care services to its employees.

I am asking Senator Budd to find out:

- 1) What is the status of this audit?;
- 2) If it is closed, is the regulation enforceable?;
- 3) If it is enforceable, what is being done to enforce it?, and,
- 4) If it's not enforceable, what is CMS doing to make it enforceable?

PLEASE, PLEASE, PLEASE: Do not send me the generic 'I thank you for sharing...I too am very concerned about Domestic Care Costs...Thank you for your reply...' I have received far too many of those in the past from Virginia Foxx and others.

ALSO, I ASK YOU (WITH ALL DUE RESPECT) NOT TO FORWARD THIS EMAIL TO THE HOSPITALS.

DONNIE LAMBETH TAUGHT ME THAT LESSON.

Thank you,

Joe Vincoli

RE: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

From: "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>
To: "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Smith, Torris (CMS/CM)" <torris.smith@cms.hhs.gov>, "Furman, Martin (CMS/CM)" <martin.furman@cms.hhs.gov>, "Albert, Michelle (CMS/CM)" <michelle.albert@cms.hhs.gov>
Cc: "Banks, David (CMS/CM)" <david.banks@cms.hhs.gov>, "Thompson, Donald (CMS/CM)" <donald.thompson@cms.hhs.gov>, "Hudson, Michele (CMS/CM)" <michele.hudson@cms.hhs.gov>, "Gleason, John (CMS/OFM)" <john.gleason@cms.hhs.gov>, "Bobb, Kyle (CMS/OFM)" <kyle.bobb@cms.hhs.gov>, "Fisher, Patrick (CMS/OFM)" <patrick.fisher@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>
Date: Wed, 31 Jul 2024 11:42:46 +0000
Attachments: Public Records Request for time period July 1, 2024 to July 31, 2024 (MTN 695838).msg.msg (162.82 kB)

Attached is another email that we received from Mr. Vincoli last night.

From: Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>
Sent: Tuesday, July 30, 2024 3:28 PM
To: Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Smith, Torris (CMS/CM) <Torris.Smith@cms.hhs.gov>; Furman, Martin (CMS/CM) <Martin.Furman@cms.hhs.gov>; Albert, Michelle (CMS/CM) <Michelle.Albert@cms.hhs.gov>
Cc: Banks, David (CMS/CM) <David.Banks@cms.hhs.gov>; Thompson, Donald (CMS/CM) <Donald.Thompson@cms.hhs.gov>; Hudson, Michele (CMS/CM) <Michele.Hudson@cms.hhs.gov>; Gleason, John (CMS/OFM) <John.Gleason@cms.hhs.gov>; Bobb, Kyle (CMS/OFM) <Kyle.Bobb@cms.hhs.gov>; Fisher, Patrick (CMS/OFM) <Patrick.Fisher@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>
Subject: RE: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

Don and Michele forwarded the email today to Maria Martino in OL.

Thanks,
Michael

From: Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>
Sent: Tuesday, July 30, 2024 4:21 PM
To: Smith, Torris (CMS/CM) <Torris.Smith@cms.hhs.gov>; Furman, Martin (CMS/CM) <Martin.Furman@cms.hhs.gov>; Albert, Michelle (CMS/CM) <Michelle.Albert@cms.hhs.gov>
Cc: Banks, David (CMS/CM) <David.Banks@cms.hhs.gov>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>
Subject: FW: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues
Importance: High

Good afternoon, Torris

I think we need meet internally with CMS DPAO, HPAG, ATL RO staff, and Palmetto before we respond back to Ms. Hatfield with Senator Ted Bud's office (see email below). Also, we probably should give OL a heads up about this issue because Mr. Vincoli copied several newspapers/media outlets.

As you are aware, Mr. Vincoli's original FOIA request (09142023C002/MTN 695838) dating back May 2022, was recently closed by OSORA on June 20, 2024. Mr. Vincoli submitted another request for additional documents associated with this same FOIA MTN to Palmetto on July 2, 2024 for the time period **January 29, 2024 to June 30, 2024**. Palmetto responded on July 9, 2024, that they did not have any documents associated with this request, but he could file an appeal.

See first attachment (titled May 2022 Palmetto emails) that Ms. Hatfield references from Michael Treitel. I believe this email was part of Mr. Vincoli's original FOIA request. Palmetto told me they didn't share this internal email with Mr. Vincoli. Mr. Vincoli is not going away.

Thanks!

Jacqueline Brown
Palmetto JJ and JM A/B MAC Contracting Officer Representative
Southern MAC Program Management Division
CM/MCMG
(214) 767-6393 Office
(443) 380-6473 fax
Work Iphone (816) 590-0996
jacqueline.brown@cms.hhs.gov

The above technical guidance is not to be construed as a change, or intent to change, the scope of work under the contract. It is to be acted upon only if it falls within the general scope of the contract and sufficient funds are available. Please see Section I, FAR 52.232.20, Limitation of Cost, and FAR 52.243-7, Notification of Changes.

Confidentiality Notice: This email message and any attachments are for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, distribution, or copying is prohibited. If you are not the intended recipient(s), contact the sender by replying to this email and destroy/delete all copies of this email message from your inbox and your deleted file.

From: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>

Sent: Tuesday, July 30, 2024 10:16 AM

To: ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>; Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aaalexander@charlotteobserver.com>; Michelle Crouch <mcrouch@northcarolinahealthnews.org>; Sloan, Ralph (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; stephen.wood@palmettogba.com; Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>

Subject: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

Good morning.

See the entire email thread below regarding Mr. Joe Vincoli.

Joe is not going to let this matter die.

Our office is at a loss as to how to assist Mr. Vincoli in receiving an acceptable response to his concerns.

Please advise as to the resolution.

Thank you so much.

Susan Hatfield

U. S. Senator Ted Budd

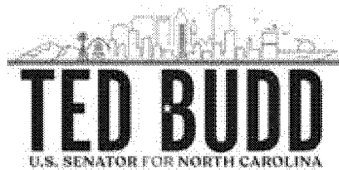
5380 US Hwy 158, Suite 202

Advance, NC 27006

Office (336) 941-4470

Fax (910) 772-0390

Direct (202) 960-5736



From: Joe Vincoli <joevincoli@gmail.com>

Sent: Friday, July 26, 2024 9:02 PM

To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>

Subject: Re: Correcting typo Re: MTN 695838

Susan,

What is particularly troubling in the presentation of the facts as I now have them, the auditor raised the question to CMS as to whether or not the misclassification on the cost report of the hospital's claims payer was fraudulent. Specifically, Mr. Wood wrote on XX "

As such, I find it particularly troubling that CMS and the contractor are now telling me that his question was not answered in writing within 6 months and that his audit is no longer being done.

It reminds me of the call that NASA had with Morton Thiokol concerning an engineer's 'no go on launch' for the Challenger due to the cold.

Following the announcement that the Challenger mission was confirmed for January 28, 1986, Boisjoly and his colleagues tried to stop the flight. Temperatures were due to fall to -1 °C (30 °F) overnight. Boisjoly felt that this would severely compromise the safety of the O-ring and potentially the flight.

The matter was discussed with Morton Thiokol managers, who agreed that the issue was serious enough to recommend delaying the flight. NASA protocols required all shuttle sub-contractors to sign off on each flight. During the go/no-go telephone conference with NASA management the night before the launch, Morton Thiokol notified NASA of their recommendation to postpone. NASA officials strongly questioned the recommendations, and asked (some say pressured) Morton Thiokol to reverse its decision.

The Morton Thiokol managers asked for a few minutes off the phone to discuss their final position again. The management team held a meeting from which the engineering team, including Boisjoly and others, were deliberately excluded. The Morton Thiokol managers advised NASA that their data was inconclusive. NASA asked if there were objections. Hearing none, NASA decided to launch the STS-51-L Challenger mission.

We've seen this movie before.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

From: Joe Vincoli <joevincoli@gmail.com>
Sent: Friday, July 26, 2024 12:35 AM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Cc: ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>; Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; Michelle Crouch <mcrouch@northcarolinahealthnews.org>; Sloan, Ralph W. (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; stephen.wood@palmettogba.com; Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>
Subject: Correcting typo Re: MTN 695838

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Ms. Hatfield,

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At that point CMS told Senator Burr that if a hospital owns or controls its claims payer then domestic care expenses must be reduced to cost.

Ultimately an audit was undertaken (MTN 695838).

I submitted a FOIA request for documents related to that audit.

Although I was initially told by Palmetto GBA that 'no documents' existed related to any audit on this matter, I appealed and then received 799 pages of documents.

The last (based on date) email in all of those documents is a November 2023 email from Palmetto GBA employee Stephen Wood to CMS asking for clarification concerning his ongoing audit of whether or not the hospital met 'the exception' or, in the alternative, the 'St. Francis PRRB' ruling voided the hospital's claim for exemption from the related party rules.

As indicated below, according to Palmetto GBA, as of June 2024 "...there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA."

It boggles the mind that a professional auditor would ask government officials for guidance and not receive a response in six months.

Certainly, Palmetto GBA would not allow Mr. Wood to decide, on his own, to discontinue the audit without guidance from CMS.

One would think that it would not be acceptable for CMS officials (Treitel and Ibrahim) to 'pick up the phone' and tell the auditor to 'shut it down'.

I will not let this issue be buried.

I want to assure all the recipients on this email that I will continue to file FOIA requests, constituent services requests to my elected officials, and OIG reports until I get an answer.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

From: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>
Date: Tue, Jul 9, 2024 at 7:10 AM
Subject: Atrium Audit -Request for documents from Jan 29, 2024 to June 30, 2024 (MTN 695838)
To: joevincoli@gmail.com <joevincoli@gmail.com>

Cc: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>

Please see attached, there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA.

Thank you,

Javonda Woods-Ladson

Customer Service Coordinator

Phone 803-763-4004

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<https://www.palmettogba.com/disclaimer>

Public Records Request for time period July 1, 2024 to July 31, 2024 (MTN 695838)

From: Joe Vincoli <joevincoli@gmail.com>
To: "Snyder, Erin P" <erin.snyder@atriumhealth.org>
Cc: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.brahim@cms.hhs.gov>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, ED SANCHEZ <ed.sanchez@palmettogba.com>, Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, george.dunlap@mecknc.gov
Date: Wed, 31 Jul 2024 03:13:37 +0000

Ms. Snyder,

Under NC Public Records law I am requesting a copy of all communications between Atrium (aka Charlotte Mecklenburg Hospital Authority ('CMHA')) and Palmetto (or CMS) from July 1, 2024 to July 31, 2024 related to Atrium's cost report filings and its classification and use of MedCost.

I would also like to request a copy of all communications between CMHA and the Charlotte Mecklenburg County Commissioners concerning this matter from the same time period.

I would also like a copy of all communications between Atrium/CMHA (or any of its other entities) and MedCost concerning this matter from the same time period.

I would also like to request a copy of all communications between Atrium management and the individual board members/commissioners of CMHA as well as communications between the CMHA board members/commissioners themselves as it relates to this matter from July 1, 2024 to July 31, 2024.

I would also like to request a copy of all communications between Atrium management and the individual board members/commissioners of CMHA as well as communications between the CMHA board members/commissioners themselves that name or reference 'Joseph Vincoli' or 'Joe Vincol' from July 1, 2024 to July 31, 2024.

I would also like to request a copy of all communications between CMHA board members/commissioners and any elected (or former) officials in the State of North Carolina that reference this matter or name 'Joseph Vincoli' or 'Joe Vincol' from July 1, 2024 to July 31, 2024.

Also, could you please provide me with the formal email address for the Chairman of the CMHA board?

Please let me know if any aspect of this request presents an undue burden and I will be glad to modify it as is appropriate.

As always, thank you for your cooperation in fulfilling this public records request.

Please confirm receipt.

Joe

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

RE: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

From: "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>
To: "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Smith, Torris (CMS/CM)" <torris.smith@cms.hhs.gov>, "Furman, Martin (CMS/CM)" <martin.furman@cms.hhs.gov>, "Albert, Michelle (CMS/CM)" <michelle.albert@cms.hhs.gov>
Cc: "Banks, David (CMS/CM)" <david.banks@cms.hhs.gov>, "Thompson, Donald (CMS/CM)" <donald.thompson@cms.hhs.gov>, "Hudson, Michele (CMS/CM)" <michele.hudson@cms.hhs.gov>, "Gleason, John (CMS/OFM)" <john.gleason@cms.hhs.gov>, "Bobb, Kyle (CMS/OFM)" <kyle.bobb@cms.hhs.gov>, "Fisher, Patrick (CMS/OFM)" <patrick.fisher@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>
Date: Tue, 13 Aug 2024 13:14:00 +0000
Attachments: Submission to The White House RE MTN 695838.msg.msg (125.44 kB); Fwd_ Questions.msg.msg (295.94 kB)

Good morning,

Sharing two additional emails from Mr. Vincoli. How do we want to handle this?

Thanks!

Jacqueline Brown
Palmetto JJ and JM A/B MAC Contracting Officer Representative
Southern MAC Program Management Division
CM/MCMG
(214) 767-6393 Office
(443) 380-6473 fax
Work Iphone (816) 590-0996
jacqueline.brown@cms.hhs.gov

The above technical guidance is not to be construed as a change, or intent to change, the scope of work under the contract. It is to be acted upon only if it falls within the general scope of the contract and sufficient funds are available. Please see Section I, FAR 52.232.20, Limitation of Cost, and FAR 52.243-7, Notification of Changes.

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From: Brown, Jacqueline (CMS/CM)
Sent: Wednesday, July 31, 2024 6:43 AM
To: Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Smith, Torris (CMS/CM) <Torris.Smith@cms.hhs.gov>; Furman, Martin (CMS/CM) <Martin.Furman@cms.hhs.gov>; Albert, Michelle (CMS/CM) <Michelle.Albert@cms.hhs.gov>
Cc: Banks, David (CMS/CM) <David.Banks@cms.hhs.gov>; Thompson, Donald (CMS/CM) <Donald.Thompson@cms.hhs.gov>; Hudson, Michele (CMS/CM) <Michele.Hudson@cms.hhs.gov>; Gleason, John (CMS/OFM) <John.Gleason@cms.hhs.gov>; Bobb, Kyle (CMS/OFM) <Kyle.Bobb@cms.hhs.gov>; Fisher, Patrick (CMS/OFM) <Patrick.Fisher@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>
Subject: RE: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

Attached is another email that we received from Mr. Vincoli last night.

From: Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>
Sent: Tuesday, July 30, 2024 3:28 PM
To: Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Smith, Torris (CMS/CM) <Torris.Smith@cms.hhs.gov>; Furman, Martin (CMS/CM) <Martin.Furman@cms.hhs.gov>; Albert, Michelle (CMS/CM) <Michelle.Albert@cms.hhs.gov>
Cc: Banks, David (CMS/CM) <David.Banks@cms.hhs.gov>; Thompson, Donald (CMS/CM) <Donald.Thompson@cms.hhs.gov>; Hudson, Michele (CMS/CM) <Michele.Hudson@cms.hhs.gov>; Gleason, John (CMS/OFM) <John.Gleason@cms.hhs.gov>; Bobb, Kyle (CMS/OFM) <Kyle.Bobb@cms.hhs.gov>; Fisher, Patrick (CMS/OFM) <Patrick.Fisher@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>
Subject: RE: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

Don and Michele forwarded the email today to Maria Martino in OL.

Thanks,
Michael

From: Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>
Sent: Tuesday, July 30, 2024 4:21 PM
To: Smith, Torris (CMS/CM) <Torris.Smith@cms.hhs.gov>; Furman, Martin (CMS/CM) <Martin.Furman@cms.hhs.gov>; Albert, Michelle (CMS/CM) <Michelle.Albert@cms.hhs.gov>
Cc: Banks, David (CMS/CM) <David.Banks@cms.hhs.gov>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>
Subject: FW: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues
Importance: High

Good afternoon, Torris

I think we need meet internally with CMS DPAO, HPAG, ATL RO staff, and Palmetto before we respond back to Ms. Hatfield with Senator Ted Budd's office (see email below). Also, we probably should give OL a heads up about this issue because Mr. Vincoli copied several newspapers/media outlets.

