

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: AMERICAN MEDICAL SYSTEMS, INC., PELVIC
REPAIR SYSTEM PRODUCTS LIABILITY
LITIGATION

MDL NO. 2325

**PRETRIAL ORDER # 285
QUALIFIED PROTECTIVE ORDER**

Cutter Law, P.C. (hereinafter, "Plaintiffs' Counsel"), as counsel for certain plaintiffs in *In Re: American Medical Systems, Inc., Pelvic Repair System Products Liability Litigation, MDL 2325 (S.D. W.Va.)*, have filed an Unopposed Motion requesting entry of an Order to aid in the resolution of liens asserted by Federal Medicare (part A and Part B), Medicare Advantage plans, Medicare cost plans, Medicare health care prepayment plans, each State and/or Territory Medicaid Agency, the U.S. Department of Veterans' Affairs, the U.S. Department of Defense, TRICARE, and Indian Health Services (collectively "Governmental Third-Party Payors") and liens asserted by other healthcare plans (collectively, "Private Third-Party Payors/Providers"), against the settling Claimants, who are listed in Exhibit A of the Confidential Master Settlement Agreement (the "MSA"). The Motion seeks entry of an Order compliant with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Pub.L. 104-191, 42 CFR § 431 Subpart F, titled "Safeguarding Information on Applicants and Recipients," and other applicable privacy laws is necessary to permit Governmental Third-Party Payors and Private Third-Party Payors/Providers to transmit certain protected health information of the Claimants directly to: ARCHER Systems, LLC (the "Administrator"), to assist in the resolution of the Governmental Third-Party Payors and Private Third-Party Payors/Providers interests.

The Court, having reviewed the Motion and finding that receipt of certain information maintained by Governmental Third-Party Payors and/or Private Third-Party Payors/Providers

asserting a potential lien against recovery from the Qualified Settlement Fund (“QSF”), will aid the Administrator in the resolution of such liens as set forth in the MSA, hereby **FINDS** and **ORDERS** as follows:

1. The Motion [ECF No. 7510] is **GRANTED**.
2. This Order shall apply to all “protected health information” and “individually identifiable health information,” as defined by 45 CFR §160.103, or information that is otherwise protected from disclosure by the Privacy Act, 5 U.S.C. §551a, HIPAA, Pub.L 104191, 42 CFR § 431 Subpart F, titled “Safeguarding Information on Applicants and Recipients,” and other applicable state law, created, received or collected from Governmental Third-Party Payors and/or Private Third-Party Payors/Providers, including, but not limited to: (a) names and addresses, dates of birth, social security numbers, identification numbers and other demographic information that identifies, or could be used to identify, eligible Claimants; (b) eligibility and entitlement information of Claimants; (c) claims information relating to the past, present, or future healthcare of Claimants; (d) claims information relating to the provision of healthcare to Claimants; and (e) claims information relating to the past, present, or future payment for the provision of healthcare to Claimants.
3. Governmental Third-Party Payors and Private Third-Party Payors/Providers may disclose to the Administrator, and the Administrator is duly authorized to receive, Governmental Third-Party Payors’ claims, Private Third-Party Payors/Providers’ claims and other protected health information for those Claimants in accordance with 45 CFR § 164.506(c)(4)(ii), “[u]ses and disclosures to carry out treatment, payment or healthcare operations” and any other applicable state law.

4. To assist in the resolution of any Governmental Third-Party Payors' and/or Private Third-Party Payors/Providers' interests, the Governmental Third-Party Payors and Private Third-Party Payors/Providers are hereby authorized and directed to transmit to the Administrator any and all information, including Governmental Third-Party Payors' and Private Third-Party Payors/Providers' claims information and other protected health information, for those Claimants in the above-captioned matters against whom they have asserted liens or reimbursement claims.

5. The Administrator is authorized to provide a list of Claimants to the Governmental Third-Party Payors that have been identified as a potential lien holder of respective Claimants (collectively, "the Lists").

6. The Administrator shall not use or disclose any protected health information or individually identifiable health information subject to this Order for any purpose other than this litigation and the performance of its duties. Similarly, each of the Governmental Third-Party Payors shall only use the Lists for the specific purposes identified in this Order. Each of the Governmental Third-Party Payors shall only make the Lists available to those within its respective agency or organization who need access to the Lists for the specific purpose stated in this paragraph. If any of the Governmental Third-Party Payors identified in this Order utilizes outside vendors or companies to perform part or all of its tort recovery practices, those outside vendors or companies shall be expressly bound by all terms and conditions of this Order.

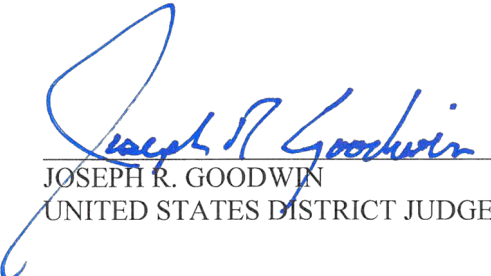
7. The Administrator shall maintain any protected health information or individually identifiable health information subject to this Order in a secure and safe area and shall exercise the standard of due and proper care with respect to the storage, custody, use, and/or

dissemination of such protected health information required by HIPAA and other applicable privacy laws.

8. At the conclusion of this settlement, the Administrator shall certify to the Governmental Third-Party Payors and/or Private Third-Party Payors/Providers that the protected health information or individually identifiable health information, including all copies made, has been destroyed.

The Court **DIRECTS** the Clerk to file a copy of this Order in 2:12-md-2325 and it shall apply to each Claimant-related case previously transferred to, removed to, or filed in this district *where applicable*, which includes counsel in all claimants' cases and as set forth in the MSA.

SO ORDERED THIS 9th day of September 2019.


JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE