

MEMORANDUM

TO: Nursing Home Representatives

FROM: LeadingAge New York

DATE: February 8, 2016

SUBJECT: **Nursing Home Universal Settlement – Further Action Needed**

Introduction

As previously communicated to you, the State of New York has officially declared that facilities' response to the Universal Settlement of Nursing Home Rate Appeals and Litigation ("the Settlement") is "universal" and the State is prepared to execute the Agreement, pending Centers for Medicare and Medicaid Services (CMS) approval. Discussions are now underway with CMS to obtain their final approval of the Settlement, and we expect an announcement very soon.

This memorandum identifies remaining actions that facilities need to take to facilitate payments under the Settlement.

Further Steps for Participating Facilities to Take

Submit Completed W-9 Forms

The Settlement Trustees – Hinman Straub PC (the trustee assigned to your facility) and O'Connell and Aronowitz – will receive the aggregate Settlement payments from the State, and be responsible for dispersing them directly to participating facilities, certain former owners, and legal counsels of record that will, in turn, be distributing portions of the payments to their client facilities.

For this purpose, the Settlement Trustees will need to obtain a completed IRS Form W-9 ("Request for Taxpayer Identification Number and Certification") from each participating facility, former owner distributee and counsel of record receiving direct Settlement payments. This information may also be shared with the banking institution that will be used to facilitate Settlement payments to these parties via electronic funds transfer. A fillable PDF version of the W-9 is available online at: <https://www.irs.gov/pub/irs-pdf/fw9.pdf>.

Please complete, sign, scan and e-mail a Form W-9 for your facility to Michael Paulsen at Hinman Straub (mpaulsen@hinmanstraub.com) by Feb. 16th. Kindly note the following when completing the form:

- Line-by-line instructions for the form begin immediately after the signature line.
- There is no need to fill out the box on the right labeled, "Requester's name and address (optional)."
- Please be sure to supply your facility's Taxpayer Identification Number in Part I and to sign the certification in Part II.

- Provided you e-mail the signed, scanned form in PDF format, there is no need to ground mail the signed original form.

Reminder: Survey on Former Owners

As a reminder, every participating facility was asked last week to verify that the facility does not have one or more prior owner(s) that may also need to execute a Settlement Release. **To this end, we are asking every facility receiving this memo to complete a [brief survey \(www.surveymonkey.com/r/YCBMDFP\)](http://www.surveymonkey.com/r/YCBMDFP) on the subject as soon as possible, if you haven't already done so.** The survey should take only a few moments of your time.

Reminder: Special Appeals Process

As part of the Settlement packet that you received in Nov. 2015, if eligible, you would have been notified that your facility is eligible to participate in the Special Appeals Fund. Attachment "A" to the Agreement provided an explanation of the Special Appeals Fund. Specifically, to the extent your facility receive funds under the "Minimum Facility Payment Fund," your facility is also eligible for the Special Appeals Fund. The \$10 million Special Appeals Fund was designated within the Settlement for certain facilities that have pending rate appeals on matters that are included in the Settlement, but for which the facility believes the value of the appeals exceeds the Minimum Facility Payment they would otherwise have received.

Eligible facilities that seek to participate in this process must complete the election form and return it to Hinman Straub by Feb. 29th. The form was most recently provided in our Feb. 1, 2015 memo to you.

Conclusion

If you have any questions on this memo or the attachment, please direct them to Darius Kirstein (dkirstein@leadingageny.org) or Dan Heim (dheim@leadingageny.org) at LeadingAge New York, or call (518) 867-8383.