As you are aware, Mr. Vincoli's original FOIA request (09142023C002/MTN 695838) dating back May 2022, was recently closed by OSORA on June 20, 2024. Mr. Vincoli submitted another request for additional documents associated with this same FOIA MTN to Palmetto on July 2, 2024 for the time period **January 29, 2024 to June 30, 2024**. Palmetto responded on July 9, 2024, that they did not have any documents associated with this request, but he could file an appeal.

See first attachment (titled May 2022 Palmetto emails) that Ms. Hatfield references from Michael Treitel. I believe this email was part of Mr. Vincoli's original FOIA request. Palmetto told me they didn't share this internal email with Mr. Vincoli. Mr. Vincoli is not going away.

Thanks!

Jacqueline Brown
Palmetto JJ and JM A/B MAC Contracting Officer Representative
Southern MAC Program Management Division
CM/MCMG
(214) 767-6393 Office
(443) 380-6473 fax
Work Iphone (816) 590-0996
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From: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Sent: Tuesday, July 30, 2024 10:16 AM
To: ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>; Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; Michelle Crouch <mcrouch@northcarolinahealthnews.org>; Sloan, Ralph (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; stephen.wood@palmettogba.com; Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>
Subject: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

Good morning.

See the entire email thread below regarding Mr. Joe Vincoli.

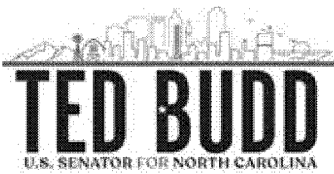
Joe is not going to let this matter die.

Our office is at a loss as to how to assist Mr. Vincoli in receiving an acceptable response to his concerns.

Please advise as to the resolution.

Thank you so much.

Susan Hatfield
U. S. Senator Ted Budd
5380 US Hwy 158, Suite 202
Advance, NC 27006
Office (336) 941-4470
Fax (910) 772-0390
Direct (202) 960-5736



From: Joe Vincoli <joevincoli@gmail.com>
Sent: Friday, July 26, 2024 9:02 PM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Subject: Re: Correcting typo Re: MTN 695838

Susan,

What is particularly troubling in the presentation of the facts as I now have them, the auditor raised the question to CMS as to whether or not the misclassification on the cost report of the hospital's claims payer was fraudulent. Specifically, Mr. Wood wrote on XX "

As such, I find it particularly troubling that CMS and the contractor are now telling me that his question was not answered in writing within 6 months and that his audit is no longer being done.

It reminds me of the call that NASA had with Morton Thiokol concerning an engineer's 'no go on launch' for the Challenger due to the cold.

Following the announcement that the Challenger mission was confirmed for January 28, 1986, Boisjoly and his colleagues tried to stop the flight. Temperatures were due to fall to -1 °C (30 °F) overnight. Boisjoly felt that this would severely compromise the safety of the O-ring and potentially the flight.

The matter was discussed with Morton Thiokol managers, who agreed that the issue was serious enough to recommend delaying the flight. NASA protocols required all shuttle sub-contractors to sign off on each flight. During the go/no-go telephone conference with NASA management the night before the launch, Morton Thiokol notified NASA of their recommendation to postpone. NASA officials strongly questioned the recommendations, and asked (some say pressured) Morton Thiokol to reverse its decision.

*The Morton Thiokol managers asked for a few minutes off the phone to discuss their final position again. **The management team held a meeting from which the engineering team, including Boisjoly and others, were deliberately excluded.** The Morton Thiokol managers advised NASA that their data was inconclusive. NASA asked if there were objections. Hearing none, NASA decided to launch the STS-51-L Challenger mission.*

We've seen this movie before.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

From: Joe Vincoli <joevincoli@gmail.com>
Sent: Friday, July 26, 2024 12:35 AM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Cc: ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>; Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; Michelle Crouch <mcrouch@northcarolinahealthnews.org>; Sloan, Ralph W. (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; stephen.wood@palmettogba.com; Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>
Subject: Correcting typo Re: MTN 695838
On Fri, Jul 26, 2024 at 12:24 AM Joe Vincoli <joevincoli@gmail.com> wrote:

Ms. Hatfield,

As you may recall, I first contacted you about the issue of what Atrium charges its own employees for health care services when you worked for Senator Burr.

At that point CMS told Senator Burr that if a hospital owns or controls its claims payer then domestic care expenses must be reduced to cost.

Ultimately an audit was undertaken (MTN 695838).

I submitted a FOIA request for documents related to that audit.

Although I was initially told by Palmetto GBA that 'no documents' existed related to any audit on this matter, I appealed and then received 799 pages of documents.

The last (based on date) email in all of those documents is a November 2023 email from Palmetto GBA employee Stephen Wood to CMS asking for clarification concerning his ongoing audit of whether or not the hospital met 'the exception' or, in the alternative, the 'St. Francis PRRB' ruling voided the hospital's claim for exemption from the related party rules.

As indicated below, according to Palmetto GBA, as of June 2024 "...there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA."

It boggles the mind that a professional auditor would ask government officials for guidance and not receive a response in six months.

Certainly, Palmetto GBA would not allow Mr. Wood to decide, on his own, to discontinue the audit without guidance from CMS.

One would think that it would not be acceptable for CMS officials (Treitel and Ibrahim) to 'pick up the phone' and tell the auditor to 'shut it down'.

I will not let this issue be buried.

I want to assure all the recipients on this email that I will continue to file FOIA requests, constituent services requests to my elected officials, and OIG reports until I get an answer.

Joe Vincoli

220 Epping Road
Clemmons, NC 27012

From: **JAVONDA WOODS-LADSON** <JAVONDA.WOODS-LADSON@palmettogba.com>

Date: Tue, Jul 9, 2024 at 7:10 AM

Subject: Atrium Audit -Request for documents from Jan 29, 2024 to June 30, 2024 (MTN 695838)

To: joevincoli@gmail.com <joevincoli@gmail.com>

Cc: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>

Please see attached, there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA.

Thank you,

Javonda Woods-Ladson

Customer Service Coordinator

Phone 803-763-4004



<https://www.palmettogba.com/disclaimer>

Fwd: Questions

From: Joe Vincoli <joevincoli@gmail.com>
To: Sen. Joyce Krawiec <joyce.krawiec@ncleg.net>
Cc: Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, Karen Handorf <khandorf@bm.net>, "Dunlap, George" <george.dunlap@mecklenburgcountync.gov>, george.dunlap@mecknc.gov, "Queen, Craig - EBSA" <queen.craig@dol.gov>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>, stephen.wood@palmettogba.com, ED SANCHEZ <ed.sanchez@palmettogba.com>
Date: Sat, 10 Aug 2024 06:22:00 +0000

Joyce,

In your email to me from October 2021 (pasted below) you lamented that 'there is nothing legislatively that I am able to do' to protect the citizens of North Carolina who work for Atrium from potential fiduciary abuses.

Nothing.

In November of 2023, an auditor sent this email to CMS concerning Atrium's use of it's owned entity 'MedCost':

Palmetto has documentation from Atrium/Medcost related to reviewing their relationship to ensure it meets the related party rule exception... Palmetto's original supposition to the situation is as follows:

In order to meet the exception, 4 criteria must be met...:

- 1. The organizations must be bona fide separate organizations.***
- 2. A substantial part of the supplying organization's (Medcost) business activity must be carried on with organizations not related to the provider.***
- 3. Services...cannot be a basic element of patient care.***
- 4. The charge to the provider is in line with the charge for such services in the open market...***

Palmetto believed the criteria for items 1 & 3 were...met; however, items 2 and 4 required the additional information from Medcost in order to determine if the exception to the related party principle is met.

During this process, Palmetto has received multiple emails from Joe Vincoli with information he believes would undo the provider's assertion that they... meet the exception. One of his emails...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.

Today, CMS informed me that there are no documents related to this matter from November 2023 to today.

I have contacted Senator Budd's office about this matter but, as of yet, his office has only 'confirmed receipt'.

In closing, we have an entity created by an 80 year old law that is engaged in a transaction that is prohibited by ERISA and basic trust law. That 'governmental entity' is exempt from ERISA and basic trust law because the courts have assumed that there are ELECTED OFFICIALS exercising oversight.

In your note below you state: **I know how much time you have dedicated to the issue and this may not be the answer you are looking for. Not being a legal mind myself, I have very little knowledge of this subject.**

I ask once again: Can you point me to ANY ELECTED OFFICIAL with oversight responsibility of CMHA/CMS/Atrium?

And yes, I have dedicated a lot of time trying to get an answer to this very simple question.

(Self-selected board members rubber stamped by the Char-Meck County Commissioners are not ELECTED OFFICIALS!!!!)

Joe Vincoli

----- Forwarded message -----

From: **Sen. Joyce Krawiec** <Joyce.Krawiec@ncleg.gov>

Date: Tue, Oct 19, 2021 at 10:43 AM

Subject: Questions

To: Joe Vincoli <joevincoli@gmail.com>

Joe, I hope you are well. I have asked for legal advise and you will find the correspondence below that addresses some of your concerns.

I know how much time you have dedicated to the issue and this may not be the answer you are looking for. Not being a legal mind myself, I have very little knowledge of this subject.

Based on the information provided, it appears that there is nothing legislatively that I am able to do. I am sorry to tell you this because I know how important it is to you.

I feel that I have done everything I can to learn about the situation and try to help. I regret that I am not able to.

I wish you well.

Joyce

1) Hospital Authority employees are not protected by ERISA, nor are they protected by the 'active oversight' of the sponsoring county government (eg, hospital authority employees do not participate in the county's retirement plan). Recommendation: Require sponsored hospital authorities to have an appointee from the county commissioners serve on the board of the authority's health and benefits committee. This appointee shall have veto power in said committees and shall report on a scheduled basis to the county commissioners.

ERISA is a federal law, and there's really not much the General Assembly can do to get it to apply to hospital authority employees. I don't think legislation requiring the addition of an "appointee from the county commissioners [to] serve on the board of the authority's health and benefits committee [and exercise veto power]" would change anything. The applicability of ERISA to hospital authority employees under North Carolina law was litigated in a class action lawsuit in 2019. In general, government benefit plans are exempt from ERISA. The federal court that considered the issue held that the North Carolina Hospital Authority Act created local hospital authorities that were "political subdivisions" of the state; therefore, the benefit plans of a local hospital authority were government plans exempt from ERISA. (See *Shore v. Charlotte-Mecklenburg Hosp. Auth.*, 412 F.Supp.3d 568 (2019)). The idea to add another member to the local hospital authority's board would not change anything in the court's analysis of whether ERISA applies to hospital authority plans.

2) Self-perpetuating boards do not result in meaningful governmental oversight. In fact, it has been stated by the law's architect that the reason this board structure was chosen was to ensure that 'local politics' would not interfere with the operation of the authority. There is a broad and deep history of alternative ways to structure a board (from having the commissioners appoint all members (or some members) to having the board filled by elected candidates). When I asked Governor McCrory to identify the elected officials with oversight responsibility for CharMeck Hospital Authority, he and his staff were unable to do so. Ultimately, I was referred to the Institute of Government at Chapel Hill. A lawyer for that organization wrote me and stated that it was the CharMeck CC's who had oversight. In turn, the CharMeck CC's said that they did not have oversight responsibility and that the State had oversight responsibility. To illustrate this point one could

look at the long, long history of the CharMeck CC's efforts to get meaningful financial reports from the CharMeck Hospital Authority (see article from January 2, 1969 below entitled "Memorial Hospital's Budget Still Secret" and note picture of a young James G. Martin who is 'in the dark').

I can't really comment on this too much, but my thoughts on parts of it are below:

- * **"The [Hospital Authority] law's architect that the reason this board structure was chosen was to ensure that 'local politics' would not interfere with the operation of the authority."**The Hospital Authority law was enacted in 1943. That's a little before my time, so I'm not sure what the folks who drafted and enacted the law during the middle of World War II were thinking.
- * **Gov. McCrory's and the Institute of Government's opinions whether the Charlotte-Mecklenburg County Commissioners or the state has oversight over the hospital authority.**I wasn't party to any of the communication, so I don't know for certain what was said, but you can make a case for either. The Hospital Authority Act gives the county commissioners the power to create, appoint, and remove hospital authority members. Generally, the entity that holds the power to appoint and remove is the entity that has oversight authority, so that would seem to put the oversight with the county commissioners; however, the state gave the county commissioners the power to appoint and remove, so you can argue the ultimate authority flows from the state. I don't know enough about the day-to-day operations to have an opinion on who actually exercises any meaningful oversight, though.

3) Having a North Carolina Hospital Authority operate out of state is problematic. In addition to not being subject to ERISA, state sponsored hospital authorities are generally not subject to federal antitrust law (there is a long history of case law on this subject, eg, NC Dental Society, Phoebe Putney, MidCal etc.). My general understanding of this issue is that to be exempt from federal antitrust laws the entity has to be under the 'active oversight' of the sponsoring government. Recent rulings in the Atrium case suggest that federal judges are concerned about hospital authorities operating outside of their legislative districts.

State and local government immunity to antitrust legislation is a huge complex issue, and this would have taken a long time to look into, but, fortunately, the [Fourth Circuit Court of Appeals did all the work for me](#). The court basically held that [Atrium was a local government entity entitled to immunity from federal antitrust legislation](#). (See *Benitez v. Charlotte-Mecklenburg Hosp. Auth.*, 992 F.3d 229 (2021)). It is correct that an entity must be under active oversight of the government to be immune from antitrust legislation, but that caveat only applies when discussing state entities, as opposed to local or county entities like hospital authorities. When discussing the local entities, a different test applies, and the Fourth Circuit held that Atrium met the requirements of that test. In addition, the court did not seem to be find it particularly problematic that a North Carolina hospital authority would operate out of state.

To summarize, courts have (very recently) decided the exact issues that are mentioned here.

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Re: Correcting typo Re: MTN 695838

From: Joe Vincoli <joevincoli@gmail.com>
To: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
Cc: ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, stephen.wood@palmettogba.com, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Johnson, Jennifer (CMS/CM)" <jennifer.johnson6@cms.hhs.gov>
Date: Sat, 03 Aug 2024 04:32:26 +0000



Joe Vincoli(He/Him) • You

Plaintiff's Consultant specializing in ERISA (fiduciary) and Medicare Cost Report (42 CFR Section 413.17, reducing domestic care expenses to cost) compliance of self-funded and self-administered hospital health plans.



Atrium owns its claims payer MedCost.

Atrium (then 'Carolinas Medical Center...but always 'Charlotte-Mecklenburg Hospital Authority, a "governmental entity" under North Carolina state law) purchased it in 1996.

Since then, it appears that Atrium has been reporting to CMS that it was using a 'third party administrator'. According to an auditor's notes (recently obtained), Atrium never disclosed to CMS that it owned MedCost.

In the early 2020's I contacted Senator Burr about this issue. That led to a CMS audit of the matter (*MTN* 695838).

In November of 2023 the same auditor (under contract) wrote to CMS officials:

During this process, Palmetto has received multiple emails from Joe Vincoli with information he believes would undo the provider's assertion that they... meet the exception. One of his emails...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.

In response to a June 2024 FOIA request submitted by me, Palmetto/CMS informed me:

Date: Tue, Jul 9, 2024 at 7:10 AM

Subject: Atrium Audit -Request for documents from Jan 29, 2024 to June 30, 2024 (MTN 695838)

Please see attached, there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since

November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA.

If there are any auditors reading my posts I ask: what do you think?

How could a two year audit vaporize mid-stream?

On Thu, Jul 25, 2024 at 9:35 PM Joe Vincoli <joevincoli@gmail.com> wrote:

On Fri, Jul 26, 2024 at 12:24 AM Joe Vincoli <joevincoli@gmail.com> wrote:

Ms. Hatfield,

As you may recall, I first contacted you about the issue of what Atrium charges its own employees for health care services when you worked for Senator Burr.

