

SETTLEMENT AND RELEASE AGREEMENT

PREAMBLE

The State of Colorado and Hero DVO, LLC (“Hero” as defined below) desire to resolve the investigation into to the Covered Conduct (defined below) without further litigation. This Settlement and Release Agreement (“Agreement”) sets forth the terms of the settlement between the State of Colorado and Hero (each individually a “Party”, and collectively, the “Parties”) as of the Effective Date.

DEFINITIONS

- A. “CIDs” refers, collectively, to the Civil Investigative Demands issued, pursuant to C.R.S. § 25.5-4-309, by the State to Hero on March 7, 2024 and to Silver Oak Services Partners, LLC on November 26, 2024.
- B. “COMFCA” means the Colorado Medicaid False Claims Act, C.R.S. § 25.5-4-303.5 through § 25.5-4-310.
- C. “Covered Conduct” means any actual or alleged act, conduct, failure to act, negligence, statement, error, omission, transaction, misstatement or misleading statement covered by COMFCA and relating to or arising from Hero’s billings for spherical and/or aspherical lenses submitted to the Colorado Department of Health Care Policy and Financing (“Colorado Medicaid”) for the Specified Time Period (including for billings for such lenses for the same patient on the same date).
- D. “Effective Date” means the date of signature of the last signatory to this Agreement.
- E. “Solvent” means that the fair value of an entity’s assets, determined on a going-concern basis, exceeds the amount of such entity’s debts and liabilities.
- F. “Specified Time Period” means March 1, 2020, through the Effective Date of this Agreement.
- G. “State” and “State of Colorado” means the State of Colorado and its past, present, and successor departments (including Colorado Medicaid) agencies, divisions, subdivisions, commissions, departments, boards, administrators, employees, and legal representatives.
- H. “Hero” means Hero DVO, LLC.

RECITALS

WHEREAS, the State of Colorado issued its CIDs to determine whether there had been violations of the COMFCA.

WHEREAS, the State of Colorado contends that it has certain claims against Hero for engaging in the conduct described in the Covered Conduct.

WHEREAS, Hero denies all allegations of past and present wrongdoing, wrongful acts or conduct, liability, charges, expenses, and losses that have been asserted or that could be asserted against it relating to or arising from the Covered Conduct.

WHEREAS, the Parties recognize the uncertainty and expense of litigation and, thus, the Parties have agreed to mutually settle and compromise all matters in controversy between and among them and all possible or potential claims related to or arising from the Covered Conduct.

AGREEMENT

NOW, THEREFORE, in consideration of the recitals above and the mutual promises, conditions, covenants, and agreements below, and other good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Hero shall remit payment to the State of Colorado in the total amount of Eight Million Dollars (\$8,000,000.00) (the "Settlement Amount"). Hero will pay the State of Colorado One Hundred and Twenty-Five Thousand Dollars (\$125,000.00) within five (5) business days of the Effective Date of this Agreement. Hero will thereafter, starting January 1, 2027, make one (1) payment on the first business day of every quarter for the next four years, totaling an additional fifteen (15) payments, in the amount of One Hundred and Twenty-Five Thousand Dollars (\$125,000) each, for a total of Two Million Dollars (\$2,000,000) plus interest on the principal accrued at 4.25% per annum. Additionally, on September 30, 2030, Hero shall pay the remaining Six Million Dollars (\$6,000,000). There is no penalty for early payoff. When each payment is made, Hero shall promptly notify the State through the entities signing below.

Each payment shall be made timely on the date identified above. The State of Colorado will permit a 7-day grace period following a payment due date for Hero to complete payment. Any 7-day grace period utilized by Hero shall not change the due date of any subsequent payment.

