

U.S. ASR HIP SETTLEMENT

MDL 2197

Claims Administration Procedure (“CAP”)			
CAP Number	1	Effective Date	5/20/14
Subject	Establishment of the System for Creating and Tracking Claims Administration Procedures for the U.S. ASR Hip Settlement Program		

- 1. Purpose.** In consultation with DePuy and the Settlement Oversight Committee (“SOC”), the Claims Administrator and the Claims Processor will be required at times to develop procedures to implement effectively the U.S. Program (“the Program”) as contemplated in the U.S. ASR Hip Settlement Agreement (“Settlement Agreement”). The purpose of this Claims Administration Procedure (“CAP”) is to ensure that participants in the Program understand how this discretion will be exercised and to ensure that claims processing policies are applied consistently to all claimants. This CAP discusses separately the processes for approving and implementing CAPs for both the Part A and Part B Programs under the Settlement Agreement. Any capitalized terms not defined in this CAP shall have the same meanings given to such terms in the Settlement Agreement.
- 2. Authority to Develop CAPs.** Section 12.2.1 of the Settlement Agreement states that the Claims Administrator will oversee the U.S. Program and work with the Claims Processor and others to ensure that the express terms and intent of the Agreement are properly and fairly applied. Section 12.5.1 grants the Claims Processor the authority to perform actions it deems necessary to the efficient and timely administration of the Settlement Agreement, so long as such actions are not in conflict with or prohibited by the terms of the Settlement Agreement. Section 12.5.2 further authorizes the Claims Processor to create administrative procedures that supplement and are consistent with the terms of the Settlement Agreement to provide specific details about claims administration and all other aspects of the U.S. Program. Section 4.3.3 provides that the Claims Processor shall establish deadlines and other procedures not inconsistent with the Settlement Agreement that are necessary for the timely, accurate, and efficient submission, review, and evaluation of claims and to allow for the responsible, accurate and fair issuance of awards. Section 8.2.1 states that the Claims Administrator, Claims Processor, Special Masters and the SOC will be entirely responsible for the administration, allocation and budgeting of funds under the PART B Program.
- 3. Promulgation of CAPs for the Part A Program.** When a claims processing question relating to the Part A Program arises that needs clarification or requires the exercise of discretion, the Claims Processor may propose a draft CAP. CAPs shall be consistent with the terms of the Settlement Agreement and with the intent of the Parties to the Settlement Agreement. In no event shall a CAP be inconsistent with the Settlement Agreement or interpreted in a way that is inconsistent with the Settlement Agreement. The Claims Processor shall consult DePuy and the SOC in the development of each CAP for the Part A Program, in accordance with the provisions set forth in Paragraph 4 below.

- 4. *Process for Approving and Implementing CAPs for the Part A Program.*** Before a CAP drafted pursuant to section 3 above may be implemented, it shall be approved and finalized pursuant to this section. For the purposes of the CAP implementation process, the SOC shall designate three individuals and DePuy shall designate one individual as liaisons (“Liaisons”). The SOC Liaisons are Kenneth M. Seeger, Ellen Relkin, and Eric Kennedy. The DePuy Liaison is Susan Sharko. After the Claims Processor presents a draft CAP in writing, the Liaisons shall have three business days to object or propose revisions to the draft CAP. The SOC Liaisons will gather the approval and support of a majority of the SOC before responding. If none of the Liaisons objects or proposes revisions within three business days, the draft CAP shall be considered approved and final. If one or more of the Liaisons objects or proposes revisions within three business days, a conference call shall be held as soon as possible. The Claims Processor, Claims Administrator, and Liaisons shall be given 48 hours’ notice of the conference call. If a CAP is approved, the Claims Processor shall sign and circulate the final CAP to the Liaisons and the Claims Administrator for their signatures. If the Liaisons and the Claims Processor cannot agree on a CAP, the Claims Processor may enlist the assistance of either the Claims Administrator and/or the Special Master(s) to facilitate the resolution of any outstanding issue.
- 5. *Promulgation of CAPs for the Part B Program.*** When a claims processing question relating to the Part B Program arises that needs clarification or requires the exercise of discretion, the Claims Processor may propose a draft CAP. CAPs shall be consistent with the terms of the Settlement Agreement and with the intent of the Parties to the Settlement Agreement. In no event shall a CAP be inconsistent with the Settlement Agreement or interpreted in a way that is inconsistent with the Settlement Agreement. The draft CAP shall not be implemented until it is an approved final CAP, in accordance with the provisions set forth in Paragraph 6 below.
- 6. *Process for Approving and Implementing CAPs for the Part B Program.*** Before a CAP drafted pursuant to section 5 above may be implemented, it shall be approved and finalized pursuant to this section. In accordance with Section 8.4.2 of the Settlement Agreement, the SOC Liaisons shall consult with DePuy in the evaluation of the draft CAP. After the Claims Processor presents a draft CAP in writing to both Liaisons, the DePuy Liaison shall have three business days to provide comments and the SOC Liaisons shall have three business days to object or propose revisions. Additionally, the SOC Liaisons will gather the approval and support of a majority of the SOC before responding. If the SOC Liaisons do not object or propose revisions within three business days, the draft CAP shall be considered approved and final. If the SOC Liaisons object or propose revisions within three business days, a conference call shall be held as soon as possible. The Claims Processor, Claims Administrator, and SOC Liaisons shall be given 48 hours’ notice of the conference call. If a CAP is approved, the Claims Processor shall sign the final CAP and circulate it to the Claims Administrator and the SOC Liaisons for their signatures. If there is no agreement, the draft CAP shall be referred to the Claims Administrator and the Special Masters to resolve any outstanding issue. After the Claims Administrator and Special Masters have decided the outstanding issue, the Claims Administrator and Special Masters shall sign the final CAP and circulate it to the Parties and the Claims Processor.

7. ***Duration of the CAP.*** This CAP shall apply to all claims processed after the Effective Date stated above and shall terminate upon cancellation or modification of this CAP with consent from DePuy, the SOC, Claims Administrator and the Claims Processor.

APPROVED:

Claims Administrator

James J. McMonagle, Esq.
Vorys, Sater, Seymour & Pease, LLP

By: /s/ James J. McMonagle Date: 5/22/14

Claims Processor

Lynn C. Greer, Esq.
BrownGreer, PLC

By: /s/ Lynn C. Greer Date: 5/22/14

DePuy Orthopaedics, Inc.

Susan M. Sharko, Esq.
Drinker Biddle & Reath LLP

By: /s/ Susan M. Sharko Date: 5/28/14

Settlement Oversight Committee

Kenneth M. Seeger, Esq.
Seeger, Salvas, LLP

Ellen Relkin, Esq.
Weitz & Luxenberg, PC

R. Eric Kennedy, Esq.
Weisman, Kennedy & Berris Co., LPA

By: /s/ Kenneth M. Seeger Date: 5/22/14

By: /s/ Ellen Relkin Date: 5/28/14

By: /s/ R. Eric Kennedy Date: 5/28/14