At that point CMS told Senator Burr that if a hospital owns or controls its claims payer then domestic care expenses must be reduced to cost.

Ultimately an audit was undertaken (MTN 695838).

I submitted a FOIA request for documents related to that audit.

Although I was initially told by Palmetto GBA that 'no documents' existed related to any audit on this matter, I appealed and then received 799 pages of documents.

The last (based on date) email in all of those documents is a November 2023 email from Palmetto GBA employee Stephen Wood to CMS asking for clarification concerning his ongoing audit of whether or not the hospital met 'the exception' or, in the alternative, the 'St. Francis PRRB' ruling voided the hospital's claim for exemption from the related party rules.

As indicated below, according to Palmetto GBA, as of June 2024 *"...there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA."*

It boggles the mind that a professional auditor would ask government officials for guidance and not receive a response in six months.

Certainly, Palmetto GBA would not allow Mr. Wood to decide, on his own, to discontinue the audit without guidance from CMS.

One would think that it would not be acceptable for CMS officials (Treitel and Ibrahim) to 'pick up the phone' and tell the auditor to 'shut it down'.

I will not let this issue be buried.

I want to assure all the recipients on this email that I will continue to file FOIA requests, constituent services requests to my elected officials, and OIG reports until I get an answer.

Please confirm receipt.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

From: **JAVONDA WOODS-LADSON** <JAVONDA.WOODS-LADSON@palmettogba.com>
Date: Tue, Jul 9, 2024 at 7:10 AM
Subject: Atrium Audit -Request for documents from Jan 29, 2024 to June 30, 2024 (MTN 695838)
To: joevincoli@gmail.com <joevincoli@gmail.com>
Cc: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>

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Thank you,

Javonda Woods-Ladson

Customer Service Coordinator

Phone 803-763-4004



<https://www.palmettogba.com/disclaimer>

FW: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

From: "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>
To: "Smith, Torris (CMS/CM)" <torris.smith@cms.hhs.gov>, "Furman, Martin (CMS/CM)" <martin.furman@cms.hhs.gov>, "Albert, Michelle (CMS/CM)" <michelle.albert@cms.hhs.gov>
Cc: "Banks, David (CMS/CM)" <david.banks@cms.hhs.gov>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>
Date: Tue, 30 Jul 2024 20:21:04 +0000
Attachments: May 2022 Palmetto Emails.pdf (267.99 kB); RE_ FOIA Request for documents from Jan 29, 2024 to June 30, 2024.msg.msg (314.37 kB); ltr.pdf (197.49 kB)

Good afternoon, Torris

I think we need meet internally with CMS DPAO, HPAG, ATL RO staff, and Palmetto before we respond back to Ms. Hatfield with Senator Ted Budd's office (see email below). Also, we probably should give OL a heads up about this issue because Mr. Vincoli copied several newspapers/media outlets.

As you are aware, Mr. Vincoli's original FOIA request (09142023C002/MTN 695838) dating back May 2022, was recently closed by OSORA on June 20, 2024. Mr. Vincoli submitted another request for additional documents associated with this same FOIA MTN to Palmetto on July 2, 2024 for the time period **January 29, 2024 to June 30, 2024**. Palmetto responded on July 9, 2024, that they did not have any documents associated with this request, but he could file an appeal.

See first attachment (titled May 2022 Palmetto emails) that Ms. Hatfield references from Michael Treitel. I believe this email was part of Mr. Vincoli's original FOIA request. Palmetto told me they didn't share this internal email with Mr. Vincoli. Mr. Vincoli is not going away.

Thanks!

Jacqueline Brown
Palmetto JJ and JM A/B MAC Contracting Officer Representative
Southern MAC Program Management Division
CM/MCMG
(214) 767-6393 Office
(443) 380-6473 fax
Work Iphone (816) 590-0996
jacqueline.brown@cms.hhs.gov

The above technical guidance is not to be construed as a change, or intent to change, the scope of work under the contract. It is to be acted upon only if it falls within the general scope of the contract and sufficient funds are available. Please see Section I, FAR 52.232.20, Limitation of Cost, and FAR 52.243-7, Notification of Changes.

Confidentiality Notice: This email message and any attachments are for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, distribution, or copying is prohibited. If you are not the intended recipient(s), contact the sender by replying to this email and destroy/delete all copies of this email message from your inbox and your deleted file.

From: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Sent: Tuesday, July 30, 2024 10:16 AM
To: ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>; Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; Michelle Crouch <mcrouch@northcarolinahealthnews.org>; Sloan, Ralph (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; stephen.wood@palmettogba.com; Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>
Subject: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

Good morning.

See the entire email thread below regarding Mr. Joe Vincoli.

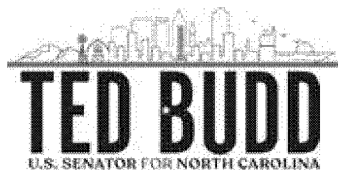
Joe is not going to let this matter die.

Our office is at a loss as to how to assist Mr. Vincoli in receiving an acceptable response to his concerns.

Please advise as to the resolution.

Thank you so much.

Susan Hatfield
U. S. Senator Ted Budd
5380 US Hwy 158, Suite 202
Advance, NC 27006
Office (336) 941-4470
Fax (910) 772-0390



From: Joe Vincoli <joevincoli@gmail.com>
Sent: Friday, July 26, 2024 9:02 PM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Subject: Re: Correcting typo Re: MTN 695838

Susan,

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As such, I find it particularly troubling that CMS and the contractor are now telling me that his question was not answered in writing within 6 months and that his audit is no longer being done.

It reminds me of the call that NASA had with Morton Thiokol concerning an engineer's 'no go on launch' for the Challenger due to the cold.

Following the announcement that the Challenger mission was confirmed for January 28, 1986, Boisjoly and his colleagues tried to stop the flight. Temperatures were due to fall to -1 °C (30 °F) overnight. Boisjoly felt that this would severely compromise the safety of the O-ring and potentially the flight.

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The Morton Thiokol managers asked for a few minutes off the phone to discuss their final position again. The management team held a meeting from which the engineering team, including Boisjoly and others, were deliberately excluded. The Morton Thiokol managers advised NASA that their data was inconclusive. NASA asked if there were objections. Hearing none, NASA decided to launch the STS-51-L Challenger mission.

We've seen this movie before.

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220 Epping Road
Clemmons, NC 27012

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To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
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To: joevincoli@gmail.com <joevincoli@gmail.com>

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Thank you,

Javonda Woods-Ladson

Customer Service Coordinator

Phone 803-763-4004



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RE: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

From: "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>
To: "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Smith, Torris (CMS/CM)" <torris.smith@cms.hhs.gov>, "Furman, Martin (CMS/CM)" <martin.furman@cms.hhs.gov>, "Albert, Michelle (CMS/CM)" <michelle.albert@cms.hhs.gov>
Cc: "Banks, David (CMS/CM)" <david.banks@cms.hhs.gov>, "Thompson, Donald (CMS/CM)" <donald.thompson@cms.hhs.gov>, "Hudson, Michele (CMS/CM)" <michele.hudson@cms.hhs.gov>, "Gleason, John (CMS/OFM)" <john.gleason@cms.hhs.gov>, "Bobb, Kyle (CMS/OFM)" <kyle.bobb@cms.hhs.gov>, "Fisher, Patrick (CMS/OFM)" <patrick.fisher@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>
Date: Wed, 31 Jul 2024 11:42:46 +0000
Attachments: Public Records Request for time period July 1, 2024 to July 31, 2024 (MTN 695838).msg.msg (162.82 kB)

Attached is another email that we received from Mr. Vincoli last night.

From: Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>
Sent: Tuesday, July 30, 2024 3:28 PM
To: Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Smith, Torris (CMS/CM) <Torris.Smith@cms.hhs.gov>; Furman, Martin (CMS/CM) <Martin.Furman@cms.hhs.gov>; Albert, Michelle (CMS/CM) <Michelle.Albert@cms.hhs.gov>
Cc: Banks, David (CMS/CM) <David.Banks@cms.hhs.gov>; Thompson, Donald (CMS/CM) <Donald.Thompson@cms.hhs.gov>; Hudson, Michele (CMS/CM) <Michele.Hudson@cms.hhs.gov>; Gleason, John (CMS/OFM) <John.Gleason@cms.hhs.gov>; Bobb, Kyle (CMS/OFM) <Kyle.Bobb@cms.hhs.gov>; Fisher, Patrick (CMS/OFM) <Patrick.Fisher@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>
Subject: RE: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

Don and Michele forwarded the email today to Maria Martino in OL.

Thanks,
Michael

From: Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>
Sent: Tuesday, July 30, 2024 4:21 PM
To: Smith, Torris (CMS/CM) <Torris.Smith@cms.hhs.gov>; Furman, Martin (CMS/CM) <Martin.Furman@cms.hhs.gov>; Albert, Michelle (CMS/CM) <Michelle.Albert@cms.hhs.gov>
Cc: Banks, David (CMS/CM) <David.Banks@cms.hhs.gov>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>
Subject: FW: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues
Importance: High

Good afternoon, Torris

I think we need meet internally with CMS DPAO, HPAG, ATL RO staff, and Palmetto before we respond back to Ms. Hatfield with Senator Ted Bud's office (see email below). Also, we probably should give OL a heads up about this issue because Mr. Vincoli copied several newspapers/media outlets.

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Thanks!

Jacqueline Brown
Palmetto JJ and JM A/B MAC Contracting Officer Representative
Southern MAC Program Management Division
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(214) 767-6393 Office
(443) 380-6473 fax
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Sent: Tuesday, July 30, 2024 10:16 AM

To: ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>; Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aaalexander@charlotteobserver.com>; Michelle Crouch <mcrouch@northcarolinahealthnews.org>; Sloan, Ralph (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; stephen.wood@palmettogba.com; Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>

Subject: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

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U. S. Senator Ted Budd

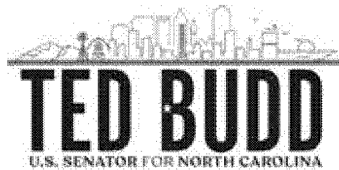
5380 US Hwy 158, Suite 202

Advance, NC 27006

Office (336) 941-4470

Fax (910) 772-0390

Direct (202) 960-5736



From: Joe Vincoli <joevincoli@gmail.com>

Sent: Friday, July 26, 2024 9:02 PM

To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>

Subject: Re: Correcting typo Re: MTN 695838

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Thank you,

Javonda Woods-Ladson

Customer Service Coordinator

Phone 803-763-4004

 **PALMETTO GBA**
A CELERIAN GROUP COMPANY
<https://www.palmettogba.com/disclaimer>

Public Records Request for time period July 1, 2024 to July 31, 2024 (MTN 695838)

From: Joe Vincoli <joevincoli@gmail.com>
To: "Snyder, Erin P" <erin.snyder@atriumhealth.org>
Cc: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, ED SANCHEZ <ed.sanchez@palmettogba.com>, Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, george.dunlap@mecknc.gov
Date: Wed, 31 Jul 2024 03:13:37 +0000

Ms. Snyder,

Under NC Public Records law I am requesting a copy of all communications between Atrium (aka Charlotte Mecklenburg Hospital Authority ('CMHA')) and Palmetto (or CMS) from July 1, 2024 to July 31, 2024 related to Atrium's cost report filings and its classification and use of MedCost.

I would also like to request a copy of all communications between CMHA and the Charlotte Mecklenburg County Commissioners concerning this matter from the same time period.

I would also like a copy of all communications between Atrium/CMHA (or any of its other entities) and MedCost concerning this matter from the same time period.

I would also like to request a copy of all communications between Atrium management and the individual board members/commissioners of CMHA as well as communications between the CMHA board members/commissioners themselves as it relates to this matter from July 1, 2024 to July 31, 2024.

I would also like to request a copy of all communications between Atrium management and the individual board members/commissioners of CMHA as well as communications between the CMHA board members/commissioners themselves that name or reference 'Joseph Vincoli' or 'Joe Vincol' from July 1, 2024 to July 31, 2024.

I would also like to request a copy of all communications between CMHA board members/commissioners and any elected (or former) officials in the State of North Carolina that reference this matter or name 'Joseph Vincoli' or 'Joe Vincol' from July 1, 2024 July 31, 2024.

Also, could you please provide me with the formal email address for the Chairman of the CMHA board?

Please let me know if any aspect of this request presents an undue burden and I will be glad to modify it as is appropriate.

As always, thank you for your cooperation in fulfilling this public records request.

Please confirm receipt.

Joe

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

Fwd: LinkedIn Poll

From: Joe Vincoli <joevincoli@gmail.com>
To: "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mccrouch@northcarolinahealthnews.org>
Cc: "Dunlap, George" <george.dunlap@mecklenburgcountync.gov>, Sen. Joyce Krawiec <joyce.krawiec@ncleg.net>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, ED SANCHEZ <ed.sanchez@palmettogba.com>, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
Date: Wed, 14 Aug 2024 04:47:41 +0000

----- Forwarded message -----

From: Joe Vincoli <joevincoli@gmail.com>
Date: Tue, Aug 13, 2024 at 9:44 PM
Subject: LinkedIn Poll
To: Robin Fields <robin.fields@propublica.org>

Joe VincoliJoe Vincoli
(He/Him) • You (He/Him) • You

On 8/12/24 I submitted a request to The White House for an explanation concerning the status of MTN 695838. What will their response be?

- 1) The audit is now under seal
- 2) The feds have killed it
- 2) Thank you for your question

I would like to know what has been done by your administration since November of 2023 as it relates to an audit being conducted by Palmetto GBA (reference number MTN 695838).

Documents I have received through a FOIA request indicate that in November of 2023 the Palmetto GBA auditor asked CMS officials for guidance on a specific issue related to how much hospitals that own their own claims payer can report to Medicare that the hospital paid itself for the care it rendered to its own employee.

Put simply, when a hospital employee receives care from their employer/hospital the hospital is in the unusual situation of being the 'provider of medical services' and the 'benefit plan sponsor'. For many hospitals this means using their own funds to pay themselves for their work. The question at hand is 'what should those employees (and the plan) pay? Market? Cost? Full Retail?'

In July of 2024 I submitted a follow-up FOIA request and was subsequently informed that CMS had not, as of 7/24 responded in writing to the auditor at Palmetto GBA.

I would like to point out that the auditor's emails to CMS officials during this time period raised concerns about potential fraud.

While there may be reasonable explanations for there being no response from CMS to the auditor 'in writing', I find it very troubling that CMS has not responded in writing to the auditor.

To assist you in preparing your reply, I am providing the contact info for the federal employee at CMS with whom I have been instructed to contact as it relates to this matter:

Jacqueline Brown
JJ and JM A/B MAC Contracting Officer Representative

Southern MAC Program Management Division

CM/MCMG
(214) 767-6393 Office
(443) 380-6473 fax

Work Iphone (816) 590-0996

jacqueline.brown@cms.hhs.gov

Thank you for your service to our country.

Fwd: Questions

From: Joe Vincoli <joevincoli@gmail.com>
To: Sen. Joyce Krawiec <joyce.krawiec@ncleg.net>
Cc: Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, Karen Handorf <khandorf@bm.net>, "Dunlap, George" <george.dunlap@mecklenburgcountync.gov>, george.dunlap@mecknc.gov, "Queen, Craig - EBSA" <queen.craig@dol.gov>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>, stephen.wood@palmettogba.com, ED SANCHEZ <ed.sanchez@palmettogba.com>
Date: Sat, 10 Aug 2024 06:22:00 +0000

Joyce,

In your email to me from October 2021 (pasted below) you lamented that 'there is nothing legislatively that I am able to do' to protect the citizens of North Carolina who work for Atrium from potential fiduciary abuses.

Nothing.

