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April 20, 2023

By ECF

The Honorable Alfred H. Bennett
Bob Casey United States Courthouse
515 Rusk, Room 8624
Houston, Texas 77002

Re: *Guardian Flight, LLC v. Aetna Health, Inc. et al.*, Civil Action No. 4:22-cv-03805;
Notice of Aetna's Attempts to Pay the Claim

Dear Judge Bennett:

The actual controversy in this case involves a relatively small amount. After multiple efforts by Aetna to try to resolve the matter, Aetna has advised Guardian Flight that it will pay the entire disputed amount of \$24,776.67 without any admission of liability. Rather, Aetna does so to avoid further expense to the parties or burden on the Court. This amount is the difference between the Qualifying Payment Amount ("QPA") selected by the arbitrator (\$31,965.53) and the proposed out-of-network rate Guardian Flight argued to the arbitrator it is owed for the air-ambulance flight at issue (\$56,742.20).¹ However, in order to issue the payment, Aetna needs the Guardian Flight's W-9. Guardian Flight's counsel refuses to provide the W-9 so that Aetna can effectuate payment. Payment would moot Guardian Flight's claim, as Guardian Flight would have no basis to demand the Court vacate the underlying arbitration award and re-submit the parties' dispute to the NSA's Independent Dispute Resolution ("IDR") process. Of note, were Guardian Flight's claim moot, there would be no need for the hearing scheduled for Friday, April 21, 2023.

I. Payment in Full Moots Guardian Flight's Claim.

A. Aetna

As explained in Aetna's motion to dismiss ("MTD"), IDR arbitration is "baseball style," meaning the "provider and insurer each submits a proposed payment amount and explanation to the arbitrator," and the arbitrator "must select one of the two proposed payment amounts." *Tex. Med. Ass'n v. United States HHS*, 587 F. Supp. 3d 528, 534 (E.D. Tex. 2022). Thus, it follows that, were the Court to vacate the IDR award, Guardian Flight would submit the same proposed out-of-network rate (\$56,742.20) to the IDR arbitrator as it did on the first go-round. In other

¹ Aetna has already paid \$31,965.53.

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words, Guardian Flight’s proposed out-of-network rate—which concerns an air-ambulance flight that took place on February 18, 2022—is locked in. So, under the baseball-style IDR arbitration, Aetna’s proposed payment is the full amount that Guardian could ever hope to recover.²

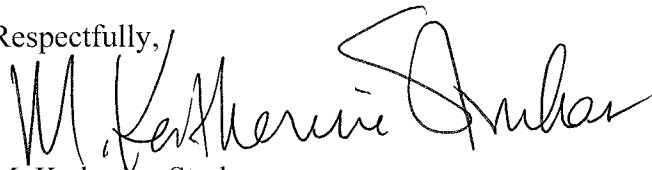
B. Medical Evaluators of Texas ASO, LLC (“MET”)

Guardian Flight has also pleaded a claim against MET, though the legal underpinning of that claim is debatable. *See* Dkt. 30 at 8–9; *see also* Dkt. 8 (MET’s motion to dismiss). Regardless, in response to MET’s motion to dismiss, Guardian Flight explained that MET is a necessary party *only* because, should the Court vacate the underlying IDR award, “nothing in the NSA or its regulations” requires that MET rehear the parties’ dispute. Dkt. 15 at 17. Here, the salient fact is that full payment by Guardian Flight means there is no possibility for a rehearing.

II. Aetna Brings this to the Court’s Attention to Avoid Wasting Judicial Resources.

The Court set a hearing on Guardian Flight’s and MET’s motions to dismiss (Dkt. 8 and Dkt. 10) at 10:00 a.m. on Friday, April 21, 2023. In the interest of conserving judicial resources—not to mention the parties’ and their clients’ resources—Aetna believes that it is necessary to alert the Court that Guardian Flight’s claim is, for all intents and purposes, resolved.

Respectfully,



M. Katherine Strahan

cc: Counsel of record

² Again, Aetna has already paid \$31,965.53. If Guardian Flight were to accept Aetna’s offered payment of \$24,776.67, its total recovery would be \$56,742.20.