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**STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION  
BEFORE THE ADMINISTRATIVE DIRECTOR**

**In Re: PROVIDER SUSPENSION**

**Case No. AD PS-19-04**

**DETERMINATION AND ORDER**

**RE: SUSPENSION**

**QUEEN ANIEZE-SMITH,**  
*Respondent.*

The Administrative Director of the Division of Workers' Compensation is required to suspend any physician, practitioner, or provider from participating in the workers' compensation system as a physician, practitioner, or provider if the individual or entity meets any of the express criteria set forth in Labor Code section 139.21(a)(1).

Based upon a review of the record in this case, including the January 27, 2020 Report and Recommendation re: Provider Suspension of the designated Hearing Officer, the Administrative Director finds that Respondent Queen Anieze-Smith meets the criteria for suspension set forth in Labor Code section 139.21(a) and shall be suspended from participating in the workers' compensation system as a physician, practitioner, or provider. Pursuant to California Code of Regulations, title 8, section 9788.3(d), the Administrative Director hereby adopts and incorporates the January 27, 2020 Report and Recommendation of Hearing Officer In Re: Provider Suspension, attached hereto, as the Administrative Director's Determination and Order re: Suspension.

**IT IS HEREBY ORDERED** that Queen Anieze-Smith is hereby suspended from participating in the workers' compensation system as a physician, practitioner, or provider.

Date: January 30, 2020

/S/ George Parisotto  
GEORGE PARISOTTO  
Administrative Director  
Division of Workers' Compensation

STATE OF CALIFORNIA  
Division of Workers' Compensation  
Workers' Compensation Appeals Board

CASE NUMBER: AD PS-19-04

IN RE: PROVIDER SUSPENSION  
QUEEN ANIEZE-SMITH

HEARING OFFICER: Jeffrey Marrone, Administrative Law Judge

DATE: 01/27/2020

**REPORT AND RECOMMENDATION**  
**OF HEARING OFFICER**  
**IN RE: PROVIDER SUSPENSION**

**I. INTRODUCTION**

This matter is a suspension hearing as to Provider, Queen Anieze-Smith

**II. FINDINGS OF FACT**

Queen Anieze-Smith received judgement, filed May 31, 2016, finding the provider guilty of Medicare Fraud by the Federal District Court, Central District of California in 2016 for Health Code violations pursuant to USC Section 1347 as set forth in counts one (1) through five (5) of her indictment in federal court.

Provider Queen Anieze-Smith was provided Notice of Suspension October 18, 2019 and from seeking collections and performing services within the California Workers' Compensation system and right to hearing thereon, pursuant to Labor Code Section 4615(b).

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A hearing was held in the above matter on 1/14/20 pursuant to Labor Code § 139.21 (b) (3) before Hearing Officer, Administrative Law Judge Jeffrey Marrone. Initially a hearing was noticed for November 26, 2019, the provider did not appear. A telephone call was made to the Provider's phone contact number. Although notice was provided by proof of service to the known addresses of the Provider, the Provider denied receipt of service. Upon further discussion, the Provider waived the requirement for a hearing within thirty days of the notice of suspension at the November 26, 2019 hearing by phone. The parties agreed to a continuance of the suspension hearing to January 14, 2020.

Provider Queen Anieze-Smith attended and provided oral argument, seeking to dismiss the suspension. The provider also agreed to continue the matter to January 24, 2020 to allow service of the US Supreme Court determinations from 12/06/2019.

The matter stands as submitted as of January 24, 2020.

The Counsel for the Anti-Fraud Unit offered the following documents, and, as there was no objection, the Court marks the following as Exhibits:

- Court Exhibit X1 - 12/2/2019 Notice of Hearing date of January 14, 2020 with Proof of Service;
- Court Exhibit X2 - 11/05/2019 Notice of Hearing date of November 26, 2019 with Proof of Service;
- Court Exhibit X3 - 10/31/2019 Hearing Request;
- Court Exhibit X4 -10/18/2019 Notice of Provider Suspension;
- Court Exhibit X5 - 04/05/2013 Indictment No CR13-0220;
- Court Exhibit X6 - 05/31/2016 Judgement US District Court;
- Court Exhibit X7 - US District Court Criminal Docket 2:13-CR13-0220-DMG-1;
- Court Exhibit X8 -5/09/2018 Declaration of Socorro Tongco;

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Court Exhibit X9 - 9<sup>th</sup> Circuit Appeals Court case Number 16-50208 Opinion;

Provider, Queen Anieze-Smith, was tried and convicted on five counts of health care fraud in violation of 18 United States Code § 1347, as set forth in counts one (1) through five (5) of her indictment in the Federal District Court, Central District of California with Judgement filed May 31, 2016. The Provider appealed to the Ninth Circuit Court of Appeal, with Opinion issuing May 2, 2019. The findings were not reversed.