In November of 2023, an auditor sent this email to CMS concerning Atrium's use of it's owned entity 'MedCost':

Palmetto has documentation from Atrium/Medcost related to reviewing their relationship to ensure it meets the related party rule exception... Palmetto's original supposition to the situation is as follows:

In order to meet the exception, 4 criteria must be met...:

- 1. The organizations must be bona fide separate organizations.***
- 2. A substantial part of the supplying organization's (Medcost) business activity must be carried on with organizations not related to the provider.***
- 3. Services...cannot be a basic element of patient care.***
- 4. The charge to the provider is in line with the charge for such services in the open market...***

Palmetto believed the criteria for items 1 & 3 were...met; however, items 2 and 4 required the additional information from Medcost in order to determine if the exception to the related party principle is met.

During this process, Palmetto has received multiple emails from Joe Vincoli with information he believes would undo the provider's assertion that they... meet the exception. One of his emails...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.

Today, CMS informed me that there are no documents related to this matter from November 2023 to today.

I have contacted Senator Budd's office about this matter but, as of yet, his office has only 'confirmed receipt'.

In closing, we have an entity created by an 80 year old law that is engaged in a transaction that is prohibited by ERISA and basic trust law. That 'governmental entity' is exempt from ERISA and basic trust law because the courts have assumed that there are ELECTED OFFICIALS exercising oversight.

In your note below you state: **I know how much time you have dedicated to the issue and this may not be the answer you are looking for. Not being a legal mind myself, I have very little knowledge of this subject.**

I ask once again: Can you point me to ANY ELECTED OFFICIAL with oversight responsibility of CMHA/CMS/Atrium?

And yes, I have dedicated a lot of time trying to get an answer to this very simple question.

(Self-selected board members rubber stamped by the Char-Meck County Commissioners are not ELECTED OFFICIALS!!!!)

Joe Vincoli

----- Forwarded message -----

From: **Sen. Joyce Krawiec** <Joyce.Krawiec@ncleg.gov>

Date: Tue, Oct 19, 2021 at 10:43 AM

Subject: Questions

To: Joe Vincoli <joevincoli@gmail.com>

Joe, I hope you are well. I have asked for legal advise and you will find the correspondence below that addresses some of your concerns.

I know how much time you have dedicated to the issue and this may not be the answer you are looking for. Not being a legal mind myself, I have very little knowledge of this subject.

Based on the information provided, it appears that there is nothing legislatively that I am able to do. I am sorry to tell you this because I know how important it is to you.

I feel that I have done everything I can to learn about the situation and try to help. I regret that I am not able to.

I wish you well.

Joyce

1) Hospital Authority employees are not protected by ERISA, nor are they protected by the 'active oversight' of the sponsoring county government (eg, hospital authority employees do not participate in the county's retirement plan). Recommendation: Require sponsored hospital authorities to have an appointee from the county commissioners serve on the board of the authority's health and benefits committee. This appointee shall have veto power in said committees and shall report on a scheduled basis to the county commissioners.

ERISA is a federal law, and there's really not much the General Assembly can do to get it to apply to hospital authority employees. I don't think legislation requiring the addition of an "appointee from the county commissioners [to] serve on the board of the authority's health and benefits committee [and exercise veto power]" would change anything. The applicability of ERISA to hospital authority employees under North Carolina law was litigated in a class action lawsuit in 2019. In general, government benefit plans are exempt from ERISA. The federal court that considered the issue held that the North Carolina Hospital Authority Act created local hospital authorities that were "political subdivisions" of the state; therefore, the benefit plans of a local hospital authority were government plans exempt from ERISA. (See *Shore v. Charlotte-Mecklenburg Hosp. Auth.*, 412 F.Supp.3d 568 (2019)). The idea to add another member to the local hospital authority's board would not change anything in the court's analysis of whether ERISA applies to hospital authority plans.

2) Self-perpetuating boards do not result in meaningful governmental oversight. In fact, it has been stated by the law's architect that the reason this board structure was chosen was to ensure that 'local politics' would not interfere with the operation of the authority. There is a broad and deep history of alternative ways to structure a board (from having the commissioners appoint all members (or some members) to having the board filled by elected candidates). When I asked Governor McCrory to identify the elected officials with oversight responsibility for CharMeck Hospital Authority, he and his staff were unable to do so. Ultimately, I was referred to the Institute of Government at Chapel Hill. A lawyer for that organization wrote me and stated that it was the CharMeck CC's who had oversight. In turn, the CharMeck CC's said that they did not have oversight responsibility and that the State had oversight responsibility. To illustrate this point one could

look at the long, long history of the CharMeck CC's efforts to get meaningful financial reports from the CharMeck Hospital Authority (see article from January 2, 1969 below entitled "Memorial Hospital's Budget Still Secret" and note picture of a young James G. Martin who is 'in the dark').

I can't really comment on this too much, but my thoughts on parts of it are below:

- * **"The [Hospital Authority] law's architect that the reason this board structure was chosen was to ensure that 'local politics' would not interfere with the operation of the authority."**The Hospital Authority law was enacted in 1943. That's a little before my time, so I'm not sure what the folks who drafted and enacted the law during the middle of World War II were thinking.
- * **Gov. McCrory's and the Institute of Government's opinions whether the Charlotte-Mecklenburg County Commissioners or the state has oversight over the hospital authority.**I wasn't party to any of the communication, so I don't know for certain what was said, but you can make a case for either. The Hospital Authority Act gives the county commissioners the power to create, appoint, and remove hospital authority members. Generally, the entity that holds the power to appoint and remove is the entity that has oversight authority, so that would seem to put the oversight with the county commissioners; however, the state gave the county commissioners the power to appoint and remove, so you can argue the ultimate authority flows from the state. I don't know enough about the day-to-day operations to have an opinion on who actually exercises any meaningful oversight, though.

3) Having a North Carolina Hospital Authority operate out of state is problematic. In addition to not being subject to ERISA, state sponsored hospital authorities are generally not subject to federal antitrust law (there is a long history of case law on this subject, eg, NC Dental Society, Phoebe Putney, MidCal etc.). My general understanding of this issue is that to be exempt from federal antitrust laws the entity has to be under the 'active oversight' of the sponsoring government. Recent rulings in the Atrium case suggest that federal judges are concerned about hospital authorities operating outside of their legislative districts.

State and local government immunity to antitrust legislation is a huge complex issue, and this would have taken a long time to look into, but, fortunately, the [Fourth Circuit Court of Appeals did all the work for me](#). The court basically held that [Atrium was a local government entity entitled to immunity from federal antitrust legislation](#). (See *Benitez v. Charlotte-Mecklenburg Hosp. Auth.*, 992 F.3d 229 (2021)). It is correct that an entity must be under active oversight of the government to be immune from antitrust legislation, but that caveat only applies when discussing state entities, as opposed to local or county entities like hospital authorities. When discussing the local entities, a different test applies, and the Fourth Circuit held that Atrium met the requirements of that test. In addition, the court did not seem to be find it particularly problematic that a North Carolina hospital authority would operate out of state.

To summarize, courts have (very recently) decided the exact issues that are mentioned here.

Get [Outlook for IOS](#)

Re: Correcting typo Re: MTN 695838

From: Joe Vincoli <joevincoli@gmail.com>
To: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
Cc: ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, stephen.wood@palmettogba.com, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Johnson, Jennifer (CMS/CM)" <jennifer.johnson6@cms.hhs.gov>
Date: Mon, 05 Aug 2024 06:07:38 +0000



Joe Vincoli(He/Him) • You

Plaintiff's Consultant specializing in ERISA (fiduciary) and Medicare Cost Report (42 CFR Section 413.17, reducing domestic care expenses to cost) compliance of self-funded and self-administered hospital health plans.



Per CMS, since 11/23 there have been no emails between CMS and Atrium related to Atrium's reporting of employee health costs. Why?

You can see how people vote. [Learn more](#)

Someone killed the audit.

CMS needs more time to respond

The audit is now under seal.

Atrium met the exception.

On Fri, Jul 26, 2024 at 9:23 AM Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov> wrote:

Joe, I am in receipt of your narrative and concerns as outlined below.

Susan Hatfield

U. S. Senator Ted Budd

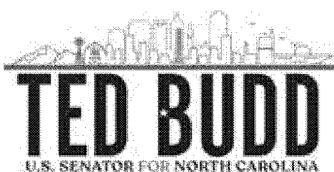
5380 US Hwy 158, Suite 202

Advance, NC 27006

Office (336) 941-4470

Fax (910) 772-0390

Direct (202) 960-5736



From: Joe Vincoli <joevincoli@gmail.com>

Sent: Friday, July 26, 2024 12:35 AM

To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>

Cc: ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>; Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; Michelle Crouch <mccouch@northcarolinahealthnews.org>; Sloan, Ralph W. (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; stephen.wood@palmettogba.com; Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>

Subject: Correcting typo Re: MTN 695838

On Fri, Jul 26, 2024 at 12:24 AM Joe Vincoli <joevincoli@gmail.com> wrote:

Ms. Hatfield,

As you may recall, I first contacted you about the issue of what Atrium charges its own employees for health care services when you worked for Senator Burr.

At that point CMS told Senator Burr that if a hospital owns or controls its claims payer then domestic care expenses must be reduced to cost.

Ultimately an audit was undertaken (MTN 695838).

I submitted a FOIA request for documents related to that audit.

Although I was initially told by Palmetto GBA that 'no documents' existed related to any audit on this matter, I appealed and then received 799 pages of documents.

The last (based on date) email in all of those documents is a November 2023 email from Palmetto GBA employee Stephen Wood to CMS asking for clarification concerning his ongoing audit of whether or not the hospital met 'the exception' or, in the alternative, the 'St. Francis PRRB' ruling voided the hospital's claim for exemption from the related party rules.

As indicated below, according to Palmetto GBA, as of June 2024 *"...there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA."*

It boggles the mind that a professional auditor would ask government officials for guidance and not receive a response in six months.

Certainly, Palmetto GBA would not allow Mr. Wood to decide, on his own, to discontinue the audit without guidance from CMS.

One would think that it would not be acceptable for CMS officials (Treitel and Ibrahim) to 'pick up the phone' and tell the auditor to 'shut it down'.

I will not let this issue be buried.

I want to assure all the recipients on this email that I will continue to file FOIA requests, constituent services requests to my elected officials, and OIG reports until I get an answer.

Please confirm receipt.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

From: **JAVONDA WOODS-LADSON** <JAVONDA.WOODS-LADSON@palmettogba.com>
Date: Tue, Jul 9, 2024 at 7:10 AM
Subject: Atrium Audit -Request for documents from Jan 29, 2024 to June 30, 2024 (MTN 695838)
To: joevincoli@gmail.com <joevincoli@gmail.com>
Cc: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>

Please see attached, there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA.

Thank you,

Javonda Woods-Ladson

Customer Service Coordinator

Phone 803-763-4004



<https://www.palmettogba.com/disclaimer>

RE: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

From: "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>
To: "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Smith, Torris (CMS/CM)" <torris.smith@cms.hhs.gov>, "Furman, Martin (CMS/CM)" <martin.furman@cms.hhs.gov>, "Albert, Michelle (CMS/CM)" <michelle.albert@cms.hhs.gov>
Cc: "Banks, David (CMS/CM)" <david.banks@cms.hhs.gov>, "Thompson, Donald (CMS/CM)" <donald.thompson@cms.hhs.gov>, "Hudson, Michele (CMS/CM)" <michele.hudson@cms.hhs.gov>, "Gleason, John (CMS/OFM)" <john.gleason@cms.hhs.gov>, "Bobb, Kyle (CMS/OFM)" <kyle.bobb@cms.hhs.gov>, "Fisher, Patrick (CMS/OFM)" <patrick.fisher@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>
Date: Tue, 13 Aug 2024 13:14:00 +0000
Attachments: Submission to The White House RE MTN 695838 (132.61 kB); Fwd: Questions (313.34 kB)

Good morning,

Sharing two additional emails from Mr. Vincoli. How do we want to handle this?

Thanks!

Jacqueline Brown
Palmetto JJ and JM A/B MAC Contracting Officer Representative
Southern MAC Program Management Division
CM/MCMG
(214) 767-6393 Office
(443) 380-6473 fax
Work Iphone (816) 590-0996
jacqueline.brown@cms.hhs.gov

The above technical guidance is not to be construed as a change, or intent to change, the scope of work under the contract. It is to be acted upon only if it falls within the general scope of the contract and sufficient funds are available. Please see Section I, FAR 52.232.20, Limitation of Cost, and FAR 52.243-7, Notification of Changes.

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From: Brown, Jacqueline (CMS/CM)
Sent: Wednesday, July 31, 2024 6:43 AM
To: Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Smith, Torris (CMS/CM) <Torris.Smith@cms.hhs.gov>; Furman, Martin (CMS/CM) <Martin.Furman@cms.hhs.gov>; Albert, Michelle (CMS/CM) <Michelle.Albert@cms.hhs.gov>
Cc: Banks, David (CMS/CM) <David.Banks@cms.hhs.gov>; Thompson, Donald (CMS/CM) <Donald.Thompson@cms.hhs.gov>; Hudson, Michele (CMS/CM) <Michele.Hudson@cms.hhs.gov>; Gleason, John (CMS/OFM) <John.Gleason@cms.hhs.gov>; Bobb, Kyle (CMS/OFM) <Kyle.Bobb@cms.hhs.gov>; Fisher, Patrick (CMS/OFM) <Patrick.Fisher@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>
Subject: RE: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

Attached is another email that we received from Mr. Vincoli last night.

From: Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>
Sent: Tuesday, July 30, 2024 3:28 PM
To: Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Smith, Torris (CMS/CM) <Torris.Smith@cms.hhs.gov>; Furman, Martin (CMS/CM) <Martin.Furman@cms.hhs.gov>; Albert, Michelle (CMS/CM) <Michelle.Albert@cms.hhs.gov>
Cc: Banks, David (CMS/CM) <David.Banks@cms.hhs.gov>; Thompson, Donald (CMS/CM) <Donald.Thompson@cms.hhs.gov>; Hudson, Michele (CMS/CM) <Michele.Hudson@cms.hhs.gov>; Gleason, John (CMS/OFM) <John.Gleason@cms.hhs.gov>; Bobb, Kyle (CMS/OFM) <Kyle.Bobb@cms.hhs.gov>; Fisher, Patrick (CMS/OFM) <Patrick.Fisher@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>
Subject: RE: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

Don and Michele forwarded the email today to Maria Martino in OL.

Thanks,

Michael

From: Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>

Sent: Tuesday, July 30, 2024 4:21 PM

To: Smith, Torris (CMS/CM) <Torris.Smith@cms.hhs.gov>; Furman, Martin (CMS/CM) <Martin.Furman@cms.hhs.gov>; Albert, Michelle (CMS/CM) <Michelle.Albert@cms.hhs.gov>

Cc: Banks, David (CMS/CM) <David.Banks@cms.hhs.gov>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>

Subject: FW: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

Importance: High

Good afternoon, Torris

I think we need meet internally with CMS DPAO, HPAG, ATL RO staff, and Palmetto before we respond back to Ms. Hatfield with Senator Ted Budd's office (see email below). Also, we probably should give OL a heads up about this issue because Mr. Vincoli copied several newspapers/media outlets.

As you are aware, Mr. Vincoli's original FOIA request (09142023C002/MTN 695838) dating back May 2022, was recently closed by OSORA on June 20, 2024. Mr. Vincoli submitted another request for additional documents associated with this same FOIA MTN to Palmetto on July 2, 2024 for the time period **January 29, 2024 to June 30, 2024**. Palmetto responded on July 9, 2024, that they did not have any documents associated with this request, but he could file an appeal.

See first attachment (titled May 2022 Palmetto emails) that Ms. Hatfield references from Michael Treitel. I believe this email was part of Mr. Vincoli's original FOIA request. Palmetto told me they didn't share this internal email with Mr. Vincoli. Mr. Vincoli is not going away.

Thanks!

