

U.S. ASR HIP SETTLEMENT

MDL 2197

Claims Administration Procedure (“CAP”)			
CAP Number	4	Effective Date	3/12/15
Subject	Application of Multiple PART B EIF Reductions		

- 1. Purpose.** This Procedure describes the process by which the Claims Processor will apply reductions to PART B Extraordinary Injury Fund (“EIF”) claims for claimants subject to more than one reduction as outlined in the Settlement Agreement or the PART B Award Schedule. Capitalized terms not defined in this CAP shall have the same meaning given to such terms in the Settlement Agreement.
- 2. Multiple EIF Reductions.** The Settlement Agreement and the PART B Award Schedule outline a series of reductions applicable to EIF claims. This CAP describes the calculation steps the Claims Processor will apply if a claimant’s EIF Maximum Matrix Level Award is subject to more than one of these reductions, describes the order in which the Claims Processor will apply the reductions, and provides examples of their application for three hypothetical EIF claims.
- 3. Reduction Application Steps.** In calculating reductions to an EIF award, the Claims Processor will apply reductions in three successive rounds. In the first round, the Claims Processor will aggregate the following reductions, if applicable, to a claimant’s EIF award: (a) ASR Device Implanted as a Revision Device; (b) Two or more dislocations on the same hip prior to ASR Index Surgery; (c) Body Mass Index (BMI); (d) Smoking Status; and (e) Deceased Product User. In the second round, the Claims Processor will apply the Future Matrix Level reduction, if applicable. In the third round, the Claims Processor will apply the Unrepresented Status reduction, if applicable. Therefore, the formula the Claims Processor will apply in calculating a claimant’s EIF award for an eligible claim is: $\text{Maximum Matrix Level Award} * (1 - \text{Sum of Matrix Level Reductions}) * (1 - \text{Future Matrix Level Reduction}) * (1 - \text{Unrepresented Status Reduction}) = \text{EIF Claim Award}$.
- 4. Reduction Percentages.** The percentage value of each reduction is detailed in Articles 8 and 9 of the Settlement Agreement, as well as the PART B Award Schedule. The Claims Processor will work with the SOC to determine the exact percentage of certain reductions not otherwise set out in the Settlement Agreement or in the PART B Award Schedule. Because the Future Matrix Level reductions were not finalized at the time this CAP was drafted, the following examples apply the maximum Future Matrix Level reductions articulated in the PART B Award Schedule. Once finalized, the Claims Processor will announce the Future Matrix Level reductions through the ASR Portal and website.
- 5. Examples.** The following hypothetical examples demonstrate the steps the Claims Processor will take to apply reductions as outlined in item 3 of this CAP. The examples here are for illustrative purposes only. Inclusion here of certain examples for certain claims is not meant

to suggest that other claims that fall within the ambit of the reduction requirements of the Settlement Agreement, the PART B Award Schedule, and related CAPs, are inapplicable.

(a) Future Matrix Level I Claim. For an unrepresented claimant who proved a compensable Future Matrix Level I claim involving a first Re-Revision, and where the Product User's ASR Device was implanted as a Revision Device during the ASR Index Surgery, the Claims Processor will apply the reductions as follows:

- (1) The Claims Processor will reduce the Maximum Matrix Level I award of \$150,000 by 25 %, which is the amount of the ASR Device Implanted as a Revision Device reduction. This decreases the Matrix Level I subtotal to \$112,500.
- (2) The Claims Processor will apply the Future Matrix Level reduction of 75% to the subtotal in Step 1, resulting in a new Matrix Level I subtotal of \$28,125.
- (3) The Claims Processor will apply the Unrepresented Status reduction of 29% to the subtotal in Step 2, resulting in a calculated Matrix Level I award of \$19,968.75.

(b) Future Matrix Level II Dislocation Claim. For an unrepresented claimant who proved a compensable Future Matrix Level II claim involving a dislocation that was treated by an open reduction, where the Product User died within five years of the ASR Revision Surgery for reasons unrelated to the ASR device, and where the Product User suffered two or more dislocations on the same hip prior to the ASR Index Surgery, the Claims Processor will apply the reductions as follows:

- (1) The Claims Processor will reduce the Maximum Matrix Level II award of \$50,000 by 75%, which is the sum of the multiple dislocations reduction (50 %) plus the Deceased Product User reduction (25%). This decreases the Matrix Level II subtotal to \$12,500.
- (2) The Claims Processor will apply the Future Matrix Level reduction of 75% to the subtotal in Step 1, resulting in a new Matrix Level II subtotal of \$3,125.
- (3) The Claims Processor will apply the Unrepresented Status reduction of 29% to the subtotal in Step 2, resulting in a calculated Matrix Level II award of \$2,218.75.

(c) Future Matrix Level IV Claim. For an unrepresented claimant who proved a compensable Future Matrix Level IV claim involving a Myocardial Infarction with a two-class level change in Functional Classification that occurred when the Product User was less than 40 years old, where the Product User was subject to both a 10% Body Mass Index (BMI) reduction and the Smoking Status reduction, and where the Product User died within five years of the ASR Revision Surgery for reasons unrelated to the ASR device, the Claims Processor will apply the reductions as follows:

- (1) The Claims Processor will reduce the Maximum Matrix Level IV award of \$320,000 by 45%, which is the sum of the Body Mass Index (10%), Smoking Status (10%), and

Deceased Product User (25%) reductions. This decreases the Matrix Level IV subtotal to \$176,000.

(2) The Claims Processor will apply the Future Matrix Level reduction of 50% to the subtotal in Step 1, resulting in a new Matrix Level IV subtotal of \$88,000.

(3) The Claims Processor will apply the Unrepresented Status reduction of 29% to the subtotal in Step 2, resulting in a calculated Matrix Level IV award of \$62,480.

6. *Duration of the CAP.* This CAP shall apply to all claims processed after the Effective Date stated above and shall terminate only upon cancellation or modification by its signatories.

**APPROVED:
Claims Administrator**

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By: /s/ James J. McMonagle

Date: 3/12/15

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Date: 3/12/15

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