SETTLEMENT AGREEMENT

I. Recitals

1. Parties. The Parties to this Settlement Agreement (Agreement) are the Office of Inspector General (OIG) of the United States Department of Health and Human Services (HHS) and AnMed Health (Respondent)..

2. The Hospital is a Participating Provider. Respondent is a participating hospital that has entered into a provider agreement under section 1866 of the Social Security Act (Act) and has an emergency department (ED).

3. Description of Section 1867 of the Act. The Emergency Medical Treatment and Labor Act (EMTALA) requires that a participating hospital with an ED must provide, upon request, an appropriate medical screening examination, within the capability of the hospital's ED, to determine whether an emergency medical condition exists, as defined in section 1867(e)(1) of the Act. 42 U.S.C. § 1395dd. If an individual has an emergency medical condition, the hospital must provide, within the capabilities of the staff and facilities available at the hospital, treatment to stabilize the condition, unless a physician certifies that the individual should be transferred because the benefits of medical treatment elsewhere outweigh the risks associated with transfer. If a transfer is ordered, section 1867(c) of the Act requires that the transferring hospital provide stabilizing treatment to minimize the risks of transfer. A receiving hospital that has specialized capabilities may not refuse to accept an appropriate transfer of a patient who requires such capabilities. 42 U.S.C. § 1395dd(g).

4. Description of Civil Monetary Penalty. Section 1867(d)(1)(A) of the Act provides that "[a] participating hospital that negligently violates a requirement of this section is subject to a civil money penalty of not more than $50,000 (or not more than $25,000 in the case of a hospital with less than 100 beds) for each such violation."

5. Covered Conduct. The OIG conducted an investigation regarding allegations that Respondent violated section 1867 of the Act. Based on its investigation, the OIG identified 36 incidents in which AnMed appeared to have violated section 1867 of the Act. In these incidents, individuals presented to AnMed's ED with unstable psychiatric emergency medical conditions. Instead of being examined and treated by on-call psychiatrists, patients were involuntarily committed, treated by ED physicians and kept in AnMed's ED for days or weeks instead of being admitted to AnMed's psychiatric unit for stabilizing treatment. The following are examples of such incidents:

- A.M., a 32-year old female, presented to AnMed's ED via law enforcement on 7/6/2012 with psychosis and homicidal ideation and was involuntarily committed. A.M. did not receive psychiatric examination or treatment by available Anmed psychiatrists and was not admitted to the psychiatric unit for stabilizing treatment. Instead, A.M. was kept in the ED for 38 days and at one point was seen by a psychiatrist from another facility that was familiar with her condition. He then prescribed a variety of medications for agitation. A.M. eventually reached her baseline and her involuntary commitment was decertified and she was discharged home.

- C.I., a 55-year old female, presented to AnMed's ED on 5/25/2012 catatonic with a history of schizophrenia and prior catatonic episodes. An AnMed ED physician completed a medical screening examination that included blood work, thyroid stimulating hormone, and a CAT scan of the brain. C.I. was involuntarily committed and spent 7 days in the ED. C.I.'s medical record did not indicate that she was evaluated or treated by an AnMed on-call psychiatrist.

- M.N., a 62-year old female, was brought to AnMed's ED by a detention officer on 8/1/2012. M.N. had pulled a knife on family members and was suffering from acute psychosocial issues. She received a medical screening examination by an ED physician, but did not receive examination or treatment by available on-call psychiatrists at AnMed. She was involuntarily committed and stayed in AnMed's ED for 20 days before she was transferred to another health care facility.

In each of the incidents described above, Anmed had on-call psychiatrists and beds available in its psychiatric unit to further evaluate and/or stabilize the patient's emergency medical condition.

Similar incidents occurred for the following individuals presenting to AnMed's ED: KM (1/3/2013, in ED 12 days); CB (9/23/2012, in ED 9 days); CS (11/20/2012, in ED 9days); MW (1/31/2013, in ED 13 days); JH (1/11/2013, in ED 15 days); DH (10/15/2012, in ED 7 days); JM (9/25/2012, in ED 10 days and on 11/12/2012, in ED 10 days); RH (11/14/2012, in ED 13 days); DC (1/15/2013, in ED 8 days); DS (9/13/2012, in ED 6 days); UB (9/16/2012, in ED 15 days); CS (10/29/2012, in ED 15 days); JB (11/20/2012, in ED 14 days); TM (12/15/201, in ED 24 days); DB (10/22/2012, in ED 6 days); JH (11/23/2012, in ED 11 days); JF (2/28/2013, in ED 11 days); KT (6/28/2013, in ED 13 days); CP (5/3/2013, in ED 8 days); NL (5/15/2013, in ED 7 days); BE (3/4/2013, in ED 8 days); CP (6/11/2013, in ED 10 days); SP (2/27/2013, in ED 6 days); LH (5/16/2013, in ED 13 days); TS (10/11/2012, in ED 11 days); LM (8/16/2012, in ED 11 days); MC (7/17/2013, in ED 7 days); AL (8/27/2012, in ED 9 days); JD (4/13/2012, in ED 10 days); JJ (8/22/2012, in ED 7 days); OD (4/01/2012, in ED 11 days); and TK (7/21/2013, in ED 11 days). In each of these cases the individual had a psychiatric emergency medical condition and OIG concluded AnMed had the capabilities to provide appropriate psychiatric evaluation and treatment to stabilize these emergency medical conditions. In each case the individual was not examined and/or treated by an AnMed psychiatrist.