Jacqueline Brown
Palmetto JJ and JM A/B MAC Contracting Officer Representative
Southern MAC Program Management Division
CM/MCMG
(214) 767-6393 Office
(443) 380-6473 fax
Work Iphone (816) 590-0996
jacqueline.brown@cms.hhs.gov

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From: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>

Sent: Tuesday, July 30, 2024 10:16 AM

To: ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>; Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; Michelle Crouch <mcrouch@northcarolinahealthnews.org>; Sloan, Ralph (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; stephen.wood@palmettogba.com; Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>

Subject: Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

Good morning.

See the entire email thread below regarding Mr. Joe Vincoli.

Joe is not going to let this matter die.

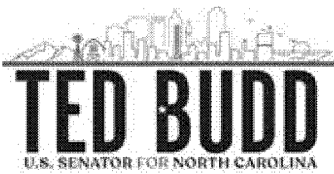
Our office is at a loss as to how to assist Mr. Vincoli in receiving an acceptable response to his concerns.

Please advise as to the resolution.

Thank you so much.

Susan Hatfield
U. S. Senator Ted Budd
5380 US Hwy 158, Suite 202
Advance, NC 27006
Office (336) 941-4470
Fax (910) 772-0390
Direct (202) 960-5736

CMS000161_0000057_0002



From: Joe Vincoli <joevincoli@gmail.com>
Sent: Friday, July 26, 2024 9:02 PM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Subject: Re: Correcting typo Re: MTN 695838

Susan,

What is particularly troubling in the presentation of the facts as I now have them, the auditor raised the question to CMS as to whether or not the misclassification on the cost report of the hospital's claims payer was fraudulent. Specifically, Mr. Wood wrote on XX "

As such, I find it particularly troubling that CMS and the contractor are now telling me that his question was not answered in writing within 6 months and that his audit is no longer being done.

It reminds me of the call that NASA had with Morton Thiokol concerning an engineer's 'no go on launch' for the Challenger due to the cold.

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The matter was discussed with Morton Thiokol managers, who agreed that the issue was serious enough to recommend delaying the flight. NASA protocols required all shuttle sub-contractors to sign off on each flight. During the go/no-go telephone conference with NASA management the night before the launch, Morton Thiokol notified NASA of their recommendation to postpone. NASA officials strongly questioned the recommendations, and asked (some say pressured) Morton Thiokol to reverse its decision.

The Morton Thiokol managers asked for a few minutes off the phone to discuss their final position again. The management team held a meeting from which the engineering team, including Boisjoly and others, were deliberately excluded. The Morton Thiokol managers advised NASA that their data was inconclusive. NASA asked if there were objections. Hearing none, NASA decided to launch the STS-51-L Challenger mission.

We've seen this movie before.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

From: Joe Vincoli <joevincoli@gmail.com>
Sent: Friday, July 26, 2024 12:35 AM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Cc: ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>; Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; Michelle Crouch <mcrouch@northcarolinahealthnews.org>; Sloan, Ralph W. (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; stephen.wood@palmettogba.com; Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>
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As indicated below, according to Palmetto GBA, as of June 2024 "...there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA."

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One would think that it would not be acceptable for CMS officials (Treitel and Ibrahim) to 'pick up the phone' and tell the auditor to 'shut it down'.

I will not let this issue be buried.

I want to assure all the recipients on this email that I will continue to file FOIA requests, constituent services requests to my elected officials, and OIG reports until I get an answer.

Joe Vincoli

220 Epping Road
Clemmons, NC 27012

From: **JAVONDA WOODS-LADSON** <JAVONDA.WOODS-LADSON@palmettogba.com>

Date: Tue, Jul 9, 2024 at 7:10 AM

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Cc: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>

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Thank you,

Javonda Woods-Ladson

Customer Service Coordinator

Phone 803-763-4004



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<https://www.palmettogba.com/disclaimer>

Fwd: Questions

From: Joe Vincoli <joevincoli@gmail.com>
To: Sen. Joyce Krawiec <joyce.krawiec@ncleg.net>
Cc: Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, Karen Handorf <khandorf@bm.net>, "Dunlap, George" <george.dunlap@mecklenburgcountync.gov>, george.dunlap@mecknc.gov, "Queen, Craig - EBSA" <queen.craig@dol.gov>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>, stephen.wood@palmettogba.com, ED SANCHEZ <ed.sanchez@palmettogba.com>
Date: Sat, 10 Aug 2024 06:22:00 +0000

Joyce,

In your email to me from October 2021 (pasted below) you lamented that 'there is nothing legislatively that I am able to do' to protect the citizens of North Carolina who work for Atrium from potential fiduciary abuses.

Nothing.

In November of 2023, an auditor sent this email to CMS concerning Atrium's use of it's owned entity 'MedCost':

Palmetto has documentation from Atrium/Medcost related to reviewing their relationship to ensure it meets the related party rule exception... Palmetto's original supposition to the situation is as follows:

In order to meet the exception, 4 criteria must be met...:

- 1. The organizations must be bona fide separate organizations.***
- 2. A substantial part of the supplying organization's (Medcost) business activity must be carried on with organizations not related to the provider.***
- 3. Services...cannot be a basic element of patient care.***
- 4. The charge to the provider is in line with the charge for such services in the open market...***

Palmetto believed the criteria for items 1 & 3 were...met; however, items 2 and 4 required the additional information from Medcost in order to determine if the exception to the related party principle is met.

During this process, Palmetto has received multiple emails from Joe Vincoli with information he believes would undo the provider's assertion that they... meet the exception. One of his emails...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.

Today, CMS informed me that there are no documents related to this matter from November 2023 to today.

I have contacted Senator Budd's office about this matter but, as of yet, his office has only 'confirmed receipt'.

In closing, we have an entity created by an 80 year old law that is engaged in a transaction that is prohibited by ERISA and basic trust law. That 'governmental entity' is exempt from ERISA and basic trust law because the courts have assumed that there are ELECTED OFFICIALS exercising oversight.

In your note below you state: **I know how much time you have dedicated to the issue and this may not be the answer you are looking for. Not being a legal mind myself, I have very little knowledge of this subject.**

I ask once again: Can you point me to ANY ELECTED OFFICIAL with oversight responsibility of CMHA/CMS/Atrium?

And yes, I have dedicated a lot of time trying to get an answer to this very simple question.

(Self-selected board members rubber stamped by the Char-Meck County Commissioners are not ELECTED OFFICIALS!!!!)

Joe Vincoli

----- Forwarded message -----

From: **Sen. Joyce Krawiec** <Joyce.Krawiec@ncleg.gov>

Date: Tue, Oct 19, 2021 at 10:43 AM

Subject: Questions

To: Joe Vincoli <joevincoli@gmail.com>

Joe, I hope you are well. I have asked for legal advise and you will find the correspondence below that addresses some of your concerns.

I know how much time you have dedicated to the issue and this may not be the answer you are looking for. Not being a legal mind myself, I have very little knowledge of this subject.

Based on the information provided, it appears that there is nothing legislatively that I am able to do. I am sorry to tell you this because I know how important it is to you.

I feel that I have done everything I can to learn about the situation and try to help. I regret that I am not able to.

I wish you well.

Joyce

1) Hospital Authority employees are not protected by ERISA, nor are they protected by the 'active oversight' of the sponsoring county government (eg, hospital authority employees do not participate in the county's retirement plan). Recommendation: Require sponsored hospital authorities to have an appointee from the county commissioners serve on the board of the authority's health and benefits committee. This appointee shall have veto power in said committees and shall report on a scheduled basis to the county commissioners.

ERISA is a federal law, and there's really not much the General Assembly can do to get it to apply to hospital authority employees. I don't think legislation requiring the addition of an "appointee from the county commissioners [to] serve on the board of the authority's health and benefits committee [and exercise veto power]" would change anything. The applicability of ERISA to hospital authority employees under North Carolina law was litigated in a class action lawsuit in 2019. In general, government benefit plans are exempt from ERISA. The federal court that considered the issue held that the North Carolina Hospital Authority Act created local hospital authorities that were "political subdivisions" of the state; therefore, the benefit plans of a local hospital authority were government plans exempt from ERISA. (See *Shore v. Charlotte-Mecklenburg Hosp. Auth.*, 412 F.Supp.3d 568 (2019)). The idea to add another member to the local hospital authority's board would not change anything in the court's analysis of whether ERISA applies to hospital authority plans.

2) Self-perpetuating boards do not result in meaningful governmental oversight. In fact, it has been stated by the law's architect that the reason this board structure was chosen was to ensure that 'local politics' would not interfere with the operation of the authority. There is a broad and deep history of alternative ways to structure a board (from having the commissioners appoint all members (or some members) to having the board filled by elected candidates). When I asked Governor McCrory to identify the elected officials with oversight responsibility for CharMeck Hospital Authority, he and his staff were unable to do so. Ultimately, I was referred to the Institute of Government at Chapel Hill. A lawyer for that organization wrote me and stated that it was the CharMeck CC's who had oversight. In turn, the CharMeck CC's said that they did not have oversight responsibility and that the State had oversight responsibility. To illustrate this point one could

look at the long, long history of the CharMeck CC's efforts to get meaningful financial reports from the CharMeck Hospital Authority (see article from January 2, 1969 below entitled "Memorial Hospital's Budget Still Secret" and note picture of a young James G. Martin who is 'in the dark').

I can't really comment on this too much, but my thoughts on parts of it are below:

- * **"The [Hospital Authority] law's architect that the reason this board structure was chosen was to ensure that 'local politics' would not interfere with the operation of the authority."**The Hospital Authority law was enacted in 1943. That's a little before my time, so I'm not sure what the folks who drafted and enacted the law during the middle of World War II were thinking.
- * **Gov. McCrory's and the Institute of Government's opinions whether the Charlotte-Mecklenburg County Commissioners or the state has oversight over the hospital authority.**I wasn't party to any of the communication, so I don't know for certain what was said, but you can make a case for either. The Hospital Authority Act gives the county commissioners the power to create, appoint, and remove hospital authority members. Generally, the entity that holds the power to appoint and remove is the entity that has oversight authority, so that would seem to put the oversight with the county commissioners; however, the state gave the county commissioners the power to appoint and remove, so you can argue the ultimate authority flows from the state. I don't know enough about the day-to-day operations to have an opinion on who actually exercises any meaningful oversight, though.

3) Having a North Carolina Hospital Authority operate out of state is problematic. In addition to not being subject to ERISA, state sponsored hospital authorities are generally not subject to federal antitrust law (there is a long history of case law on this subject, eg, NC Dental Society, Phoebe Putney, MidCal etc.). My general understanding of this issue is that to be exempt from federal antitrust laws the entity has to be under the 'active oversight' of the sponsoring government. Recent rulings in the Atrium case suggest that federal judges are concerned about hospital authorities operating outside of their legislative districts.

State and local government immunity to antitrust legislation is a huge complex issue, and this would have taken a long time to look into, but, fortunately, the [Fourth Circuit Court of Appeals did all the work for me](#). The court basically held that [Atrium was a local government entity entitled to immunity from federal antitrust legislation](#). (See *Benitez v. Charlotte-Mecklenburg Hosp. Auth.*, 992 F.3d 229 (2021)). It is correct that an entity must be under active oversight of the government to be immune from antitrust legislation, but that caveat only applies when discussing state entities, as opposed to local or county entities like hospital authorities. When discussing the local entities, a different test applies, and the Fourth Circuit held that Atrium met the requirements of that test. In addition, the court did not seem to be find it particularly problematic that a North Carolina hospital authority would operate out of state.

To summarize, courts have (very recently) decided the exact issues that are mentioned here.

Get [Outlook for IOS](#)

Joe Vincoli Re: MTN 695838 / Ongoing / Cost Report Issues

From: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
To: ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, Michelle Crouch <mcrouch@northcarolinahealthnews.org>, "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, stephen.wood@palmettogba.com, "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Johnson, Jennifer (CMS/CM)" <jennifer.johnson6@cms.hhs.gov>
Date: Tue, 30 Jul 2024 15:15:39 +0000
Attachments: May 2022 Palmetto Emails.pdf (267.99 kB)

Good morning.

See the entire email thread below regarding Mr. Joe Vincoli.

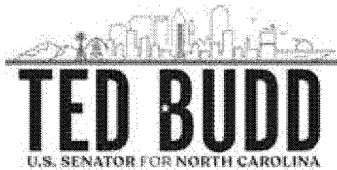
Joe is not going to let this matter die.

Our office is at a loss as to how to assist Mr. Vincoli in receiving an acceptable response to his concerns.

Please advise as to the resolution.

Thank you so much.

Susan Hatfield
U. S. Senator Ted Budd
5380 US Hwy 158, Suite 202
Advance, NC 27006
Office (336) 941-4470
Fax (910) 772-0390
Direct (202) 960-5736



From: Joe Vincoli <joevincoli@gmail.com>
Sent: Friday, July 26, 2024 9:02 PM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Subject: Re: Correcting typo Re: MTN 695838

Susan,

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One would think that it would not be acceptable for CMS officials (Treitel and Ibrahim) to 'pick up the phone' and tell the auditor to 'shut it down'.

I will not let this issue be buried.

I want to assure all the recipients on this email that I will continue to file FOIA requests, constituent services requests to my elected officials, and OIG reports until I get an answer.

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220 Epping Road
Clemmons, NC 27012

From: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>

Date: Tue, Jul 9, 2024 at 7:10 AM

Subject: Atrium Audit -Request for documents from Jan 29, 2024 to June 30, 2024 (MTN 695838)

To: joevincoli@gmail.com <joevincoli@gmail.com>

Cc: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>

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Javonda Woods-Ladson

Customer Service Coordinator

Phone 803-763-4004



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<https://www.palmettogba.com/disclaimer>

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Date: Wed, 07 Aug 2024 01:15:35 +0000

Susan,

Thought I'd share with you some recent feedback to my current LinkedIn poll:

Per CMS, since 11/23 there have been no emails between CMS and Atrium related to Atrium's reporting of employee health costs. Why?

*Someone killed the audit. 100%
CMS needs more time to respond 0%
The audit is now under seal 0%
Atrium met the exception 0%*

And this comment from a physician:

*Kerry Willis MD
at The Beacon Company*

Apparently because gummit employees are for sale as well

While I do not share Dr. Willis' opinion, I think it's important that elected officials, government officials, and government contractors see how their decisions and actions related to FOIA responses are perceived by the general public (and a well-educated public at that).

Joe

On Sun, Aug 4, 2024 at 11:07 PM Joe Vincoli <joevincoli@gmail.com> wrote:



Joe Vincoli(He/Him) • You

Plaintiff's Consultant specializing in ERISA (fiduciary) and Medicare Cost Report (42 CFR Section 413.17, reducing domestic care expenses to cost) compliance of self-funded and self-administered hospital health plans.



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You can see how people vote. [Learn more](#)

Someone killed the audit.

CMS needs more time to respond

The audit is now under seal.

Atrium met the exception.

On Fri, Jul 26, 2024 at 9:23 AM Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov> wrote:

Joe, I am in receipt of your narrative and concerns as outlined below.

Susan Hatfield

U. S. Senator Ted Budd

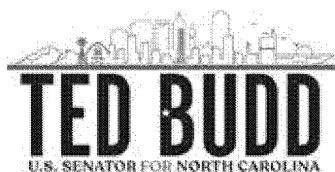
5380 US Hwy 158, Suite 202

Advance, NC 27006

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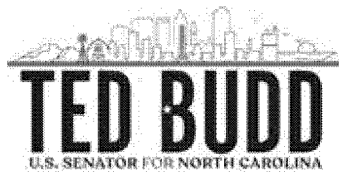
<https://www.palmettogba.com/disclaimer>

#3 - Joe Vincoli - "No Documents Exist"

From: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
To: Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, rcraver <rcraver@wsjournal.com>, ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>
Date: Tue, 07 Jan 2025 20:36:55 +0000

This matter has been going on for years.
Any end to it? Will there ever a resolution for Mr. Vincoli?

