

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement”) is entered into this 27th day of May 2008 by, between, and among (1) Amanda K. Horton, and Keith Alstrin (the “Named Plaintiffs”), on behalf of themselves and all persons similarly situated as putative representatives of the Settlement Class as that term is defined in Paragraph 2 of this Agreement below (collectively referred to as “Plaintiffs”), and (2) United Services Automobile Association, a Texas reciprocal interinsurance exchange, USAA Casualty Insurance Company, USAA General Indemnity Company, USAA County Mutual Insurance Company, and Garrison Insurance Company (collectively referred to as “USAA”). Plaintiffs and USAA are collectively referred to herein as the “Parties.”

This Agreement is entered into to effect a full and final settlement and dismissal with prejudice of all claims of Plaintiffs against USAA in the lawsuit captioned Horton v. USAA Casualty Insurance Company, United States District Court for the District of Arizona case number CV06-2810 (the “Lawsuit”), on the terms set forth below, subject to approval by the Court in the Lawsuit.

RECITALS

A. Amanda Horton instituted the Lawsuit on behalf of herself and a putative class of individuals defined in the original Complaint filed in the Lawsuit.

B. Keith Astrin is being added to the Lawsuit as a Plaintiff by the Amended Complaint filed pursuant to a stipulation in accordance with Paragraph 1 of this agreement on May 27, 2008.

C. The Lawsuit generally alleges that USAA failed to pay to their insureds and/or the insureds’ health care provider assignees the amounts required by Medical Payments, Personal Injury Protection, First Party Benefit, Medical Expense Benefits, Automobile Death and Disability, or any other first-party medical (collectively referred to as “Medpay”) coverages of their applicable automobile insurance policies.

D. The Lawsuit seeks the certification of a class of individuals and asserts claims for breach of contract and breach of the covenant of good faith and fair dealing against USAA.

E USAA denies the Lawsuit's allegations, denies that it has engaged in any wrongdoing, and maintains that it has consistently acted in conformance with the terms of the Medpay coverages of the applicable automobile policies and in good faith.

F. USAA contends that its use of a medical bill/fee review audit is reasonable and appropriate. USAA contends that the audit serves legitimate interests of both USAA and its insureds. These interests include the reduction of medical billing fraud, the identification of billing errors and duplicate billing, and identification of potentially excessive or inappropriate charge amounts. The use of a medical bill audit functions to preserve member benefits and to avoid increases in premiums that could result from the overpayment of claims.

G. The Parties have exchanged documents and information to permit a reasonable investigation of the claims in the Lawsuit, have conducted extensive settlement negotiations, and have reached this Agreement at arm's length, after consultation with their independent advisors and attorneys, in order to resolve the disputes conclusively pursuant to the terms set forth herein without the uncertainty, expense, and delay of further litigation.

H. The Named Plaintiffs and their counsel have examined the benefits to be obtained under the terms of this Agreement, have considered the risks associated with the continued prosecution of the Lawsuit and the likelihood of success on the merits of the Lawsuit, and believe that, after considering all of the circumstances, the proposed settlement set forth in this Agreement is fair, reasonable, adequate, and in the best interests of the Named Plaintiffs and the Settlement Class (as that term is defined in Paragraph 2 below).

In consideration of the following mutual covenants and agreements and subject to final approval of the Court, the Parties agree as follows:

TERMS OF SETTLEMENT

Amendment of the Complaint

1. The Parties stipulate to the filing of the Amended Complaint, a copy of which is attached as Exhibit 1 to this Agreement, in the Lawsuit. The Stipulation allowing the filing of the Amended Complaint shall provide that the filing shall be for the specific purpose of effectuating the settlement of the Lawsuit only and not for any other purpose. The Parties agree, and the stipulation provides that, in the event that the Parties are unable to obtain final Court approval of the settlement and this Agreement, the Amended Complaint shall be dismissed and deemed not filed and any Answer to the Amended Complaint shall be stricken; the Lawsuit shall then continue and be governed by the Complaint filed on October 19, 2006 and the Answer thereto filed on March 6, 2007.

Preliminary Certification of Settlement Class

2. The Parties stipulate to certification, for settlement purposes only, of the Settlement Class defined as follows:

(1) All insureds under automobile policies with Medpay coverage issued by USAA and its affiliates who were injured in covered automobile accidents,

(a) who made claims for Medpay benefits ("Medpay benefits") from June 27, 2005 through the date of preliminary approval of the settlement; and

(b) who had bills for health care expenses submitted to a medical/fee review audit ("Audit") by Concentra Integrated Services, Inc. doing business as Auto Injury Solutions, or its parents, subsidiaries or affiliates (collectively referred to as "AIS"), which recommended payment of less than the full amount of those submitted bills; and

(c) USAA paid less than the full amount of those submitted health care charges as a result of AIS payment recommendations based on:

- i) in whole or in part, on a statistical analysis of the reasonableness of the submitted charge,
- ii) the application by AIS of a PPO or PPN agreement determined by AIS to be applicable to the submitted charge, or
- iii) the resolution of the submitted charge by negotiation between USAA, or AIS on behalf of USAA, and the provider; and

(d) USAA paid an amount less than the limits of coverage for Medpay benefits under the applicable auto insurance policy; and

(2) Health care providers with valid written assignments of any of the claims identified above.

Excluded from this Settlement Class are the following persons:

- (1) Officers, directors, and employees of USAA and Class Counsel;
- (2) Members of the judiciary and staff of the United States District Court for the District of Arizona and their immediate families; and
- (3) All persons who timely elect to opt out of or to exclude themselves from the Settlement Class in accordance with the Court's Orders; and
- (4) All persons who previously resolved all their claims by settlement, release, judgment, or arbitration.

3. Solely for purposes of implementing this Agreement and effectuating the settlement, USAA stipulates that the Court may enter an Order preliminarily certifying the Settlement Class, appointing the Named Plaintiffs as representatives of the Settlement Class, and appointing the following Class Counsel (hereinafter "Class Counsel") for the Settlement Class:

Charles J. Surrano
John N. Wilborn
Surrano Law Offices
3200 North Central Ave., Ste. 2500
Phoenix, Arizona 85012
Telephone: (602) 264-1077
Facsimile: (602) 264-2213
E-mail: jnw@surrano.com

4. Solely for the purpose of implementing this Agreement and effectuating the settlement, the Parties stipulate that the following shall be appointed as Settlement Administrator:

Rust Consulting, Inc.
625 Marquette Avenue, Suite 880
Minneapolis, Minnesota 55402
Telephone: 612-359-2000
Facsimile: 612-359-2050

5. Solely for the purpose of implementing this Agreement and effectuating the settlement, USAA stipulates that the Named Plaintiffs are adequate representatives of the Settlement Class.

6. After execution of this Agreement, the Parties shall promptly move the Court to enter an order (the "Preliminary Approval Order") that is not materially different from Exhibit 2 hereto, which

- (a) preliminarily approves this Agreement;
- (b) certifies the Settlement Class (the Court expressly reserving the right to determine, should the occasion arise, whether the Lawsuit may continue to be certified as a class action for purposes other than settlement, and USAA hereby retaining all rights to assert that the Lawsuit may not be certified as a class action except for settlement purposes);
- (c) appoints Plaintiffs' counsel as Class Counsel for the proposed Settlement Class;
- (d) appoints Rust Consulting, Inc. as Settlement Administrator, in accordance with the provisions of Paragraphs 9-12;

(e) finds that the proposed settlement is sufficient to warrant providing notice to the Settlement Class;

(f) approves the notice (the “Mailed Notice”), the content of which is not materially different from Exhibit 3 hereto, to be sent to the persons described in Paragraph 7 below, directs its mailing by first class mail to the last known address for each such person as defined in Paragraph 7, and, for notices returned, directs the Settlement Administrator to follow the procedures set forth in Paragraph 11; and approves the Notice to Health Care Providers, the content of which is not materially different from Exhibit 4 hereto, to be sent to medical providers upon their request;

(g) approves the notice (the “Published Notice”), the content of which is not materially different from Exhibit 5 hereto, and directs that it be published in accordance with the provisions of Paragraph 12 hereof;

(h) approves the “Insured Claim Form,” the content of which is not materially different from Exhibit 6 hereto, and the Health Care Provider Claim Form, the content of which is not materially different from Exhibit 7 hereto, for distribution to members of the Settlement Class who are USAA insureds or medical providers, respectively, and sets a date after which Insured and Health Care Provider Claim Forms shall be deemed untimely (as further provided in Paragraphs 19 and 21 below);

(i) determines that the Mailed Notice, Notice to Health Care Providers, and the Published Notice (i) is the best practicable notice, (ii) is reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Lawsuit their rights to remain in the class, to make a claim, and to object or to exclude themselves from the proposed settlement, (iii) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice, and (iv) meets all applicable requirements of Due Process;

(j) requires the Settlement Administrator to file proof of mailing of the Mailed Notice and publication of the Published Notice, at or before the Final Approval Hearing;

(k) requires each member of the Settlement Class who wishes to exclude himself or herself from the Settlement Class to submit an appropriate, timely request for exclusion, postmarked no later than sixty (60) days after the Mailed Notice Date to the Settlement Administrator at the address in the Mailed Notice;

(l) preliminarily enjoins all members of the Settlement Class unless and until they have timely excluded themselves from the Settlement Class (i) from filing, commencing, prosecuting, intervening in, or participating as plaintiff, claimant, or class member in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on, relating to, or arising out of the claims and causes of action, or the facts and circumstances alleged, in the Lawsuit and/or relating to the Released Claims (as defined in Paragraph 45); (ii) from filing, commencing, or prosecuting a lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on behalf of any members of the Settlement Class who have not timely excluded themselves (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), based on, relating to, or arising out of the claims and causes of action, or the facts and circumstances relating thereto, in the Lawsuit and/or the Released Claims; and (iii) from attempting to effect an opt-out of a class of individuals in any lawsuit or administrative, regulatory, arbitration, or other proceeding based on, relating to, or arising out of the claims and causes of action, or the facts and circumstances relating thereto, in the Lawsuit and/or the Released Claims.

(m) rules that any member of the Settlement Class who does not submit a timely, written request for exclusion from the Settlement Class will be bound by all proceedings, orders, and judgments in the Lawsuit, even if such member of the

Settlement Class has previously initiated or subsequently initiates individual litigation or other proceedings encompassed by the Release (as set forth in Paragraphs 44-46);

(n) requires each member of the Settlement Class who has not submitted a timely request for exclusion from the Settlement Class and who wishes to object to the fairness, reasonableness, or adequacy of this Agreement or the proposed settlement, or to the Attorneys' Fee Award (as provided in Paragraphs 40-42), to provide to the Settlement Administrator (who shall forward it to Class Counsel and counsel for USAA) and to file with the Court no later than sixty (60) days after the Mailed Notice Date, a statement of the objection, as well as the specific legal and factual reasons, if any, for each objection, including any support the member of the Settlement Class wishes to bring to the Court's attention and all evidence the member of the Settlement Class wishes to introduce in support of his or her objection, or be forever barred from raising an objection;

(o) requires any person who falls within the Settlement Class who files and serves a written objection and who intends to make an appearance at the Final Approval Hearing, either in person or through personal counsel hired at the Settlement Class member's expense, to provide to the Settlement Administrator (who shall forward it to Class Counsel and counsel for USAA) and to file with the Court no later than sixty (60) days after the Mailed Notice Date, or as the Court otherwise may direct, a notice of intention to appear;

(p) directs USAA to rent a post office box in the name of the Settlement Administrator to be used for receiving requests for exclusion, objections, notices of intention to appear, and any other settlement-related communications, and providing that only the Settlement Administrator, Class Counsel, USAA, the Court, the Clerk of the Court, and their designated agents shall have access to this post office box, except as otherwise expressly provided in this Agreement;

(q) directs the Settlement Administrator promptly to furnish Class Counsel, counsel for USAA, and any counsel for Plaintiffs or members of the Settlement Class with copies of any and all objections, written requests for exclusion, notices of intention to appear, or other communications that come into its possession (except as expressly provided in this Agreement);

(r) schedules a hearing on final approval of this Agreement (the “Final Approval Hearing”) to consider the fairness, reasonableness, and adequacy of the proposed settlement and whether it should be finally approved by the Court; and

(s) contains any additional provisions, as agreed by the Parties, that might be necessary to implement the terms of this Agreement and the proposed settlement.

Class Notice And Opt-Out Procedures

7. Because Settlement Class members are not ascertainable without reviewing each individual claim file, USAA will provide the Mailed Notice referred to in Paragraph 6(f), to the extent practicable, to USAA non-decedent insureds whose names and last known addresses are reasonably and reliably ascertainable from computer or electronic databases maintained by AIS of USAA insureds who may fall within the definition of the Settlement Class, and will provide the Notice to Health Care Providers referred to in Paragraph 6(f) to a health care provider upon his or her request. Within thirty (30) days of the Court’s preliminary approval of this settlement, USAA shall deliver to Class Counsel an affidavit providing what USAA believes, after a reasonable and good-faith search, to be a listing of the names and last known addresses of the insureds to whom USAA will provide Mailed Notice.

8. The Parties agree to the appointment of Rust Consulting, Inc. as Settlement Administrator to perform the services described herein. USAA shall enter into an agreement with Rust Consulting, Inc. regarding settlement administration. The terms of

that settlement administration agreement shall not be inconsistent with those set forth herein.

9. The Settlement Administrator shall assist with various administrative tasks, including, without limitation, (i) mailing or arranging for the mailing of the Mailed Notice set forth in Paragraphs 6(f) and 10; (ii) arranging for the publication of the Published Notice set forth in Paragraphs 6(g), 10, and 12; (iii) handling returned mail not delivered and making any additional mailings required under the terms of the Agreement; (iv) responding, as necessary, to inquiries from Settlement Class members and potential Settlement Class members; (v) providing to Class Counsel and counsel for USAA within five (5) business days of receipt copies of all objections, requests for exclusion, notices of intention to appear, and requests for exclusion from the Settlement Class; (vi) preparing a list of all persons who timely requested exclusion from the Settlement Class and submitting an affidavit attesting to the accuracy of that list (the “Opt-Out List”); (vii) preparing a list of all persons who submitted objections to the settlement and submitting an affidavit testifying to the accuracy of that list; (viii) providing to Class Counsel and USAA within five (5) business days of receipt copies of all Claim Forms returned by Settlement Class members; and (ix) mailing or arranging for the mailing of the notices set forth in Paragraph 15. USAA will supply the Settlement Administrator with all information and data reasonably available and necessary to implement their responsibilities under this Agreement.

10. Within thirty (30) days of receiving the listing of insureds receiving the Mailed Notice, the Settlement Administrator shall mail to each person on the list by first class mail a copy of the Mailed Notice and the Insured Claim Form. Prior to such mailing, the Settlement Administrator shall update the addresses through use of the National Change of Address database. The date that said mailing is initially completed is the “Mailed Notice Date” as that term is used herein. In addition, the Settlement Administrator will provide Published Notice as set forth in Paragraphs 6(g), 10, and 12.

11. The Settlement Administrator shall promptly remail any notices returned by the Postal Service with forwarding addresses that are obtained by the Settlement Administrator.

12. Within fourteen (14) days of the Mailed Notice Date, the Settlement Administrator shall cause to be published in the publications listed in Exhibit 8 hereto the Published Notice, the content of which is not materially different from Exhibit 5, and is of the approximate sizes in Exhibit 9 hereto.

13. All potential members of the Settlement Class shall have sixty (60) days from the Mailed Notice Date to submit requests for exclusion from the Settlement Class prepared and directed in the manner set forth in the proposed Mailed Notice and Published Notice.

14. The Named Plaintiffs agree that they shall not elect or seek to opt out or exclude themselves from the Settlement Class.

15. Within ten (10) days of execution of this Agreement and the filing of the motion for entry of the Preliminary Approval Order, the Settlement Administrator shall mail to the Attorney General of the United States and to the appropriate State official in each State in which there are members of the Settlement Class notice of the settlement in accordance with the Class Action Fairness Act, including each of the required items identified in 28 U.S.C. § 1715(b).

16. The Settlement Administrator shall maintain a website for this settlement that is initially not materially different from Exhibit 10 hereto, but that may be amended during the course of the settlement as appropriate and agreed to by the Parties.

17. The Named Plaintiffs, Class Counsel, and all other counsel of record for the Named Plaintiffs hereby agree not to engage in any communications with the media or press, on the Internet, or in any public forum, orally or in writing, that relate to this settlement or the Lawsuit, other than statements that are the same or substantially similar to the statements in the Mailed Notice and the Published Notice.

Claim Forms And Settlement Administration Procedures

18. The Insured Claim Form shall not be materially different from Exhibit 6. The Health Care Provider Claim Form shall not be materially different from Exhibit 7.

19. To be eligible for any monetary relief set forth in Paragraphs 33-34, an insured Settlement Class member must (a) truthfully, accurately, and completely fill out the mandatory portion of the Insured Claim Form (Part I); (b) sign the Insured Claim Form under penalty of perjury; and (c) mail the Insured Claim Form, with first class postage prepaid, to the Settlement Administrator postmarked on or before thirty (30) days after the Final Approval Hearing.

20. If prior to the Effective Date, an insured Settlement Class member and USAA have entered into a written release or settlement agreement relating to payment of any medical expense(s) covered by this Agreement or if issues relating to the payment of any medical expense(s) covered by this Agreement were resolved as the result of any judgment (including but not limited to the dismissal of a suit or cause of action) or by any other binding alternative dispute resolution process, the insured Settlement Class member will not be eligible to receive a monetary payment to the extent that the medical expense being submitted for payment under this settlement was already resolved or adjudicated.

21. To be eligible for any monetary relief set forth in Paragraphs 33-34, a health care provider Settlement Class member must (a) truthfully, accurately, and completely fill out the Health Care Provider Claim Form; (b) sign the Health Care Provider Claim Form under penalty of perjury; and (c) mail the Health Care Provider Claim Form, with first class postage prepaid, to the Settlement Administrator postmarked on or before thirty (30) days after the Final Approval Hearing.

22. Health Care providers submitting claims will be required to submit a separate Health Care Provider Claim Form for each patient who assigned the medical provider a claim for Medpay benefits and for each separate accident by that patient giving rise to a claim. On the Health Care Provider Claim Form, the medical provider will elect

whether to submit documentation in support of his or her claim, as set forth in Exhibit 7. The election to submit a Non-Documented Claim will result in limits on the maximum available recovery for such provider as set forth in Paragraph 23.

23. If the health care provider submits a Non-Documented Claim, the health care provider must state (as set forth in Exhibit 7) under penalty of perjury (1) that treatment was provided pursuant to a valid assignment of the patients' claims for Medpay benefits, and (2) the total amount of the submitted medical charges that remained unpaid (if any) after taking into consideration payments by any source, including USAA, patient, other payors, and third parties. With respect to Non-Documented Claims, the total combined amount recoverable on any claim by any health care provider shall not be greater than \$50. The total aggregate amount recoverable by any health care provider with respect to all Non-Documented Claims shall not exceed \$250.

24. If the health care provider elects to submit a Documented Claim, the documentation submitted (including but not limited to written assignments and ledgers) must be sufficient to show (a) a valid written assignment of his or her patients' claims for Medpay benefits, and (b) the amount of the submitted health care charges that remained unpaid (if any) for each CPT or other code billed on the claim, after taking into consideration payments by any source, including USAA, patient, other payors, and third parties. If a health care provider fails to submit appropriate documentation for any particular claim, that claim will be considered to be a Non-Documented Claim and will be subject to the maximum payment limits set forth in Paragraph 23.

25. If prior to the Effective Date, an insured Settlement Class member and USAA, a health care provider Settlement Class member and USAA, or a health care provider Settlement Class member and any patient or third party, have entered into a written release or settlement agreement relating to payment of any health care charge(s) covered by this Agreement or if issues relating to the payment of any health care charge(s) covered by this Agreement were resolved as the result of any judgment

(including but not limited to the dismissal of a suit or cause of action) or by any other binding alternate dispute resolution process, the health care provider Settlement Class member will not be eligible to receive a monetary payment to the extent that the charge being submitted for payment under this settlement was already resolved or adjudicated.

26. There will be only one payment on any particular charge (i.e., either to the insured or the health care provider as assignee, but not to both). If an insured and a health care provider both submit a qualifying claim form for payment of the same medical expense, USAA will pay the insured for the particular medical treatment unless the provider has submitted a valid Documented Claim; in the event that a medical provider has submitted a valid Documented Claim (including a written assignment from the insured), USAA will pay the health care provider.

27. USAA shall have the right to contest the amounts claimed by any insured Settlement Class member or any qualifying health care provider Settlement Class member, or the adequacy of documentation submitted with respect to any Documented Claim submitted by any health care provider Settlement class member, and to submit the dispute for resolution by a neutral decision maker (agreed to by the Parties and approved by the Court, based on rules agreed to by the Parties and approved by the Court), whose decision will be final, binding, and non-appealable.

28. If the information and documentation provided by a Settlement Class member conflicts with or is different from that found in USAA's records, USAA's records shall control. If USAA's documentation or the documentation provided by a Settlement Class member conflicts with the Claim Form submitted by the Settlement Class member, the USAA documentation will control.

29. Claim Forms may be submitted by a legally authorized guardian or representative of an incapacitated, deceased, or minor member of the Settlement Class or by a person with power of attorney with respect to any insured class member who is deployed out of the United States.

30. USAA shall pay for all costs of settlement administration, including the Mailed Notice, the Published Notice, and all costs of the Settlement Administrator. The Settlement Administrator shall invoice USAA directly for its costs and fees.

Confidentiality Of Information

31. The Parties agree that the names, addresses, and other data concerning members of the Settlement Class used by USAA in implementing this settlement and any other materials to be utilized by USAA in implementing their obligations hereunder (“Information”) constitute trade secrets, highly confidential, and/or proprietary business information. Therefore:

(a) It is agreed that no person, other than individuals directly employed by USAA or to whom USAA has expressly permitted access, shall be allowed to access any Information except:

(i) the Settlement Administrator and the employees of such Administrator;

(ii) the Parties’ respective counsel and the employees of such counsel; and

(iii) such other persons as the Court may order after notice to all counsel of record and following hearing.

(b) This Information is designated as Highly Confidential Information under the Protective Order in the Lawsuit and the Parties shall treat all Information in accordance with the requirements relating to Highly Confidential Information under that Protective Order.

(c) Class Counsel agree to return all Information obtained from USAA in connection with the settlement, including any copies made thereof, within thirty (30) days after the date on which all claims made under the settlement have been resolved, and to retain no copies thereof.

(d) Class Counsel agree to return any and all documents produced by USAA during the course of discovery within thirty (30) days after the date on which all claims made under the settlement have been resolved, and to retain no copies thereof.