The Provider file a writ to the US Supreme Court as to the criminal conviction. The Provider Respondent testified that the US Supreme Court declined her Writ as of 12/06/2019. The conviction therefore stands.

**III. DISCUSSION**

The Provider has not objected to the Exhibits listed at hearing and these are therefore admissible. Exhibits X6 and X7 show that the Provider has been found guilty and convicted in the US District Court case. The balance of Exhibits set forth the proper notice to the provider as required under Labor Code § 139.21 (b) (2).

The Provider has not contested that the charges to which for which the federal District Court issued judgement upon are felonies.

Labor Code § 139.21 states:

(a) (1) The administrative director shall promptly suspend, pursuant to subdivision (b), any physician, practitioner, or provider from participating in the workers' compensation system as a physician, practitioner, or provider if the individual or entity meets any of the following criteria:

(A) The individual or entity has been convicted of any felony or misdemeanor and that crime comes within any of the following descriptions:

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- (i) It involves fraud or abuse of the federal Medicare or Medicaid programs, the Medi-Cal program, or the workers' compensation system, or fraud or abuse of any patient;
- (ii) It relates to the conduct of the individual's medical practice as it pertains to patient care;
- (iii) It is a financial crime that relates to the federal Medicare or Medicaid programs, the Medi-Cal program, or the workers' compensation system;
- (iv) It is otherwise substantially related to the qualifications, functions, or duties of a provider of services.

The evidence reviewed by the 9<sup>th</sup> Circuit Court of Appeals in *United States v. Anieze-Smith*, 770 Fed. Appx. 342, 344, 2019 U.S. App. LEXIS 13289, \*2-3, 2019 WL 1984008, shows that the provider, and another, through their joint business, ITC, obtained patients from a select group of doctors, some of whom worked at compromised clinics. Defendant-Appellants filled almost exclusively power wheelchair prescriptions and did so regardless of whether the patient's medical file had indicated that a power wheelchair was medically necessary. The evidence also shows that Defendant-Appellants delivered power wheelchairs without conducting home assessments, billed for power wheelchairs before they were delivered, or in some cases received fewer prescriptions for and purchased fewer power wheelchairs than the number of power wheelchair claims that they submitted to Medicare for reimbursement.

The respondent has been convicted of felony counts due to fraud or abuse of the Medicare system. This is adequate to require the administrative director to suspend the provider from participating in the workers' compensation system pursuant to Labor Code § 139.21 (a) (1) (A)

(i).

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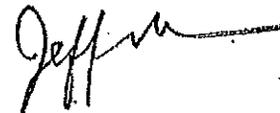
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IV. RECOMMENDATION

- 1) This hearing officer admits the following into evidence:
- a. Court Exhibit X1 - 12/02/2019 Notice of Hearing date of January 14, 2020, with Proof of Service;
  - b. Court Exhibit X2 - 11/05/2019 Notice of Hearing date of November 26, 2019, with Proof of Service;
  - c. Court Exhibit X3 - 10/31/2019 Hearing Request;
  - d. Court Exhibit X4 - 10/18/2019 Notice of Provider Suspension;
  - e. Court Exhibit X5 - 04/05/2013 Indictment No CR13-0220;
  - f. Court Exhibit X6 - 05/31/2016 Judgement US District Court;
  - g. Court Exhibit X7 - US District Court Criminal Docket 2:13-CR13-0220-DMG-1;
  - h. Court Exhibit X8 - 5/09/2018 Declaration of Socorro Tongco;
  - i. Court Exhibit X9 - 9<sup>th</sup> Circuit Appeals Court case Number 16-50208 Opinion;
- 2) This hearing officer respectfully recommends that the provider, Queen Anieze-Smith, and each entity owned and/or controlled by Queen Anieze-Smith, be suspended from participating in the workers' compensation system pursuant to Labor Code § 139.21 (a) (1) (A)(i).

DATE: 01/27/2020



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Jeffrey Marrone  
WORKERS' COMPENSATION  
ADMINISTRATIVE LAW JUDGE