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*A CMS Contracted Agent*

Medicare

# Medicare Private Contract

This agreement is entered into this ____ day of _____, by and between _____ (hereinafter called "physician"), whose principal medical office is located at _____ and _____ (a patient enrolled in Medicare Part B, hereinafter called "patient"), who resides at _____.

## Background

A provision in the Social Security Act permits Medicare beneficiaries and physicians to contract privately outside of the Medicare program. Under the law as it existed prior to January 1, 1998, a physician was not permitted to charge a patient more than a certain percentage in excess of the Medicare fee schedule amount. A new provision, which became effective on January 1, 1998, permits physicians and patients to enter into private arrangements through a written contract under which the patient may agree to pay the physician more than that which would be paid under the Medicare program.

A "private contract" is a contract between a Medicare beneficiary and a physician or other practitioner who has opted out of Medicare for two years for all covered items and services he/she furnishes to Medicare beneficiaries. In a private contract, the Medicare beneficiary agrees to give up Medicare payment for services furnished by the physician/practitioner and to pay the physician/practitioner without regard to any limits that would otherwise apply to what the physician/practitioner could charge.

The purpose of this contract is to permit the patient (who is otherwise a Medicare beneficiary) and the physician to take advantage of this new provision in the Medicare law and sets forth the rights and obligations of each. This agreement is limited to the financial arrangement between Physician and Patient and is not intended to obligate either party to a specific course or duration of treatment.

Patients and physicians who take advantage of this provision are not permitted to submit claims or to expect payment for those services from Medicare.

### *Exception:*

In an emergency or urgent care situation, a physician/practitioner who opts out may treat a Medicare beneficiary with whom he/she does not have a private contract and bill for such treatment. In such a situation, the physician/practitioner may not charge the beneficiary more than what a nonparticipating physician/practitioner would be permitted to charge and must submit a claim to Medicare on the beneficiary's behalf. Payment will be made for Medicare covered items or services furnished in emergency or urgent situations when the beneficiary has not signed a private contract with that physician/practitioner.

### A. Obligations of Physician

1. Physician agrees to provide such treatment as may be mutually agreed upon by the parties and at mutually agreed upon fees.

2. Physician agrees not to submit any claims under the Medicare program for any items or services even if such items or services are otherwise covered by Medicare.

3. Physician acknowledges that (s)he will not execute this contract at a time when the patient is facing an emergency or urgent health care situation.

**B. Obligations of Patient**

1. Patient or his/her legal authorized representative agrees not to submit a claim (or to request that the physician submit a claim) under the Medicare program for such items or services as physician may provide, even if such items or services are otherwise covered under the Medicare program.

2. Patient or his/her legal authorized representative agrees to be responsible, whether through insurance or otherwise, for payment of such items or services and understands that no reimbursement will be provided under the Medicare program for such items or services.

3. Patient or his/her legal authorized representative acknowledges that that Medicare limits do not apply to what the physician/practitioner may charge for items or services furnished by the physician/practitioner.

4. Patient acknowledges that Medigap plans do **not**, and other supplemental insurance plans may elect not to, make payments for items and services not paid for by Medicare.

5. Patient acknowledges that (s)he has the right to obtain Medicare-covered items and services from physicians and practitioners who have not opted out of Medicare, and that the (s)he is not compelled to enter into private contracts that apply to other Medicare covered services furnished by other physicians or practitioners who have not opted out.

6. Patient acknowledges that (s)he or his/her legal representative understands that Medicare payment will not be made for any items or services furnished by the physician/practitioner that would have otherwise been covered by Medicare if there were no private contract and a proper Medicare claim had been submitted.

**C. Physician's Status**

Patient further acknowledges his/her understanding that physician (has/ has not) been excluded from participation under the Medicare program under Section 1128.

**D. Term and Termination**

This agreement shall commence on the above date and shall continue in effect until 12/31/2037 (physician should insert date which is two [2] years after [s]he signs the affidavit). Despite the term of the agreement, either party may choose to terminate treatment with reasonable notice to the other party. Notwithstanding this right to terminate treatment, both physician and patient agree that the obligation not to pursue Medicare reimbursement, for items and services provided under this contract, shall survive this contract.

I have read and understand the provisions regarding private contracting.

By signing this contract, I accept full responsibility for payment of the physician's or practitioner's charges for all services furnished to me from the date written above.

Brian J. Shiple, D.O.

**Name of Physician (printed)**

**Name of Patient (printed)**

**Signature of Physician**

**Signature of Patient**

**Date**