

STATE OF NEW YORK

OFFICE OF THE ATTORNEY GENERAL LETITIA JAMES

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In the Matter of:

Divine Hearts Transportation LLC, and
Illyasu Haruna a/k/a Randy Haruna

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SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Agreement”) is entered into among the State of New York (the “State”) by the Office of the Attorney General, through the Medicaid Fraud Control Unit (“MFCU”), and Divine Hearts Transportation, LLC (referred to hereafter as “Divine Hearts”) and Illyasu Haruna a/k/a Randy Haruna (referred to hereafter as “Haruna”).

The State, Divine Hearts, and Haruna shall be collectively referred to as the “Parties.”

WHEREAS, Divine Hearts, a New York Domestic Business Corporation incorporated in 2016 under the laws of the State of New York, had a principal place of business located at 1089 Kinkead Avenue, North Tonawanda, New York 14120;

WHEREAS, New York State’s Medical Assistance Program (“Medicaid Program” or “Medicaid”), 42 U.S.C. §§ 1396 *et seq.*, reimburses enrolled transportation providers for services rendered to beneficiaries of the program, including services reimbursed directly by the New York State Department of Health (“DOH”) on a fee-for-service basis;

WHEREAS, at all relevant times, Divine Hearts was a medical transportation company owned and operated by Haruna, and was enrolled in Medicaid Program under MMIS No. 04679329;

WHEREAS, Haruna, at all times relevant to this Agreement, was the sole owner and operator of Divine Hearts and responsible for all of the management and financial decisions of

Divine Hearts, including, but not limited to, decisions related to providing Medicaid recipients with transportation services, submitting claims to Medicaid for such transportation services, and receiving payment from Medicaid based upon the claims submitted;

WHEREAS, from April 24, 2017, through March 31, 2018 (hereinafter the “Relevant Period”), Divine Hearts and Haruna provided Medicaid recipients with transportation services related to medical services paid for by Medicaid;

WHEREAS, during the Relevant Period, Divine Hearts, acting by and through Haruna, presented and caused to be presented claims for reimbursement to Medicaid and received Medicaid payments thereon for transportation services provided to Medicaid recipients related to medical services paid for by Medicaid;

WHEREAS, during the Relevant Period, Haruna executed annual statements, in his capacity as owner and high managerial agent of Divine Hearts, entitled “*Certification Statement for Provider Billing Medicaid*” (“Certification Statements”), and then filed them with the State’s Medicaid Fiscal Agent, pursuant to 18 NYCRR §§ 504.1(a)(1) and 504.9, certifying that all claims that Divine Hearts and Haruna submitted for payment to Medicaid were for the reimbursement of services rendered in full compliance with the pertinent provisions of the eMedNY Provider Manual and all revisions thereto, and that Divine Hearts and Haruna understood and agreed that each of them shall be subject to and bound by all rules, regulations, policies, standards, fee codes and procedures of DOH and the Office of the Medicaid Inspector General (“OMIG”), as set forth in statute or title 18 of the Official Compilation of Codes, Rules and Regulations of New York State and other publications of the Department, including eMedNY Provider Manuals and other official bulletins of DOH;

WHEREAS, MFCU conducted an investigation of Medicaid claims for reimbursement filed by Divine Hearts and Haruna with DOH and determined that Divine Hearts and Haruna engaged in the following conduct, which is hereinafter referred to as the “Covered Conduct”: Between April 24, 2017 and March 31, 2018, Divine Hearts and Haruna submitted claims for payment to the Medicaid Program for transports of New York Medicaid recipients that did not actually take place, and for transports of New York Medicaid recipients who were not picked up and/or dropped off at the addresses stated in the claims; and in reliance on those false claims, the State’s Medicaid Program issued payments to Divine Hearts and Haruna to which they were not entitled;

WHEREAS, as a result of the Covered Conduct, Divine Hearts and Haruna received payments from the Medicaid Program in excess of what they were entitled to be paid, causing the State to suffer damages of at least the amount to be repaid under this Agreement;

WHEREAS, in connection with the above-described investigation, and under existing administrative claims withholding procedures, certain Medicaid payments due to Divine Hearts and Haruna were withheld pursuant to 18 NYCRR §§ 504.8 (d) and 518.7; 42 CFR § 455.23; NY Public Health Law §§ 31, 32; and NY Social Services Law § 363-a (“Withhold”), and the amount under Withhold (“Withhold Amount”) is being held in escrow by the New York State Office of the State Comptroller and DOH;

