



**SAMPLE MEDICARE PRIVATE CONTRACT “OPT-OUT” AFFIDAVIT  
IN COMPLIANCE WITH 42 U.S.C. §1395a; 42 C.F.R. §405, SUBPART D**

I, \_\_\_\_\_, attest under the penalty of perjury that the following is true and correct to the best of my knowledge, information and belief:

1. Except for emergency or urgent care services (specified in 42 C.F.R. § 405.440), during the opt-out period, I will provide services to Medicare beneficiaries only through private contracts that meet the criteria of paragraph 42 C.F.R. § 405.415 for services that, but for their provision under a private contract, would have been Medicare-covered services.
2. I will not submit a claim to Medicare for any item or service furnished to any Medicare beneficiary during the two-year period beginning on the following effective date: \_\_\_\_\_ (the “opt out period”), nor will I, or any entity acting on my behalf, submit a claim to Medicare for services furnished to a Medicare beneficiary during this two-year period, except as specified in 42 C.F.R. § 405.440.
3. I understand that during the opt-out period, I may receive no direct or indirect Medicare payment for services that I furnish to Medicare beneficiaries with whom I have privately contracted, whether as an individual, an employee of an organization, a partner in a partnership, under a reassignment of benefits, or as payment for a service furnished to a Medicare beneficiary under a Medicare Advantage (formerly called Medicare+Choice) plan.
4. I acknowledge that, during the opt-out period, my services are not covered under Medicare and no Medicare payment may be made to any entity for my services, directly or on a capitated basis.
5. I promise that, during the opt-out period, I will be bound by the terms of both this affidavit and the private contract(s) into which I have entered with a Medicare beneficiary.
6. I acknowledge that the terms of this affidavit apply to all Medicare-covered items and services furnished to Medicare beneficiaries by me during the opt-out period (except for emergency or urgent care services furnished to the beneficiaries with whom I have not previously privately contracted) without regard to any payment arrangements I may make.
7. I have signed a Part B participation agreement, and I acknowledge that such agreement terminates on the effective date of this affidavit. (This provision is not required for physicians who have not signed a Medicare Part B participation agreement.)
8. I understand that a beneficiary who has not entered into a private contract and who requires emergency or urgent care services may not be asked to enter into a private contract with



respect to receiving such services and that the rules of 42 C.F.R. § 405.440 apply if I furnish such services.

9. [For non-participating Medicare physicians:] I understand that I must file this affidavit with all carriers who have jurisdiction over claims that I would otherwise file with Medicare and that this affidavit must be filed no later than ten days after the first private contract to which this affidavit applies is entered into.

[For participating Medicare physicians]: I understand that I must file this affidavit with all carriers who have jurisdiction over claims that I would otherwise file with Medicare and that this affidavit must be filed with all such carriers at least 30 days before the beginning of the selected calendar quarter, and such selected calendar quarter shall begin on the following date: \_\_\_\_\_. The furnishing of any items or services to a Medicare beneficiary under such the private contract to which this affidavit applies before the beginning of the selected calendar quarter is subject to standard Medicare rules.

\_\_\_\_\_  
Name of Physician (Printed)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Principal Office Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
National Provider Identifier

(If an NPI has not been assigned, include the physician's uniform provider identification number (UPIN), and if a UPIN has not been assigned, include the physician's tax identification number (TIN).)

This document contains excerpts from the AMA-published *Medicare RBRVS: The Physicians' Guide* 2010. The complete guide is available from the AMA by calling toll free (800) 621-8335.