Communications With The Settlement Class

32. The Mailed Notice, Notice to Health Care Providers, and Published Notice described in Paragraphs 6(f), 6(g), 10, and 12 shall list the addresses, e-mail addresses, websites, and other contact information of Class Counsel and the Settlement Administrator. Other than provided in this Agreement, communications relating to the Lawsuit or this settlement with potential Settlement Class members shall be handled through Class Counsel and the Settlement Administrator; provided, however, that USAA shall be permitted to send a form letter to its insureds with the Mailed Notice delivered by the Settlement Administrator and to respond to insureds' inquiries in a manner consistent with these documents. Further, nothing in this Agreement shall be construed to prevent USAA from communicating orally, electronically, or in writing with potential Settlement Class members in the ordinary course of business.

Monetary Relief To Qualifying Settlement Class Members

33. Subject to the limitations in Paragraphs 20, 26, and 28, to be eligible for any monetary relief, an insured Settlement Class member must timely submit an Insured Claim Form that satisfies the requirements of Paragraphs 18-19 and 29. Subject to the limitations in Paragraphs 25-28, to be eligible for any monetary relief, a health care provider Settlement Class member must timely submit a Health Care Provider Claim Form that satisfies the requirements of either (i) Paragraphs 18 and 21-23 or (ii) Paragraphs 18, 21-22, and 24.

34. Settlement Class members who submit a qualifying Claim Form satisfying the requirements of Paragraph 33 will be eligible to receive a payment calculated as follows:

(a) Claims made on USAA policies issued in Non-Regulated States (see Exhibit 11 hereto) will be paid at 11% of the reductions based on the Audit Vendor Reason Codes listed in Exhibit 13.

(b) Claims made on USAA policies issued in Regulated States (see Exhibit 12) will be paid at 7% of the reductions based on the Audit Vendor Reason Codes listed in Exhibit 13.

(c) The total amount of any monetary payment to any Settlement Class member for any one covered accident, as calculated in this Paragraph 34, shall not exceed the benefit amount remaining on the first-party Medpay coverage applicable to the claim. To the extent that claims received exceed the amounts remaining on the first-party Medpay coverage, payment will be made first to the insured and then (if there is any amount remaining on the coverage) to health care provider claimants; in the event of multiple provider claimants, USAA will pay those claims, to the extent benefits are available, in the order that the Settlement Administrator receives the provider claims.

(d) Notwithstanding the foregoing provisions, a health care provider may not recover from all sources (including payments made pursuant to this Settlement Agreement) more than 100 percent of the total billed amount for any particular charge.

(e) The Parties recognize that the numbering or other designation of the Reason Codes may change from time to time, and agree that the terms of this Agreement shall apply to any renumbered or redesignated Reason Codes that correspond to those identified in this Agreement and Exhibits.

Other Relief to Settlement Class Members

35. For a period beginning on the Effective Date, as defined in Paragraphs 51-53 below, and extending two years after that date, but only for so long as USAA offers its Medpay coverages in their current form(s), and to the extent allowed by state law and applicable insurance regulations, USAA shall pay or reimburse a health care provider's submitted charge for a covered treatment under Medpay coverage (subject to applicable policy limits):

- (a) in accordance with an applicable state law, regulation, or fee schedule or at the amount authorized or mandated by a state law, regulation, or fee schedule;

- (b) if there is no applicable state law or regulation, at the amount authorized by a written PPN, PPO, or other pre-service agreement to which the health care provider is a party; or

- (c) if there is no applicable state law, regulation, or fee schedule or written PPN, PPO, or other pre-service agreement to which the health care provider is a party, at the lowest of:

- (i) the amount determined by use of the 80th percentile conversion factor of the Ingenix MDR® Payment System for the same procedure or CPT code in the applicable geographic area in which the service was provided (the "Fee Amount"),

- (ii) the amount otherwise negotiated with the provider after the service has been rendered, or

- (ii) the charged amount.

In those circumstances in which there has been an appeal by an insured or a health care provider or in which there is a dispute or litigation between USAA and an insured or health care provider, USAA and the insured and/or health care provider may agree to an

amount of payment without regard to the foregoing. USAA may, in its discretion, pay more than the lowest of the above applicable amounts in order to resolve a claim.

36. For a period beginning on the Effective Date and extending two years after that date, to the extent allowed by state law and applicable insurance regulations, USAA may:

(a) continue to use an Audit to evaluate and to process bills and charges for health care services provided to insureds in the resolution of claims for Medpay coverage by those insureds; and

(b) continue to reimburse charges based upon the amount authorized by a written PPN, PPO, or other pre-service agreement to which the health care provider is a party.

37. For a period beginning on the Effective Date and extending two years after that date, to the extent allowed by state law and applicable insurance regulations, USAA shall have a process in place, for so long as USAA uses an Audit and/or accesses a PPO or PPN in a particular state, to provide notice in those states to policyholders (1) by written notice, delivered with the initial automobile policy issued with Medpay coverage, (2) by written notice provided to existing policyholders upon renewal of automobile policies with Medpay coverage, beginning with renewals occurring six months after the Effective Date, and (3) on USAA's Website at www.usaa.com, as follows:

(a) that a provider of health care services may charge the insured more than the limits of the policy's defined terms for reimbursement of fees or charges pursuant to the Medpay coverage and that USAA's Medpay coverage may not cover the full billed amount of fees and charges for covered health care services;

(b) that USAA uses an Audit, consistent with the applicable policy language, to assist it in the review of health care charges submitted for payment to evaluate the reasonableness of the fee charged or to determine the amount that will be paid for the submitted charge pursuant to the benefit provided in the policy;

(c) as long as USAA offers Medpay coverages in their current form(s), that USAA will pay or reimburse a health care provider's submitted charge for a covered treatment under Medpay coverage (subject to applicable policy limits): (i) in accordance with an applicable state law or regulation or at the amount authorized or mandated by a state fee schedule; (ii) if there is no applicable state law, regulation, or fee schedule at the amount authorized by a written PPN, PPO, or other pre-service agreement to which the health care provider is a party; or (iii) if there is no applicable state law, regulation, or fee schedule or written PPN, PPO, or other pre-service agreement to which the health care provider is a party, at the lowest of: (A) the Fee Amount, (B) the amount otherwise negotiated with the provider after the services have been rendered, or (C) the charged amount. USAA may, in its discretion, pay more than the lowest of the above applicable amounts in order to resolve a claim.

38. For a period beginning on the Effective Date and extending two years after that date, USAA shall have in place a process, upon receipt from the health care provider of the first bill for treatment of the insured, to notify the providers who submit bills for payment under Medpay coverage that, as applicable:

(a) health care treatment and charges submitted for payment under that coverage may be reviewed through the use of an Audit to assist USAA in analyzing whether the charge is payable under the Medpay policy provisions;

(b) USAA has determined that the provider's charges are covered by a PPN, PPO, or other pre-service arrangement between the provider and the USAA audit vendor; and/or

(c) as long as USAA offers Medpay coverages in their current form(s), USAA will pay or reimburse a health care provider's submitted charge for a covered treatment under Medpay coverage (subject to applicable policy limits): (i) in accordance with an applicable state law or regulation or at the amount

authorized or mandated by a state fee schedule; (ii) if there is no applicable state law or regulation, or fee schedule at the amount authorized by a written PPN, PPO, or other pre-service agreement to which the medical provider is a party; or (iii) if there is no applicable state law, regulation, or written PPN, PPO, or other pre-service agreement to which the health care provider is a party, at the lowest of: (A) the Fee Amount, (B) the amount otherwise negotiated with the provider after the services have been rendered, or (C) the charged amount.

39. For a period beginning on the Effective Date and extending two years after that date, USAA shall have in place a process to provide reasonable notification to insureds and health care providers for Medpay coverage in the Explanation of Benefits or Explanation of Reimbursement forms of the basis for paying less than a charge amount for a health care service, including as examples of reasonable notification the following Reason Code Descriptions:

- It has been determined that the submitted charge exceeds a reasonable charge for the service provided in the same or similar geographic region. If you do not accept the amount stated on this EOR as payment in full for this line item, please submit further documentation or explanation to support the reasonableness of the charge submitted by you for payment.
- This reimbursement amount is based upon an agreement between the service provider and the USAA audit vendor or other entity which has contracted with that vendor by which the service provider has agreed to accept the amount reflected as reimbursement for the line item as payment in full for that service provided. If you do not agree that the charge is subject to any type of contractual reimbursement agreement that would benefit USAA insureds, please immediately notify USAA.
- This payment/reimbursement amount is based upon the amount that the health care provider has agreed to accept for services on this procedure with respect to this claim. The health care provider has agreed that the patient will not be balance billed for the procedure.

Attorneys' Fees Award

40. The Parties agree that the Court in the Lawsuit shall determine the amount of attorneys' fees to be awarded to Class Counsel ("Attorneys' Fee Award"). USAA and Class Counsel have not been able to agree on an appropriate amount for the Attorneys'

Fee Award. The Parties agree that the Attorneys' Fee Award should be no less than \$300,000 and no more than \$425,000. Within fifteen (15) days of execution of this Agreement, Class Counsel will file a motion in the Lawsuit for determination and approval of an Attorneys' Fee Award by the Court. Class Counsel agrees not to seek from the Court an award of attorneys' fees, costs, and expenses in excess of \$425,000. Within ten (10) business days after Class Counsel files its motion, USAA may file a response to the motion. USAA agrees not to object to an Attorneys' Fees Award of up to \$300,000. Class Counsel and USAA agree that the Court may award any amount between \$300,000 and \$425,000 that the Court determines to be a reasonable and appropriate Attorneys' Fee Award.

The Attorneys' Fee Award will be paid to Class Counsel by USAA. Class Counsel may apply to the Court for leave to pay an incentive award to Named Plaintiffs, to be paid solely out of the Attorneys' Fee Award, in the amount of \$2,000 to each of the Named Plaintiffs.

41. The Parties expressly agree that the terms of this Agreement are not conditioned upon any minimum attorneys' fees award or upon the payment of any incentive award to the Named Plaintiffs.

42. Any Attorneys' Fee Award to Class Counsel shall be paid by USAA within thirty (30) days of the Effective Date of this Settlement, as defined in Paragraphs 51-53 below.

Final Approval and Dismissal Of Claims

43. If this Agreement (including any modification thereto made with the consent of the Parties as provided for herein) is approved by the Court following the Final Approval Hearing scheduled by the Court in its Preliminary Approval Order, the Parties shall request the Court to enter the Final Order and Judgment, not materially different from that attached hereto as Exhibit 14 hereto, that, among other things:

(a) finds that the Court has personal jurisdiction over all members of the Settlement Class and that the Court has subject matter jurisdiction to approve this Agreement and all Exhibits thereto;

(b) gives final approval to this Agreement as being fair, reasonable, and adequate as to each of the Parties, and consistent and in compliance with all requirements of Due Process as to, and in the best interests of, each of the Parties and the members of the Settlement Class, and directs the Parties and their counsel to implement and consummate this Agreement in accordance with its terms and provisions;

(c) declares this Agreement and the Final Order and Judgment to be binding on, and have res judicata and preclusive effect in, all pending and future lawsuits or other proceedings encompassed by the Release (as set forth in Paragraphs 44-46) maintained by or on behalf of Plaintiffs and all other members of the Settlement Class, as well as their heirs, executors and administrators, successors, and assigns;

(d) finds that USAA's use of an Audit is reasonable, appropriate, and serves legitimate purposes for both USAA and its insureds, including the reduction of health care billing fraud, the identification of billing errors and duplicate billing, the identification of potentially excessive or inappropriate charges, and the preservation of insureds' benefits which can be unnecessarily expended when claims are overpaid;

(e) finds that the payments in accordance with Paragraph 34 of this Agreement are not a violation of any law or any provision of the insurance policies containing Medpay coverage;

(f) finds that the Mailed Notice, the Notice to Health Care Providers, the Published Notice, and the notice methodology implemented pursuant to this Agreement (i) constitute the best practicable notice; (ii) constitute notice that is

reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Lawsuit, their right to object or to exclude themselves from the proposed settlement and to appear at the Final Approval Hearing, and their right to seek monetary and other relief; (iii) are reasonable and constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) meet all applicable requirements of Due Process;

(g) finds that Class Counsel and the named Plaintiffs adequately represented the Settlement Class for the purpose of entering into and implementing the Agreement;

(h) dismisses the Lawsuit (including all individual and class claims presented thereby) on the merits as to USAA and with prejudice and without fees or costs except as provided herein;

(i) adjudges that the Named Plaintiffs and the Settlement Class have conclusively compromised, settled, discharged, dismissed, and released any and all Released Claims against USAA;

(j) approves the payment of the Attorneys' Fee Award to Class Counsel as set forth in Paragraphs 40-42;

(k) without affecting the finality of the Final Order and Judgment for purposes of appeal, reserves jurisdiction over USAA, the Named Plaintiffs, and the Settlement Class as to all matters relating to the administration, consummation, enforcement, and interpretation of the terms of the settlement, the Agreement, and the Final Order and Judgment, and for any other necessary purposes;

(l) provides that, upon the Effective Date, the Named Plaintiffs and all members of the Settlement Class who have not been excluded from the Settlement Class, whether or not they return a claim form within the time and in the manner provided for, shall be barred from asserting any Released Claims against USAA,

and any such members of the Settlement Class shall have released any and all Released Claims as against USAA;

(m) determines that the Agreement and the settlement provided for herein, and any proceedings taken pursuant thereto, are not, and should not in any event be offered or received as evidence of, a presumption, concession, or an admission of liability or of any misrepresentation or omission in any statement or written document approved or made by USAA; provided, however, that reference may be made to this Agreement and the settlement provided for herein in such proceedings as may be necessary to effectuate the provisions of this Agreement;

(n) bars and enjoins all members of the Settlement Class who have not been excluded from the Settlement Class from (i) filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on, relating to, or arising out of the claims and causes of action, or the facts and circumstances relating thereto, in this Lawsuit and/or the Released Claims and (ii) organizing members of the Settlement Class who have not been excluded from the class into a separate class for purposes of pursuing as a purported class action any lawsuit or administrative, regulatory, arbitration, or other proceeding (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action) based on, relating to, or arising out of the claims and causes of action, or the facts and circumstances relating thereto, in the Lawsuit and/or the Released Claims;

(o) approves the Opt-Out List and determines that the Opt-Out List is a complete list of all Settlement Class members who have timely requested exclusion from the Settlement Class and accordingly, shall neither share in nor be bound by the Final Order and Judgment; and

(p) authorizes the Parties, without further approval from the Court, to agree to and to adopt such amendments, modifications, and expansions of this Agreement and all Exhibits hereto as (i) shall be consistent in all material respects with the Final Order and Judgment and (ii) do not reduce the rights of members of the Settlement Class.

Release

44. As used in this Agreement, the term “Release” means the agreements and obligations set forth in Paragraphs 44-46. As of the Effective Date of this Agreement (as defined in Paragraphs 51-53), the Named Plaintiffs, and all other members of the Settlement Class who have not excluded themselves from the Settlement Class, hereby expressly release and discharge USAA and all of their present, former, and future officers, directors, employees, members, shareholders, agents, independent contractors, successors, assigns, parents, subsidiaries, affiliates, insurers, attorneys, and legal representatives (“Releasees”) of and from any and all Released Claims (as defined in Paragraph 45) and agree that they shall not now or hereafter initiate, maintain, or assert against any of the Releasees any causes of action, claims, rights, demands, or claims for equitable, legal, and/or administrative relief connected with, arising out of, or related to the Released Claims in any court or before any administrative body (including any state department of insurance or other regulatory entity or organization), tribunal, arbitration panel, or other adjudicating body.

(a) Without in any way limiting the scope of the Release, this Release covers, without limitation, any and all claims for attorneys’ fees, costs, or disbursements incurred by Class Counsel or any other counsel representing the Named Plaintiffs or any members of the Settlement Class, or by the Named Plaintiffs or members of the Settlement Class, or any of them, in connection with or related in any manner to the Lawsuit, the settlement of the Lawsuit, the administration of such settlement, and/or the Released Claims.

(b) The Named Plaintiffs and the Settlement Class expressly acknowledge that they are familiar with principles of law such as Section 1542 of the Civil Code of the State of California, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

To the extent that California or other law may be applicable notwithstanding the choice of law provisions in the Agreement, the Named Plaintiffs and the Settlement Class knowingly and voluntarily waive and relinquish the provisions, rights, and benefits of Section 1542 of the Civil Code of the State of California and all similar applicable federal or state laws, rights, rules, or legal principles to the fullest extent permitted by law. Named Plaintiffs and the Settlement Class acknowledge that they are aware that they may later discover claims presently unknown or unsuspected or facts in addition to or different from those which they now know or believe to be true with respect to the Released Claims. Nevertheless, Named Plaintiffs and the Settlement Class acknowledge that a portion of the consideration received herein is for a release of unknown and unsuspected injuries and claims. Named Plaintiffs and the Settlement Class agree and acknowledge that this is an essential term of this Release. It is the intention of the Named Plaintiffs and the Settlement Class in executing this Release to settle and to release fully, finally, and forever all matters, known or otherwise, and all claims relating thereto, which exist, hereafter may exist, or might have existed (whether or not previously or currently asserted in any action) constituting Released Claims.

(c) Nothing in this Release shall preclude any action to enforce the terms of the Agreement, including participation in any of the processes detailed therein.

(d) Subject to Court approval, all members of the Settlement Class who do not exclude themselves from the Settlement Class shall be bound by this Agreement, and all of their claims, as provided under this Agreement, shall be dismissed with prejudice and released, even if they never received actual notice of the Lawsuit or its settlement.

45. For purposes of this Agreement, “Released Claims” include any and all claims for relief or causes of action pursuant to any theory of recovery, including but not limited to claims based in contract or tort, common law or equity, and federal, state, or local law, statute, ordinance, or regulation arising from or related to USAA’s conduct, actions, omissions, transactions, and statements with respect to the adjustment of Medpay claims prior to the Effective Date of this Agreement with respect to the use of the Audit to evaluate the reasonableness of submitted health care charges based in whole or in part on a statistical analysis, UCR or reasonable fee recommendations, fee recommendations or payments based on the application of a PPO or PPN agreement determined by AIS to be applicable in the adjustment of Medpay claims, or resolution of a submitted charge by the negotiations between, USAA, or AIS on USAA’s behalf, and health care providers. “Released Claims” include all such claims whether known or unknown, alleged or not alleged in the Lawsuit, suspected or unsuspected, contingent or matured. Released Claims includes any claim that the use by USAA in the past, present, or future of the Ingenix MDR® Payment System to evaluate the reasonableness of submitted charges was in any way wrongful, inappropriate, or in breach of the Medpay or other policy provisions.

46. Health care provider Settlement Class members, on behalf of themselves and their past, present, or future partners, officers, directors, agents, affiliates, heirs, and

assigns, release and discharge each insured Settlement Class member from whom the health care providers received valid assignments of their Medpay claims, as well as that insured Settlement Class member's heirs, representatives, assigns, and any others liable for payment of his or her health care bills, from liability for any and all amounts remaining due for any health care services or supplies that are within the Released Claims. For all claims for which they have received a valid assignment from insured Settlement Class members and that are within the Released Claims, health care provider Settlement Class members, on behalf of themselves and their past, present, or future partners, officers, directors, agents, affiliates, heirs, and assigns, agree to release all liens or other claims that they may or could have asserted for such claims, to dismiss with prejudice all collection actions, suits, arbitrations, or other legal proceedings that involve or include any such claims, and to refrain from attempting in the future to assert any such claim against any insured Settlement Class member or other person or entity, whether or not the health care provider has been paid in full for that charge. Notwithstanding the foregoing, this release does not release balance billing by medical provider Settlement Class members of claims against patients for payment for services to the extent that payment was denied or reduced based on the insured's claim having exceeded the policy limits.

Withdrawal From Settlement

47. Within fifteen (15) days of the occurrence of any of the following events, and upon written notice to counsel for the other Parties, any Party shall have the right to withdraw from the settlement:

- (a) if the Court fails to approve the Agreement or if, on appeal, the Court's approval is reversed or modified; or
- (b) if the Court materially alters any of the terms of the Agreement; or

(c) if the Court denies the filing of the Amended Complaint or otherwise fails to permit the filing of the Amended Complaint in accordance with Paragraph 1 by the date that is 30 days prior to the Final Approval Hearing; or

(d) if the Preliminary Approval Order, as described in Paragraph 6, or the Final Approval Order, as described in Paragraph 43, is not entered by the Court, or is reversed or modified on appeal, or otherwise fails for any reason.

In the event of a withdrawal pursuant to Paragraphs 47-50, the certification of the Settlement Class provided in this Agreement will be vacated without prejudice to any Party's position on the issue of class certification; the Amended Complaint and any answer thereto shall be dismissed and stricken; the Parties shall be restored to their litigation positions existing immediately before the execution of this Agreement; and the litigation shall be governed by the original Complaint filed on October 19, 2006 and the Answer thereto filed on March 6, 2007.

48. If 250 or more members of the Settlement Class properly and timely submit requests for exclusion from the Settlement Class as set forth in Paragraph 13, then USAA may withdraw from this Agreement. In that event, all of USAA's obligations under this Agreement shall cease to be of any force and effect; the certification of the Settlement Class provided in this Agreement shall be vacated without prejudice to USAA's position on the issue of class certification; the Amended Complaint and any answer thereto shall be dismissed and stricken; the Parties shall be restored to their litigation position existing immediately before the execution of this Agreement; and the litigation shall be governed by the original Complaint filed on October 19, 2006 and the Answer thereto filed on March 6, 2007. In order to elect to withdraw from this Agreement on the basis set forth in this Paragraph 48, USAA must notify Class Counsel in writing of its election to do so within ten (10) days after the Opt-Out List has been served on the Parties.

49. If a certified class of persons who are also members of the Settlement Class purports to opt out of this Settlement, then USAA may withdraw from this Agreement.

In that event, all of the USAA's obligations under this Agreement shall cease to be of any force and effect; the certification of the Settlement Class provided in this Agreement shall be vacated without prejudice to USAA's position on the issue of class certification; the Amended Complaint and any answer thereto shall be dismissed and stricken; the Parties shall be restored to their litigation position existing immediately before the execution of this Agreement; and the litigation shall be governed by the original Complaint filed on October 19, 2006 and the Answer thereto filed on March 6, 2007. In order to elect to withdraw from this Agreement on the basis set forth in this Paragraph 49, USAA must notify Class Counsel in writing of their election to do so within ten (10) days after the Opt-Out List has been served on the Parties.