AnMed kept these 35 individuals in its ED, pursuant to a longstanding policy of not admitting involuntary patients to its psychiatric unit. AnMed's policies provided that if an individual should be involuntarily committed and did not have financial resources, the attending physician could write an order for the local mental health center to evaluate the patient for commitment to the state mental health system after the patient is medically stable. These individuals were kept in AnMed's ED for 6 –38 days each until they were discharged or transferred to another medical facility. These individuals ranged in age from young adults to elderly adults. Most of them were suicidal and/or homicidal and suffered from depression, schizophrenia, bipolar disorder, drug abuse, psychosis, personality disorders and other serious psychiatric disorders.

The 36 presentments referred to above constitute the "Covered Conduct". This Agreement resolves the OIG's investigation pertaining to these alleged violations.

6. No Admission or Concession. This Agreement is neither an admission of liability by Respondent nor a concession by the OIG that its claims are not well founded.

7. Intent of Parties to Effect Settlement. In order to avoid the uncertainty and expense of litigation, the Parties agree to resolve this matter according to the terms and conditions delineated below.

II. Terms and Conditions

8. Payment. Respondent agrees to pay to the OIG $1,295,000 (Settlement Amount). This payment shall be made via wire transfer to the United States Department of Health and Human Services according to written instructions provided by OIG. Respondent shall make full payment no later than three business days after the Effective Date.

9. Release by OIG. In consideration of the obligations of Respondent under this Agreement and conditioned upon Respondent's full payment of the Settlement Amount, the OIG releases Respondent from any and all claims or causes of action against Respondent for civil monetary penalties or other action under section 1867(d)(1) of the Act, 42 U.S.C. § 1395dd(d)(1), for the Covered Conduct. The OIG and HHS do not agree to waive any rights, obligations, or causes of action other than those specifically referred to in this Paragraph. This release is applicable only to Respondent and is not applicable in any manner to any other individual, person, partnership, operation, or entity.

10. Release by Respondent. Respondent shall not contest the Settlement Amount under this Agreement and any other remedy agreed to under this Agreement. Respondent waives all procedural rights granted under the Civil Monetary Penalties Law or EMTALA (42 U.S.C. §§ 1320a-7a and 1395dd), related regulations (42 C.F.R. Part 1003), and the HHS claim collections regulations (45 C.F.R. Part 30), including but not limited to notice, hearing, and appeal with respect to the Settlement Amount.

11. Reservation of Claims. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including Respondent) are the following:

a. Any criminal, civil, or administrative claims arising under Title 26 U.S. Code (Internal Revenue Code);

b. Any criminal liability;

c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory and permissive exclusion from Federal health care programs; and

d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct.

12. Binding on Successors. This Agreement shall be binding on Respondent and the heirs, successors, assigns, and transferees of Respondent.

13. Costs. Each Party to this Agreement shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

14. No Additional Releases. This Agreement is intended to be for the benefit of the Parties only, and by this instrument the Parties do not release any claims against any other person or entity.

15. Effect of Agreement. This Agreement constitutes the complete agreement between the Parties. All material representations, understandings, and promises of the Parties are contained in the Agreement. Any modifications to this Agreement shall be set forth in writing and signed by all Parties. Respondent represents that this Agreement is entered into with the advice of counsel and knowledge of the events described herein. Respondent further represents that this Agreement is voluntarily entered into in order to avoid litigation, without any degree of duress or compulsion.

16. Effective Date. The Effective Date of this Agreement shall be the date of signing by the last signatory.

17. Disclosure. Respondent consents to OIG's disclosure of this Agreement, and information about this Agreement, to the public.

18. Execution in Counterparts. This Agreement may be executed in counterparts, each of which constitutes an original, and all of which shall constitute one and the same agreement.

19. Authorizations. The individuals signing this Agreement on behalf of the Respondent represent and warrant that they are authorized by Respondent to execute this Agreement. The individuals signing this Agreement on behalf of the OIG represent and warrant that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

RESPONDENT

6/2/17
Date

Timothy B. Arellano
General Counsel
AnMed Health

6/2/17
Date

Alice V. Harris
Counsel for AnMed Health

OFFICE OF INSPECTOR GENERAL

6/23/17
Date

Robert K. DeConti
Robert K. DeConti
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services

6/14/2017
Date

Sandra Jean Sands
Sandra Jean Sands
Senior Counsel
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services