

## APPEAL PANEL DECISION FORM

### I. CLAIMANT AND CLAIM INFORMATION

<b>Claimant Name</b>	Last/Name of Business [REDACTED]	First [REDACTED]	Middle [REDACTED]
<b>Claimant ID</b>	[REDACTED]	<b>Claim ID</b>	[REDACTED]
<b>Claim Type</b>	Business Economic Loss		
<b>Law Firm</b>	[REDACTED]		

### II. DECISION

Select the Compensation Amount set forth in either BP's Final Proposal or the Claimant's Final Proposal as the final outcome on the claim and check the appropriate box to signify your decision.

<input checked="" type="checkbox"/> <b>BP's Final Proposal</b>	<b>Compensation Amount</b>	<b>\$322,542</b>
	<b>Risk Transfer Premium</b>	.25
	<b>Prior Payment Offset</b>	\$0
<input type="checkbox"/> <b>Claimant's Final Proposal</b>	<b>Compensation Amount</b>	<b>\$373,178.41</b>
	<b>Risk Transfer Premium</b>	.25
	<b>Prior Payment Offset</b>	\$0

### III. PRIMARY BASIS FOR PANELIST DECISION

Please select the primary basis for your decision. You may also write a comment describing the basis for your decision.

- Error in documentation review.**
- Error in calculation.**
- Error in RTP multiplier.**
- Error in Prior Spill-Related Payment Amount.**
- No error.**

**Comment** *(optional)*:

The Claimant is a Zone C pathology specialist engaged in disease diagnosis. Policy 495 indicia were triggered. The Claims Administrator's accountant vendors attempted to create sufficiently matched revenues to expenses in order for the Administrator to make an award. BP appeals the designation of Billing Expenses as fixed, contending these expenses are classic variable costs of goods sold. The Claimant contends the vendors properly used the classification designation closest to Contract Services and Professional Services described in Exhibit 4D

which are designated fixed costs. Abe Lincoln once asked a young man, if you call a cow's tail a leg, how many legs would it have? Five he replied. No Abe said, because calling a cow's tail a leg doesn't make it one! In this claim, the Administrator has called a classic variable expense a fixed one. Variable expenses are those that change in relation to the level of sales by a business. Here, the Claimant performed pathology services for a fee (revenue). It then incurred an expense by having a billing service send a bill to the patient. The more revenue the Claimant generated, the greater the billing expense it incurred and vice versa. If the Claimant had temporarily shut down, the billing service expense would not have continued to be incurred. A review of the vendor notes shows the accountants recognized that as a disease diagnostic practice, Hospital Services, Laboratory Fees and Specimen Pick-Up expenses were properly characterized as variable expenses. This Panel Member finds Billing Services to be a variable expense and selects BP's final proposal to be the correct award.