50. If one or more statewide, multistate, or nationwide classes that encompass some or all of the claims asserted in the Lawsuit are certified against USAA at any time before the Effective Date of this Agreement, then USAA may withdraw from this Agreement. In that event, all of USAA's obligations under this Agreement shall cease to be of any force and effect; the certification of the Settlement Class provided in this Agreement shall be vacated without prejudice to USAA's position on the issue of class certification; the Amended Complaint and any answer thereto be dismissed and stricken; the Parties shall be restored to their litigation position existing immediately before the execution of this Agreement; and the litigation shall be governed by the original Complaint filed on October 19, 2006 and the Answer thereto filed on March 6, 2007. In order to elect to withdraw from this Agreement on the basis set forth in this Paragraph 50, the USAA must (i) provide notice to Class Counsel of the motion for class certification and notice of hearing within ten (10) days of service of such papers; (ii) assert as a defense the injunction referred to in Paragraph 6(l); (iii) not consent to the certification but contest the certification in good faith at a hearing; and (iv) notify Class Counsel in writing of their election to withdraw from this Agreement within 20 days after

certification of the classes noted in this Paragraph 50, but in any event no later than 10 days after the Effective Date of this Agreement.

In the event USAA withdraws from the Agreement as set forth in Paragraphs 47-50, Plaintiffs stipulate that USAA may assert any and all defenses and claims in the Lawsuit and that Plaintiffs shall not argue that USAA are barred from asserting those defenses or claims due to waiver, estoppel, or similar arguments as a result of the passage of time due to settlement negotiations.

Effective Date

51. The “Effective Date” of this Agreement shall be the date when each and all of the following conditions have occurred:

- (a) This Agreement has been fully executed by the Parties and their counsel;
- (b) Orders have been entered by the Court certifying the Settlement Class for settlement purposes, granting preliminary approval of this Agreement, and approving a form of notice and claim forms, all as provided above;
- (c) The Court-approved Mailed Notice and Published Notice have been duly promulgated as ordered by the Court;
- (d) The Court has entered a Final Order and Judgment finally approving this Agreement, as provided above; and
- (e) The Judgment has become Final as defined in Paragraph 52.

52. “Final,” when referring to a judgment order means that (a) the judgment is a final, appealable judgment; and (b) either (i) no appeal has been taken from the judgment as of the date on which all times to appeal therefrom have expired, or (ii) an appeal or other review proceeding of the judgment having been commenced, such appeal or other review is finally concluded and no longer is subject to review by any court, whether by appeal, petitions for rehearing or reargument, petitions for rehearing en banc, petitions for writ of certiorari, or otherwise, and such appeal or other review has been

finally resolved in such manner that affirms the Final Order and Judgment in all material respects.

53. If, for any reason, this Agreement fails to become effective pursuant to the foregoing paragraphs, the orders, judgment, and dismissal to be entered pursuant to this Agreement shall be vacated; the certification of the Settlement Class provided in this Agreement shall be vacated without prejudice to USAA's position on the issue of class certification; the Amended Complaint and any answer thereto shall be dismissed and stricken; the Parties shall be restored to their litigation position existing immediately before the execution of this Agreement; and the litigation shall be governed by the original Complaint filed on October 19, 2006 and the Answer thereto filed on March 6, 2007.

Additional Provisions

54. The headings and captions contained in this Agreement are for reference purposes only and in no way define, extend, limit, describe, or affect the scope, intent, meaning, or interpretation of this Agreement.

55. This Agreement shall be construed, enforced, and administered in accordance with the laws of the State of Arizona.

56. This Agreement is not, and shall not be offered in evidence as, an admission of liability, USAA having denied any such liability.

57. The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and the Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Agreement.

58. In the event that there are any developments in the effectuation and administration of this Agreement that are not dealt with by the terms of this Agreement, then such matters shall be dealt with as agreed upon by the Parties, and, failing agreement, as shall be ordered by the Court.

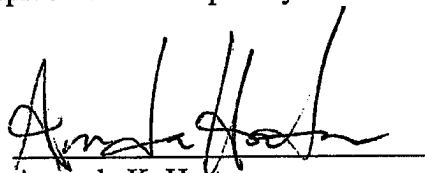
59. Except as otherwise stated herein, this Agreement constitutes the entire agreement between and among the Parties with respect to the settlement of the Lawsuit. This Agreement shall not be construed more strictly against one Party than another merely because of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations resulting in the Agreement, all Parties hereto have contributed substantially and materially to the preparation of the Agreement. This Agreement supersedes all prior negotiations and agreements (except as otherwise stated herein) and may not be modified or amended except by a writing signed by the Parties and their respective counsel. This Paragraph 59 does not apply to the agreement with the Settlement Administrator (noted in Paragraph 8).

60. This Agreement may be executed in counterparts each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

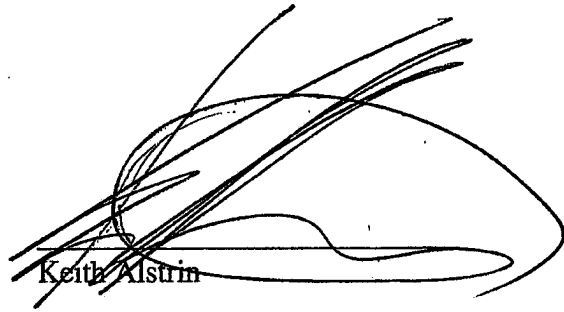
61. The Exhibits to this Agreement are an integral part of the settlement and are hereby incorporated and made part of this Agreement.

62. The Parties hereto shall execute all documents and perform all acts necessary and proper to effectuate the terms of this Agreement. The executing of documents must take place prior to the date scheduled for the Final Approval Hearing.

63. Each Party to this Agreement warrants that he, she, or it is acting upon his, her, or its independent judgment and upon the advice of his, her, or its counsel and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other party, other than the warranties and representations expressly made in this Agreement.



Amanda K. Horton



Keith Alstrin

United Services Automobile Association,

By: _____
Its: _____

USAA Casualty Insurance Company,

By: _____
Its: _____

USAA General Indemnity Company,

By: _____
Its: _____

USAA County Mutual Insurance
Company,

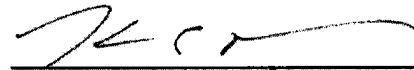
By: _____
Its: _____

Garrison Insurance Company

By: _____
Its: _____

Keith Alstrin

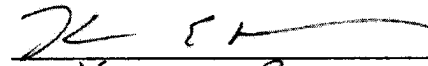
United Services Automobile Association,



By: Ken E. Rosen

Its: Senior Vice President, Claims

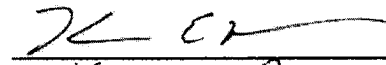
USAA Casualty Insurance Company,



By: Ken E. Rosen

Its: Senior Vice President, Claims

USAA General Indemnity Company,



By: Ken E. Rosen

Its: Senior Vice President, Claims

USAA County Mutual Insurance
Company,



By: Ken E. Rosen

Its: Senior Vice President, Claims

Garrison Insurance Company



By: Ken E. Rosen

Its: Senior Vice President, Claims

Exhibit 1

1 SURREANO LAW OFFICES
2 Charles J. Surrano (007732)
3 John N. Wilborn (013714)
4 3200 North Central Avenue, Suite 2500
5 Phoenix, Arizona 85012
6 Phone: (602) 264-1077
7 Attorneys for Plaintiffs

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

AMANDA K. HORTON; and KEITH
ALSTRIN,

Plaintiffs,

v.

USAA CASUALTY INSURANCE
COMPANY, a foreign insurer; UNITED
SERVICES AUTOMOBILE
ASSOCIATION, a foreign intransurance
exchange; USAA GENERAL INDEMNITY
COMPANY, a foreign insurer, USAA
COUNTY MUTUAL INSURANCE
CORPORATION, a foreign insurer; and
GARRISON INSURANCE COMPANY, a
foreign insurer,

Defendants.

No. CV06-2810 PHX DGC

AMENDED COMPLAINT

For their Amended Complaint against Defendants, Plaintiffs for themselves and all others similarly situated allege the following:

PARTIES JURISDICTION AND VENUE

1. At all times relevant hereto, Plaintiff Amanda K. Horton ("Horton") was and remains a resident of Maricopa County, Arizona.

2. At all times relevant hereto, Plaintiff Keith Alstrin ("Alstrin") was and remains a resident of Maricopa County, Arizona.

1 3. At all times relevant hereto, Defendant USAA Casualty Insurance Company
2 (hereafter "USAA CIC") was and is a foreign insurer licensed to transact and transacting
3 insurance business in the state of Arizona and other states.

4 4. At all times relevant herein, Defendant United Services Automobile
5 Association was and is a reciprocal interinsurance exchange organized under the laws of
6 Texas, licensed to transact and transacting insurance business in the state of Arizona and
7 other states.

8 5. At all times relevant hereto, Defendant USAA General Indemnity Company
9 was and is a foreign insurer organized under the laws of Texas, licensed to transact and
10 transacting insurance business in the state of Arizona and other states.

11 6. At all times relevant hereto, Defendant USAA County Mutual Insurance
12 Company was and is foreign insurer organized under the laws of Texas.

13 7. At all times relevant herein, Defendant Garrison Insurance Company was
14 and is a foreign insurer organized under the laws of Texas. Defendants, their parents,
15 affiliates, and/or subsidiaries are hereafter collectively referred to as "USAA."

16 8. USAA was and is engaged in the marketing, sale, and issuance of
17 automobile insurance policies in the state of Arizona and other states.

18 9. This Court has original jurisdiction of the claims asserted herein pursuant to
19 the Class Action Fairness Act and U.S.C. § 1332(d)(2)(A) in that the amount in
20 controversy and the claims at issue exceed the sum of \$5,000,000, exclusive of interest
21 and costs, and is a putative class action in which members of the class of plaintiffs are
22 citizens of States different from Defendants' state of citizenship.

23 10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391. USAA does
24 substantial business in this District, and USAA transacts business, maintains agents or
25 representatives in, or is found in this District. USAA regularly and continuously conducts
26 business in interstate commerce that is carried out in part in this District.

ALLEGATIONS COMMON TO ALL COUNTS

11. Defendants offered and sold a form of first-party medical coverage that provides payment to covered persons for necessary and appropriate health care expenses for bodily injury resulting from a covered automobile accident. This coverage is commonly referenced as Medical Payments("Med Pay") coverage.

12. Defendants also offered and sold pursuant to certain state statutes or regulations another form of first-party medical coverage called First Party Benefit or Personal Injury Protection ("PIP") that provides payment to covered persons for reasonable and necessary health care expenses incurred as a result of bodily injury resulting from a covered automobile accident.

13. Defendants offered Med Pay and statutorily required PIP coverage to their insureds in states across the country, including offering Med Pay coverage in Arizona.

14. Upon information and belief, USAA contracted with a third party provider, Concentra Integrated Services, Inc., doing business as Auto Injury Solutions or its parents, subsidiaries, or affiliates (collectively referred to as "AIS"), to provide medical bill audit services for review of provider charges submitted on Med Pay and PIP claims. Upon information and belief, AIS employs a computer software program to determine the amount paid for submitted charges for medical, dental, and other health care treatments.

15. Upon information and belief, the software and/or audit process makes two types of reductions that are relevant to the claims here.

16. First, the software unilaterally and arbitrarily reduces the amount paid on medical, dental, and other health care provider bills based upon a determination that the amounts billed are not "reasonable."

17. Upon information and belief, the software program uses unidentified data to link like charges for services of other similar providers in an insured's general geographic area.

1 18. The effect of such a program is to arbitrarily generate an allowed amount for
2 charges for given geographical locations.

3 19. The system employed by Defendants and/or their agents categorically
4 eliminates, abates, and/or reduces charges actually incurred above a selected percentile
5 level.

6 20. The medical expense reductions effectuated by Defendants' system and/or
7 the system of their agents do not utilize independent medical/dental or other appropriate
8 expert review.

9 21. Defendants' system is based, rather, upon a statistical model and program,
10 the data for which remains secret and confidential.

11 22. Under the policies, Defendants have assumed the responsibility and
12 obligation to determine and pay all medical expenses which are "reasonable."

13 23. Defendants are aware that Plaintiffs Horton and Alstrin, and people
14 similarly situated, could and would be balance billed by providers whose bills were
15 automatically reduced by Defendants' medical bill audit program and, particularly, based
16 on the database determination of a "reasonable" fee.

17 24. What constitutes a "reasonable" medical expense is a factor of individual
18 medical needs, technical expertise and experience of the involved health care providers,
19 and community standards for billing like services and products.

20 25. The system employed by Defendants and their agents necessarily diminishes
21 or eliminates the individual character of health care services and concomitant expense, by
22 establishing and utilizing a statistical cost mean as a basis for the denial of medical
23 payments benefits beyond a predetermined deviation therefrom.

24 26. Defendants assumed the responsibility to determine that expenses were
25 reasonable yet denied certain expenses incurred by Plaintiff Horton and other putative
26 class members as unreasonable, without the requisite expert health care opinion.

1 27. Defendants' program, at best, may incite inquiry into the reasonableness of
2 various medical expenses, but cannot, perforce, constitute the singular determination
3 thereof or be a substitute for the weighing and evaluation of the individual components of
4 what constitutes a reasonable healthcare expense.

5 28. Notwithstanding the limitations of Defendants' program to adjudicate
6 reasonable health care costs and expenses, it has been and is being applied in a manner to
7 systematically eliminate payments for costs beyond a predetermined, statistical mean in
8 given geographic regions.

9 29. Second, upon information and belief, AIS or its agents have secured or
10 established contractual relationships with health care providers in different geographic
11 areas by which those providers have agreed to be reimbursed at predetermined amounts
12 for healthcare services rendered to patients insured by certain clients of AIS.

13 30. These agreements are often called preferred provider organization (PPO) or
14 preferred provider network (PPN) agreements. Pursuant to these agreements, the
15 providers agree to accept reduced amounts compared to their usual and customary charges
16 for procedures in exchange for being a participant in a preferred provider network.

17 31. Upon information and belief, Defendants, who have no direct agreements
18 with medical, dental, or other health care providers, wrongfully utilize the PPO and PPN
19 agreement contracted rates that AIS or its agents have secured or established with certain
20 providers in order to reduce the amounts that Defendants will reimburse their insureds or
21 pay on behalf of their insureds under the Med Pay and PIP coverages.

22 32. Defendants do not inform their insureds or the healthcare providers that
23 Defendants have not entered into PPO or PPN agreements with these providers.

24 33. As a result of using the silent PPO, Defendants have improperly reduced
25 payments to insureds and medical providers.
26

34. Defendants' aforesaid utilization of such a program to reduce first-party medical benefits payments is, presumptively, unreasonable.

35. Any expenses not paid or reimbursed under the Defendants' first-party medical coverage by reason of these programs are, *ipso facto*, presumptively owed.

36. Defendants' actions, therefore, in utilizing these programs to unilaterally reduce or deny health care expenses submitted for payment under the Med Pay and/or PIP coverages are, presumptively, in breach of their obligations to pay all reasonable medical expenses incurred by covered persons under the Med Pay and/or PIP provisions of their policies.

37. Defendants' actions in utilizing these programs to unilaterally deny or reduce health care expenses submitted for payment under the Med Pay and/or PIP coverages are, further, a presumptive breach of their implied duty of good faith and fair dealing, including their obligation to conduct a full and fair evaluation of each claim and to not unreasonably deny or withhold benefits.

Class Representatives

38. Plaintiff Horton was an insured under an automobile policy with Defendant USAA CIC which provided Med Pay coverage.

39. Plaintiff Horton paid a premium for the aforesaid Med Pay coverage.

40. On or about December 28, 2004, Plaintiff Horton, as a covered person, was involved in an automobile accident in Phoenix, Arizona.

41. As a direct and proximate result of that automobile accident, Plaintiff Horton sustained certain medical and dental expenses, all reasonably and necessarily incurred.

42. Plaintiff Horton timely notified USAA CIC of the automobile accident and her claim for payment of related, reasonably incurred medical and dental expenses.

1 43. Plaintiff Horton did not have any applicable dental insurance at the time of
2 said accident and injury.

3 44. Based on the use of the medical bill audit, Defendant USAA CIC failed and
4 refused to pay for no less than \$1,573.67 in related dental expenses. In particular, USAA
5 CIC refused to pay portions of charges for an occlusal orthotic device and comprehensive
6 oral evaluation based on the determination, using the computer software program, that the
7 submitted charges were not "reasonable."

8 45. As a result of Defendant USAA CIC's refusal to pay the full billed amount,
9 Plaintiff Horton has been required to pay and has paid the balance of the dental expenses
10 reasonably and necessarily incurred.

11 46. The dental services were covered under Plaintiff Horton's Med Pay
12 coverage in her Policy.

13 47. Defendants' actions, as aforesaid, have left Plaintiff Horton, and others
14 similarly situated, indebted to health care providers for the difference between the
15 amounts actually incurred and those actually paid or reimbursed by Defendants.

16 48. Defendants knew and/or consciously disregarded the fact that Plaintiff
17 Horton, and others like her, would be subjected to unnecessary indebtedness and/or causes
18 of action as a result of the actions undertaken by the Defendants as alleged herein.

19 49. Plaintiff Horton, and others like her, have been damaged as a result of
20 Defendants' automated program for the adjustment of legally-incurred medical expenses.

21 50. Plaintiff Alstrin was an insured under an automobile policy with Defendant
22 USAA CIC which provided Med Pay coverage.

23 51. Plaintiff Alstrin paid a premium for the aforesaid Med Pay coverage.

24 52. On or about January 8, 2007, Plaintiff Alstrin, as a covered person, was
25 involved on an automobile accident in Phoenix, Arizona.
26

1 53. As a direct and proximate result of that automobile accident, Plaintiff
2 Alstrin sustained certain medical expenses, all reasonably and necessary.

3 54. Plaintiff Alstrin timely notified USAA CIC of the automobile accident and
4 his claim for payment of related, reasonably incurred medical expenses.

5 55. Based on the use of the medical bill audit, Defendant USAA CIC failed and
6 refused to pay for no less than \$_____ in related medical expenses. In
7 particular, USAA CIC refused to portions of charges based on a determination, using the
8 computer software program, that the submitted charges were not "reasonable.

9 56. As a result of Defendant USAA CIC's refusal to pay the full billed amount,
10 Plaintiff Alstrin has been required to pay and has paid the balance of medical expenses
11 reasonably and necessarily incurred.

12 57. The medical expenses were covered under Plaintiff Alstrin's Med Pay
13 coverage in his policy.

14 58. Defendants' actions, as aforesaid, have left Plaintiff Alstrin, and others
15 similarly situated, indebted to health care providers for the difference between the
16 amounts actually incurred and those actually paid or reimbursed by Defendants.

17 59. Defendants knew and/or consciously disregarded the fact that Plaintiff
18 Alstrin, and others like him, would be subjected to unnecessary indebtedness and/or
19 causes of action as a result of the actions undertaken by the Defendants as alleged herein.

20 60. Plaintiff Alstrin, and others like him, have been damaged as a result of
21 Defendants' automated program for the adjustment of legally-incurred medical expense.

22 **Class Definition**

23 61. There exists a class of persons, who are Defendants' insureds with Med Pay
24 and/or PIP coverage.

25 62. This class ("Class") is, or can be initially, defined as follows:
26

1 (1) All insureds under auto policies with Med Pay, PIP,
2 First Party Benefit, Medical Expense Benefits, Automobile Death and
3 Disability, or any other first-party medical coverage (collectively referred to
4 as "Medpay") issued by USAA who were injured in covered automobile
5 accidents,

6 (a) who made claims for Medpay benefits ("Medpay
7 benefits") from June 27, 2005 through the present, and

8 (b) who had bills for health care expenses submitted
9 to a medical/fee review audit ("Audit") by AIS, or its parents,
10 subsidiaries or affiliates, which recommended payment of less than
11 the full amount of those submitted bills; and

12 (c) USAA paid less than the full amount of those
13 submitted health care charges as a result of AIS payment
14 recommendations based on,

15 i) in whole or in part, a statistical analysis
16 of the reasonableness of the submitted charge,

17 ii) the application by AIS of a PPO or PPN
18 agreement determined by AIS to be applicable to the
19 submitted charge, or

20 iii) the resolution of the submitted charge by
21 negotiation between USAA, or AIS on behalf of USAA, and
22 the provider; and

23 (d) USAA paid an amount less than the limits of
24 coverage for Medpay benefits under the applicable auto insurance
25 policy; and
26

1 (2) Health care providers with valid written assignments of any of
2 the claims identified above.

3 63. Excluded from the Class are officers, directors and employees of USAA,
4 and Class counsel, and their immediate families and persons who have previously
5 resolved all their claims by settlement, release, judgment, or arbitration.

6 64. This action is brought and may properly be maintained as a class action.

7 65. The proposed Class is so numerous that the individual joinder of all
8 members is impracticable under the circumstances of this case. While the exact number
9 of class members is unknown to Plaintiffs at this time, Plaintiffs are informed and believe
10 that the proposed Class includes thousands of members throughout the United States.

11 66. Class treatment is appropriate in this case because (1) it involves the legality
12 of uniform policies and practices that Defendants applied to all members of the proposed
13 Class, and (2) there are numerous common questions of law and fact that exist as to all
14 members of the proposed Class which predominate over any questions that affect only
15 individual members of the proposed Class.

16 67. Plaintiffs' claims are typical of the claims of the members of the proposed
17 Class. Plaintiffs and all members of the proposed Class sustained injuries arising out of
18 Defendants' common courses of conduct.

19 68. Plaintiffs will fairly and adequately represent and protect the interests of the
20 proposed Class. Plaintiffs are adequate representatives of the class and have no interest
21 adverse to the proposed Class.

22 69. All claims on behalf of the proposed Class, including the claims of the
23 Plaintiffs, arise from the same scheme and practice and are based on the same legal
24 theories. The issues that affect Plaintiffs and the proposed Class predominate over those
25 that affect only individual members of the proposed Class.

70. A class action is a superior means for a fair and efficient adjudication of the matters at issue because individual joinder of all members of the proposed Class is impracticable. Additionally, the damages suffered by any individual member of the proposed Class may be relatively small, making the burden and expense of individual litigation difficult or prohibitive. Moreover, individual adjudication of claims of the members of the proposed Class presents the possibility of inconsistent and contradictory judgments.

71. Plaintiffs anticipate no unusual problems with management of this action as a class action.

COUNT I

Breach of Contract

72. Plaintiffs hereby repeat, reallege, and restate the foregoing as if fully set forth hereby.

73. The policies of insurance between Defendants and Plaintiffs, either directly or through proper assignment, constitute lawfully binding contracts.