WHEREAS, the current Withhold Amount totals Two Hundred Twenty Seven Thousand Ten Dollars and Thirty Four Cents (\$227,010.34); and

WHEREAS, Divine Hearts and Haruna wish to resolve their civil liability for the Covered Conduct.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, the Parties agree as follows:

1. Divine Hearts and Haruna admit, acknowledge, and accept responsibility for the Covered Conduct.
2. As repayment to the State for the Covered Conduct, Divine Hearts and Haruna shall pay to the State a total of Two Hundred Twenty-Seven Thousand Ten Dollars and Thirty-Four cents (\$227,010.34) (the “Settlement Amount”), as follows:
 - a. Haruna individually and as owner and high managerial agent of Divine Hearts, consents to the transfer and payment to the State of the entire Withhold Amount, in satisfaction of the Settlement Amount, and further waives any and all right, title, or interest that he and Divine Hearts have to the Withhold Amount;
 - b. MFCU will request that DOH transfer the Withhold Amount to MFCU as soon as practicable pursuant to this Agreement, and Haruna agrees to cooperate with MFCU, OMIG, and other representatives of the State, including by, but not limited to, executing any documents necessary to effectuate the transfer of the Withhold Amount to MFCU;
 - c. All Withhold funds transferred and paid to the State shall be applied and credited toward payment of the Settlement Amount, and will comprise the final payment pursuant to the terms of this Agreement;
 - d. If any Withhold funds are transferred or paid by DOH directly to Haruna and/or Divine Hearts before full payment of the Settlement Amount, Haruna agrees to notify the State immediately and to remit all Withhold funds received to MFCU by wire transfer within five (5) business days of the receipt of such Withhold funds. Once received by MFCU,

these funds will be credited and applied toward payment of the Settlement Amount pursuant to the terms of this Agreement.

3. The entirety of the Settlement Amount constitutes restitution.

4. Subject to the provisions of Paragraph 5 (concerning excluded claims) below, and conditioned upon the State's receipt of the Settlement Amount, the State releases Divine Hearts and Haruna and all of their predecessors, successors, members, assigns, and corporations under Divine Hearts and Haruna's control from any civil monetary cause of action that the State has for the Covered Conduct under the New York Executive Law § 63-c and the common law theories of payment by unjust enrichment, fraud, and breach of contract.

5. Notwithstanding the releases given in Paragraph 4 of this Agreement, or any other term of this Agreement, the State specifically does not release any person or entity from any of the following liabilities:

- a. Any civil, criminal or administrative liability arising under state tax laws;
- b. Any administrative liability, including mandatory or permissive exclusion from the State's Medicaid Program;
- c. Any civil or administrative liability that Divine Hearts and/or Haruna may have to the State or to individual consumers or State program payors under any statute, regulation or rule not expressly covered by the releases in Paragraph 4 above, including but not limited to, any and all claims involving unfair and/or deceptive acts and practices and/or violations of consumer protection laws;
- d. Any liability to the State (or its agencies) for any conduct other than the Covered Conduct;

- e. Any liability for personal injury, patient abuse, or neglect arising from the Covered Conduct;
- f. Any liability of individuals, except Haruna for the Covered Conduct;
- g. Any liability that may be asserted by or on behalf of any payor or insurer paid by the State's Medicaid program on a capitated basis, other than liability of Divine Hearts and Haruna to the State for the Covered Conduct; and
- h. Any liability based upon obligations created by this Agreement.

6. Divine Hearts and Haruna, including any and all predecessors, successors, and members, together with their current and former officers, directors, trustees, servants, employees, and assigns, fully and finally release the State, its agencies, officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that Divine Hearts and Haruna have asserted, could have asserted, or may assert in the future against the State, its agencies, officers, agents, employees, and servants, related to the Covered Conduct, and the State's investigation and prosecution thereof.