Susan Hatfield
U. S. Senator Ted Budd
5380 US Hwy 158, Suite 202
Advance, NC 27006
Office (336) 941-4470
Fax (910) 772-0390



From: Joe Vincoli <joevincoli@gmail.com>
Sent: Monday, January 6, 2025 9:32 PM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Cc: Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; rcraver <rcraver@wsjournal.com>; ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>
Subject: Re: "No Documents Exist"

Susan,

Put more simply, if CMS can hire a contractor to do work on its behalf and the contractor *"does not discuss Medicare functional activities related to providers with public individuals"* when those 'functional activities' are the work of the government then haven't we simply created a way for the government to conduct business in secret?

Sounds like CMS has hired Blackwater to me.

Joe Vincoli
220 Epping Road
Clemmons, NC

On Mon, Jan 6, 2025 at 8:58 PM Joe Vincoli <joevincoli@gmail.com> wrote:

Susan,

As evidenced in the attached, PalmettoGBA manager Ed Sanchez wrote to CMS officials on 1/12/23 the following:

As it relates to Mr. Vincoli's FOIA request, Palmetto GBA does not discuss Medicare functional activities related to providers with public individuals. No one from Palmetto's Audit & Reimbursement department has discussed his FOIA request directly with him. As noted in the documentation provided by our FOIA Coordinator (Patsy Barkley), we assessed his FOIA request and closed it as a "no documents letter" as we deemed that we did not have responsive information to provide at that time. Our understanding is that Mr. Vincoli has appealed the FOIA response with CMS, however, we do not have a record of that information being sent to us from CMS.

I trust you know that under FOIA there are many exemptions that the government can cite for not releasing documents.

To my understanding, saying that the documents just 'don't exist' is not how the law works.

Also note that Ms. Barkley's email response states: "I've attached the documents for review." It is not clear whether the attached documents relate to the FOIA request or is a file of the responsive documents.

*From: Patsy Barkley Sent: Tuesday, January 3, 2023 11:24 AM
To: ED SANCHEZ ; Johnson, Jennifer (CMS/CM) ; JM.PMO Cc: Brown, Jacqueline (CMS/CM) ; Salloum, Rose (CMS/CM) ; Stokes, Adrienne (CMS/CM) ; Brown, Sandra (CMS/CM) ; ARTEYA ROBINSON ; EDRIC STEPHENS ; ALLISON B MCLEOD*

Subject: RE: Charlotte Mecklenburg Hospital Authority / FOIA

This request was received as a public request on 9/01/2022. Per direction from management we closed this as a 'no documents letter' on 9/21/2022. This was filed in SWIFT as JM 09122022C012. I've attached the documents for review.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

On Mon, Jan 6, 2025 at 8:14 PM Joe Vincoli <joevincoli@gmail.com> wrote:

Susan,

I believe in good government and following the law and I want to believe that you and Senator Budd do, too.

As you may recall, CMS contracts with PalmettoGBA to administer the Medicare program in our region. (In fact, I was instructed by CMS that submitting a FOIA request to PalmettoGBA was the equivalent of submitting a FOIA request to CMS (and that there was no distinction).)

After CMS informed Senator Burr in 2021 that the Related Party Rule applied to the Atrium/MedCost Cost Report issue I submitted a FOIA request (in 2022) to PalmettoGBA asking for documents that related to that audit.

In response I received (from PalmettoGBA) a 'No Documents Exist' letter. (see attached "ltr (5).pdf")

Since the hospital being audited (CMHA/Atrium) is a North Carolina 'hospital authority' it is therefore subject to NC's public records law. To its credit, it has been compliant with that law.

When I received the PalmettoGBA 'No Documents Exist' letter I knew that documents actually existed because CMHA/Atrium had previously provided me with emails from PalmettoGBA employees to CMHA/Atrium officials in response to my previous FOIA requests to CMHA/Atrium concerning MTN 685838.

Faced with this conundrum, I filed an appeal 'asking for the release of documents that I was told do not exist'. It was an odd letter to write.

Then, in response to my appeal PalmettoGBA/CMS 'found' 799 documents.

Among those 799 documents is this email exchange between a PalmettoGBA audit manager and a PalmettoGBA FOIA clerk:

*From: ARTEYA R.
Sent: Tuesday, January 3, 2023 12:28 PM
To: Patsy B.
S10.5pt;fobject: RE: Charlotte Mecklenburg Hospital Authority / FOIA*

Did Mr. Vincoli submit an appeal to our No Documents Letter?

ArtlmettoGBAya T. Robinson JM Director of Audit

There may be a very good reason why the 'Director of Audit' of a CMS contractor would ask its FOIA clerk whether or not a citizen had appealed 'our No Documents Letter' but the only explanation I can come up with is that PalmettoGBA management was concerned that I might have challenged them on the question of whether or not these documents existed (which PalmettoGBA auditors knew to exist because they had written and sent them to CMHA/Atrium).

As you know, the OIG closed my 'tip' on this matter without comment. Perhaps they don't view FOIA compliance as a real law?

My hope is that Senator Budd supports law enforcement.

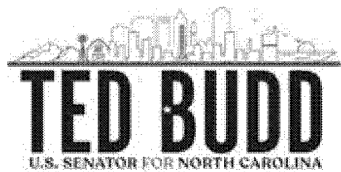
Joe Vincoli
220 Epping Road
Clemmons, NC 27012

Joe Vincoli: "No Documents Exist"

From: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
To: Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, rcraver <rcraver@wsjournal.com>, ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>
Date: Tue, 07 Jan 2025 20:33:37 +0000
Attachments: ltr (5).pdf (196.01 kB); Palmetto GBA emails.pdf (300.23 kB); 24-0874 Final Closeout_Vincoli.pdf (293.85 kB)

Good afternoon.
You are in receipt of the email below from Mr. Joe Vincoli.
Your response to Mr. Vincoli?
Please advise.
Thank you so much.

Susan Hatfield
U. S. Senator Ted Budd
5380 US Hwy 158, Suite 202
Advance, NC 27006
Office (336) 941-4470
Fax (910) 772-0390



From: Joe Vincoli <joevincoli@gmail.com>
Sent: Monday, January 6, 2025 8:15 PM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Cc: Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; rcraver <rcraver@wsjournal.com>; ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>
Subject: "No Documents Exist"

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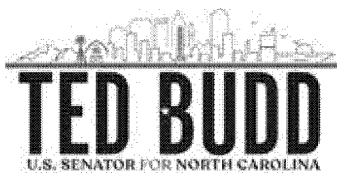
Joe Vincoli
220 Epping Road
Clemmons, NC 27012

#2 - Joe Vincoli - "No Documents Exist"

From: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
To: Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, rcraver <rcraver@wsjournal.com>, ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>
Date: Tue, 07 Jan 2025 20:34:53 +0000
Attachments: Sanchez to CMS re FOIA.pdf (316.96 kB)

Your response to Mr. Vincoli?

Susan Hatfield
U. S. Senator Ted Budd
5380 US Hwy 158, Suite 202
Advance, NC 27006
Office (336) 941-4470
Fax (910) 772-0390



From: Joe Vincoli <joevincoli@gmail.com>
Sent: Monday, January 6, 2025 8:59 PM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Cc: Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; rcraver <rcraver@wsjournal.com>; ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>
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Clemmons, NC 27012

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CMS000161_0000071_0001

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Sent: Tuesday, January 3, 2023 12:28 PM
To: Patsy B.
Subject: RE: Charlotte Mecklenburg Hospital Authority / FOIA*

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Joe Vincoli
220 Epping Road
Clemmons, NC 27012

Re: Provider Inquiry - Mr. Joe Vincoli - Cost Report Issues (MTN 695838)

From: Joe Vincoli <joevincoli@gmail.com>
To: "Johnson, Jennifer (CMS/CM)" <jennifer.johnson6@cms.hhs.gov>
Cc: "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>, "Brown, Sandra (CMS/CM)" <sandra.brown@cms.hhs.gov>, "Weatherington, Cherie (CMS/OPOLE)" <cherie.weatherington@cms.hhs.gov>, "Stokes, Adrienne (CMS/CM)" <adrienne.stokes@cms.hhs.gov>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>, "Ibrahim, Ayub (CMS/CM)" <ayub.ibrahim@cms.hhs.gov>, "Snyder, Erin P" <erin.snyder@atriumhealth.org>, "McConnell, Niki - EBSA" <mccconnell.niki@dol.gov>, "Del Nero, Jennifer - EBSA" <delnero.jennifer@dol.gov>
Date: Thu, 29 Sep 2022 03:44:19 +0000

Jennifer,

Could you please provide an update on this issue?

Feel free to contact any of the government (or government contractors) included on the CC list.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

On Wed, Sep 21, 2022 at 1:35 PM Johnson, Jennifer (CMS/CM) <jennifer.johnson6@cms.hhs.gov> wrote:

You do need to go through the Palmetto's FOIA@palmettogba.com for that information. Thank you.

Jennifer Johnson, MSW

Contracting Officer's Representative (COR) for

Palmetto JM and JJ A/B MAC

Medicare Contractor Management Group

1301 Young St., Suite 106-900 Dallas TX 75202

Phone: (214)-767-4455

Mobile: (443) 934-3091

Fax: 443-380-6515

Jennifer.Johnson6@cms.hhs.gov



From: Joe Vincoli <joevincoli@gmail.com>
Sent: Wednesday, September 21, 2022 12:10 PM
To: Johnson, Jennifer (CMS/CM) <jennifer.johnson6@cms.hhs.gov>
Cc: Sloan, Ralph (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; Brown, Sandra (CMS/CM) <Sandra.Brown@cms.hhs.gov>; Weatherington, Cherie (CMS/OPOLE) <Cherie.Weatherington@cms.hhs.gov>; Stokes, Adrienne (CMS/CM) <adrienne.stokes@cms.hhs.gov>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>
Subject: Re: Provider Inquiry - Mr. Joe Vincoli - Cost Report Issues (MTN 695838)

Jennifer,

Palmetto just informed me that there are no documents concerning this matter.

Please advise.

Thanks.

Joe Vincoli

On Thu, Jul 14, 2022, 8:28 PM Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov> wrote:

Good Evening Mr. Vincoli,

I wanted to give you another update from Palmetto.

Palmetto has initiated a preliminary review of the health plan in advance of the annual review scheduled for September. Preliminary documentation has been received and is under review. We have not yet made a determination as to whether the hospital has correctly represented its health plan status, accurately classified their administrator, or improperly claimed the associated cost for wage index purposes. While we are prohibited from providing the specific thresholds used to determine whether a detailed review is required annually, we can indicate the decision is driven by multiple factors, including variances in annual reporting and overall cost.

Palmetto has recently received additional information from Atrium Health regarding their relationship with MedCost. Palmetto is working closely with CMS.

We appreciate Mr. Vincoli bringing this concern to our attention, and we are actively communicating with the provider to obtain additional documentation.

Thank you

Jennifer Johnson, MSW

Contracting Officer's Representative (COR) for

Palmetto JM and JJ A/B MAC

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1301 Young St., Suite 106-900 Dallas TX 75202

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Mobile: (443) 934-3091

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Jennifer.Johnson6@cms.hhs.gov



From: Joe Vincoli <joevincoli@gmail.com>
Sent: Thursday, June 23, 2022 9:16 PM

To: Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>
Cc: Sloan, Ralph W. (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; Brown, Sandra Y. (CMS/CM) <Sandra.Brown@cms.hhs.gov>; Weatherington, Cherie F. (CMS/OPOLE) <Cherie.Weatherington@cms.hhs.gov>; Stokes, Adrienne F. (CMS/CM) <adrienne.stokes@cms.hhs.gov>
Subject: Re: Provider Inquiry - Mr. Joe Vincoli - Cost Report Issues (MTN 695838)

Ms. Johnson,

Just following up since I have not received a response to my email to you from June 14th of this year.

Thanks,

Joe Vincoli

On Tue, Jun 14, 2022 at 3:38 PM Joe Vincoli <joevincoli@gmail.com> wrote:

Ms. Johnson,

Is it Palmetto's position then that the hospital has correctly represented its health plan status?

It is my understanding of the regulation that hospitals that own their claims administrator are to be classified as 'self administered'.

It would not be correct for the hospital to identify itself as 'Self Funded with a TPA' when it owns the claims administrator since a 'TPA' is a 'third party' and an owned claims administrator is not a 'third party' to its owner.

I would also like to know what the threshold metric is. In short, if it is a 'percent change from the previous year' and the hospital has been incorrectly reporting its expenses for years then the threshold will never be reached.

The difference between a 'market rate' for health care (as applies to Self-Funded using a TPA) as compared to 'cost' (as applies to 'Self Administered') is in the magnitude of eight to ten times.

Finally, does Palmetto use different metrics for 'Self Funded with a TPA' as compared to 'Self Administered'?

Thanks,

Joe Vincoli

On Tue, Jun 14, 2022 at 11:50 AM Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov> wrote:

Good Morning Mr. Vincoli,

I appreciate your written concern. I am able to provide to you with Palmetto's findings at this time and any further details you need, I suggest you to reach out to Palmetto's FOIA Coordinator and make a request. Another resource to provide evidence of your concern and make a complaint is the OIG hotline <https://oig.hhs.gov/fraud/>.

The audit team reviewed the Wage Index Worksheets and supporting documentation for CCN 34-0113 for the past two review cycles. There were no detailed reviews of the Home Office costs or the insurance costs included in the wage related costs. Palmetto GBA did not complete a detailed review of these costs because they did not exceed the CMS threshold parameters defined in the Wage Index Review Program. In the review of the supporting documentation, Palmetto GBA has noted the provider identified their health insurance plan as "Self-Funded with a Third-Party Administrator" and the costs include amounts from the hospital's trial balance and allocations from the Home Office.

An additional review of the costs reported will require more detailed documentation from the provider and is beyond our standard scope of review. If CMS would like a more extensive review, Palmetto GBA would need additional time to complete a more comprehensive review out site of what is normally required. However, due to the wage index review cycle, anything we find by reviewing past reports is unlikely to change current DRGs.

FOIA@palmettogba.com

For security reasons please do not submit PHI/PII over email.

US Mail

FOIA Coordinator
Mail Code: AG-840
P.O. Box 100190
Columbia, SC 29202-3190

Jennifer Johnson, MSW

Contracting Officer's Representative (COR) for

Palmetto JM and JJ A/B MAC

Medicare Contractor Management Group

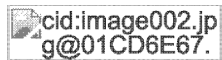
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Fax: 443-380-6515

Jennifer.Johnson6@cms.hhs.gov



From: Joe Vincoli <joevincoli@gmail.com>

Sent: Sunday, June 12, 2022 10:06 PM

To: Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>

Cc: Sloan, Ralph W. (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; Brown, Sandra Y. (CMS/CM) <Sandra.Brown@cms.hhs.gov>; Weatherington, Cherie F. (CMS/OPOLE) <Cherie.Weatherington@cms.hhs.gov>

Subject: Re: Provider Inquiry - Mr. Joe Vincoli - Cost Report Issues (MTN 695838)

Ms. Johnson,

Since it has been several weeks since your last email I was wondering if you might be able to provide me with an update on this matter.

Thanks,

Joe Vincoli

On Tue, May 24, 2022 at 12:46 PM Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov> wrote:

Good Morning Mr. Vincoli,

Thank you for your emails. We are reviewing and determining if what Palmetto shared regarding your concern is appropriate within the law and CMS guidance. We will be getting back with you with our findings. We do hear your concern and appreciate your email.