74. Plaintiffs have demanded performance under the contracts.

75. Defendants' failures to perform as required under the contracts constitute breaches thereof.

76. Plaintiffs have sustained actual damages as a result of Defendants' breaches.

77. Plaintiffs are entitled to reasonable attorneys' fees under A.R.S. § 12-341.01.

COUNT II

Breach of Covenant of Good Faith and Fair Dealing (“Bad Faith”)

78. Plaintiffs hereby repeat, reallege, and restate the foregoing as if fully set forth hereby.

1 79. Defendants, at all relevant times, owed and continue to owe Plaintiffs an
2 implied duty of good faith and fair dealing.

3 80. Defendants' actions as aforesaid and as elsewhere set forth herein were in
4 breach of the duty of good faith and fair dealing, and constitute, thereby, "bad faith."

5 81. Defendants' bad faith conduct consists of, but is not limited to:

- 6 a. Failing to fully, fairly and promptly investigate Plaintiffs' claims;
- 7 b. Unreasonably denying and/or withholding benefits under the policy;
- 8 c. Misconstruing policy language against Plaintiffs;
- 9 d. Arbitrarily reducing benefits due and payable under the policy;
- 10 e. Creating unreasonable burdens for payment of benefits;
- 11 f. Failing to give Plaintiffs' interests equal consideration; and
- 12 g. Engaging in a pattern and practice of similar illicit claim practices.

13 82. Defendants' actions were committed in bad faith against Plaintiffs Horton
14 and Alstrin and the putative Class members.

15 83. Plaintiffs and the putative Class members have sustained actual damages as
16 a result of Defendants' bad faith conduct.

17 84. Defendants' actions entitle Plaintiffs and others like them to payment or
18 reimbursement of legally incurred but unpaid medical expenses.

19 85. Plaintiffs have sustained additional, consequential and general damages,
20 including those for emotional distress and discomfort.

21 86. Defendants' actions further entitle Plaintiffs and others like them to an
22 award of general damages for Defendants' bad faith conduct.

23 87. Defendants' actions were undertaken with an evil mind and/or in conscious
24 disregard for the harm to be occasioned by the Plaintiffs.

25 88. Defendants' actions, for the reasons aforesaid, further entitle Plaintiffs and
26 other like them to an award of punitive damages.

1 89. Plaintiffs are also entitled to their reasonable attorneys' fees pursuant to
2 A.R.S. § 12-341.01.

3 WHEREFORE, Plaintiffs demand judgment in their favor and against Defendants
4 as follows:

5 AS TO THE FIRST COUNT FOR BREACH OF CONTRACT

6 1. For an order certifying this as a class action, appointing Plaintiffs as class
7 representatives, and appointing Plaintiffs' counsel as class counsel;

8 2. For a determination that Defendants have breached their contracts with
9 Plaintiffs and the proposed Class;

10 3. For an award of the actual damages sustained thereby;

11 4. For Plaintiffs' reasonable attorneys' fees and costs; and

12 5. For such additional and further relief as the Court deems proper under the
13 circumstances.

14 AS TO THE SECOND COUNT FOR BREACH OF THE COVENANT OF GOOD
15 FAITH AND FAIR DEALING

16 1. For an order certifying this as a class action, appointing Plaintiffs as class
17 representatives, and appointing Plaintiffs' counsel as class counsel;

18 2. For a determination that Defendants have breached the implied covenant of
19 good faith and fair dealing in their policies with the proposed Class;

20 3. For an award of the actual damages sustained thereby;

21 4. For an award of general compensatory damages sustained thereby;

22 5. For an award of punitive damages sustained thereby; and

23 6. For Plaintiffs' reasonable attorneys' fees and costs incurred pursuant to
24 A.R.S. § 12-341.01.

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DATED: May __, 2008.

SURRANO LAW OFFICES

By: _____
Charles J. Surrano III
John N. Wilborn
3200 North Central Avenue, Ste. 2500
Phoenix, Arizona 85012
Attorneys for Plaintiffs

ORIGINAL filed and COPY *hand-
delivered/mailed this ____ day of
May 2008 to:

Paul L. Stoller
Gallagher & Kennedy, P.A.
2575 East Camelback Road
Phoenix, Arizona 85016
Attorneys for Defendants

Exhibit 2

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5
6 UNITED STATES DISTRICT COURT

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8 DISTRICT OF ARIZONA

9 AMANDA K. HORTON, et al.

10 Plaintiff,

11 v.

12 USAA CASUALTY INSURANCE
13 COMPANY, a foreign insurer, et al.

14 Defendant.

No. CV-06-2810-PHX-DGC

**ORDER CONDITIONALLY
CERTIFYING SETTLEMENT CLASS,
PRELIMINARILY APPROVING
SETTLEMENT AND FORM OF
NOTICE, DIRECTING THAT NOTICE
BE SENT, AND SETTING FINAL
APPROVAL HEARING**

15 Plaintiffs Amanda K. Horton, Keith Alstrin, and _____ and Defendants
16 United Services Automobile Association, USAA Casualty Insurance Company, USAA
17 General Indemnity Company, USAA County Mutual Insurance Company, and Garrison
18 Insurance Company (collectively referred to as "USAA") have entered into a Class Action
19 Settlement Agreement, dated May 27, 2008 (the "Agreement"), to settle the above-
20 captioned action ("Lawsuit") and have filed a Motion for Order Conditionally Certifying
21 Settlement Class, Preliminarily Approving Settlement and Form of Notice, Directing that
22 Notice Be Sent, and Setting Final Approval Hearing (the "Motion for Preliminary
23 Approval"). The Agreement sets forth the terms and conditions for a proposed settlement
24 and dismissal with prejudice of this Lawsuit.

25 Having reviewed the Agreement, the Motion for Preliminary Approval, and the
26 pleadings and other papers on file in this action, the Court finds that the Motion for
27 Preliminary Approval should be **GRANTED** and that this Order should be entered. The
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1 Court gives its preliminary approval to the settlement in the Agreement, subject to a Final
2 Approval Hearing held for purposes of deciding whether to grant final approval to the
3 settlement. Terms and phrases used in this Order shall have the same meaning ascribed to
4 them in the Agreement.

5 **IT IS HEREBY ORDERED, ADJUDGED, DECREED AS FOLLOWS:**

6 I. Pursuant to Fed. R. Civ. P. 23(e)(1) and (2), the Court conditionally certifies
7 for settlement purposes only the following Settlement Class:

8 (1) All insureds under auto policies with Medical Payments,
9 Personal Injury Protection, First Party Benefit, Medical Expense Benefits,
10 Automobile Death and Disability, or any other first-party medical coverage
(collectively referred to as "Medpay") issued by USAA who were injured in
covered automobile accidents,

11 (a) who made claims for Medpay benefits ("Medpay benefits")
12 from June 27, 2005 through the date of this Order, and

13 (b) who had bills for health care expenses submitted to a
14 medical/fee review audit ("Audit") by Concentra Integrated Services,
15 Inc. doing business as Auto Injury Solutions, or its parents,
16 subsidiaries or affiliates (collectively referred to as "AIS"), which
recommended payment of less than the full amount of those
submitted bills; and

17 (c) USAA paid less than the full amount of those submitted health
18 care charges as a result of AIS payment recommendations based on,

19 i) in whole or in part, a statistical analysis of the
20 reasonableness of the submitted charge,

21 ii) the application by AIS of a PPO or PPN agreement
22 determined by AIS to be applicable to the submitted charge, or

23 iii) the resolution of the submitted charge by negotiation
24 between USAA, or AIS on behalf of USAA, and the provider;
and

25 (d) USAA paid an amount less than the limits of coverage for
26 Medpay benefits under the applicable auto insurance policy; and

27 (2) Health care providers with valid written assignments of any of the claims
28

1 identified above.

2 Excluded from this Settlement Class are the following persons:

- 3 (1) Officers, directors, and employees of USAA and Class Counsel;
- 4
- 5 (2) Members of the judiciary and staff of the United States District Court for the
6 District of Arizona and their immediate families;
- 7 (3) All persons who timely elect to opt out or to exclude themselves from the
8 Settlement Class in accordance with this Order; and
- 9 (4) All persons who previously resolved all their claims by settlement, release,
judgment, or arbitration.

10 The Court expressly reserves the right to determine, should the occasion arise,
11 whether the above-captioned Lawsuit may continue to be certified as a class action for
12 purposes other than settlement, and USAA retains all rights to assert that the Lawsuit may
13 not be certified as a class action except for purposes of this settlement.

14 II. The Court hereby appoints the following attorneys to act as Class Counsel
15 representing the Settlement Class:

16 Charles J. Surrano III
17 John N. Wilborn
18 Surrano Law Offices
3200 North Central Avenue, Suite 2500
19 Phoenix, Arizona 85012
Telephone: (602) 264-1077

20

21 III. The Court appoints as Settlement Administrator:

22 Rust Consulting, Inc.
625 Marquette Avenue, Suite 880
23 Minneapolis, MN 55402-2469

24 IV. The Court preliminarily approves the proposed stipulated settlement as
25 sufficiently fair, reasonable, and adequate to allow the dissemination of notice of the
26 proposed settlement to the members of the Settlement Class. This determination
27 permitting notice to the Settlement Class is not a final finding, but a determination that
28

1 there is sufficient cause to submit the Agreement and proposed settlement to the
2 Settlement Class members and to hold a Final Approval Hearing to consider the fairness,
3 reasonableness, and adequacy of the proposed settlement.

4 V. The Court makes the following orders regarding Notice to Settlement Class
5 members:

6 A. The Court approves the following forms:

7 1. The Notice of Proposed Class Action Settlement and Release
8 of Claims (the "Mailed Notice") not materially different from Exhibit
9 1.

10 2. The Notice of Proposed Class Action Settlement and Release
11 of Claims to be sent to health care providers upon request (the
12 "Provider Notice"), not materially different from Exhibit 2.

13 3. The Summary Notice of Proposed Class Action Settlement
14 ("Published Notice") not materially different from Exhibit 3.

15 B. The Court directs that by _____, 2008 USAA shall deliver to
16 Class Counsel an affidavit providing what USAA believes, after a reasonable and good-
17 faith search, to be a listing of USAA non-decedent insureds whose names and last known
18 addresses are reasonably and reliably ascertainable from computer or electronic databases
19 maintained by AIS of USAA insureds who may fall within the definition of the Settlement
20 Class.

21 C. The Court further directs the Settlement Administrator to mail the
22 Mailed Notice on or before _____, 2008 unless the date is extended by Order of
23 this Court, to all persons whose names and last known addresses appear on the listing of
24 USAA insureds provided pursuant to Paragraph B above.

25 D. The Court further directs the Settlement Administrator promptly to
26 re-mail any notices returned by the Postal Service with forwarding addresses, if any, that
27 are obtained by the Settlement Administrator after a reasonable search.
28

1 E. The Court directs that the Published Notice shall be published within
2 14 days of the Mailed Notice Date (as defined in the Agreement) in the publications listed
3 in Exhibit 8 to the Agreement.

4 F. The Court directs the Settlement Administrator to maintain an
5 Internet website from the Mailed Notice Date through the Effective Date (as defined in the
6 Agreement) at www.medpaysettlement.com that shall include, at a minimum,
7 downloadable copies of the Agreement (including exhibits), the Mailed Notice, the Health
8 Care Provider Notice, and the Published Notice (collectively referred to as the "Notices"),
9 and the Insured and Health Care Provider Claim Forms.

10 G. The Court finds that dissemination of the notices in the manner set
11 forth herein and in the Agreement meets the requirements of Due Process. The Court
12 further finds that the notice is reasonable, and constitutes due, adequate, and sufficient
13 notice to all persons entitled to receive notice; is the best practicable notice; and is
14 reasonably calculated, under the circumstances, to apprise members of the Settlement
15 Class of the pendency of the Lawsuit and of their right to object or to exclude themselves
16 from the proposed settlement.

17 H. The Court orders the Settlement Administrator to file proof of
18 mailing of the Mailed Notice and publication of the Published Notice at or before the
19 Final Approval Hearing.

20 VI. The Court makes the following orders regarding the claim forms for the
21 Settlement Class members.

22 A. The Court approves the following forms:

- 23 1. The Insured Claim Form not materially different from the
24 form of Exhibit 4.
 - 25 2. The Health Care Provider Claim Form not materially different
26 from the form of Exhibit 5.
- 27
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1 B. The Court directs that the Insured Claim Form shall be distributed
2 with the Mailed Notice.

3 C. The Court further orders that any Claim Form postmarked after
4 _____ [30 days after the Final Approval Hearing] shall be
5 untimely and invalid.

6 VII. Any Settlement Class Member who wishes to be excluded from the
7 Settlement Class must comply with the terms set forth in Paragraph 4(b) of the Notices
8 and submit an appropriate and timely request for exclusion postmarked no later than
9 _____ [60 days after the Mailed Notice Date]. Any Settlement Class member
10 who complies with the terms set forth in Paragraph 4(b) of this Order and who timely
11 requests exclusion from the Settlement Class in accordance with the Mailed Notice shall
12 not be bound by any orders or judgments entered in this action and shall not be entitled to
13 receive any benefits provided by the settlement in the event it is finally approved by the
14 Court.

15 VIII. Any member of the Settlement Class who does not timely request exclusion
16 as set forth in the notices shall be bound by all proceedings, orders, and judgments in the
17 Lawsuit, even if such member of the Settlement Class has previously initiated or
18 subsequently initiates individual litigation or other proceedings encompassed by the
19 Released Claims, as defined in Paragraphs 44 through 46 of the Agreement. Members of
20 the Settlement Class who do not timely request exclusion as set forth in the notices are
21 also preliminarily enjoined: (i) from filing, commencing, prosecuting, intervening in, or
22 participating as plaintiff, claimant, or class member in any other lawsuit or administrative,
23 regulatory, arbitration, or other proceeding against USAA in any jurisdiction based on,
24 relating to, or arising out of the claims and causes of action, or the facts and
25 circumstances, in the Lawsuit and/or the Released Claims; (ii) from filing, commencing,
26 or prosecuting a lawsuit or administrative, regulatory, arbitration, or other proceeding
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1 against USAA as a class action on behalf of any members of the Settlement Class who
2 have not timely excluded themselves (including by seeking to amend a pending complaint
3 to include class allegations or seeking class certification in a pending action), based on,
4 relating to, or arising out of the claims and causes of action, or the facts and
5 circumstances, in the Lawsuit and/or the Released Claims; and (iii) from attempting to
6 effect an opt-out of a class of individuals in any lawsuit or administrative, regulatory,
7 arbitration, or, other proceeding against USAA based on, relating to, or arising out of the
8 claims and causes of action, or the facts and circumstances, in the Lawsuit and/or the
9 Released Claims.
10

11 IX. Any member of the Settlement Class who does not timely request exclusion
12 as set forth in the notices, and who wishes to object to the fairness, reasonableness, or
13 adequacy of the proposed settlement or to the Attorneys' Fee Award, must submit an
14 objection no later than _____ [60 days after the Mailed Notice Date] that
15 complies with the requirements for objections as set forth in Paragraph 4(c) of the notices.
16 Failure to adhere to these requirements bars the objection.

17 X. Any member of the Settlement Class who timely serves a written objection
18 may appear at the Final Approval Hearing, either in person or through an attorney if a
19 Notice of Intention to Appear, as set forth in Paragraph 4(c) of the Mailed Notice, is
20 timely filed with the Clerk of the Court. Failure to adhere to these requirements will bar
21 the Settlement Class members from being heard at the Final Approval Hearing.
22

23 XI. USAA shall rent a post office box in the name of the Settlement
24 Administrator to be used for receiving requests for exclusion, objections, notices of
25 intention to appear, and any other communications from the Settlement Class members.
26 Only the Settlement Administrator, Class Counsel, USAA, the Court, the Clerk of the
27
28

1 Court, and their designated agents shall have access to this post office box, except as
2 otherwise provided in the Agreement.

3 XII. The Settlement Administrator shall, within five (5) business days of receipt,
4 furnish Class Counsel, counsel for USAA, and any counsel for Named Plaintiffs or
5 members of the Settlement Class with copies of any and all written objections, requests
6 for exclusion, notices of intention to appear, or other communications from Settlement
7 Class members that come into its possession, except as otherwise provided in the
8 Settlement Agreement.
9

10 XIII. Any petition for award of attorneys' fees or reimbursement of litigation
11 costs and expenses, as described in Paragraph 40 of the Agreement, shall be filed on June
12 12, 2008. Any response or objection to that petition shall be filed no later than June 26,
13 2008.

14 XIV. A Final Approval hearing shall be held on _____, 2008
15 at _____ for the purpose of determining (a) whether the proposed settlement is
16 fair, reasonable, and adequate and should be finally approved by the Court; (b) whether to
17 issue a final judgment without material alteration from the form in Exhibit 14 to the
18 Agreement; and (c) ruling on any petition for award and approval of attorneys' fees or
19 reimbursement of litigation costs and expenses.
20

21 XV. The Court reserves the right to adjourn or to continue the Final Approval
22 Hearing, or any further adjournment or continuance thereof, without further notice other
23 than announcement at the Final Approval Hearing or at any adjournment or continuance
24 thereof; and to approve the settlement with modifications, if any, consented to by Class
25 Counsel and USAA without further notice.

26 XVI. All pretrial proceedings and deadlines in this lawsuit, including the
27 deadlines in the Amended Case Management Order, are stayed and suspended until
28 further order of this Court.

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DATED this _____ day of May 2008.

Honorable David G. Campbell
United States District Court Judge

Exhibit 3

[Mailed Notice]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

AMANDA K. HORTON, et al.

Plaintiffs,

v.

USAA CASUALTY INSURANCE
COMPANY, a foreign insurer, et al.

Defendants.

No. CV-06-2810-PHX-DGC

**NOTICE OF PROPOSED CLASS
ACTION SETTLEMENT AND
RELEASE OF CLAIMS**

READ THIS NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND
RELEASE OF CLAIMS AND THE ENCLOSED CLAIM FORM CAREFULLY.
YOUR LEGAL RIGHTS MAY BE AFFECTED.

TO BE ELIGIBLE TO RECEIVE MONETARY SETTLEMENT BENEFITS, YOU MUST MEET THE
DESCRIPTION OF THE SETTLEMENT CLASS IN PARAGRAPH 1 BELOW, AND **YOU MUST
COMPLETE AND MAIL A VALID CLAIM FORM POSTMARKED ON OR BEFORE
,2008,** AS EXPLAINED IN PARAGRAPH 3(A) BELOW.

IF YOU DO NOT WANT TO BE PART OF THE SETTLEMENT, YOU MUST BY _____,
2008 TAKE THE STEPS TO REQUEST EXCLUSION DESCRIBED IN PARAGRAPH 4(B) BELOW.
OTHERWISE, YOU WILL BE BOUND BY ALL OF THE TERMS OF THE PROPOSED
SETTLEMENT.

IF YOU HAVE ANY QUESTIONS ABOUT ANY PORTION OF THIS NOTICE, YOU MAY CALL 1-
877-465-5201 OR YOU MAY VISIT www.medpaysettlement.com, WHERE YOU MAY
OBTAIN A CLAIM FORM, OR VIEW THE COURT DOCUMENTS, SETTLEMENT AGREEMENT,
AND OTHER PERTINENT MATERIALS.

**PLEASE DO NOT CALL OR WRITE UNITED SERVICES AUTOMOBILE ASSOCIATION, USAA
CASUALTY INSURANCE COMPANY, USAA GENERAL INDEMNITY COMPANY, USAA
COUNTY MUTUAL INSURANCE COMPANY, GARRISON INSURANCE COMPANY, OR THEIR
AFFILIATED INSURERS, THE COURT, OR THE CLERK'S OFFICE.**

1 Para un formulario de reclamo en Español, por favor llame al 1-877-465-5201 o visite
2 nuestro website (<http://www.medpaysettlement.com>).

3 **1. Description of the Settlement Class:**

4 A. This Notice affects the following people ("Settlement Class"):

5 (1) All insureds under automobile policies with Medical Payments,
6 Personal Injury Protection, First Party Benefit, Medical Expense Benefits,
7 Automobile Death and Disability, or any other first-party medical coverage
8 (collectively referred to as "Medpay") issued by United Services
9 Automobile Association, USAA General Indemnity Company, USAA
10 Casualty Insurance Company, USAA County Mutual Insurance Company,
and Garrison Insurance Company or their affiliates (collectively referred to
as "USAA") who were injured in covered automobile accidents,

11 (a) who made claims for Medpay benefits ("Medpay benefits")
12 from June 27, 2005 through _____, 2008 [date of preliminary
13 approval of the settlement], and

14 (b) who had bills for health care expenses submitted to a
15 medical/fee review audit ("Audit") by Concentra Integrated
16 Services, Inc. doing business as Auto Injury Solutions, or its parents,
17 subsidiaries or affiliates (collectively referred to as "AIS"), which
recommended payment of less than the full amount of those
submitted bills; and

18 (c) USAA paid less than the full amount of those submitted
19 health care charges as a result of AIS payment recommendations
based on,

20 i) in whole or in part, a statistical analysis of the
21 reasonableness of the submitted charge,

22 ii) the application by AIS of a PPO or PPN agreement
23 determined by AIS to be applicable to the submitted charge,
24 or

25 iii) the resolution of the submitted charge by negotiation
26 between USAA, or AIS on behalf of USAA, and the provider;
and

1
2 (d) USAA paid an amount less than the limits of coverage for
3 Medpay benefits under the applicable auto insurance policy; and

4 (2) Health care providers with valid written assignments of any of the
5 claims identified above.

6 Excluded from this Settlement Class are the following persons:

7 (1) Officers, directors, and employees of USAA and Class Counsel;

8 (2) Members of the judiciary and staff of the United States District Court
9 for the District of Arizona and their immediate families;

10 (3) All persons who timely elect to opt out or to exclude themselves from
11 the Settlement Class in accordance with the Court's Orders; and

12 (4) All persons who previously resolved all their claims by settlement,
13 release, judgment, or arbitration.

14 **2. Description of the Lawsuit:**

15 Plaintiffs allege that USAA failed to pay to or on behalf of insureds injured in
16 covered automobile accidents or their health care provider assignees the amounts for
17 covered Medpay benefits required under the Medpay coverages in the respective policies
18 of automobile insurance. According to Plaintiffs, USAA based its payment of Medpay
19 benefits, in whole or in part, on Audit recommendations made to USAA by AIS. The
20 Lawsuit alleges AIS improperly and systematically recommended a reduced payment of
21 insureds' Medpay benefits based on the recommendation of an invalid statistical program
22 used to determine a reasonable fee for the services rendered. In addition, the Lawsuit
23 alleges that USAA at times improperly reduced payment of insureds' Medpay claims for
24 Medpay benefits based on recommendations by AIS who entered into negotiated or
25 contractual agreements with health care providers (sometimes called PPO or PPN
26 agreements) to accept reduced payments for the services rendered.