7. The Parties acknowledge that a primary purpose of this Agreement is to promote compliance with the statutes, regulations, and written directives of the Medicaid Program. To further that objective, Divine Hearts and Haruna acknowledge that they have reviewed and are required to comply with the rules and regulations of the Medicaid Program, including but not limited to, those applicable to transportation providers as set forth in 18 NYCRR § 505.10 and the New York State Medicaid Program Transportation Manual Policy Guidelines and Medicaid Updates, as well as Social Services Law § 363-D, which requires that Medicaid providers (as defined in Social Services Law § 363-D(4))

adopt and implement an effective compliance program. Divine Hearts and Haruna further agree that they shall not engage, or attempt to engage, in violations of any applicable law, regulation, or Medicaid guidelines, including but not limited to 18 NYCRR § 515.2 and 18 NYCRR §§ 504.3, 517.3(b), 505.10(e)(4), 510.10(6)(iii), and those provisions of the Transportation Manual Policy Guidelines governing the submission of claims for reimbursement for mileage incurred, tolls incurred, and group rides. Divine Hearts and Haruna further acknowledge that they will fully and promptly cooperate with MFCU with respect to any investigation by MFCU, and/or related proceedings and actions, including but not limited to, producing requested documentation. Divine Hearts and Haruna further acknowledge that, should they engage in the conduct described in the Covered Conduct above, or otherwise engage in conduct violative of the laws, rules and regulations referenced in this paragraph, they may be subject to criminal prosecution.

8. Divine Hearts and Haruna agree not to submit any further claims or to resubmit to any State payor any previously denied claims or cause any further claims or adjustments to be submitted or resubmitted, related to the Covered Conduct, and agree not to appeal any such denials of claims.

9. Divine Hearts and Haruna agree to voluntarily terminate the participation of Divine Hearts and Haruna in Medicaid by letter on or before the Effective Date of this Agreement, pursuant to 18 NYCRR § 504.7(a). This is a voluntary agreement; not an exclusion from Medicaid under 42 C.F.R. Part 1002 or under 18 NYCRR §§ 504.7(b) or (d).

10. Divine Hearts and Haruna agree to the following:

- a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 CFR § 31.205-47; and in Titles XVIII and XIX of the Social Security Act, 42 USC

§§ 1395-1395lll and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Divine Hearts and Haruna or any of their present or former officers, directors, trustees, employees, shareholders, and agents in connection with:

- i. the matters covered by this Agreement;
 - ii. the State's civil and any criminal investigation(s) of the matters covered by this Agreement;
 - iii. Divine Hearts and Haruna's investigation, defense, and corrective actions undertaken in response to the State's civil and any criminal investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);
 - iv. the negotiation and performance of this Agreement; and
 - v. the payments Divine Hearts and Haruna make relating to this Agreement including costs and attorney's fees, are unallowable costs for government contracting purposes and under the Medicaid Program (hereinafter referred to as "Unallowable Costs").
- b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for in non-reimbursable cost centers by Divine Hearts and Haruna and Divine Hearts and Haruna shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States or any State Medicaid program, or seek payment for such Unallowable Costs through any Consolidated Fiscal Report ("CFR"), cost report, cost statement, information statement, or payment request submitted by either Divine Hearts and/or Haruna or any affiliates to the Medicaid Programs.

- c. Treatment of Unallowable Costs Previously Submitted for Payment: Divine Hearts and/or Haruna further agree that within 90 days of the Effective Date of this Agreement they shall identify to applicable Medicaid fiscal agents any Unallowable Costs (as defined in Paragraph 10(a)) included in payments previously sought from any State Medicaid program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by Divine Hearts and/or Haruna or any affiliates, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the Unallowable Costs. Divine Hearts and Haruna agree that the State, at a minimum, shall be entitled to recoup from Divine Hearts and Haruna any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously submitted cost reports, information reports, cost statements, appeals, or requests for payment. Any payments due after the adjustments have been made shall be paid to the State. The State reserves its rights to disagree with any calculations submitted by Divine Hearts and Haruna or any of their affiliates on the effect of inclusion of Unallowable Costs (as defined in this Paragraph) on Divine Hearts and Haruna or any of their affiliates' CFRs, cost reports, cost statements, or information reports, appeals, or other payment requests.
- d. Nothing in this Agreement shall constitute a waiver of the rights of the State to audit, examine, or re-examine the books and records of Divine Hearts and Haruna to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph.

11. Divine Hearts and Haruna agree that they waive and shall not seek payment for any of the health care billings covered by this Agreement from any individual health care beneficiaries or their parents, sponsors, legally responsible individuals, or third-party payors based upon the claims defined as Covered Conduct.

12. Divine Hearts and Haruna will not submit any insurance claims for the Covered Conduct.

13. Divine Hearts and Haruna waive and shall not assert any defenses they may have to any criminal prosecution or administrative action relating to the Covered Conduct, based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

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

15. Nothing in this Agreement constitutes an agreement by the State concerning the characterization of any relevant statutes or regulations, and the Agreement shall not be construed as an admission by the State as to any contested issue encompassed by the State's investigation.