Jennifer Johnson, MSW

Contracting Officer's Representative (COR) for

Palmetto JM and JJ A/B MAC

Medicare Contractor Management Group

1301 Young St., Suite 106-900\Dallas TX 75202

Phone: (214)-767-4455

Mobile: (443) 934-3091

Fax: 443-380-6515

Jennifer.Johnson6@cms.hhs.gov



From: Joe Vincoli <joevincoli@gmail.com>

Sent: Friday, May 20, 2022 12:20 PM

To: Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>

Cc: Sloan, Ralph W. (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; Brown, Sandra Y. (CMS/CM) <Sandra.Brown@cms.hhs.gov>; Weatherington, Cherie F. (CMS/OPOLE) <Cherie.Weatherington@cms.hhs.gov>

Subject: Re: Provider Inquiry - Mr. Joe Vincoli - Cost Report Issues (MTN 695838)

Ms. Johnson,

I wanted to share with the group a few facts that may, or may not, have bearing on the need for any additional auditing by the FI on this matter.

1) The hospital in this matter owns its own claims administrator. This is a matter of public record and is on file with the North Carolina Secretary of State's office.

2) The hospital in this matter is a 'governmental entity' and is subject to North Carolina Public Records law.

3) In response to a public records request asking for documents related to the 'reduction to cost' of its domestic care expenses, the hospital indicated that there were no documents responsive to the request.

4) The hospital in this matter, per the FI, identified itself as "Self-Funded with a Third-Party Administrator".

5) In previous communications with Senator Burr on this matter, CMS has indicated that hospitals using claims administrators that they own (in whole or in significant part) are 'self administered' and domestic care expenses are to be reported at cost.

Please let me know if you have any additional questions.

Thanks,

Joe Vincoli

On Thu, May 12, 2022 at 2:22 PM Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov> wrote:

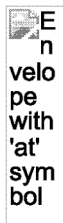
Good Afternoon Mr. Vincoli,

I am the Contracting Officer Representative (COR) for both Palmetto contracts JJ and JM. I wanted to reach out to you directly and provide you an update from Palmetto. First you will see the FOIA contact information you have requested for Palmetto. I have provided you a direct link for your convenience. Please know that you can always report something suspicious to the OIG at <https://oig.hhs.gov/fraud/>.

[Jurisdiction J Part A - Freedom of Information Act Requests \(palmettogba.com\)](#)

Freedom of Information Act Requests

To request Medicare guidelines or coverage issues, hardcopy (paper) fee schedule information, or Medicare pricing for services not included in the fee schedules please contact our FOIA Coordinator using the methods listed below. All requests must contain your complete signature.



FOIA@palmettogba.com

For security reasons please do not submit PHI/PII over email.



US Mail

FOIA Coordinator
Mail Code: AG-840

P.O. Box 100190
Columbia, SC 29202-3190

This is for both JM and JJ providers

I had Palmetto review your concern regarding a review of Atrium Health Charlotte – Mecklenburg’s alleged non-compliance of 42 Code of Federal Regulations (CFR) Section 413.17 to reduce its domestic care expenses to cost. Palmetto did complete research into your concern and below is their findings.

The audit team reviewed the Wage Index Worksheets and supporting documentation for CCN 34-0113 for the past two review cycles. There were no detailed reviews of the Home Office costs or the insurance costs included in the wage related costs. Palmetto GBA did not complete a detailed review of these costs because they did not exceed the CMS threshold parameters defined in the Wage Index Review Program.

In the review of the supporting documentation, Palmetto GBA has noted the provider identified their health insurance plan as “Self-Funded with a Third-Party Administrator” and the costs include amounts from the hospital’s trial balance and allocations from the Home Office.

An additional review of the costs reported will require more detailed documentation from the provider and is beyond our standard scope of review. If CMS would like a more extensive review, Palmetto GBA would need additional time to complete a more comprehensive review out site of what is normally required. However, due to the wage index review cycle, anything we find by reviewing past reports is unlikely to change current DRGs.

I hope this helps you with your concern and provides you the resources to gather more information possibly through FOIA request. Let me know if I can be of any further assistance.

Jennifer Johnson, MSW

Contracting Officer’s Representative (COR) for

Palmetto JM and JJ A/B MAC

Medicare Contractor Management Group

1301 Young St., Suite 106-900\Dallas TX 75202

Phone: (214)-767-4455

Mobile: (443) 934-3091

Fax: 443-380-6515

Jennifer.Johnson6@cms.hhs.gov

cid:image002.jp
g@01CD6E67.

Sent: Thursday, April 28, 2022 6:39 PM
To: Sloan, Ralph W. (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>
Subject: Re: Provider Inquiry - Cost Report Issues (MTN 695838) - CMS Response

Mr. Sloan,

Since it has been several months since this matter was referred to Palmetto GBA, I was wondering if an update was available.

I would also like to submit a public records request for a copy of their findings and was hoping you could advise me as to how to do that.

Thanks so much.

Joe Vincoli

On Wed, Mar 2, 2022 at 12:08 PM Sloan, Ralph W. (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov> wrote:

Mr. Vincoli,

Thank you for your attached letter dated February 4, 2022 in response to my July 27, 2021 e-mail response to your congressional inquiry from Senator Richard Burr's office. In your letter, you informed CMS that the hospital failed to reduce its domestic care expenses to cost to be in compliance with the regulation at 42 CFR 413.17 and also want to know if CMS/Palmetto GBA will investigate or if it should be reported to the OIG. Please be advised that CMS has referred your information to Palmetto GBA, the Jurisdiction M Medicare Administrative Contractor, for them to investigate and report back to CMS. While we are awaiting a response from Palmetto GBA before a decision is made by CMS to refer the matter to the OIG for their review, please know that you can always report something suspicious to the OIG at <https://oig.hhs.gov/fraud/>.

I trust that this information has been responsive to your needs. If you have any questions or need additional information in regard to your inquiry, please let me know.

Best,

Ralph

*Ralph W. Sloan, CPA
Centers for Medicare & Medicaid Services
Office of Program Operations and Local Engagement
Atlanta Innovation & Financial Management Group
Division of Financial Management
61 Forsyth Street, S.W., Suite 4T20
Atlanta, GA 30303-8909*

E-mail: ralph.sloan@cms.hhs.gov

Office: 404.562.7317

Fax: 443.380.5877

 cid:image004.png@01D897B6.A9A
F7540

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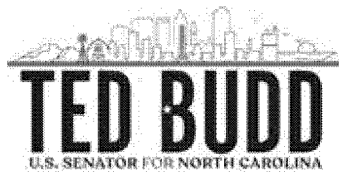
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To: Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, rcraver <rcraver@wsjournal.com>, ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>
Date: Tue, 07 Jan 2025 20:36:55 +0000

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Cc: Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; rcraver <rcraver@wsjournal.com>; ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>
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CMS000161_0000097_0001

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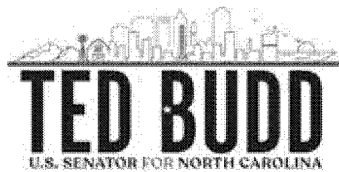
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Date: Tue, 07 Jan 2025 20:33:37 +0000
Attachments: ltr (5).pdf (196.01 kB); Palmetto GBA emails.pdf (300.23 kB); 24-0874 Final Closeout_Vincoli.pdf (293.85 kB)

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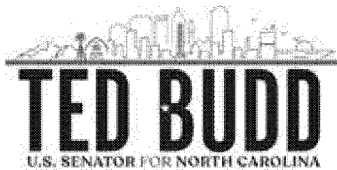
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Date: Tue, 07 Jan 2025 20:34:53 +0000
Attachments: Sanchez to CMS re FOIA.pdf (316.96 kB)

Your response to Mr. Vincoli?

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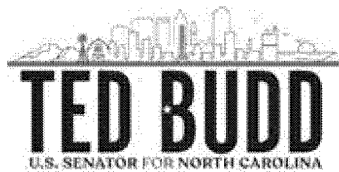
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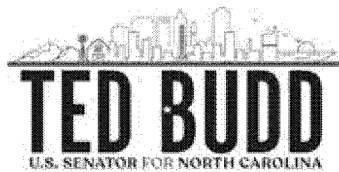
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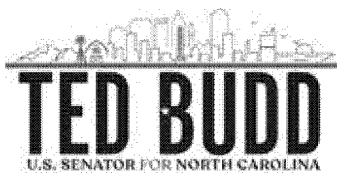
Joe Vincoli
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5380 US Hwy 158, Suite 202
Advance, NC 27006
Office (336) 941-4470
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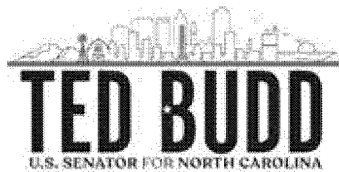
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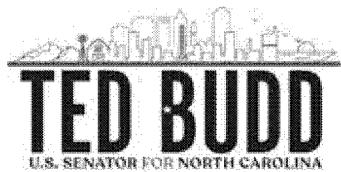
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Date: Tue, 07 Jan 2025 20:33:37 +0000
Attachments: ltr (5).pdf (196.01 kB); Palmetto GBA emails.pdf (300.23 kB); 24-0874 Final Closeout_Vincoli.pdf (293.85 kB)

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Your response to Mr. Vincoli?
Please advise.
Thank you so much.

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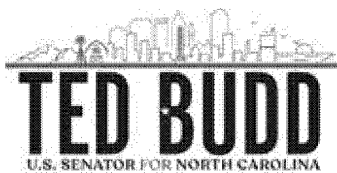
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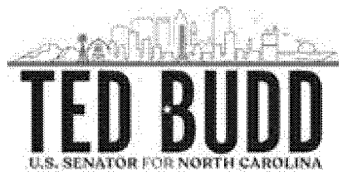
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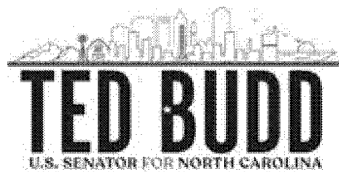
Joe Vincoli
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Joe Vincoli: "No Documents Exist"

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To: Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, rcraver <rcraver@wsjournal.com>, ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>
Date: Tue, 07 Jan 2025 20:33:37 +0000
Attachments: ltr (5).pdf (196.01 kB); Palmetto GBA emails.pdf (300.23 kB); 24-0874 Final Closeout_Vincoli.pdf (293.85 kB)

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Your response to Mr. Vincoli?
Please advise.
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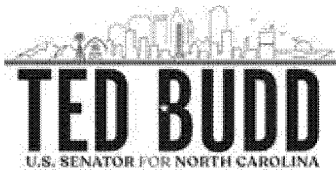
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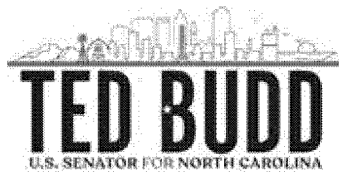
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Date: Tue, 07 Jan 2025 20:36:55 +0000

This matter has been going on for years.
Any end to it? Will there ever be a resolution for Mr. Vincoli?

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Put more simply, if CMS can hire a contractor to do work on its behalf and the contractor "does not discuss Medicare functional activities related to providers with public individuals" when those 'functional activities' are the work of the government then haven't we simply created a way for the government to conduct business in secret?

Sounds like CMS has hired Blackwater to me.

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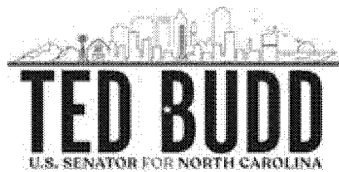
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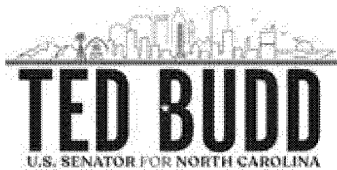
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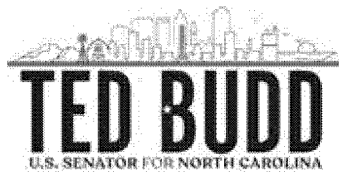
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#3 - Joe Vincoli - "No Documents Exist"

From: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
To: Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, rcraver <rcraver@wsjournal.com>, ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>
Date: Tue, 07 Jan 2025 20:36:55 +0000

This matter has been going on for years.
Any end to it? Will there ever a resolution for Mr. Vincoli?

Susan Hatfield
U. S. Senator Ted Budd
5380 US Hwy 158, Suite 202
Advance, NC 27006
Office (336) 941-4470
Fax (910) 772-0390



From: Joe Vincoli <joevincoli@gmail.com>
Sent: Monday, January 6, 2025 9:32 PM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Cc: Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; rcraver <rcraver@wsjournal.com>; ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>
Subject: Re: "No Documents Exist"

Susan,

Put more simply, if CMS can hire a contractor to do work on its behalf and the contractor "does not discuss Medicare functional activities related to providers with public individuals" when those 'functional activities' are the work of the government then haven't we simply created a way for the government to conduct business in secret?

Sounds like CMS has hired Blackwater to me.

Joe Vincoli
220 Epping Road
Clemmons, NC

On Mon, Jan 6, 2025 at 8:58 PM Joe Vincoli <joevincoli@gmail.com> wrote:

Susan,

As evidenced in the attached, PalmettoGBA manager Ed Sanchez wrote to CMS officials on 1/12/23 the following:

As it relates to Mr. Vincoli's FOIA request, Palmetto GBA does not discuss Medicare functional activities related to providers with public individuals. No one from Palmetto's Audit & Reimbursement department has discussed his FOIA request directly with him. As noted in the documentation provided by our FOIA Coordinator (Patsy Barkley), we assessed his FOIA request and closed it as a "no documents letter" as we deemed that we did not have responsive information to provide at that time. Our understanding is that Mr. Vincoli has appealed the FOIA response with CMS, however, we do not have a record of that information being sent to us from CMS.

I trust you know that under FOIA there are many exemptions that the government can cite for not releasing documents.

To my understanding, saying that the documents just 'don't exist' is not how the law works.

Also note that Ms. Barkley's email response states: "I've attached the documents for review." It is not clear whether the attached documents relate to the FOIA request or is a file of the responsive documents.

*From: Patsy Barkley Sent: Tuesday, January 3, 2023 11:24 AM
To: ED SANCHEZ ; Johnson, Jennifer (CMS/CM) ; JM.PMO Cc: Brown, Jacqueline (CMS/CM) ; Salloum, Rose (CMS/CM) ; Stokes, Adrienne (CMS/CM) ; Brown, Sandra (CMS/CM) ; ARTEYA ROBINSON ; EDRIC STEPHENS ; ALLISON B MCLEOD*

Subject: RE: Charlotte Mecklenburg Hospital Authority / FOIA

This request was received as a public request on 9/01/2022. Per direction from management we closed this as a 'no documents letter' on 9/21/2022. This was filed in SWIFT as JM 09122022C012. I've attached the documents for review.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

On Mon, Jan 6, 2025 at 8:14 PM Joe Vincoli <joevincoli@gmail.com> wrote:

Susan,

I believe in good government and following the law and I want to believe that you and Senator Budd do, too.

As you may recall, CMS contracts with PalmettoGBA to administer the Medicare program in our region. (In fact, I was instructed by CMS that submitting a FOIA request to PalmettoGBA was the equivalent of submitting a FOIA request to CMS (and that there was no distinction).)

After CMS informed Senator Burr in 2021 that the Related Party Rule applied to the Atrium/MedCost Cost Report issue I submitted a FOIA request (in 2022) to PalmettoGBA asking for documents that related to that audit.

In response I received (from PalmettoGBA) a 'No Documents Exist' letter. (see attached "ltr (5).pdf")

Since the hospital being audited (CMHA/Atrium) is a North Carolina 'hospital authority' it is therefore subject to NC's public records law. To its credit, it has been compliant with that law.

When I received the PalmettoGBA 'No Documents Exist' letter I knew that documents actually existed because CMHA/Atrium had previously provided me with emails from PalmettoGBA employees to CMHA/Atrium officials in response to my previous FOIA requests to CMHA/Atrium concerning MTN 685838.

Faced with this conundrum, I filed an appeal 'asking for the release of documents that I was told do not exist'. It was an odd letter to write.

Then, in response to my appeal PalmettoGBA/CMS 'found' 799 documents.