23 Plaintiff Amanda K. Horton filed this Lawsuit in 2006 in the Superior Court of
24 Maricopa County, Arizona. USAA subsequently removed the lawsuit to the United States
25 District Court for the District of Arizona. Plaintiff Horton subsequently amended her
26 complaint to add additional plaintiffs, defendants, and claims.

1 USAA denies the Plaintiffs' allegations; denies that it has engaged in any
2 wrongdoing; denies that the AIS reasonable fee recommendations are based on the
3 wrongful use of an invalid statistical program that systematically reduces submitted
4 Medpay claims or otherwise improperly recommends a reduced payment of Medpay
5 benefits; denies that it has improperly reduced payments of Medpay benefits based on
6 negotiated or contractual agreements with providers; and maintains that it consistently has
7 acted in accordance with its insurance policies and all applicable laws and regulations.

8 USAA contends that the use of an Audit is reasonable and appropriate, serving
9 legitimate interests of both USAA and its insureds. These interest include the reduction of
10 health care billing fraud, the identification of billing errors and duplicate charges, and the
11 identification of potentially excessive or inappropriate charge amounts. USAA further
12 contends that, the use of the Audit functions to preserve member benefits and to avoid
13 increases in premiums that could result from the overpayment of claims.

14 To avoid the uncertainty, expense, risk, and delay of continued litigation, Plaintiffs
15 and USAA have agreed to a settlement. Plaintiffs and Class Counsel have concluded that
16 settlement is in the best interest of the Settlement Class and that the settlement is fair,
17 adequate, and reasonable.

18 The parties have reached a proposed settlement, which provides both monetary
19 benefits and non-monetary relief. The Court preliminarily approved this settlement on
20 _____, 2008, conditionally certifying the Settlement Class for settlement
21 purposes. Settlement benefits will be available only if the Court finally approves the
22 settlement. On _____, 2008, the Court will hold a hearing ("the Final
23 Approval Hearing") to decide whether to grant final approval of the settlement. (See
24 Paragraph 5(c) below.)

25 **3. Summary of the Settlement Terms:**

26 For a complete statement of the settlement terms, visit www.medpaysettlement.com,
where you can view the Class Action Settlement Agreement ("Agreement") and other
pertinent materials.

a. If the proposed settlement is given final approval by the Court, insured
Settlement Class members will be eligible to receive a possible monetary benefit if they
do the following: (i) fill out the Insured Claim Form enclosed in this packet, (ii) sign the
Insured Claim Form under penalty of perjury, and (iii) mail the Insured Claim Form, with
first class postage prepaid, to the Settlement Administrator (see Paragraph 5(b) below)
postmarked on or before _____, 2008.

1 b. The amount of an insured Settlement Class member's possible monetary benefit
2 depends upon a number of factors, including but not limited to the amounts of the
3 reductions recommended by the Audit; the amounts paid by USAA; the Reason Codes on
4 which those recommended reductions were based; the state in which the relevant USAA
5 auto policy was issued; whether the claim was previously resolved through settlement or
6 judgment; the applicable Medpay policy limits; and whether the claim was assigned by
7 the insured to his or her health care provider. For a more detailed description of a
qualifying insured Settlement Class member's possible monetary benefit, visit
www.medpaysettlement.com and review Paragraphs 19, 20, 25-29, 33, and 34 and Exhibits
_____ of the Agreement.

8 c. In addition to a possible monetary benefit, members of the Settlement Class
9 would receive relief in the form of USAA's agreement to a number of business practices,
as set forth in Paragraphs 35-39 of the Agreement.

10 d. Class Counsel will apply to the Court for an award of attorney's fees and costs
11 in an amount not to exceed \$425,000.00. The Court will consider the application for the
12 award of attorney's fees and costs at the Final Approval Hearing. (See Paragraph 5(c)
13 below.) Any award of attorney's fees to Class Counsel will be in addition to, and will not
14 affect the benefits available to, the Settlement Class. To date, Class Counsel has not
15 received any payment for their services in conducting the litigation. Class Counsel Class
16 may also apply to the Court for leave to pay an incentive award to each of the Named
17 Plaintiffs, in the amount of \$2,000 each, to be paid out of the Attorney's Fees Award, as
18 set forth in Paragraph 40 of the Agreement.

19 e. If the proposed settlement is given final approval by the Court, members of the
20 Settlement Class who have not excluded themselves pursuant to Paragraph 4(b) will
21 release any and all claims they may have against USAA relating to the reduction of
22 Medpay benefits as described in Paragraph 2. For a complete statement of the Released
23 Claims, see Paragraphs 44-46 of the Agreement.

24 f. The Court has preliminarily enjoined all Settlement Class members who have
25 not excluded themselves from the class from filing, commencing, prosecuting, intervening
26 in, attempting to effect an exclusion of a class of individuals, or otherwise participating as
a plaintiff, claimant, or class member in any other lawsuits in any jurisdiction based on the
claims at issue in this Lawsuit and resolved by this settlement. If the proposed settlement
is finally approved by the Court, the Court will enter a Final Order and Judgment that will
have a binding effect on all members of the Settlement Class who have not excluded
themselves pursuant to Paragraph 4(b). Among other things, the Final Order and
Judgment will dismiss the Lawsuit on the merits with prejudice, will adjudge that the
Settlement Class has settled and released their claims against USAA, and will

1 permanently enjoin members of the Settlement Class from filing or participating in any
2 lawsuits relating to the claims and causes of action in the Lawsuit.

3 **4. Options Available to Members of the Settlement Class:**

4 **a. You may remain a member of the Settlement Class.** If you wish to remain in
5 the Settlement Class, then you need not take any action other than to file an Insured Claim
6 Form to be eligible for possible monetary benefits from the settlement. The Insured Claim
7 Form must be postmarked on or before _____, 2008 as explained above in
8 Paragraph 3(a). If the Court finally approves the settlement, then you will be bound by
9 the Final Order and Judgment in the case, as explained above in Paragraph 3(f).

10 **b. You may request exclusion from the Settlement Class.** If you wish to
11 exclude yourself from the Settlement Class, then you will not be eligible for any monetary
12 benefit, and you will not be bound by the Final Order and Judgment entered by the Court
13 upon final approval of the settlement. You must send written notice of your request for
14 exclusion to the Settlement Administrator (see Paragraph 5(b) below) so that it is
15 postmarked on or before _____, 2008. The written notice must include: (i) your
16 name, address, telephone number, and social security number; (ii) the exact statement: "I
17 request to be excluded from the settlement class. I understand that this exclusion means
18 that I will not receive any monetary benefit available under the proposed settlement."; and
19 (iii) if known, the policy number(s) of the policy(ies) under which your claim(s) for
20 Medpay benefits was paid. If you do not exclude yourself from the Settlement Class in
21 the time and manner provided above, you will be bound by the terms of the proposed
22 settlement.

23 **c. You may object to the settlement.** If you wish to object to any aspect of the
24 settlement or the request for attorneys' fees, then you must file a written statement of your
25 objection with the Clerk of United States District Court for the District of Arizona at 401
26 W. Washington Street, Suite 130, SPC 1, Phoenix, Arizona 85003-2118, and mail a copy
of the objection to the Settlement Administrator (see Paragraph 5(b) below) so that it is
received by _____, 2008. Your written objection must include (i) your name,
address, and telephone number, and (ii) if known, the policy number(s) of the policy(ies)
under which your claim(s) for Medpay benefits was paid. Your written objection must
also include specific reasons for your objection, including any legal support or evidence
you wish to bring to the attention of the Court. If you timely file a written objection, you
do not need to, but may appear at the Final Approval Hearing (see Paragraph 5(c) below),
whether in person or through an attorney retained and paid by you. If you or your
attorney intends to appear at the Final Approval Hearing, you or your attorney must file a
written Notice of Intention to Appear with the Clerk of the United States District Court for
the District of Arizona by _____, 2008 and mail a copy of the notice to the

1 Settlement Administrator (see Paragraph 5(b) below) so that it is received by
2 _____, 2008. If you do not make an objection in the time and manner
3 provided above, you will be forever barred from making any objection to the settlement,
unless otherwise ordered by the Court.

4 **5. Other important information regarding the settlement:**

5 a. The Court has appointed as Class Counsel:

6 SURRENO LAW OFFICES
7 Charles J. Surreno
8 John N. Wilborn
9 3200 North Central Avenue, Suite 2500
Phoenix, Arizona 85012
10 Phone: (602) 264-1077
E-mail: jnw@surreno.com

11 You will not be charged for the services of these counsel representing the
12 Settlement Class in this Lawsuit. Regardless of which option you select under Paragraph
13 4 above, you have the right to retain your own attorney in this matter, but if you do, you
14 will be responsible for paying your own attorney's fees and expenses.

15 b. The Settlement Administrator for this settlement is Rust Consulting, Inc., which
16 may be contacted at:

17 USAA Medpay Settlement Administrator
18 c/o Rust Consulting, Inc.
PO Box 1940
19 Faribault, MN 55201-7195
Telephone: 1-877-465-5201
20 TTY: 1-866-216-0281
E-mail: info@medpaysettlement.com

21 c. The Court will hold a Final Approval Hearing on _____, 2008 to
22 consider whether the proposed settlement is fair, reasonable, and adequate, and should be
23 finally approved. The Final Approval Hearing will take place in the courtroom of Judge
24 David G. Campbell at _____ [TIME]. The Final Approval Hearing may be
25 continued or postponed to a later date without further notice to members of the Settlement
26 Class. The settlement may be approved with modifications, if any, consented to by the
Class Counsel and counsel for USAA, without further notice.

1 **IF YOU HAVE ANY QUESTIONS ON ANY PORTION OF THIS NOTICE, YOU MAY CALL 1-**
2 **877-465-5201 OR YOU MAY VISIT WWW.MEDPAYSETTLEMENT.COM, WHERE YOU MAY**
3 **OBTAIN A CLAIM FORM, OR VIEW THE COURT DOCUMENTS, SETTLEMENT**
4 **AGREEMENT, AND OTHER PERTINENT MATERIALS.**

5 PLEASE DO NOT CALL OR WRITE USAA, THE COURT, OR THE CLERK'S OFFICE.

Exhibit 4

[Health Care Provider Notice]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

AMANDA K. HORTON, et al.

Plaintiffs,

v.

USAA CASUALTY INSURANCE
COMPANY, a foreign insurer, et al.

Defendants.

No. CV-06-2810-PHX-DGC

**NOTICE OF PROPOSED CLASS
ACTION SETTLEMENT AND
RELEASE OF CLAIMS**

READ THIS NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND
RELEASE OF CLAIMS AND THE ENCLOSED CLAIM FORM CAREFULLY. YOUR
LEGAL RIGHTS MAY BE AFFECTED.

TO BE ELIGIBLE TO RECEIVE MONETARY SETTLEMENT BENEFITS, YOU MUST MEET THE
DESCRIPTION OF THE SETTLEMENT CLASS IN PARAGRAPH 1 BELOW, AND **YOU MUST
COMPLETE AND MAIL A VALID CLAIM FORM POSTMARKED ON OR BEFORE
2008**, AS EXPLAINED IN PARAGRAPH 3(A) BELOW.

IF YOU DO NOT WANT TO BE PART OF THE SETTLEMENT, YOU MUST BY _____,
2008 TAKE THE STEPS TO REQUEST EXCLUSION DESCRIBED IN PARAGRAPH 4(B) BELOW.
OTHERWISE, YOU WILL BE BOUND BY ALL OF THE TERMS OF THE PROPOSED
SETTLEMENT.

IF YOU HAVE ANY QUESTIONS ABOUT ANY PORTION OF THIS NOTICE, YOU MAY CALL 1-
877-465-5201 OR YOU MAY VISIT WWW.MEDPAYSETTLEMENT.COM, WHERE YOU MAY
OBTAIN A CLAIM FORM, OR VIEW THE COURT DOCUMENTS, SETTLEMENT AGREEMENT,
AND OTHER PERTINENT MATERIALS.

**PLEASE DO NOT CALL OR WRITE UNITED SERVICES AUTOMOBILE ASSOCIATION, USAA
CASUALTY INSURANCE COMPANY, USAA GENERAL INDEMNITY COMPANY, USAA
COUNTY MUTUAL INSURANCE COMPANY, GARRISON INSURANCE COMPANY, OR THEIR
AFFILIATED INSURERS, THE COURT, OR THE CLERK'S OFFICE.**

1 Para un formulario de reclamo en Español, por favor llame al 1-877-465-5201 o visite
2 nuestro website (<http://www.medpaysettlement.com>).

3 **1. Description of the Settlement Class:**

4 A. This Notice affects the following people ("Settlement Class"):

5 (1) All insureds under automobile policies with Medical Payments,
6 Personal Injury Protection, First Party Benefit, Medical Expense Benefits,
7 Automobile Death and Disability, or any other first-party medical coverage
8 (collectively referred to as "Medpay") issued by United Services
9 Automobile Associations, USAA General Indemnity Company, USAA
10 Casualty Insurance Company, USAA County Mutual Insurance Company,
and Garrison Insurance Company or their affiliates (collectively referred to
as "USAA") who were injured in covered automobile accidents,

11 (a) who made claims for Medpay benefits ("Medpay benefits")
12 from June 27, 2005 through _____, 2008 [date of
13 preliminary approval of the settlement], and

14 (b) who had bills for health care expenses submitted to a
15 medical/fee review audit ("Audit") by Concentra Integrated Services,
16 Inc. doing business as Auto Injury Solutions, or its parents,
17 subsidiaries or affiliates (collectively referred to as "AIS"), which
recommended payment of less than the full amount of those
submitted bills; and

18 (c) USAA paid less than the full amount of those submitted health
19 care charges as a result of AIS payment recommendations based on,

20 i) in whole or in part, a statistical analysis of the
21 reasonableness of the submitted charge,

22 ii) the application by AIS of a PPO or PPN agreement
23 determined by AIS to be applicable to the submitted charge, or

24 iii) the resolution of the submitted charge by negotiation
25 between USAA, or AIS on behalf of USAA, and the provider;
26 and

1 (d) USAA paid an amount less than the limits of coverage for
2 Medpay benefits under the applicable auto insurance policy; and

3 (2) Health care providers with valid written assignments of any of the
4 claims identified above.

5 Excluded from this Settlement Class are the following persons:

6 (1) Officers, directors, and employees of USAA and Class Counsel;

7 (2) Members of the judiciary and staff of the United States District Court
8 for the District of Arizona and their immediate families;

9 (3) All persons who timely elect to opt out or to exclude themselves from
10 the Settlement Class in accordance with the Court's Orders; and

11 (4) All persons who previously resolved all their claims by settlement,
12 release, judgment, or arbitration.

13 **2. Description of the Lawsuit:**

14 Plaintiffs allege that USAA failed to pay to or on behalf of insureds injured in
15 covered automobile accidents or their health care provider assignees the amounts for
16 covered Medpay benefits required under the Medpay coverages in the respective policies
17 of automobile insurance. According to Plaintiffs, USAA based its payment of Medpay
18 benefits, in whole or in part, on Audit recommendations to made to USAA by AIS. The
19 Lawsuit alleges AIS improperly and systematically recommended a reduced payment of
20 insureds' Medpay benefits based on the recommendation of an invalid statistical program
21 used to determine a reasonable fee for the services rendered. In addition, the Lawsuit
alleges that USAA at times improperly reduced payment of insureds' Medpay claims for
Medpay benefits based on recommendations by AIS who entered into negotiated or
contractual agreements with health care providers (sometimes called PPO or PPN
agreements) to accept reduced payments for the services rendered.

22 Plaintiff Amanda K. Horton filed this Lawsuit in 2006 in the Superior Court of
23 Maricopa County, Arizona. USAA subsequently removed the lawsuit to the United States
24 District Court for the District of Arizona. Plaintiff Horton subsequently amended her
complaint to add additional plaintiffs, defendants, and claims.

25 USAA denies the Plaintiffs' allegations; denies that it has engaged in any
26 wrongdoing; denies that the AIS reasonable fee recommendations are based on the

1 wrongful use of an invalid statistical program that systematically reduces submitted
2 Medpay claims or otherwise improperly recommends a reduced payment of Medpay
3 benefits; denies that it has improperly reduced payments of Medpay benefits based on
4 negotiated or contractual agreements with providers; and maintains that it consistently has
acted in accordance with its insurance policies and all applicable laws and regulations.

5 USAA contends that the use of an Audit is reasonable and appropriate, serving
6 legitimate interests of both USAA and its insureds. These interests include the reduction
7 of health care billing fraud, the identification of billing errors and duplicate charges, and
8 the identification of potentially excessive or inappropriate charge amounts. USAA further
contends that, the use of the health care Audit functions to preserve member benefits and
to avoid increases in premiums that could result from the overpayment of claims.

9 To avoid the uncertainty, expense, risk, and delay of continued litigation, Plaintiffs
10 and USAA have agreed to a settlement. Plaintiffs and Class Counsel have concluded that
11 settlement is in the best interest of the Settlement Class and that the settlement is fair,
adequate, and reasonable.

12 The parties have reached a proposed settlement, which provides both monetary
13 benefits and non-monetary relief. The Court preliminarily approved this settlement on
14 _____, 2008, conditionally certifying the Settlement Class for settlement
15 purposes. Settlement benefits will be available only if the Court finally approves the
16 settlement. On _____, 2008, the Court will hold a hearing ("the Final
Approval Hearing") to decide whether to grant final approval of the settlement. (See
Paragraph 5(c) below.)

17 **3. Settlement Information:**

18 For a complete statement of the settlement terms, visit
19 www.medpaysettlement.com, where you can view the Class Action Settlement Agreement
20 ("Agreement") and other pertinent material.

21 a. If the proposed settlement is given final approval by the Court, health care
22 provider Settlement Class members will be eligible to receive a possible monetary benefit
23 if they do the following: (i) fill out the Health Provider Claim Form enclosed in this
24 packet, (ii) sign the Health Care Provider Claim Form under penalty of perjury, and (iii)
25 mail the Health Care Provider Claim Form, with first class postage prepaid, to the
26 Settlement Administrator (see Paragraph 5(b) below) postmarked on or before
_____, 2008.

b. The amount of a health care provider Settlement Class member's possible monetary benefit depends upon a number of factors, including but not limited to the amounts of the reductions recommended by the AIS audit; the amounts paid by USAA; the Reason Codes on which those recommended reductions were based; the state in which the relevant USAA auto policy was issued; whether the claim was previously resolved through settlement or judgment with the insured or the health care provider; the applicable Medpay policy limits; whether the claim was assigned by the insured to his or her health care provider; and whether the health care provider submits a Documented or Non-Documented Claim.

As explained in the enclosed Health Care Provider Claim Form, health care providers have the option of electing one of the following ways to submit a claim for monetary payment:

(1) OPTION 1 – Submit a NON-DOCUMENTED CLAIM, in which you choose not to submit documentation to support your claim. If you select OPTION 1, the maximum amount you will be eligible to receive in payment for any one claim (treatment to any one patient for any one accident for which Medpay benefits are available) is \$50, and the maximum aggregate amount you will be eligible to receive for all non-documented claims you submit is \$250.

OR

(2) OPTION 2 – Submit a DOCUMENTED CLAIM, in which you choose to submit documentation to support your claim. If you select OPTION 2, there will be no maximum limit on the amount you are eligible to recover for any single claim or for all documented claims combined. To be eligible for OPTION 2 you must submit documentation sufficient to prove, for each claim you submit, (1) that you received a valid written assignment from your patient of the Medpay claim; (2) the CPT or procedure codes for the services provided and the amounts billed; (3) the amount you received from any source in payment for each CPT or procedure code itemized; (4) the sources of those payments; and (5) the amounts you contend remain unpaid.

For a more detailed description of a qualifying health care provider Settlement Class member's possible monetary benefit, visit www.medpaysettlement.com and review Paragraphs 21-28 and 33-34 and Exhibits of the Agreement.

c. In addition to possible monetary benefits, members of the Settlement Class would receive relief in the form of USAA's agreement to a number of business practices, as set forth in Paragraphs 35-39 of the Agreement.

1 d. Class Counsel Class will apply to the Court for an award of attorney's fees and
2 costs in an amount not to exceed \$425,000.00. The Court will consider the application for
3 the award of attorney's fees and costs at the Final Approval Hearing. (See Paragraph 5(c)
4 below.) Any award of attorney's fees to Counsel for the Settlement Class will be in
5 addition to, and will not affect the benefits available to, the Settlement Class. To date,
6 Class Counsel have not received any payment for their services in conducting the
litigation. Class Counsel may also apply to the Court for leave to pay an incentive award
to each of the Named Plaintiffs, in the amount of \$2,000 each to be paid out of the
Attorney's Fees Award, as set forth in Paragraph 40 of the Agreement.

7 e. If the proposed settlement is given final approval by the Court, members of the
8 Settlement Class who have not excluded themselves pursuant to Paragraph 4(b) will
9 release any and all claims they may have against USAA relating to the reduction of
10 Medpay benefits claims described in Paragraph 2. For a complete statement of the
Released Claims, see Paragraphs 44-46 of the Settlement Agreement.

11 f. The Court has preliminarily enjoined all Settlement Class members who have
12 not excluded themselves from the class from filing, commencing, prosecuting, intervening
13 in, attempting to effect an exclusion of a class of individuals, or otherwise participating as
14 a plaintiff, claimant, or class member in any other lawsuits in any jurisdiction based on the
15 claims at issue in this Lawsuit and resolved by this settlement. If the proposed settlement
16 is finally approved by the Court, the Court will enter a Final Order or Judgment that will
17 have a binding effect on all members of the Settlement Class who have not excluded
18 themselves pursuant to Paragraph 4(b). Among other things, the Final Order will dismiss
the Lawsuit on the merits with prejudice, will adjudge that the Settlement Class has settled
and released their claims against USAA, and will permanently enjoin members of the
Settlement Class from filing or participating in any lawsuits relating to the claims and
causes of action in the Lawsuit.

19 **4. Options Available to Members of the Settlement Class:**

20 a. **You may remain a member of the Settlement Class.** If you wish to remain in
21 the Settlement Class, then you need not take any action other than file a Health Care
22 Provider Claim Form to be eligible for possible monetary benefits from the Settlement.
23 The Health Care Provider Claim Form must be postmarked on or before _____,
24 2008 as explained above in Paragraph 3(a). If the Court finally approves the settlement,
then you will be bound by the Final Order and Judgment in the case, as explained above in
Paragraph 3(e).