16. This Agreement is binding upon all Parties and upon the assigns, transferees, purchasers and any successors-in-interest of Divine Hearts and Haruna.

17. This Agreement constitutes the complete and full agreement reached by the Parties with regard to civil financial liability relating to the Covered Conduct, and it may

not be changed in any respect, except by a writing duly executed by the Parties or their authorized representatives.

18. Divine Hearts and Haruna waive any claim for any tax rebate or refund, or other governmental payment, from the State, until the Settlement Amount is satisfied. In the State's sole discretion, the State may recoup or offset any such payment without further notice to Divine Hearts and Haruna for credit toward the Settlement Amount.

19. No provision of this Agreement constitutes an agreement by the State concerning the characterization of the Settlement Amount for purposes of New York Tax Law. Divine Hearts and Haruna shall not deduct or discharge the Settlement Amount as part of their New York State tax obligations.

20. Divine Hearts and Haruna will not submit any insurance claims for the Covered Conduct.

21. Divine Hearts and Haruna agree not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in this Agreement or creating the impression that this Agreement is without factual basis. Nothing in this Paragraph affects Divine Hearts and Haruna's (a) testimonial obligations or (b) right to take contrary legal or factual positions in defense of litigation or other proceedings to which the State is not a party.

22. This Agreement shall be deemed to have been mutually prepared by the Parties hereto and shall not be construed against any of them solely by reason of authorship.

23. Divine Hearts and Haruna acknowledge that they have entered this Agreement freely, voluntarily, and upon due deliberation, with the advice of counsel and without coercion or duress.

24. The effective date of this Agreement shall be the date of the signature of the last signatory to this Agreement (“Effective Date”).

25. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York without regard to choice of law or conflict of laws principles. The Parties consent to the jurisdiction of the Supreme Court of the State of New York, Erie County, in any action brought by the State to enforce or interpret this Agreement.

26. Any failure by the State to insist upon the strict performance of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions hereof, and the State, notwithstanding that failure, shall have the right thereafter to insist upon strict performance of any and all of the provisions of this Agreement.

27. Any notices pursuant to this Agreement shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery or express courier, followed by postage-prepaid mail, and shall be addressed as follows:

IF TO THE ATTORNEY GENERAL and the STATE:

New York State Attorney General
Medicaid Fraud Control Unit
350 Main Street, Suite 300B
Buffalo, New York 14202
MFCUNotices@ag.ny.gov

IF TO DIVINE HEARTS and HARUNA

James C. Roscetti, Esq.
Roscetti and DeCastro, P.C.
730 Main Street
Niagara Falls, New York 14301
jcroscetti@gmail.com

28. All payments due to the State hereunder shall be made by wire transfer in

accordance with instructions to be provided by MFCU.

29. The undersigned represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

30. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same Agreement.

31. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

WHEREFORE, the Parties have read the foregoing Agreement and accept and agree to the provisions contained herein and hereby have caused this Agreement to be signed as of the day and date adjacent to their signature.

THE STATE OF NEW YORK

LETITIA JAMES

Attorney General of the State of New York




Dated: March 31, 2025

By:

Amanda L. Raimondi
Special Assistant Attorney General
Medicaid Fraud Control Unit
350 Main Street, Suite 300B
Buffalo, New York 14202
(716) 853-8500
Email: Amanda.Raimondi@ag.ny.gov

ILLYASU HARUNA A/K/A RANDY HARUNA, Individually and as owner/operator as Divine Hearts Transportation, LLC

Dated: 17, march, 2025



Illyasu Haruna a/k/a
Randy Haruna

STATE OF FLORIDA



MARIBEL CABRERA
Notary Public
State of Florida
Comm# HH614697
Expires 2/19/2029

COUNTY OF HILLSBOROUGH ss.:

On 17 march, 2025, before me personally came Illyasu Haruna a/k/a Randy Haruna to me known, who being by me duly sworn, did depose and say that he resides in Hillsborough County, Florida; that he is the sole owner and operator of Divine Hearts Transportation, LLC the corporation which is described in, and which executed the above instrument; and that he is duly authorized to sign his name thereto and did so in such capacity.



NOTARY PUBLIC

APPROVED AS TO FORM BY:

Dated: 3/20, 2025

By:


Roscetti and DeCastro, P.C.

James C. Roscetti
730 Main Street
Niagara Falls, New York 14301

Counsel for Illyasu Haruna a/k/a Randy Haruna, individually, and Divine Hearts Transportation LLC