Among those 799 documents is this email exchange between a PalmettoGBA audit manager and a PalmettoGBA FOIA clerk:

*From: ARTEYA R.
Sent: Tuesday, January 3, 2023 12:28 PM
To: Patsy B.
S10.5pt;fobject: RE: Charlotte Mecklenburg Hospital Authority / FOIA*

Did Mr. Vincoli submit an appeal to our No Documents Letter?

ArtlmettoGBAya T. Robinson JM Director of Audit

There may be a very good reason why the 'Director of Audit' of a CMS contractor would ask its FOIA clerk whether or not a citizen had appealed 'our No Documents Letter' but the only explanation I can come up with is that PalmettoGBA management was concerned that I might have challenged them on the question of whether or not these documents existed (which PalmettoGBA auditors knew to exist because they had written and sent them to CMHA/Atrium).

As you know, the OIG closed my 'tip' on this matter without comment. Perhaps they don't view FOIA compliance as a real law?

My hope is that Senator Budd supports law enforcement.

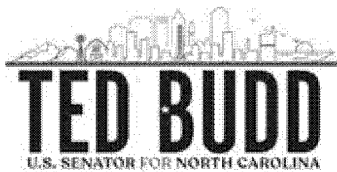
Joe Vincoli
220 Epping Road
Clemmons, NC 27012

Joe Vincoli: "No Documents Exist"

From: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
To: Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, rcraver <rcraver@wsjournal.com>, ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>
Date: Tue, 07 Jan 2025 20:33:37 +0000
Attachments: ltr (5).pdf (196.01 kB); Palmetto GBA emails.pdf (300.23 kB); 24-0874 Final Closeout_Vincoli.pdf (293.85 kB)

Good afternoon.
You are in receipt of the email below from Mr. Joe Vincoli.
Your response to Mr. Vincoli?
Please advise.
Thank you so much.

Susan Hatfield
U. S. Senator Ted Budd
5380 US Hwy 158, Suite 202
Advance, NC 27006
Office (336) 941-4470
Fax (910) 772-0390



From: Joe Vincoli <joevincoli@gmail.com>
Sent: Monday, January 6, 2025 8:15 PM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Cc: Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; rcraver <rcraver@wsjournal.com>; ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>
Subject: "No Documents Exist"

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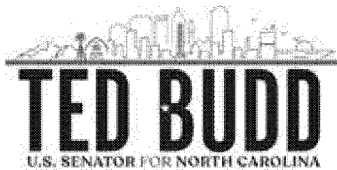
Joe Vincoli
220 Epping Road
Clemmons, NC 27012

#2 - Joe Vincoli - "No Documents Exist"

From: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
To: Robin Fields <robin.fields@propublica.org>, "Alexander, Ames" <aalexander@charlotteobserver.com>, rcraver <rcraver@wsjournal.com>, ED SANCHEZ <ed.sanchez@palmettogba.com>, "Treitel, Michael (CMS/CM)" <michael.treitel@cms.hhs.gov>
Date: Tue, 07 Jan 2025 20:34:53 +0000
Attachments: Sanchez to CMS re FOIA.pdf (316.96 kB)

Your response to Mr. Vincoli?

Susan Hatfield
U. S. Senator Ted Budd
5380 US Hwy 158, Suite 202
Advance, NC 27006
Office (336) 941-4470
Fax (910) 772-0390



From: Joe Vincoli <joevincoli@gmail.com>
Sent: Monday, January 6, 2025 8:59 PM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Cc: Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; rcraver <rcraver@wsjournal.com>; ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>
Subject: Re: "No Documents Exist"

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Clemmons, NC 27012

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CMS000161_0000152_0001

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My hope is that Senator Budd supports law enforcement.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

RE: MTN 695838 - Joe Vincoli's 7/26/2024 E-mails to Susan Hatfield

From: "Pryce, Marcia (CMS/OPOLE)" <marcia.pryce@cms.hhs.gov>
To: "Sloan, Ralph (CMS/OPOLE)" <ralph.sloan@cms.hhs.gov>
Cc: "Brown, Jacqueline (CMS/CM)" <jacqueline.brown@cms.hhs.gov>, "Weatherington, Cherie (CMS/OPOLE)" <cherie.weatherington@cms.hhs.gov>, "Crenshaw, Katherine (CMS/OPOLE)" <katherine.crenshaw@cms.hhs.gov>, "Gleason, John (CMS/OFM)" <john.gleason@cms.hhs.gov>, "Johnson, Jennifer (CMS/CM)" <jennifer.johnson6@cms.hhs.gov>, ED SANCHEZ <ed.sanchez@palmettogba.com>
Date: Fri, 26 Jul 2024 13:01:04 +0000
Attachments: RE_ Joe Vincoli_ FOIA Request for Case# 09142023C002.msg.msg (119.81 kB)

Happy Friday All!

Thank you, Ralph, for the information. Things are well on my end. I hope you are doing well also. Attached is my last communiqué with Susan Hatfield. So that we are on the same page reading the same book, please advise what information can I share with Ms. Hatfield concerning Mr. Vincoli's case.

Thank you. Have an Exceptional Day!

Marcia Pryce

Centers for Medicare & Medicaid Services (CMS)
Office of Program Operations and Local Engagement (OPOLE)
Atlanta Local Engagement and Administration (LEA)
O: 404-562-3808 | C: 770-823-4258 | F: 443-380-5824 | e-Mail: marcia.pryce@cms.hhs.gov

The person who removes a mountain begins by carrying away small stones. With this in mind, make it a great day!

Guard your Medicare card and number like a credit card! Don't share your number, laminate it, make copies, or let anyone else make a copy. If you need an official replacement card, you can print or order one at [Medicare.gov](https://www.Medicare.gov) or call 1-800-MEDICARE (1-800-633-4227).

From: Sloan, Ralph (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>
Sent: Friday, July 26, 2024 8:00 AM
To: Pryce, Marcia (CMS/OPOLE) <Marcia.Pryce@cms.hhs.gov>
Cc: Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Weatherington, Cherie (CMS/OPOLE) <Cherie.Weatherington@cms.hhs.gov>; Crenshaw, Katherine (CMS/OPOLE) <Katherine.Crenshaw@cms.hhs.gov>; Gleason, John (CMS/OFM) <John.Gleason@cms.hhs.gov>; Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>; ED SANCHEZ <ED.SANCHEZ@palmettogba.com>
Subject: FW: MTN 695838 - Joe Vincoli's 7/26/2024 E-mails to Susan Hatfield
Importance: High

Hi Marcia,

I hope you are doing well. Below is one of two e-mails that Joe Vincoli sent to Susan Hatfield with Senator Ted Budd's office earlier this morning. You were not copied on either e-mail, so I am forwarding both e-mails to you. Jackie Brown, who is also copied on this e-mail, has suggested that you might want to reach out to Ms. Hatfield and let her know the current status and responses of CMS and Palmetto GBA to Mr. Vincoli's FOIA requests. I will forward the second e-mail to you shortly.

Thanks.

Best,

Ralph

Ralph W. Sloan, J.D., LL.M., CPA
Centers for Medicare & Medicaid Services
Office of Program Operations and Local Engagement
Financial Operations & Oversight Group
Division of Bankruptcy & Overpayment
61 Forsyth Street, S.W., Suite 4T20
Atlanta, GA 30303-8909

E-mail: ralph.sloan@cms.hhs.gov
Office: 404.562.7317
Fax: 443.380.5877

From: Joe Vincoli <joevincoli@gmail.com>
Sent: Friday, July 26, 2024 12:25 AM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Cc: ED SANCHEZ <ED.SANCHEZ@palmettogba.com>; Treitel, Michael (CMS/CM) <Michael.Treitel@cms.hhs.gov>; Ibrahim, Ayub (CMS/CM) <Ayub.Ibrahim@cms.hhs.gov>; Robin Fields <robin.fields@propublica.org>; Alexander, Ames <aalexander@charlotteobserver.com>; Michelle Crouch <mcrouch@northcarolinahealthnews.org>; Sloan, Ralph (CMS/OPOLE) <Ralph.Sloan@cms.hhs.gov>; stephen.wood@palmettogba.com; Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>; Johnson, Jennifer (CMS/CM) <Jennifer.johnson6@cms.hhs.gov>
Subject: MTN 695838

Ms. Hatfield,

As you may recall, I first contacted you about the issue of what Atrium charges its own employees for health care services when you worked for Senator Burr.

At that point CMS told Senator Burr that if a hospital owns or controls its claims payer then domestic care expenses must be reduced to cost.

Ultimately an audit was undertaken (MTN 695838).

I submitted a FOIA request for documents related to that audit.

Although I was initially told by Palmetto GBA that 'no documents' existed related to any audit on this matter, I appealed and then received 799 pages of documents.

The last (based on date) email in all of those documents is a November 2023 email from Palmetto GBA employee Stephen Wood to CMS asking for clarification concerning his ongoing audit of whether or not the hospital met 'the exception' and, in the alternative, the 'St. Francis PRRB' ruling voided the hospital's claim for exemption from the related party rules.

As indicated below, according to Palmetto GBA, as of June 2024 *"...there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA."*

It boggles the mind that a professional auditor would ask government officials for guidance and not receive a response in six months.

Certainly, Palmetto GBA would not allow Mr. Wood to decide, on his own, to discontinue the audit without guidance from CMS.

One would think that it would not be acceptable for CMS officials (Treitel and Ibrahim) to 'pick up the phone' and tell the auditor to 'shut it down'.

I will not let this issue be buried.

I want to assure all the recipients on this email that I will continue to file FOIA requests, constituent services requests to my elected officials, and OIG reports until I get an answer.

Please confirm receipt.

Joe Vincoli
220 Epping Road
Clemmons, NC 27012

From: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>
Date: Tue, Jul 9, 2024 at 7:10 AM
Subject: Atrium Audit -Request for documents from Jan 29, 2024 to June 30, 2024 (MTN 695838)
To: joevincoli@gmail.com <joevincoli@gmail.com>
Cc: JAVONDA WOODS-LADSON <JAVONDA.WOODS-LADSON@palmettogba.com>

Please see attached, there have been no communications related to the review of Atrium Health as it relates to Atrium's reporting of its employee health care costs and its use of an owned entity since November 2023. There is currently no ongoing review of this issue being performed by Palmetto GBA.

Thank you,

Javonda Woods-Ladson
Customer Service Coordinator

Phone 803-763-4004



PALMETTO GBA®

A CELERIAN GROUP COMPANY

<https://www.palmettogba.com/disclaimer>

RE: Joe Vincoli: FOIA Request for Case# 09142023C002

From: "Hatfield, Susan (Budd)" <susan_hatfield@budd.senate.gov>
To: "Pryce, Marcia (CMS/OPOLE)" <marcia.pryce@cms.hhs.gov>
Date: Mon, 10 Jun 2024 17:14:23 +0000

Thank you so much Marcia.
I will share this update with Mr. Vincoli.....minus your name and contact information.

Susan Hatfield
U. S. Senator Ted Budd
5380 US Hwy 158, Suite 202
Advance, NC 27006
Office (336) 941-4470
Fax (910) 772-0390
Direct (202) 960-5736



From: Pryce, Marcia (CMS/OPOLE) <Marcia.Pryce@cms.hhs.gov>
Sent: Monday, June 10, 2024 10:58 AM
To: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Subject: RE: Joe Vincoli: FOIA Request for Case# 09142023C002

Good morning Ms. Hatfield,

I'm writing to update you on Joe Vincoli's FOIA request regarding Charlotte Mecklenburg Hospital Authority - Atrium.

On December 7, 2023, CMS informed Mr. Vincoli that the FOIA department would process his request (Refer to: Control Number: 09142023C002 PIN: BP4Y). Subsequently, on May 23, 2024, CMS sent a follow-up letter indicating that his request for copies of all documents about Atrium's reporting of its employee healthcare costs and its use of an owned entity (Medcost), and how that information was reported on the hospital's annual cost report, is currently under review. This request is over 799 pages. Please be aware FOIA requests are handled on a first-in, first-out basis, and the FOIA department is currently dealing with a backlog of cases. It's important to note that some information may not be releasable to the public due to trade secrets and confidential financial information.

Furthermore, CMS has been communicating with Mr. Vincoli via email throughout the processing of his request. We assure you that CMS is working diligently to ensure that Mr. Vincoli's request is handled with care and in compliance with FOIA policy guidelines.

I trust that this update addresses your concerns regarding the handling of Mr. Vincoli's FOIA request.

Please feel free to reach out if you require any further information or assistance.

Thank you. Have an Exceptional Day!

Marcia Pryce
Centers for Medicare & Medicaid Services (CMS)
Office of Program Operations and Local Engagement (OPOLE)
Atlanta Local Engagement and Administration (LEA)
O: 404-562-3808|C: 770-823-4258|F: 443-380-5824|e-Mail: marcia.pryce@cms.hhs.gov

The person who removes a mountain begins by carrying away small stones. With this in mind, make it a great day!

Guard your Medicare card and number like a credit card! Don't share your number, laminate it, make copies, or let anyone else make a copy. If you need an official replacement card, you can print or order one at [Medicare.gov](https://www.medicare.gov) or call 1-800-MEDICARE (1-800-633-4227).

From: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Sent: Thursday, June 6, 2024 12:03 PM
To: Pryce, Marcia (CMS/OPOLE) <Marcia.Pryce@cms.hhs.gov>
Subject: Joe Vincoli: FOIA Request for Case# 09142023C002

Marcia, see below.

Susan Hatfield
U. S. Senator Ted Budd
5380 US Hwy 158, Suite 202
Advance, NC 27006
Office (336) 941-4470
Fax (910) 772-0390
Direct (202) 960-5736



From: Joe Vincoli <joevincoli@gmail.com>
Sent: Monday, November 27, 2023 2:16 AM
To: Brown, Jacqueline (CMS/CM) <Jacqueline.Brown@cms.hhs.gov>
Cc: Hatfield, Susan (Budd) <Susan_Hatfield@budd.senate.gov>
Subject: Fwd: FOIA Request for Case# 09142023C002

Ms. Brown,

As documented below, I have been waiting since September 29, 2023 for CMS to release documents to me that were provided to it by its contractor Palmetto (FOIA Request for Case# 09142023C002).

I find it hard to believe that it has taken two months to release the provided documents.

Please confirm receipt and reply to all.

Joe Vincoli

----- Forwarded message -----
From: CMS OPOLE FOIA <OPOLEFOIA@cms.hhs.gov>
Date: Fri, Sep 29, 2023 at 8:54 AM

CMS000161_0000155_0001

Subject: RE: FOIA Request for Case# 09142023C002
To: Joe Vincoli <joevincoli@gmail.com>

Good morning.

The documents were submitted today. You will receive an interim letter as it will go into queue and be processed in the order in which it was received.

From: Joe Vincoli <joevincoli@gmail.com>
Sent: Friday, September 29, 2023 10:34 AM
To: CMS OPOLE FOIA <OPOLEFOIA@cms.hhs.gov>
Subject: FOIA Request for Case# 09142023C002

Hello,

I am formally requesting the documents that have been forwarded to CMS by Palmetto (see below).

Please let me know if there is anything else that I need to do.

My address is
Joe Vincoli
220 Epping Road
Clemmons, NC 27012

My email address is
joevincoli@gmail.com

My phone is 336-528-9639

Please confirm receipt.

Thank you.

Joe Vincoli

Charlotte Mecklenburg Hospital Authority - Atrium

Inbox
Search for all messages with label Inbox
Remove label Inbox from this conversation

[redacted]

Patsy Barkley

10:12 AM
(17
minutes
ago)

to me

[redacted]

[redacted]

[redacted]

Good Morning,

I have gathered the relevant documents per your request, and they have been to CMS for dissemination. The case number is 09142023C002. You can follow up with CMS in regards to them releasing the information to you. Thank you.

CMS OPOLE FOIA OPOLEFOIA@cms.hhs.gov

Patsy Barkley
FOIA Coordinator
Phone: 803-763-9042

<https://www.palmettogba.com/disclaimer>