25 b. **You may request exclusion from the Settlement Class.** If you wish to
26 exclude yourself from the Settlement Class, then you will not be eligible for any monetary

1 benefit, and you will not be bound by the Final Order and Judgment entered by the Court
2 upon final approval of the settlement. You must send written notice of your request for
3 exclusion to the Settlement Administrator (see Paragraph 5(b) below) so that it is
4 postmarked on or before _____, 2008. The written notice must include: (i) your
5 name, address, telephone number, and social security number and/or Federal Employer
6 Identification Number; (ii) the exact statement: "I request to be excluded from the
7 settlement class. I understand that this exclusion means that I will not receive any
8 monetary benefit available under the proposed settlement."; and (iii) if known, the policy
9 number(s) of the policy(ies) under which your patient's claim(s) for Medpay benefits was
10 paid. If you do not exclude yourself from the Settlement Class in the time and manner
11 provided above, you will be bound by the terms of the proposed settlement.

12 **c. You may object to the settlement.** If you wish to object to any aspect of the
13 settlement or the attorneys' fees, then you must file a written statement of your objection
14 with the Clerk of the United States District Court for the District of Arizona at 401 W.
15 Washington Street, Suite 130, SPC 1, Phoenix, Arizona 85003-2118, and mail a copy of
16 the objection to the Settlement Administrator (see Paragraph 5(b) below) so that it is
17 received by _____, 2008. Your written objection must include (i) your name,
18 address, and telephone number, and (ii) if known, the policy number(s) of the policy(ies)
19 under which your patient's claim(s) for Medpay benefits was paid. Your written objection
20 must also include specific reasons for your objection, including any legal support or
21 evidence you wish to bring to the attention of the Court. If you timely file a written
22 objection, you do not need to, but may appear at the Final Approval Hearing (see
23 Paragraph 5(c) below), whether in person or through an attorney retained and paid by you.
24 If you or your attorney intends to appear at the Final Approval Hearing, you or your
25 attorney must file a written Notice of Intention to Appear with the Clerk of the United
26 States District Court for the District of Arizona by _____, 2008 and mail a
copy of the notice to the Settlement Administrator (see Paragraph 5(b) below) so that it is
received by _____, 2008. If you do not make an objection in the time and
manner provided above, you will be forever barred from making any objection to the
settlement, unless otherwise ordered by the Court.

21 **5. Other important information regarding the settlement:**

22 a. The Court has appointed as Class Counsel:

23 SURRANO LAW OFFICES
24 Charles J. Surrano
25 John N. Wilborn
26 3200 North Central Avenue, Suite 2500
Phoenix, Arizona 85012

1 Phone: (602) 264-1077
2 E-mail: jnw@surrano.com

3 You will not be charged for the services of these counsel representing the
4 Settlement Class in this Lawsuit. Regardless of which option you select under Paragraph
5 4 above, you have the right to retain your own attorney in this matter, but if you do, you
will be responsible for paying your own attorney's fees and expenses.

6 b. The Settlement Administrator for this settlement is Rust Consulting, Inc., which
7 may be contacted at:

8 USAA Medpay Settlement Administrator
9 c/o Rust Consulting, Inc.
10 P.O. Box 1940
11 Faribault, MN 55021-7195
12 Telephone: 1-877-465-5201
13 TTY: 1-866-216-0281
14 E-mail: info@medpaysettlement.com

15 c. The Court will hold a Final Approval Hearing on _____, 2008 to
16 consider whether the proposed settlement is fair, reasonable, and adequate, and should be
17 finally approved. The Final Approval Hearing will take place in the courtroom of Judge
David G. Campbell at _____[TIME]. The Final Approval Hearing may be
continued or postponed to a later date without further notice to members of the Settlement
Class. The settlement may be approved with modifications, if any, consented to by the
Class Counsel and counsel for USAA, without further notice.

18 **IF YOU HAVE ANY QUESTIONS ON ANY PORTION OF THIS NOTICE, YOU MAY CALL 1-**
19 **877-465-5201 OR YOU MAY VISIT WWW.MEDPAYSETTLEMENT.COM, WHERE YOU**
20 **MAY OBTAIN A CLAIM FORM, OR VIEW THE COURT DOCUMENTS, SETTLEMENT**
AGREEMENT, AND OTHER PERTINENT MATERIALS.

21 PLEASE DO NOT CALL OR WRITE USAA, THE COURT, OR THE CLERK'S OFFICE.

Exhibit 5

Legal Notice

If You Made a Claim for Health Care Expenses Under an Automobile Policy Issued by USAA or You Are a Health Care Provider Who Received a Valid Written Assignment of Such a Claim, Please Read This Notice Carefully. Your Legal Rights May Be Affected.

What Is This About?

This is a summary Notice of a proposed class action settlement. The settlement is in the case of *Horton v. USAA Casualty Insurance Company*, pending in the United States District Court for the District of Arizona. A proposed settlement in the case provides for payment to health care providers who received valid written assignments of claims from certain people who were insured by USAA and made claims for health care charges. This proposed settlement is also available to insured claimants who did not assign their claims.

Does This Apply to Me?

If you are a health care medical provider who received a valid written assignment of a first-party claim for medical expenses under an automobile policy issued by United Services Automobile Association, USAA Casualty Insurance Company, USAA General Indemnity Company, USAA County Mutual Insurance Company, Garrison Insurance Company, or their affiliated insurers (collectively “USAA”) or an insured who made such a claim, you may be a Settlement Class member and this Notice may apply to you.

Specifically, Settlement Class members include health care providers with valid written assignments of claims from people insured under automobile policies with first-party medical expense (referred to as “Medpay”) coverage issued by USAA who were injured in covered automobile accidents:

- 1) who made claims for Medpay benefits (“Medpay benefits”) from June 27, 2005 through [Month Day Yr – prelim approval date]; and
- 2) who had bills for health care expenses submitted to a medical/fee review audit by Concentra Integrated Services, Inc. doing business as Auto Injury Solutions, or its parents, subsidiaries or affiliates (collectively referred to as “AIS”), which

- recommended payment of less than the full amount of those submitted bills; and
- 3) USAA paid less than the full amount of those submitted medical charges as a result of AIS payment recommendations based on,
- a) in whole or in part, a statistical analysis of the reasonableness of the submitted charge,
 - b) the application by AIS of a PPO or PPN agreement determined by AIS to be applicable to the submitted charge, or
 - c) the resolution of the submitted charge by negotiation between USAA, or AIS on behalf of USAA, and the provider; and
- 4) USAA paid an amount less than the limits of coverage for Medpay benefits under the applicable auto insurance policy.

USAA insureds who made such claims are also potentially Settlement Class members and should have received a mailed notice about this settlement. You may obtain that notice at the website or phone number listed below.

What Should I Do?

Get complete information about the proposed settlement from the website or obtain a notice of the settlement by calling the phone number below. Read the materials, and make a decision about your legal rights. Your options include:

- 1) **Remain in the settlement.** To be eligible for monetary payment, you must submit a claim form **postmarked by [Month Day Yr]**. If you remain in the settlement, you give up your legal right to bring further claims regarding the issues in the case, and you will be bound by all Court orders.
- 2) **Exclude yourself from the settlement** by completing and mailing a valid request for exclusion that is postmarked no later than _____, 2008. You will neither be bound by nor benefit from the settlement.
- 3) **Object to the settlement** by filing a written objection with the Court no later than _____, 2008. You and/or your attorney may appear at the Final Approval Hearing in person with proper notice to the Court.

The court will hold a Final Approval Hearing at [time] on [Month Day Yr] at the courtroom of the Honorable David G. Campbell, United States District Court for the District of Arizona, 401 W. Washington, Phoenix, Arizona 85003 to consider whether to approve the proposed settlement as fair and reasonable. This hearing may be postponed to a later date without further notice. If the settlement is approved, claims will then be paid.

**This is only a summary of the proposed settlement.
For complete information and a claim form:**

Call: 1-877-465-5201, or

Visit: www.medpaysettlement.com

Para un formulario de reclamo en Espanol, por favor llame al 1-877-465-5201 o visite nuestro website (<http://www.medpaysettlement.com>).

Please do not call or write USAA, the court, or the clerk's office.

Exhibit 6

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4 IN THE UNITED STATES DISTRICT COURT
5 FOR THE DISTRICT OF ARIZONA
6

7 AMANDA K. HORTON, et al.

8 Plaintiffs

No. CV-06-02810-PHX-DGC

9 v.

10 USAA CASUALTY INSURANCE
COMPANY, a foreign insurer, et al.

11 Defendants
12

13 **INSURED PROOF OF CLAIM FORM**

14 You have received this notice because the records available to the parties indicate
15 that you may be eligible to receive a payment as part of a proposed settlement of the
lawsuit captioned Horton v. USAA Casualty Insurance Company, United States District
16 Court for the District of Arizona, case number CV-06-02810.

17 Please be aware that the fact that you have received this notice does not mean that
you necessarily are a member of the Settlement Class or that you qualify to receive a
18 monetary payment. You should read the following instructions and the remainder of this
Insured Proof of Claim Form ("Claim Form") completely and carefully.

19
20 The Proposed Settlement may provide for a cash payment to Settlement Class
21 members who properly fill out and return this Claim Form.

22 **Instructions**

23 If you wish to make a claim in connection with the Proposed Settlement, YOU
24 MUST COMPLETE AND SIGN A CLAIM FORM AND MAIL IT POSTAGE PRE-
PAID, FIRST-CLASS MAIL, POSTMARKED ON OR BEFORE _____, 2008,
25 TO RUST CONSULTING, INC. AT:
26

1 USAA Medpay Settlement Administrator
2 c/o Rust Consulting, Inc.
3 P.O. Box 1940
4 Faribault, MN 55021-7195
Telephone: 1-577-465-5201
TTY: 1-866-216-0281
E-mail: info@medpaysettlement.com

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6 IF YOU FAIL TO SUBMIT YOUR CLAIM FORM BY THAT DATE, YOUR
7 CLAIM WILL BE REJECTED and you will be precluded from receiving any money
8 from the proposed settlement. Payments on qualified claims will not begin until after the
9 proposed settlement receives final approval of the Court. A final approval hearing on the
10 settlement is scheduled for _____, 2008, at _____.

11 If you have any questions about the proposed settlement or the Claim Form, you
12 may contact the Settlement Administrator at 1-877-465-5201.

13 Your Claim Form must be mailed to the Settlement Administrator at the address
14 listed above for proper handling. Do not mail your Claim Form to the Court or to any of
15 the parties or their counsel. In addition, do not telephone the Judge or Clerk of the Court
16 or any representatives of USAA concerning this proposed settlement.

17 Anyone who meets the definition of the Settlement Class requirements may
18 submit a Claim Form.

19 Whether your Medpay claim was submitted to an Audit will be determined from
20 review of USAA's records.

21 If you do not want to make a claim for payment under the proposed settlement,
22 you do not need to complete or submit this Claim Form, and you will receive no payment
23 as a result of this proposed settlement.

24 If you want to make a claim for payment under the proposed settlement, the
25 information that you provide in completing this Claim Form must be complete and
26 accurate to the best of your present recollection. In order to be eligible to receive any
payment under the proposed settlement, you must read and sign the Certification at the
end of the Claim Form under penalty of perjury.

1 All of the information requested in the "Required Information" section of the
2 Claim Form must be completed. Completing the information requested in the
3 "Additional (Optional) Information" section is not required, but may expedite the
4 processing and payment of your Claim.

5 If you are a member of the Settlement Class and do not complete the Claim Form
6 or do not exclude yourself from the Settlement Class, you will still be bound by the
7 Agreement and Final Order and Judgment and will be prohibited from making any
8 released by that order claim.

9 Please type or print legibly.

1 **PROOF OF CLAIM INFORMATION/INSURED CLAIM FORM**
2 **(Please type or print in ink)**

3 IN ORDER TO RECEIVE ANY PAYMENT TO WHICH YOU MAY BE ENTITLED
4 UNDER THE SETTLEMENT REACHED IN THIS CASE, you must complete and sign
5 a Claim Form and mail it postage prepaid First class mail, postmarked on or before
6 _____, 2008, addressed to:

7 USAA Medpay Settlement Administrator
8 c/o Rust Consulting, Inc.
9 P.O. Box 1940
10 Faribault, MN 55021-7195

11 **YOU MUST** fill out a separate Claim Form for each accident for which you have
12 made a Medpay claim.

13 YOU MUST provide complete and accurate answers to each of the questions and
14 subparts listed in the section called "Required Information." **If you do not do so, then**
15 **you will NOT be entitled to make a claim for a monetary payment under the Class**
16 **Action Settlement Agreement.**

17 **REQUIRED INFORMATION**

18 1.

19 _____
20 Claimant's Full Name

21 If the Claimant's name was different at the time the Medpay claim was
22 made, what was the Claimant's name at that time?

23 _____
24 _____
25 If someone other than the Claimant is completing this form, please state
26 that person's Name, Address, and Telephone Number and his or her
 relationship to the Claimant.

NOTE: If the Claimant is not the Policyholder for the Policy under
 which the Medpay claim was made, identify the Policyholder:

 Name of Policyholder (if other than Claimant)

 If known, current Address of Policyholder (including city, state, and zip
 code)

 If known, address of Policyholder at time Medpay claim was made
 (including city, state, and zip code)

 NOTE: From this point forward in the Claim Form until the Certification Page at
 the end, "you" and "your" refer to the Claimant.

- 1 2. _____
2 Your Current Address (including city, state, and zip code)
3 3. _____
4 Your Address at time Medpay claim was made (including city, state, and zip
5 code)
6 4. _____
7 Your Telephone Number (including area code)
8 5. _____
9 Your Social Security Number
10 6. _____
11 Your Date of Birth
12 7. _____
13 Date of Accident that resulted in your Medpay claim
14 8. _____
15 USAA Policy and/or Claim Number under which your Medpay claim was paid

12 **ADDITIONAL (OPTIONAL) INFORMATION**

13 **Although not required**, completing the information requested in this section may
14 expedite the processing and payment of your Claim.

- 15 9. Did you make any payments directly to health care providers for your health care
16 in connection with your Medpay Claim?

16 ☐ Yes ☐ No ☐ I don't know

17 If yes, identify the provider(s) (provide name(s), address(es), and phone
18 number(s), the date(s) of service, and the amounts paid). (Use a separate page if
19 necessary.)

- 20 10. Did you assign or otherwise transfer your rights to collect Medpay benefits to
21 your health care provider(s)?

22 ☐ Yes ☐ No ☐ I don't know.

23 If "yes", identify the provider(s) (provide name(s), address(es),
24 and phone number(s)). (Use a separate page if necessary.) If you have a
25 copy of the assignment, please attach it.
26 _____

1 11. Did you previously reach a settlement or agreement on payment of health care
2 bills with the medical providers whose bills are the subject of your Medpay claim?

3 ☐ Yes ☐ No ☐ I don't know.

4 If "yes", identify the provider(s) (provide name(s), address(es),
5 and phone number(s)). (Use a separate page if necessary.)

6 _____
7 _____
8 _____

9 12. Did you previously enter into a written release or settlement agreement with
10 USAA regarding your Medpay claim?

11 ☐ Yes ☐ No ☐ I don't know.

12 If "yes", you will not be eligible to receive a monetary payment under the
13 Proposed Settlement for any portion of the Medpay claim that was the
14 subject of the previous written release or settlement agreement.

15 13. Did you previously file any legal action against USAA (for example, a lawsuit or
16 an arbitration proceeding) regarding your Medpay claim?

17 ☐ Yes ☐ No ☐ I don't know.

18 14. If the answer to 13 is yes, where was the previous legal action filed? (Identify the
19 State Court/County Court/Arbitration/Insurance Commission.)

20 _____

21 15. If the answer to 13 is yes, did that legal action result in a judgment or settlement?

22 ☐ Yes ☐ No ☐ I don't know.

23 If "yes", you will not be eligible to receive a monetary payment under the
24 Proposed Settlement for any portion of the Medpay claim that was the
25 subject of the legal action.

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16. Did USAA pay an amount equal to or greater than the limits of coverage (also called "policy limits") for Medpay benefits under the automobile insurance policy under which you make your Medpay claim?

☐ Yes ☐ No ☐ I don't know.

If "yes", you are not part of the Settlement Class and are not eligible to receive a monetary payment under this Proposed Settlement.

You may also attach copies of any documentation you may have to support your claim (including health care bills, explanations of benefits from USAA, correspondence from USAA or your health care providers or cancelled checks). The decision as to whether you meet the criteria for payment will be based on USAA's records and any documentation submitted by you. Any disputes concerning the determination made on these claim forms will be resolved according to the terms of the Class Action Agreement.

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CERTIFICATION

I state under penalty of perjury under the laws of the State in which this Certification is executed and the United States of America that I have read this Claim Form and the information and any documentation I have provided are true and correct to the best of my knowledge.

Dated: _____, 2008.

Signature

Print Name

Exhibit 7

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3
4 IN THE UNITED STATES DISTRICT COURT
5 FOR THE DISTRICT OF ARIZONA
6

7 AMANDA K. HORTON, et al.

8 Plaintiffs,

No. CV-06-02810-PHX-DGC

9 v.

10 USAA CASUALTY INSURANCE
COMPANY, a foreign insurer, et al.

11 Defendants.
12

13 **HEALTH CARE PROVIDER PROOF OF CLAIM FORM**

14
15 You may be eligible to receive a payment as part of a proposed settlement of the
16 lawsuit captioned Horton v. USAA Casualty Insurance Company, United States District
17 Court for the District of Arizona, case number CV-06-2810. However, please be aware
that the fact that you requested this notice does not mean that you are necessarily a
member of the Settlement Class or that you qualify to receive a payment.

18 You should read this Health Care Provider Proof of Claim Form ("Claim Form")
completely and carefully.

19 **Instructions**

20 If you wish to make a claim in connection with the proposed settlement, YOU
21 MUST COMPLETE AND SIGN A CLAIM FORM AND MAIL IT POSTAGE PRE-
22 PAID, FIRST-CLASS MAIL, POSTMARKED ON OR BEFORE _____, 2008,
TO RUST CONSULTING, INC. AT:

23 USAA Medpay Settlement Administrator
24 c/o Rust Consulting, Inc.
P.O. Box 1940
25 Faribault, MN 55021-7195
Telephone: 1-877-465-5201
26 TTY: 1-866-216-0281
E-mail: info@medpaysettlement.com

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2 IF YOU FAIL TO SUBMIT YOUR CLAIM FORM BY THAT DATE, YOUR
3 CLAIM WILL BE REJECTED and you will be precluded from receiving any money
4 from the proposed settlement. Payments on qualified claims will not begin until after the
5 proposed settlement receives final approval of the Court. A final approval hearing on the
6 settlement is scheduled for _____, 2008, at _____.

7 If you have any questions about the proposed settlement or the Claim Form, you
8 may contact the Settlement Administrator at 1-877-465-5201.

9 Your Claim Form must be mailed to the Settlement Administrator at the address
10 listed above for proper handling. Do not deliver your Claim Form to the Court or to any
11 of the parties or their counsel. In addition, do not telephone the Judge or Clerk of the
12 Court or any representatives of USAA concerning this proposed settlement.

13 Anyone who meets the definition of the Settlement Class may submit a Claim
14 Form:

15 Whether your patient's Medpay claim was submitted to an Audit will be
16 determined from review of USAA's records.

17 If you do not want to make a claim for payment under the proposed settlement,
18 you do not need to complete or submit this Claim Form and you will receive no payment
19 as a result of this proposed settlement.

20 If you want to make a claim for payment under the proposed settlement, the
21 information that you provide in completing this Claim Form, must be complete and
22 accurate to the best of your present recollection. In order to be eligible to receive any
23 payment under the proposed settlement, you must read and sign the Certification at the
24 end of the Claim Form under penalty of perjury.

25 If you are a member of the Settlement Class and do not complete the Claim
26 Form or do not exclude yourself from the Settlement Class, you will still be bound by the
Class Action Settlement Agreement, and Final Order and Judgment and will be
prohibited from making any claim released by that order.

Please type or print legibly.

(Please type or print in ink)

USAA Medpay Settlement Administrator
c/o Rust Consulting, Inc.
P.O. Box 1940
Faribault, MN 55021-7195

If you do not comply with these requirements, you will NOT be eligible to receive payment on the claim you submit.

(1) OPTION 1 – Submit a NON-DOCUMENTED CLAIM, in which you choose not to submit documentation to support your claim. If you select OPTION 1, the maximum amount you will be eligible to receive in payment for any one claim is \$50, and the maximum aggregate amount you will be eligible to receive for all claims you submit is \$250.

(2) OPTION 2 – Submit a DOCUMENTED CLAIM, in which you choose to submit documentation to support your claim. If you select OPTION 2, there will be no maximum limit on the amount you are eligible to recover for any single claim or for all claims combined. To be eligible for OPTION 2 you must submit documentation sufficient to prove, for each claim you submit, (1) that you received a valid written assignment from your patient of the Medpay claim; (2) the CPT or procedures codes for the health care services provided and the amounts billed; (3) the amount you received in payment for each CPT or procedure code itemized, from any source; (4) the sources of those payments; and (5) the amount you contend remains unpaid.

Regardless of which OPTION you choose, you must complete all the questions in this Claim Form. The amount that you will eligible to receive – if any – will be determined by the terms of the Agreement relating to the Proposed Settlement.

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1. _____
Full Name of Health Care Provider
If the Health Care Provider is a partnership, corporation, or other entry, please state the name and title of the person completing this Proof of Claim:

2. Did your patient assign or otherwise transfer to you his or her rights to collect on the Medpay claim?
☐ Yes ☐ No
If "no", you are not a member of the Settlement Class. Do not fill out the rest of this Claim Form, and do not send this Claim Form to the Settlement Administrator.
If "yes", and if you are submitting a DOCUMENTED CLAIM, you must attach a copy of the fully executed assignment under which you claim that your patient assigned his or her rights to you.

3. Please select one of the following:
☐ OPTION 1. I elect to submit a NON-DOCUMENTED CLAIM.
☐ OPTION 2. I elect to submit a DOCUMENTED CLAIM.

4. _____
Business Address of Health Care Provider (including city, state, and zip code)

5. _____
Health Care Provider's Business Telephone Number (including area code)

6. _____
Health Care Provider's Social Security Number (if an individual)

7. _____
Health Care Provider's Federal Employer Identification number (current FEIN, as well as the one at the time of the treatment, if different)

8. _____
Name of Patient
If the Patient's name was different at the time the treatment was rendered for which a claim was made under the Medpay coverage, please state the Patient's name at that time.