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2. **Acceleration Clause.** If, during the payment period described in section 1, Hero DVO Holdings, LLC (“Hero Holdings”) or Hero is sold, merged, or transferred, or a majority portion of the assets of Hero or Hero Holdings is sold, merged, or transferred into another non-affiliated entity, including through sale, buyout, exchange, or other interaction, then Hero shall promptly notify the State, through the entities signing below, and all remaining payments owed pursuant to this Agreement shall accelerate and become due and owing to the State. Hero shall remit any such remaining payment owed to the State within 30 days of the effective date of the closing of a transaction that triggers this acceleration clause.
3. The total Settlement Amount of Eight Million Dollars (\$8,000,000) is allocated to the settlement of all actual or potential claims relating to or arising from the Covered Conduct. Hero acknowledges and agrees that it is not entitled to direct or influence the manner in which the State allocates the Settlement Amount, including the determination of restitution/remediation, fines, costs/fees, or penalty amounts..
4. Subject to section 4(a), in consideration for Hero’s payment of the total Settlement Amount, the State of Colorado shall release any obligations under the CIDs, and shall further release Hero, Silver Oak Service Partners, LLC, and their past, present and successor parent companies and entities, subsidiaries, affiliates, owners, investors, directors, shareholders, officers, employees, agents, contractors and legal representatives (collectively, the “Released Parties”) from any past, present, or future cause of action, claim for relief, suit, charge, damage, penalty, obligation, dispute, controversy, *parens patriae* claim or grievance of any nature, whether legal, equitable, statutory, regulatory or administrative, known or unknown, relating to or arising out of the Covered Conduct.
 - a. The State shall not release any claims against Hero for the Covered Conduct until 91 days after payment in full is made.
5. Subject to section 4, the Parties agree that payment of the total Settlement Amount shall constitute a full and complete satisfaction by Hero of its obligations under this Agreement.
6. Notwithstanding any term or language in this Agreement, the State of Colorado specifically does not release the Released Parties from: (a) any criminal, civil, or administrative liability arising under State revenue code(s); (b) any criminal liability; (c) any actual or potential civil liability of Hero under any State statute, regulation, or rule not covered by the release in this Agreement; (d) any liability to the State (or any agencies thereof) for any conduct other than the Covered Conduct, (e) any claims made by or on behalf

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of individual consumers, including antitrust, contract, negligence, damages, personal injury, or property damage; and (f) any claim arising from the obligations created by this Agreement.

7. If a Party fails to comply with the terms of this Agreement, that Party shall be in default. If a Party's default continues to exist for thirty (30) days after receipt of a written notice from the other Party, the other Party may bring an action in a court of competent jurisdiction to enforce any term or condition of this Agreement.
8. Hero expressly represents and warrants that Hero has reviewed its financial condition, that Hero is currently Solvent and Hero believes it will remain Solvent after payment of the total Settlement Amount.
9. If Hero fails to make a payment of the Settlement Amount when due as set out in Paragraph 1 above, and such payment remains unpaid for 30 days, then the remaining balance of the total Settlement Amount will be accelerated and become due in accordance with the provisions of Paragraph 2. The State of Colorado may, at its discretion, decide to offer reasonable accommodations regarding revisions or extensions of the payment amounts and schedules, required under this Agreement, provided that Hero is in full compliance with all other terms and conditions of this Agreement.
10. **Failure of Consideration.** Hero agrees that (i) if Hero or Hero Holdings seeks bankruptcy relief under the United States Code or under any state receivership or insolvency law within 91 days of the State's full receipt of the Settlement Payment, or (ii) if Hero or Hero Holdings is placed involuntarily into bankruptcy, receivership, or state insolvency proceedings within 91 days of the State's full receipt of the Settlement Payment, the State of Colorado has an undisputed, noncontingent, and liquidated allowed claim against Hero in the amount of \$61,314,442.08, plus interest, less any payments received pursuant to Paragraph 1 of this Agreement. Hero acknowledges that this Agreement does not transform the nature of the State's claims against Hero into breach of contract claims.
 - a. In any bankruptcy proceeding filed by Hero within 91 days of the Department's full receipt of the Settlement Payment, the State is expressly allowed to reassert the underlying claims in full.
 - b. If Hero's payments or obligations under this Agreement are avoided for any reason, including but not limited to, the exercise of a trustee's avoidance powers under the Bankruptcy Code, or if, before the Settlement Amount is paid in full, Hero or a third party commences a case, proceeding, or other

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action under any law relating to bankruptcy, insolvency, reorganization, relief of debtors, or to adjudicate Hero as bankrupt or insolvent, the State may rescind the releases in this Agreement and bring any civil and/or administrative claim, action, or proceeding against Hero for claims that would be otherwise covered by the releases in Paragraphs 4 and 5.

