



U.S. Department of Justice

Criminal Division

*Fraud Section
Bond Building
1400 New York Avenue, NW
Washington, D.C. 20530*

October 25, 2023

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Caitlin M. Bair
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Re: HealthSun Health Plans, Inc.

Dear Counsel:

Consistent with the Criminal Division Corporate Enforcement and Voluntary Self-Disclosure Policy, the Department of Justice, Criminal Division, Fraud Section (the "Government") has declined prosecution of your client, HealthSun Health Plans, Inc. ("HealthSun"), for violations of 18 U.S.C. §§ 1343, 1347, and 1349. We have reached this conclusion despite the fraud committed by employees and agents of HealthSun.

The Government's investigation found evidence that, from approximately 2015 until early 2020, HealthSun's former Director of Medicare Risk Adjustment Analytics orchestrated a scheme to submit false and fraudulent information to the United States Department of Health and Human Services' Centers for Medicare & Medicaid Services ("CMS") in order to increase the amount that HealthSun received for certain of its Medicare Advantage enrollees. Medicare pays Medicare Advantage plans, in part, based on the health condition of the patients. To effectuate the scheme, HealthSun knowingly submitted and caused the submission to CMS of false and fraudulent information about diagnoses for chronic ailments (also known as risk-adjusting conditions/diagnoses) (1) that enrollees in HealthSun's Medicare Advantage Plan did not have and/or (2) that were entered into patient health records by non-health care providers. As a result of the scheme, CMS made approximately \$53 million in overpayments.

The Government has decided to decline prosecution of this matter based on an assessment of the factors set forth in the Corporate Enforcement and Voluntary Self-Disclosure Policy, Justice Manual, and the Principles of Federal Prosecution of Business Organizations, JM 9-28.300,

including but not limited to: (1) the timely and voluntary self-disclosure of the misconduct by HealthSun and its corporate parent, Elevance Health, Inc. (collectively, the “Companies”); (2) the Companies’ full and proactive cooperation in this matter (including their provision of all known relevant facts about the misconduct, including information about all of the individuals involved in the misconduct and information obtained from the Companies’ imaging of several business and personal cell phones) and their agreement to continue to cooperate with any ongoing government investigations and any prosecution that has resulted or might result in the future; (3) the nature and seriousness of the offense; (4) the Companies’ timely and appropriate remediation, including terminating employees who were involved in the misconduct, reporting and correcting the false and fraudulent information submitted to CMS, and substantially improving their compliance program and internal controls through, among other things, significant investment in designing, implementing, and testing a risk-based and sustainable Medicare Advantage compliance program; and (5) the fact that HealthSun agrees to immediately remit the amount that CMS overpaid as a result of the criminal scheme, as described further below.

Pursuant to this letter agreement, the Companies agree to continue to fully cooperate with the Government’s ongoing investigation and/or prosecution, including but not limited to the continued provision of any information and making available for interviews and/or testimony those officers, employees, or agents who possess relevant information, as determined in the sole discretion of the Government.

HealthSun further agrees to repay to CMS the approximately \$53 million that the Government has determined that CMS overpaid for payment years 2016-2021 due to the fraud scheme. In particular, HealthSun agrees to promptly remit \$53,170,114.60 to CMS pursuant to a wire transfer to the Medicare Trust Fund Account.¹ As part of its remediation, HealthSun separately has submitted data corrections to CMS. As CMS re-runs each payment year, including recalculating the relevant patients’ risk scores based on the corrected information, it will identify overpayments and credit HealthSun up to the full amount of the wire transfer of \$53,170,114.60 against any recoupments for payment years 2016-2021. For each applicable payment year, CMS will provide HealthSun with the overpayment amount for that plan year. If the amounts that should be withheld by CMS as a result of the recalculation are lower than the approximately \$53 million wire transfer, the remainder will be retained by the Medicare Trust Fund. If the amounts that should be withheld by CMS as a result of the recalculation exceed the approximately \$53 million, HealthSun agrees that nothing in this letter agreement limits CMS’s ability to withhold additional funds through the recalculation process.

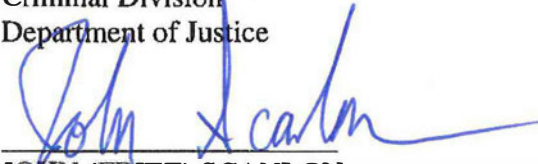
¹ The wire transfer amount by payment year is as follows: \$20,139,425.79 (2016); \$9,302,884.57 (2017); \$13,952,118.57 (2018); \$6,119,708.15 (2019); \$3,045,624.76 (2020); \$610,352.87 (2021).

This letter agreement does not provide any protection against prosecution of any individuals, regardless of their affiliation with the Companies. This letter agreement also pertains only to the matter described herein and not to any other matters involving the Companies. If the Government learns information that changes its assessment of any of the factors outlined above, it may reopen its inquiry.

Sincerely,

GLENN S. LEON
Chief, Fraud Section
Criminal Division
Department of Justice

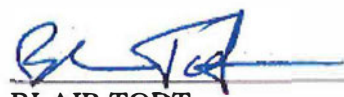
BY:


JOHN (FRITZ) SCANLON
Assistant Chief, Fraud Section

ALEXANDER THOR POGOZELSKI
Trial Attorney, Fraud Section

I have read this letter agreement and carefully reviewed every part of it with outside counsel for Elevance Health. The Board of Directors of Elevance Health has been advised of the terms of this letter agreement. I understand the terms of this letter agreement and, on behalf of Elevance Health, voluntarily agree and consent to the facts and conditions set forth herein, including that HealthSun will remit \$53,170,114.60 to CMS pursuant to wire transfer and to continue to cooperate with the Government.

Date: 10/25/23

BY: 
BLAIR TODT
Executive Vice President,
Chief Legal and Administrative Officer
Elevance Health, Inc.