Address of Patient at time treatment rendered for which a claim was made under the Medpay coverage (including city, state, and zip code)

9. Date of Accident that resulted in your patient's Medpay claim

10. USAA Policy and/or Claim Number under which your patient's Medpay claim was submitted for payment (if known; this information is generally included on the Explanation of Benefits supplied by USAA with payment for Medpay claims),

11. State the amount that you billed for this Medpay claim. If you are submitting a DOCUMENTED CLAIM, you must attach each of your bills submitted to USAA for payment.

12. State the amounts that you contend remain to be paid on this Medpay claim?

If you are submitting a DOCUMENTED CLAIM, you must attach a copy of your ledger sheet or other document(s) proving the amount that you contend remains to be paid for each CPT or procedure code billed on this Medpay claim.

13. State the amounts that you received in payment for treatment submitted for payment to USAA related to this Medpay claim:

From your patient directly: \$ (if none, write "none")

From USAA: \$ (if none, write "none")

From any other source, including any other insurance company, governmental program (such as Medicare), or any other third party (such as a lien on any amounts collected by your patient from another party):

\$ (if none, write "none")

If applicable, identify the other source(s) of payment:

14. Did you enter into a written release or settlement agreement with your patient regarding payments due on the health care bills that were the subject of your patient's Medpay claim?

☐ Yes ☐ No

- 1 15. Did you enter into a written release or settlement agreement with USAA with
2 respect to the medical bills that were the subject of your patient's Medpay claim
3 ☐ Yes ☐ No
- 4 16. Did you file any legal action against USAA (for example, a lawsuit or arbitration
5 proceeding) with respect to any unpaid charges submitted for payment under your
6 patient's Medpay coverage?
7 ☐ Yes ☐ No
- 8 16a. If the answer to 16 is yes, where was the legal action filed? (Identify the
State Court/County Court/Arbitration/Insurance Commission)
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- 9 16b. If the answer to 16 is yes, did that legal action result in a judgment or
10 settlement?
11 ☐ Yes ☐ No
- 12 17. Did your patient file any legal action against USAA (for example, a lawsuit or
13 arbitration proceeding) with respect to any unpaid charges submitted for payment
14 under the Medpay coverage?
15 ☐ Yes ☐ No
- 16 17a. If the answer to 17 is yes, how much did your patient recover from that
person?
-
- 17 18. Did your patient make a claim against a person involved in the accident for your
18 patient's damages or injuries?
19 ☐ Yes ☐ No
- 20 18a. If the answer to 18 is yes, how much did your patient recover from that
21 person?
-
- 22 18b. Did you file a provider lien with respect to that recovery?
23 ☐ Yes ☐ No
- 24 18b. If yes, were any of your bills for health care services paid as a result of the
25 lien?
26 ☐ Yes ☐ No

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18c. If yes, how much did you recover?

If you are submitting a NON-DOCUMENTED CLAIM, you have the option of attaching copies of any other documentation you may have to support your claim (including health care bills, ledgers, explanations of benefits from USAA, correspondence from USAA or your patient, cancelled checks, etc.). **If you are submitting a DOCUMENTED CLAIM, you must attach the documents noted in this Claim Form.** The decision as to whether you meet the criteria for payment will be based on USAA's records and any documentation submitted by you. Any disputes concerning the determination made on these claim forms will be resolved according to the terms of the Class Action Settlement Agreement.

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CERTIFICATION

I state under penalty of perjury under the laws of the State in which this Certification is executed and the United States of America that I have read this Claim Form and the information and any documentation I have provided are true and correct to the best of my knowledge.

Dated: _____, 2008

Signature

Print Name

Title (if Claimant is a corporation, partnership or proprietorship)

Exhibit 8

EXHIBIT 8

List of Publications

USA Weekend

JAMA, The Journal of the American Medical Association

Medical Economics

Exhibit 9

If You Made a Claim for Health Care Expenses Under an Automobile Policy Issued by USAA or You Are a Health Care Provider Who Received a Valid Written Assignment of Such a Claim, Please Read This Notice Carefully. Your Legal Rights May Be Affected.

What Is This About?

This is a summary Notice of a proposed class action settlement. The settlement is in the case of *Horton v. USAA Casualty Insurance Company*, pending in the United States District Court for the District of Arizona. A proposed settlement in the case provides for payment to health care providers who received valid written assignments of claims from certain people who were insured by USAA and made claims for health care charges. This proposed settlement is also available to insured claimants who did not assign their claims.

Does This Apply to Me?

If you are a health care medical provider who received a valid written assignment of a first-party claim for medical expenses under an automobile policy issued by United Services Automobile Association, USAA Casualty Insurance Company, USAA General Indemnity Company, USAA County Mutual Insurance Company, Garrison Insurance Company, or their affiliated insurers (collectively "USAA") or an insured who made such a claim, you may be a Settlement Class member and this Notice may apply to you.

Specifically, Settlement Class members include health care providers with valid written assignments of claims from people insured under automobile policies with first-party medical expense (referred to as "Medpay") coverage issued by USAA who were injured in covered automobile accidents:

- 1) who made claims for Medpay benefits ("Medpay benefits") from June 27, 2005 through [Month Day Yr - prefinal approval date]; and
- 2) who had bills for health care expenses submitted to a medical/fee review audit by Concentra Integrated Services, Inc. doing business as Auto Injury Solutions, or its parents, subsidiaries or affiliates (collectively referred to as "AIS"), which recommended payment of less than the full amount of those submitted bills; and
- 3) USAA paid less than the full amount of those submitted medical charges as a result of AIS payment recommendations based on,
 - a) in whole or in part, a statistical analysis of the reasonableness of the submitted charge,
 - b) the application by AIS of a PPO or PPN agreement determined by AIS to be applicable to the submitted charge, or
 - c) the resolution of the submitted charge by negotiation between USAA, or AIS on behalf of USAA, and

the provider; and

- 4) USAA paid an amount less than the limits of coverage for Medpay benefits under the applicable auto insurance policy.

USAA insureds who made such claims are also potentially Settlement Class members and should have received a mailed notice about this settlement. You may obtain that notice at the website or phone number listed below.

What Should I Do?

Get complete information about the proposed settlement from the website or obtain a notice of the settlement by calling the phone number below. Read the materials, and make a decision about your legal rights. Your options include:

- 1) **Remain in the settlement.** To be eligible for monetary payment, you must submit a claim form postmarked by [Month Day Yr]. If you remain in the settlement, you give up your legal right to bring further claims regarding the issues in the case, and you will be bound by all Court orders.
- 2) **Exclude yourself from the settlement** by completing and mailing a valid request for exclusion that is postmarked no later than _____, 2008. You will neither be bound by nor benefit from the settlement
- 3) **Object to the settlement** by filing a written objection with the Court no later than _____, 2008. You and/or your attorney may appear at the Final Approval Hearing in person with proper notice to the Court.

The court will hold a Final Approval Hearing at [time] on [Month Day Yr] at the courtroom of the Honorable David G. Campbell, United States District Court for the District of Arizona, 401 W. Washington, Phoenix, Arizona 85003 to consider whether to approve the proposed settlement as fair and reasonable. This hearing may be postponed to a later date without further notice. If the settlement is approved, claims will then be paid.

This is only a summary of the proposed settlement.

For complete information and a claim form:

Call: 1-877-465-5201, or

Visit: www.medpaysettlement.com

Para un formulario de reclamo en Espanol, por favor llame al 1-877-465-5201 o visite nuestro website (<http://medpaysettlement.com>).

Please do not call or write USAA, the court, or the clerk's office.

If You Made a Claim for Health Care Expenses Under an Automobile Policy Issued by USAA or You Are a Health Care Provider Who Received a Valid Written Assignment of Such a Claim, Please Read This Notice Carefully. Your Legal Rights May Be Affected.

What Is This About?

This is a summary Notice of a proposed class action settlement. The settlement is in the case of *Horton v. USAA Casualty Insurance Company*, pending in the United States District Court for the District of Arizona. A proposed settlement in the case provides for payment to health care providers who received valid written assignments of claims from certain people who were insured by USAA and made claims for health care charges. This proposed settlement is also available to insured claimants who did not assign their claims.

Does This Apply to Me?

If you are a health care medical provider who received a valid written assignment of a first-party claim for medical expenses under an automobile policy issued by United Services Automobile Association, USAA Casualty Insurance Company, USAA General Indemnity Company, USAA County Mutual Insurance Company, Garrison Insurance Company, or their affiliated insurers (collectively "USAA") or an insured who made such a claim, you may be a Settlement Class member and this Notice may apply to you.

Specifically, Settlement Class members include health care providers with valid written assignments of claims from people insured under automobile policies with first-party medical expense (referred to as "Medpay") coverage issued by USAA who were injured in covered automobile accidents:

- 1) who made claims for Medpay benefits ("Medpay benefits") from June 27, 2005 through [Month Day Yr – pre-approval date]; and
- 2) who had bills for health care expenses submitted

to a medical/fee review audit by Concentra Integrated Services, Inc. doing business as Auto Injury Solutions, or its parents, subsidiaries or affiliates (collectively referred to as "AIS"), which recommended payment of less than the full amount of those submitted bills; and

- 3) USAA paid less than the full amount of those submitted medical charges as a result of AIS payment recommendations based on,
 - a) in whole or in part, a statistical analysis of the reasonableness of the submitted charges;
 - b) the application by AIS to be applicable to the submitted charge; or
 - c) the resolution of the submitted charge by negotiation between USAA, or AIS on behalf of USAA, and the provider; and

- 4) USAA paid an amount less than the limits of coverage for Medpay benefits under the applicable auto insurance policy.

USAA insureds who made such claims are also potentially Settlement Class members and should have received a mailed notice about this settlement. You may obtain that notice at the website or phone number listed below.

What Should I Do?

Get complete information about the proposed settlement from the website or obtain a notice of the settlement by calling the phone number below. Read the materials, and make a decision about your legal rights. Your options include:

- 1) **Remain in the settlement.** To be eligible for monetary payment, you must submit a claim form postmarked by

[Month Day Yr]. If you remain in the settlement, you give up your legal right to bring further claims regarding the issues in the case; and you will be bound by all Court orders.

- 2) **Exclude yourself from the settlement** by completing and mailing a valid request for exclusion that is postmarked no later than _____, 2008. You will neither be bound by nor benefit from the settlement.

- 3) **Object to the settlement** by filing a written objection with the Court no later than _____, 2008.

You and/or your attorney may appear at the Final Approval Hearing in person with proper notice to the Court.

The court will hold a Final Approval Hearing at [time] on [Month Day Yr] at the courtroom of the Honorable David G. Campbell, United States District Court for the District of Arizona, 401 W. Washington, Phoenix, Arizona 85003 to consider whether to approve the proposed settlement as fair and reasonable. This hearing may be postponed to a later date without further notice. If the settlement is approved, claims will then be paid.

This is only a summary of the proposed settlement.

For complete information and a claim form:

Call: 1-877-465-5201, or

Visit: www.medpaysettlement.com

Para un formulario de reclamo en Español, por favor llame al 1-877-465-5201 o visite nuestro website (<http://medpaysettlement.com>).

Please do not call or write USAA, the court, or the clerk's office.

Legal Notice

If You Made a Claim for Health Care Expenses Under an Automobile Policy Issued by USAA or You Are a Health Care Provider Who Received a Valid Written Assignment of Such a Claim, Please Read This Notice Carefully. Your Legal Rights May Be Affected.

What Is This About?

This is a summary Notice of a proposed class action settlement. The settlement is in the case of *Horton v. USAA Casualty Insurance Company*, pending in the United States District Court for the District of Arizona. A proposed settlement in the case provides for payment to health care providers who received valid written assignments of claims from certain people who were insured by USAA and made claims for health care charges. This proposed settlement is also available to insured claimants who did not assign their claims.

Does This Apply to Me?

If you are a health care medical provider who received a valid written assignment of a first-party claim for medical expenses under an automobile policy issued by United Services Automobile Association, USAA Casualty Insurance Company, USAA General Indemnity Company, USAA County Mutual Insurance Company, Garrison Insurance Company, or their affiliated insurers (collectively "USAA") or an insured who made such a claim, you may be a Settlement Class member and this Notice may apply to you.

Specifically, Settlement Class members include health care providers with valid written assignments of claims from people insured under automobile policies with first-party medical expense (referred to as "Medpay") coverage issued by USAA who were injured in covered automobile accidents:

- 1) who made claims for Medpay benefits ("Medpay benefits") from June 27, 2005 through [Month Day Yr - prelim approval date]; and
- 2) who had bills for health care expenses submitted to a medical/fee review audit by Concentra Integrated Services, Inc. doing business as Auto Injury Solutions, or its parents, subsidiaries or affiliates (collectively referred to as "AIS"), which recommended payment of less than the full amount of those submitted bills; and
- 3) USAA paid less than the full amount of those submitted medical charges as a result of AIS payment recommendations based on,
 - a) in whole or in part, a statistical analysis of the reasonableness of the submitted charge,
 - b) the application by AIS of a PPO or PPN agreement determined by AIS to be applicable to the submitted charge, or
 - c) the resolution of the submitted charge by negotiation between USAA, or AIS on behalf of USAA, and the

provider; and

- 4) USAA paid an amount less than the limits of coverage for Medpay benefits under the applicable auto insurance policy.

USAA insureds who made such claims are also potentially Settlement Class members and should have received a mailed notice about this settlement. You may obtain that notice at the website or phone number listed below.

What Should I Do?

Get complete information about the proposed settlement from the website or obtain a notice of the settlement by calling the phone number below. Read the materials, and make a decision about your legal rights. Your options include:

- 1) **Remain in the settlement.** To be eligible for monetary payment, you must submit a claim form **postmarked by [Month Day Yr]**. If you remain in the settlement, you give up your legal right to bring further claims regarding the issues in the case, and you will be bound by all Court orders.
- 2) **Exclude yourself from the settlement** by completing and mailing a valid request for exclusion that is postmarked no later than _____, 2008. You will neither be bound by nor benefit from the settlement.
- 3) **Object to the settlement** by filing a written objection with the Court no later than _____, 2008. You and/or your attorney may appear at the Final Approval Hearing in person with proper notice to the Court.

The court will hold a Final Approval Hearing at [time] on [Month Day Yr] at the courtroom of the Honorable David G. Campbell, United States District Court for the District of Arizona, 401 W. Washington, Phoenix, Arizona 85003 to consider whether to approve the proposed settlement as fair and reasonable. This hearing may be postponed to a later date without further notice. If the settlement is approved, claims will then be paid.

**This is only a summary of the proposed settlement.
For complete information and a claim form:**

**Call: 1-877-465-5201, or
Visit: www.medpaysettlement.com**

Para un formulario de reclamo en Espanol, por favor llame al 1-877-465-5201 o visite nuestro website (<http://medpay-settlement.com>).

Please do not call or write USAA, the court, or the clerk's office.

Exhibit 10

Horton v. USAA

Home
Frequently Asked Questions
Legal Documents
Insured Notice and Claim Form
Health Care Provider Notice and Claim Form

Welcome to the informational website for the Horton v. USAA
Class Action Settlement

For information relating to the settlement that is not contained on this site, you may write to:

Settlement Administrator

c/o Rust Consulting, Inc.

PO Box 1940

Faribault, MN 55021-7195

Class Counsel

Surrano Law Offices

3200 North Central Ave., Ste 2500

Phoenix, Arizona 85012

THIS SITE IS NOT OPERATED BY USAA. THIS CLASS ACTION SETTLEMENT IS SUPERVISED BY THE COURT AND IS ADMINISTERED BY A CLAIMS ADMINISTRATION FIRM THAT HANDLES CLAIM PROCESSING. THIS IS THE ONLY AUTHORIZED WEB SITE FOR THIS SETTLEMENT. PLEASE DO NOT RELY UPON OTHER SITES THAT SET OUT DIFFERENT AND UNAUTHORIZED INFORMATION.

Horton v. USAA

Home
Frequently Asked Questions
Legal Documents
Insured Notice and Claim Form
Health Care Provider Notice and Claim Form

Frequently Asked Questions

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Horton v. USAA

Home
Frequently Asked Questions
Legal Documents
Insured Notice and Claim Form
Health Care Provider Notice and Claim Form

Class Action Settlement Agreement

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Amended Complaint

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Answer to Amended Complaint

[Download a PDF of this Document](#)

Preliminary Approval Order

[Download a PDF of this Document](#)

Summary Notice

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Horton v. USAA

Home
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Health Care Provider Notice and Claim Form

Insured Notice

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Insured Claim Form

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Horton v. USAA

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Health Care Provider Notice

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Health Care Provider Claim Form

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Exhibit 11

EXHIBIT 11

Non-Regulated States

Alabama	Montana
Alaska	Nevada
Arizona	New England
Arkansas	New Hampshire
California	New Mexico
Colorado	North Carolina
Connecticut	North Dakota
Delaware	Ohio
District of Columbia	Oklahoma
Florida	Oregon
Georgia	Rhode Island
Idaho	South Carolina
Illinois	South Dakota
Indiana	Tennessee
Iowa	Texas
Kansas	Vermont
Kentucky	Virginia
Louisiana	Washington
Maine	West Virginia
Massachusetts	Wisconsin
Michigan	Wyoming
Mississippi	
Missouri	

Exhibit 12

EXHIBIT 12

Regulated States

Hawaii

Minnesota

New Jersey

New York

Pennsylvania

Utah

Exhibit 13

EXHIBIT 13

Reason Codes

14*	RF_NY_MOD51	CR263
15*	RF_NY_MOD80&51	CR269
311*	RF_NY_MOD81&51	CR279
312*	RF_OR	ME19
014*	RF_OR	NC4
015*	RF_OR_DME	NR260
BA_MOD26	RF_OR_MOD26	NR265
BA_MODTC	RF_OR_MOD51	NR269
RF	RF_OR_MOD59	OMT104
RF_FLA	RF_OR_MODTC	RF_MOD26&51
RF_FLA_MOD26	RF_OR_OUTPATIENT	RF_MOD50&51
RF_FLA_MOD50	RF_PA	RF_MOD51
RF_FLA_MOD59	RF_PA_MOD26	RF_MOD62&51
RF_MOD26	RF_PA_MODTC	RF_MOD80&51
RF_MOD50	RF_PAMOD26	RF_MOD81&51
RF_MOD59	RF_UT	RF_MODTC&51
RF_MOD62	RF_UT_MOD26	RF_NJ_MOD50&51
RF_MOD80	RF_UT_MODTC	RF_NJ_MOD51
RF_MOD81	RFNY	RF_NJ_MOD62&51
RF_MODTC	UCR80	RF_NJ_MOD80&51
RF_NJ	11*	RF_NJ_MOD81&51
RF_NJ\$90CAP	011*	RF_NJ_MOD82&51
RF_NJ_DME	32*	RF_NJ_MODAS&51
RF_NJ_MOD26	36*	RF_NJMOD50&51
RF_NJ_MOD50	036*	RF_NJMOD62&51
RF_NJ_MOD59	43*	RF_NJMOD80&51
RF_NJ_MOD62	163*	RF_NJMOD81&51
RF_NJ_MOD80	164*	RF_NJMOD82&51
RF_NJ_MOD81	177*	TR103
RF_NJ_MOD82	343*	TR231
RF_NJ_MODAS	BA_NJ_MOD82	TR234
RF_NJ_MODTC	CMT 104	TR239
RF_NJ_PHYS	CMT104	TR247
RF_NJMOD59	CR104	TR248
RF_NJMOD62	CR214	UCR75_MOD51
RF_NJMOD80	CR231	60
RF_NJMOD81	CR232	PPO
RF_NJMOD82	CR233	PPO_MAGNA6
RF_NJMODAS&51	CR234	PPO_MAGNA60
RF_NY	CR235	PPO1
RF_NY_DEN	CR237	
RF_NY_DME	CR239	
RF_NY_HCPCS	CR240	
RF_NY_MOD26&51	CR26	
RF_NY_MOD50	CR260	

* Except for treatment rendered in Hawaii and paid for under policies issued in Hawaii.

Exhibit 14

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

AMANDA K. HORTON, et al.

Plaintiffs,

v.

USAA CASUALTY INSURANCE
COMPANY, a foreign insurer, et al.

Defendants.

No. CV-06-2810-PHX-DGC

**FINAL ORDER AND JUDGMENT
APPROVING SETTLEMENT**

The Court, having reviewed the filings of the parties and the record in this case, must determine:

1. whether the proposed settlement of the claims asserted by Plaintiffs in the above-captioned lawsuit on the terms set forth in the Class Action Settlement Agreement dated May 27, 2008 and the exhibits thereto (the "Agreement"), is fair, reasonable, and adequate, and should be finally approved by the Court;

2. whether, pursuant to the terms of the proposed settlement, a judgment should be entered dismissing this lawsuit and the Amended Complaint ("Complaint") against USAA Casualty Insurance Company, United Services Automobile Association, USAA General Indemnity Company, USAA County Mutual Insurance Company, Garrison Insurance Company and all of their present, former, and future officers,

1 directors, employees, members, shareholders, agents, independent contractors,
2 successors, assigns, parents, subsidiaries, affiliates, insurers, attorneys, and legal
3 representatives (hereinafter "USAA") with prejudice; and

4 3. if the settlement is approved, whether and in what amount to award
5 attorneys' fees and expenses to Class Counsel (the "Attorneys' Fees Award"), including
6 the incentive awards to the Named Plaintiffs.

7 **Background**

8 Plaintiff Amanda K. Horton originally filed this action in Maricopa County
9 Superior Court against Defendant USAA Casualty Insurance Company ("USAA CIC")
10 for breach of contract and breach of the covenant of good faith and fair dealing (bad
11 faith). USAA CIC removed the matter to this Court pursuant to the Class Action Fairness
12 Act, 28 U.S.C. § 1715. Pursuant to Order of this Court entered on _____, 2008,
13 Plaintiffs filed an Amended Complaint on May __, 2008, adding additional class
14 representatives, expanding the basis for their claims, and adding additional USAA
15 defendants.

16 Plaintiffs allege that USAA failed to pay to insureds injured in covered automobile
17 accidents or their health care provider assignees the amounts for covered benefits
18 required under Medical Payments, Personal Injury Protection, First Party Benefit,
19 Medical Expense Benefits, Automobile Death and Disability, or any other first-party
20 medical coverages (collectively referred to as "Medpay") in the respective policies of
21 automobile insurance. According to Plaintiffs, USAA based its payment of Medpay
22 benefits, in whole or in part, on medical/fee review audit ("Audit") recommendations
23 made to USAA by Concentra Integrated Services, Inc. doing business as Auto Injury
24 Solutions, or its parents, subsidiaries or affiliates (collectively referred to as "AIS"). The
25 Lawsuit alleges that AIS improperly and systematically recommended a reduced payment
26 of insureds' Medpay benefits based on the recommendation of an invalid statistical

1 program used to determine a reasonable fee for the services rendered. In addition, the
2 Lawsuit alleges that USAA, at times, improperly reduced payment of insureds' claims for
3 Medpay benefits based on recommendations by AIS who entered into negotiated or
4 contractual agreements with health care providers (sometimes called PPO or PPN
5 agreements) to accept reduced payments for the services rendered.