- c. Hero agrees that any civil and/or administrative claim, action, or proceeding brought by the State under Paragraph 10(a) or 10(b) is not subject to an “automatic stay” pursuant to 11 U.S.C. § 362(a) because it would be an exercise of the State’s police and regulatory power. Hero shall not argue or otherwise contend that the State’s claim, action, or proceeding is subject to an automatic stay and, to the extent necessary, consent to relief from the automatic stay for cause under 11 U.S.C. § 362(d)(1).
11. On the Effective Date of this Agreement, the State of Colorado shall withdraw the CIDs, and there shall be no further obligation to respond to the CIDs. The obligations under the CIDs cannot be revived absent a default by Hero.
12. This Agreement is made in compromise of disputed claims. This Agreement is not an admission of facts or liability by Hero, and Hero expressly denies the allegations set forth herein and denies that it engaged in any wrongful conduct. This Agreement is not an admission or a concession by the State of Colorado that its allegations are not well founded.
13. This Agreement contains the sole and entire agreement and understanding of the Parties with respect to this matter. All prior discussions, negotiations, commitments, agreements, and understandings do not bind the Parties and are hereby merged into this Agreement. No representations, oral or otherwise, express or implied, other than those contained in this Agreement have been made by the Parties.
14. This Agreement shall be governed by the laws of the State of Colorado. Any action to enforce this Agreement shall be brought in the District Court, City and County of Denver, Colorado.
15. Nothing in this Agreement is a waiver of the State’s sovereign immunity, with the exception only of a proceeding brought against the State to enforce this Agreement.
16. In conjunction with the Parties’ current agreement concerning waiver of statute of limitations, the period of time between and including March 9, 2026 and for 91 days after full payment of the Settlement Amount shall be excluded when determining whether any claims that Hero submitted to the Colorado

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Medicaid program are time-barred by statute of limitations, laches, or any other time-related defenses.

17. This Agreement constitutes the complete agreement between the Parties with regard matters set forth herein. This Agreement may not be amended or modified except by a writing signed by all Parties.
18. Each Party will bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.
19. This Agreement shall be construed and interpreted to effectuate the Parties' intent, which is to resolve completely the State's investigation, claims, and potential claims relating to or arising from the Covered Conduct.
20. None of the Parties to this Agreement shall be considered the drafter of this Agreement which might cause any provision to be construed against the drafter.
21. Each Party represents that it freely and voluntarily enters this Agreement without any coercion or duress.
22. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which shall constitute one and the same Agreement. Facsimiles of signatures shall constitute acceptable binding signatures for purposes of this Agreement. The undersigned signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.
23. Each Party agrees to perform such further acts, and to execute and to deliver such further documents as may reasonably be necessary, to carry out the purpose and intent of this Agreement.

WHEREFORE, the Parties have agreed to this Release and Settlement Agreement.

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Dated: 09/08/2026

HERO DVO, LLC

By: 
Kevin Lawton (Sep 8, 2026 09:48:11 PDT)

Name: Kevin Lawton

Title: Chief Executive Officer

Dated: 09/02/2026

**THE STATE OF COLORADO
DEPARTMENT OF HEALTH CARE
POLICY AND FINANCING**

By: 

Name: Gretchen Hammer

Title: Executive Director

Dated: 9/3/2026

**OFFICE OF THE ATTORNEY
GENERAL, STATE OF COLORADO,
MEDICAID FRAUD, ABUSE, AND
NEGLECT UNIT**

By: 
Rebecca Weber, First Asst. A.G.
Director, MFANU

2026-9-3 Hero Settlement (CO signed) (002)

Final Audit Report

2026-09-08

Created:	2026-09-05
By:	Julianne Cox (julie.cox@herodvo.com)
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-  Document created by Julianne Cox (julie.cox@herodvo.com)
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-  Document emailed to Kevin Lawton (kevin.lawton@herodvo.com) for signature
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-  Document e-signed by Kevin Lawton (kevin.lawton@herodvo.com)
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