6 USAA has answered and denied the Plaintiffs' allegations. USAA has denied that
7 it engaged in any wrongdoing and denied that the AIS reasonable fee recommendations
8 are based on the wrongful use of a statistical program that systematically reduces
9 submitted Medpay claims or otherwise improperly recommends a reduced payment of
10 Medpay benefits. USAA has also denied that it improperly reduced payments of Medpay
11 benefits based on negotiated or contractual agreements with providers. USAA maintains
12 that it has consistently acted in accordance with its insurance policies and all applicable
13 laws and regulations and in good faith with respect to the adjustment of Medpay claims.

14 USAA contends that the use of an Audit is reasonable and appropriate, serving
15 legitimate interests of both USAA and its insureds. These interests include the reduction
16 of billing fraud, the identification of billing errors and duplicate charges, and the
17 identification of potentially excessive or inappropriate charge amounts. USAA further
18 contends that, the use of the Audit functions to preserve member benefits and to avoid
19 increases in premiums that could result from the overpayment of claims.

20 On May 27, Plaintiffs filed a motion for conditional certification of a settlement
21 class, preliminary approval of the settlement, approval of the forms of notice, and to set a
22 Final Approval Hearing for the settlement. This Court subsequently entered an order (the
23 "Preliminary Order") in which it conditionally certified the following class (the
24 "Settlement Class"):

25
26 (1) All insureds under automobile policies with Medpay coverage issued
by USAA who were injured in covered automobile accidents,

1 (a) who made Medpay claims for medical or rehabilitation
2 benefits ("Medpay benefits") from June 27, 2005 through
3 _____, 2008, and

4 (b) who had bills for medical or rehabilitation expenses
5 submitted to an Audit by which recommended payment of less than
6 the full amount of those submitted medical bills; and

7 (c) USAA paid less than the full amount of those submitted
8 health care charges as a result of AIS payment recommendations
9 based on,

10 i) in whole or in part, a statistical analysis of the
11 reasonableness of the submitted charge,

12 ii) the application by AIS of a PPO or PPN agreement
13 determined by AIS to be applicable to the submitted charge,
14 or

15 iii) the resolution of the submitted charge by negotiation
16 between USAA, or AIS on behalf of USAA, and the provider;
17 and

18 (d) USAA paid an amount less than the limits of coverage for
19 Medpay benefits under the applicable auto insurance policy; and

20 (2) Health care providers with valid written assignments of any of the
21 claims identified above.¹

22 The Court further preliminarily approved the settlement in the Agreement,
23 approved the forms of notice to the Settlement Class members, enjoined certain actions
24 by Settlement Class members who did not opt out of the settlement, set deadlines for
25

26 _____
¹ Excluded from this Settlement Class are the following persons:

(1) Officers, directors, and employees of USAA and Class Counsel;

(2) Members of the judiciary and staff of the United States District Court for
the District of Arizona and their immediate families; and

(3) All persons who timely elect to opt out of or to exclude themselves from
the Settlement Class in accordance with the Court's Orders; and

(4) All persons who previously resolved all their claims by settlement, release,
judgment, or arbitration.

1 various events leading up to the Final Approval Hearing, and set the Final Approval
2 Hearing.

3 Notice has been sent in accordance with the Preliminary Order; and this Court
4 held a Final Approval Hearing on _____, 2008.

5 **Final Order and Judgment**

6 The Court, having heard all persons properly appearing and requesting to be
7 heard; having considered the papers submitted in support of the proposed settlement and
8 the oral presentations of counsel; having considered all applicable law; and having
9 considered any objections made properly to the proposed settlement; finds that there is no
10 just reason for delay of the entry of this Final Order and Judgment Approving Settlement
11 ("Final Order and Judgment").

12 **IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:**

13 1. This Final Order and Judgment adopts and incorporates the Agreement, the
14 terms defined therein, and all exhibits thereto; provided, however, that the Parties are
15 hereby authorized to agree to and to adopt such amendments to, and modifications and
16 expansions of, the Agreement and all amendments thereto as (i) are consistent in all
17 material respects with this Final Order and Judgment, and (ii) do not reduce the rights of
18 the Settlement Class members.

19 2. The Court finds that it has personal jurisdiction over all members of the
20 Settlement Class and that it has subject matter jurisdiction to approve the Agreement.

21 3. This action is hereby certified as a class action pursuant to Federal Rule of
22 Civil Procedure 23 for settlement purposes only (the Court expressly reserving the right
23 to determine, should the occasion arise, whether this action may continue to be certified
24 as a class action except for settlement purposes). The Settlement Class is as defined
25 above.
26

1 4. The Court gives final approval to the settlement as fair, reasonable, and
2 adequate as to each of the Parties, and consistent and in compliance with all requirements
3 of Due Process, as to, and in the best interests of, each of the Parties and the members of
4 the Settlement Class, and directs the Parties and their counsel to implement and
5 consummate the Agreement in accordance with its terms and provisions.

6 5. The Court declares the settlement and the Final Order and Judgment to be
7 binding on, and have *res judicata* and preclusive effect in, all pending and future lawsuits
8 or other proceedings encompassed by the Release, as that term is defined in the
9 Agreement,² maintained by or on behalf of the Plaintiffs and all other members of the
10

11 ² The Agreement provides as follows:

12 44. As used in this Agreement, the term "Release" means the agreements and
13 obligations set forth in Paragraphs 44-46. As of the Effective Date of this Agreement (as defined
14 in Paragraphs 51-53), the Named Plaintiffs, and other members of the Settlement Class who have
15 not excluded themselves from the Settlement Class, hereby expressly release and discharge
16 USAA and all of their present, former, and future officers, directors, employees, members,
17 shareholders, agents, independent contractors, successors, assigns, parents, subsidiaries,
18 affiliates, insurers, attorneys, and legal representatives ("Releasees") of and from all Released
Claims (as defined in Paragraph 45) and agree that they shall not now or hereafter initiate,
maintain, or assert against the Releasees any causes of action, claims, rights, demands, and
claims for equitable, legal, and/or administrative relief connected with, arising out of, or related
to the Released Claims in any court or before any administrative body (including any state
department of insurance or other regulatory entity or organization), tribunal, arbitration panel, or
other adjudicating body.

19 (a) Without in any way limiting the scope of the Release, this Release covers,
20 without limitation, any and all claims for attorneys' fees, costs, or disbursements incurred
21 by Class Counsel or any other counsel representing the Named Plaintiffs or any members
22 of the Settlement Class, or by the Named Plaintiffs or members of the Settlement Class,
or any of them, in connection with or related in any manner to the Lawsuit, the settlement
of the Lawsuit, the administration of such settlement, and/or the Released Claims.

23 (b) The Named Plaintiffs and the Settlement Class expressly acknowledge
24 that they are familiar with principles of law such as Section 1542 of the Civil Code of the
State of California, which provides:

25 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
26 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT
TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING
THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE

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MATERIALLY AFFECTED HIS SETTLEMENT WITH THE
DEBTOR.

To the extent that California or other law may be applicable notwithstanding the choice of law provisions in the Agreement, the Named Plaintiffs and the Settlement Class knowingly and voluntarily waive and relinquish the provisions, rights, and benefits of Section 1542 of the Civil Code of the State of California and all similar applicable federal or state laws, rights, rules, or legal principles to the fullest extent permitted by law. Named Plaintiffs and the Settlement Class acknowledge that they are aware that they may later discover claims presently unknown or unsuspected or facts in addition to or different from those which they now know or believe to be true with respect to the Release Claims. Nevertheless, Named Plaintiffs and the Settlement Class acknowledge that a portion of the consideration received herein is for a release of unknown and unsuspected injuries and claims. Named Plaintiffs and the Settlement Class agree and acknowledge that this is an essential term of this Release. It is the intention of the Named Plaintiffs and the Settlement Class in executing this Release to settle and to release fully, finally, and forever all matters, known or otherwise, and all claims relating thereto, which exist, hereafter may exist, or might have existed (whether or not previously or currently asserted in any action) constituting Released Claims.

(c) Nothing in this Release shall preclude any action to enforce the terms of the Agreement, including participation in any of the processes detailed therein.

Subject to Court approval, all members of the Settlement Class who do not exclude themselves from the Settlement Class shall be bound by this Agreement, and all of their claims, as provided under this settlement Agreement, shall be dismissed with prejudice and released, even if they never received actual notice of the Lawsuit or its settlement.

45. For purposes of this Agreement, "Released Claims" include any and all claims for relief or causes of action pursuant to any theory of recovery, including but not limited to claims based in contract or tort, common law or equity, and federal, state, or local law, statute, ordinance, or regulation arising from or related to USAA's conduct, actions, omissions, transactions, and statements prior to the Effective Date of this Agreement with respect to the use of the Audit to evaluate the reasonableness of submitted charges based in whole or in part on a statistical analysis, UCR or reasonable fee recommendations, or fee recommendations based on the application of a PPO or PPN agreement determined by AIS to be applicable in the adjustment of Medpay claims. "Released Claims" include all such claims whether known or unknown, alleged or not alleged in the Lawsuit, suspected or unsuspected, contingent or matured. Released Claims includes any claim that the use by USAA in the past, present, or future of the Ingenix MDR® Payment System to evaluate the reasonableness of submitted charges was wrongful, inappropriate, or in breach of the Medpay or other policy provisions.

46. Health care provider Settlement Class members, on behalf of themselves and their past, present, or future partners, officers, directors, agents, affiliates, heirs, and assigns, release and discharge each insured Settlement Class member from whom the health care providers received valid assignments of the Medpay claims, as well as that insured Settlement Class member's heirs, representatives, assigns, and any others liable for payment of his or her health care bills, from liability for any and all amounts remaining due for any health care services or supplies that are within the Released Claims. For all claims for which they have received a valid

1 Settlement Class, as well as their heirs, executors and administrators, successors, and
2 assigns.

3 6. The Court finds that the Mailed Notice, the Notice to Health Care
4 Providers, Published Notice, and the notice methodology implemented pursuant to the
5 settlement (i) constitute the best practical notice; (ii) constitute notice that is reasonably
6 calculated, under the circumstances, to apprise members of the Settlement Class of the
7 pendency of this action, their right to object or to exclude themselves from the proposed
8 settlement and to appear at the Final Approval Hearing, and their right to seek monetary
9 and other relief; (iii) are reasonable and constitute due, adequate, and sufficient notice to
10 all persons entitled to receive notice; and (iv) meet all applicable requirements of Due
11 Process.

12 7. The Court finds that Class Counsel and Plaintiffs adequately represented
13 the Settlement Class for the purpose of entering into and implementing the settlement.

14 8. The Court dismisses this action (including all individual and class claims
15 presented thereby) on the merits as to USAA and with prejudice and without fees or costs
16 except as provided herein.

17 9. The Court adjudges that Plaintiffs and the Settlement Class have
18 conclusively compromised, settled, discharged, dismissed, and released any and all
19 Released Claims, as that term is defined in the Agreement,³ against USAA.

20
21 assignment from insured Settlement Class Members and that are within the Released Claims,
22 health care provider Settlement Class members, on behalf of themselves and their past, present,
23 or future partners, officers, directors, agents, affiliates, heirs, and assigns, agree to release all
24 liens or other claims that they may or could have asserted for such claims, to dismiss with
25 prejudice all collection actions, suits, arbitrations, or other legal proceedings that involve or
26 include any such claims, and to refrain from attempting in the future to assert any such claim
against any insured Settlement Class member or other person or entity, whether or not the health
care provider has been paid in full for that charge. Notwithstanding the foregoing, this release
does not release balance billing by health care provider Settlement Class members of claims of
patients for payment for services to the extent that payment was denied or reduced based on the
insured's claim having exceeded the policy limits.

3 See footnote 2.

1 10. USAA shall make the payments to the Settlement Class members in
2 accordance with the terms of the Agreement.

3 11. For a period beginning on the Effective Date, as defined in Paragraphs 51-
4 53 of the Agreement, and extending two years after that date, but only for so long as
5 USAA offers its Medpay coverages in their current form(s), and, to the extent allowed by
6 state law and applicable insurance regulations, USAA shall pay or reimburse a health
7 care provider's submitted charge for a covered treatment under Medpay coverage
8 (subject to applicable policy limits):

9 (a) in accordance with an applicable state law, regulation, or fee
10 schedule or at the amount authorized or mandated by a state law, regulation, or fee
11 schedule;

12 (b) if there is no applicable state law, regulation, or fee schedule at the
13 amount authorized by a written PPN, PPO, or other pre-service agreement to
14 which the health care provider is a party; or

15 (c) if there is no applicable state law, regulation, or written PPN, PPO,
16 or other pre-service agreement to which the health care provider is a party, at the
17 lowest of:

18 (i) the amount determined by use of the 80th percentile
19 conversion factor of the Ingenix MDR® Payment System for the same
20 procedure or CPT code in the applicable geographic area in which the
21 service was provided (the "Fee Amount"),

22 (ii) the amount otherwise negotiated with the provider after the
23 service has been rendered, or

24 (ii) the charged amount.

25 In those circumstances in which there has been an appeal by an insured or a health
26 care provider or in which there is a dispute or litigation between USAA and an insured or

1 health care provider, USAA and the insured and/or health care provider may agree to an
2 amount of payment without regard to the foregoing. USAA may, in its discretion, pay
3 more than the lowest of the above applicable amounts in order to resolve a claim.

4 12. The Court finds that payments in accordance with Paragraph 34 of the
5 Agreement are not a violation of any law or any provision of the insurance policies
6 containing Medpay coverage.

7 13. The Court finds that USAA's use of a medical/fee review Audit ("Audit")
8 is reasonable, appropriate, and serves legitimate purposes for both USAA and its
9 insureds, including the reduction of health care billing fraud, the identification of billing
10 errors and duplicate billing, the identification of potentially excessive or inappropriate
11 charges, and the preservation of insureds' benefits which can be unnecessarily expended
12 when claims are overpaid.

13 14. For a period beginning on the Effective Date and extending two years after
14 that date, to the extent allowed by state law and applicable insurance regulations, USAA
15 may:

16 (a) continue to use an Audit to evaluate and to process bills and charges
17 for health care services provided to insureds in the resolution of claims for
18 Medpay coverage by those insureds; and

19 (b) continue to reimburse charges based upon the amount authorized by
20 a written PPN, PPO, or other pre-service agreement to which the health care
21 provider is a party.

22 15. For a period beginning on the Effective Date and extending two years after
23 that date, to the extent allowed by state law and applicable insurance regulations, USAA
24 shall have a process in place, for so long as USAA uses an Audit and/or accesses a PPO
25 or PPN in a particular state, to provide notice in those states to policyholders (1) by
26 written notice, delivered with the initial automobile policy issued with Medpay coverage,

1 (2) by written notice provided to existing policyholders upon renewal of automobile
2 policies with Medpay coverage, beginning with renewals occurring six months after the
3 Effective Date, and (3) on USAA's Website at www.usaa.com, as follows:

4 (a) that a provider of health care services may charge the insured more
5 than the limits of the policy's defined terms for reimbursement of fees or charges
6 pursuant to the Medpay coverage and that USAA's Medpay coverage may not
7 cover the full billed amount of fees and charges for covered health care services;

8 (b) that USAA uses an Audit, consistent with the applicable policy
9 language, to assist it in the review of health care charges submitted for payment to
10 evaluate the reasonableness of the fee charged or to determine the amount that will
11 be paid for the submitted charge pursuant to the benefit provided in the policy;

12 (c) as long as USAA offers Medpay coverages in their current form(s),
13 that USAA will pay or reimburse a health care provider's submitted charge for a
14 covered treatment under Medpay coverage (subject to applicable policy limits): (i)
15 in accordance with an applicable state law, regulation, or fee schedule or at the
16 amount authorized or mandated by a state fee schedule; (ii) if there is no
17 applicable state law, regulation, or fee schedule at the amount authorized by a
18 written PPN, PPO, or other pre-service agreement to which the health care
19 provider is a party; or (iii) if there is no applicable state law, regulation, or fee
20 schedule or written PPN, PPO, or other pre-service agreement to which the health
21 care provider is a party, at the lowest of: (A) the Fee Amount, (B) the amount
22 otherwise negotiated with the provider after the services have been rendered, or
23 (C) the charged amount. USAA may, in its discretion, pay more than the lowest of
24 the above applicable amounts in order to resolve a claim.

25 16. For a period beginning on the Effective Date and extending two years after
26 that date, USAA shall have in place a process, upon receipt from the health care provider

1 of the first bill for treatment of the insured, to notify the health care providers who
2 submit bills for payment under Medpay coverage that, as applicable:

3 (a) health care treatment and charges submitted for payment under that
4 coverage may be reviewed through the use of an Audit to assist USAA in
5 analyzing whether the charge is payable under the Medpay policy provisions;

6 (b) USAA has determined that the provider's charges are covered by a
7 PPN, PPO, or other pre-service arrangement between the provider and the USAA
8 audit vendor; and/or

9 (c) as long as USAA offers Medpay coverages in their current form(s),
10 USAA will pay or reimburse a health care provider's submitted charge for a
11 covered treatment under Medpay coverage (subject to applicable policy limits): (i)
12 in accordance with an applicable state law, regulation, or fee schedule or at the
13 amount authorized or mandated by a state fee schedule; (ii) if there is no
14 applicable state law, regulation, or fee schedule at the amount authorized by a
15 written PPN, PPO, or other pre-service agreement to which the health care
16 provider is a party; or (iii) if there is no applicable state law, regulation, or written
17 PPN, PPO, or other pre-service agreement to which the health care provider is a
18 party, at the lowest of: (A) the Fee Amount, (B) the amount otherwise negotiated
19 with the provider after the services have been rendered, or (C) the charged
20 amount.

21 17. For a period beginning on the Effective Date and extending two years after
22 that date, USAA shall have in place a process to provide reasonable notification to
23 insureds and health care providers for Medpay coverage in the Explanation of Benefits or
24 Explanation of Reimbursement forms of the basis for paying less than the charged
25 amount for a health care service, including as examples of reasonable notification the
26 following Reason Code descriptions:

1
2 • It has been determined that the submitted charge exceeds a
3 reasonable charge for the service provided in the same or similar
4 geographic region. If you do not accept the amount stated on this EOR as
5 payment in full for this line item, please submit further documentation or
6 explanation to support the reasonableness of the charge submitted by you
7 for payment.

8 • This reimbursement amount is based upon an agreement between the
9 service provider and the USAA audit vendor or other entity which has
10 contracted with that vendor by which the service provider has agreed to
11 accept the amount reflected as reimbursement for the line item as payment
12 in full for that service provided. If you do not agree that the charge is
13 subject to any type of contractual reimbursement agreement that would
14 benefit USAA insureds, please immediately notify USAA.

15 • This payment/reimbursement amount is based upon the amount that
16 the health care provider has agreed to accept for services on this procedure
17 with respect to this claim. The medical provider has agreed that the patient
18 will not be balance billed for the procedure.

19 18. The Court finds that an award of attorneys' fees to Class Counsel is
20 appropriate and approves the payment of attorneys' fees, costs, and expenses to Class
21 Counsel in the amount of _____ ("Attorney' Fee Award"). The Attorneys' Fees
22 Award will be paid to Class Counsel by USAA in accordance with the terms of the
23 Agreement. The Attorneys' Fees Award shall be paid within 30 days of the Effective
24 Date of this Settlement (as defined in the Agreement). The Court also approves payment
25 of incentive awards, to be paid solely out of the Attorneys' Fees Award, to each Named
26 Plaintiff in the amount of \$2,000.

19 19. Without affecting the finality of this Final Order and Judgment for purposes
20 of appeal, the Court reserves jurisdiction over USAA, the Named Plaintiffs, and the
21 Settlement Class as to all matters relating to the administration, consummation,
22 enforcement, and interpretation of the terms of the settlement, the Agreement, and this
23 Final Order and Judgment, and for any other necessary purposes.

24 20. Upon the Effective Date, the Plaintiffs and all members of the Settlement
25 Class who have not timely excluded themselves from the Settlement Class, whether or
26

1 not they return a claim form within the time and in the manner provided for, shall be
2 barred from asserting any Released Claim against USAA, and any such members of the
3 Settlement Class shall have released any and all Released Claim as against USAA.

4 21. The Court determines that the settlement, the Agreement and any
5 proceedings taken pursuant thereto, are not, and should not in any event be offered or
6 received as evidence of, a presumption, concession, or an admission of liability or of any
7 misrepresentation or omission in any statement or written document approved or made by
8 USAA; provided, however, that reference may be made to the Agreement and/or the
9 settlement provided herein in such proceedings as may be necessary to effectuate the
10 provisions of the settlement.

11 22. The Court bars and enjoins all members of the Settlement Class who have
12 not timely excluded themselves from the Settlement Class from (i) from filing,
13 commencing, prosecuting, intervening in, or participating as plaintiff, claimant, or class
14 member in any other lawsuit or administrative, regulatory, arbitration, or other
15 proceeding against USAA in any jurisdiction based on, relating to, or arising out of the
16 claims and causes of action, or the facts and circumstances, in the Lawsuit and/or the
17 Released Claims; (ii) from filing, commencing, or prosecuting a lawsuit or
18 administrative, regulatory, arbitration, or other proceeding against USAA as a class
19 action on behalf of any members of the Settlement Class who have not timely excluded
20 themselves (including by seeking to amend a pending complaint to include class
21 allegations or seeking class certification in a pending action), based on, relating to, or
22 arising out of the claims and causes of action, or the facts and circumstances, in the
23 Lawsuit and/or the Released Claims; and (iii) from attempting to effect an opt-out of a
24 class of individuals in any lawsuit or administrative, regulatory, arbitration, or, other
25 proceeding against USAA based on, relating to, or arising out of the claims and causes of
26 action, or the facts and circumstances, in this lawsuit and/or the Released Claims.

1 23. The Court approves the Opt-Out List Attached hereto as Exhibit 1, and
2 determines that the Opt-Out List is a complete list to date of all Settlement Class
3 members who have timely requested exclusion from the Settlement Class and
4 accordingly, shall neither share in nor be bound by the Final Order and Judgment.

5 24. In the event that the settlement does not become effective in accordance
6 with the terms of the Settlement Agreement, then the Settlement Agreement, this Final
7 Order and Judgment, and other terms herein including the certification of the Settlement
8 Class shall be rendered null and void and be vacated.

9
10 Dated: _____

Honorable David G. Campbell
United States District Court Judge