

**DATE:** November 15, 2021

TITLE OF RESOLUTION: AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; APPROVING A LIMITED WAIVER OF SOVEREIGN IMMUNITY IN THE STATE OF NEW MEXICO MEDICAL ASSISTANCE DIVISION PROVIDER PARTICIPATION AGREEMENT BETWEEN THE NAVAJO NATION DIVISION OF BEHAVIORAL AND MENTAL HEALTH SERVICES AND THE STATE OF NEW MEXICO

**PURPOSE:** If approved, this resolution will approve a limited waiver of sovereign immunity expressed in the State of New Mexico Medical Assistance Division Provider Participation Agreement between the Navajo Nation Division of Behavioral and Mental Health Services and the State of New Mexico. The Provider Participation Agreements will allow the Navajo Nation Division of Behavioral and Mental Health Services seek reimbursements from the State of New Mexico for the services DBMHS provides.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL H		mittee 'hence
	Date: <u>Movimbly 20, 202/</u> Budget & Finance Com	-
Eligible for Ac	ction: <u>710/01/100/21,2021</u> T	hence
1	PROPOSED NAVAJO NATION COUNCIL RESOLUTION Naabik'íyáti' Com	imittee 'hence
2	24th NAVAJO NATION COUNCIL – Third Year, 2021 Navajo Nation C	
3	INTRODUCED BY	
4		
5	Canel Li Pro	
6	(Sponsor)	
7	7741-21	
8	TRACKING NO. 0241-21	
9		
10	AN ACTION	
11	RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, BUDGET	
12	AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO	
13	NATION COUNCIL; APPROVING A LIMITED WAIVER OF SOVEREIGN	
14	IMMUNITY IN THE STATE OF NEW MEXICO MEDICAL ASSISTANCE	
15	DIVISION PROVIDER PARTICIPATION AGREEMENT BETWEEN THE	
16	NAVAJO NATION DIVISION OF BEHAVIORAL AND MENTAL HEALTH	
17	SERVICES AND THE STATE OF NEW MEXICO	
18		
19	BE IT ENACTED:	
20		
21	SECTION ONE. AUTHORITIES	
22	A. The Health, Education and Human Services Committee is a standing committee of the	
23	Navajo Nation Council and has authority to review and recommend contracts	
24	negotiated with state governments and Navajo health authorities subject to applicable	
25	laws of the Navajo Nation. 2 N.N.C. §§ 400(A) and 401(B)(6)(b).	
26	B. The Budget and Finance Committee is a standing committee of the Navajo Nation	
27	Council and has authority to authorize to approve and accept contracts between the	
28	Navajo Nation and the State upon the recommendation of the standing committee	
29	which has oversight of the program that requested the contract. 2 N.N.C. §§ 300(A)	
30	and 301(B)(15).	
	Dage 1 of 3	

- C. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council and reviews legislation which requires final action by the Navajo Nation Council. 2
   N.N.C. §§ 700(A) and 164(A)(9).
- D. The Navajo Nation Council is the governing body of the Navajo Nation, 2 N.N.C. §102(A).
- E. The Navajo Nation Code provides, "[c]ontracts shall not waive the sovereign immunity of the Navajo Nation or its entities unless approved by two-thirds (2/3) vote of the full membership of the Navajo Nation Council." 2 N.N.C. § 223(C).

## SECTION TWO. FINDINGS

- A. The Navajo Division of Behavioral and Mental Health Services (DBMHS) is a program under the Navajo Department of Health with the purpose of providing "a comprehensive, culturally-centered holistic approach for prevention, treatment, and aftercare of alcohol, controlled substance use disorder, and violent behavior through an integrated behavior and mental health system." Plan of Operation, Resolution HEHSCJA-01-18.
- B. In order for DBMHS to provide services, bill for services, such as outpatient and residential behavioral and mental health treatment services, and receive Medicaid reimbursement payments for those services from the State of New Mexico, the DBMHS must enter into a Provider Participation Agreement with the State of New Mexico Medical Assistance Division, as noted at Article XII of the Agreement attached as Exhibit A-1 through A-7.
- C. DBMHS completed the Participation Agreements for each of the sites it operates at the following locations: the Chinle Residential Treatment Center (see A-1), Fort Defiance Outpatient Treatment Center (see A-2), Gallup Outpatient Treatment Center (see A-3), Newlands Outpatient Treatment Center (see A-4), Red Mesa Outpatient Treatment Center (see A-5), Navajo Regional Behavioral Health Center for Adult and Adolescent Residential Treatment (see A-6 and A-7).

D. Navajo Nation Department of Justice reviewed the State of New Mexico Provider 1 Participation Agreements and provided a memo expressing concerns regarding an 2 indirect waiver of sovereign immunity 3 E. The Provider Participation Agreement requires DBMHS to consent: 4 1. That the Agreement shall be governed by the laws of the State of New Mexico 5 and all legal proceedings arising from unresolved disputes under the Agreement 6 are subject to administrative and judicial review as provided for in Article XVI 7 of the Agreement. 8 2. To abide by Human Services Department and Medical Assistance Division 9 Program Policy Manual. 10 3. That the Navajo Nation shall indemnify the State of New Mexico as provided 11 for in Article XVIII of the Agreement. 12 13 APPROVING A LIMITED WAIVER OF SOVEREIGN SECTION THREE. 14 **IMMUNITY** 15 A. The Navajo Nation hereby approves a limited waiver of sovereign immunity for the 16 Navajo Nation Division of Behavioral and Mental Health Services to enter into the 17 Provider Participation Agreement with the State of New Mexico Medical Assistance 18 Division attached as Exhibits A-1 through A-7. 19 B. The Navajo Nation authorizes the President of the Navajo Nation to sign the Provider 20 Participation Agreement on page 14 of the attached as Exhibits A-1 through A-7. 21 22 23 24 25 26 27 28 29 30 Page 3 of 3



**EXHIBIT** 

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THIS AGREEMENT IS FOR O PAYMENTS WILL BE MADE. ONLY FOR IDENTIFYING SE AND PAYMENTS WILL BE M USED. USE FORM MAD 312	IF THE APPLICA RVICES BILLED IADE TO THAT G	NT IS AN	N INDIVIDUAL APF GH A GROUP PRA	LYING FOR A	PROVIDEF IER ORGA	R NUMBER		Return completed New Mexico Me Condu P.O. Box Albuquerque, N	edicaid Project uent (27460
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			1427656	5065		Substanc	e Abus	se Renabilitation	Treatment, Adult
(4) Applicant Name (for indi First Name	viduals – must m Middle Initi			ast Name				<b>Professional</b>	Title (MD, DDS, etc)
(5) Business Name (DBA) Chinle Ad	ult Residential	Treatm	ent	(6) Federa	l Tax (Lega		ne Nava	ajo Nation	
(7) Physical Street Address NAVAJO ROUTE 7,				ACCEPTED)	c Chinle	ity	Sta AZ	ite Zip C 86503	Code County Apache
(8) Billing Office Address(M				City		· · · · · · · · · · · · · · · · · · ·		tate	Zip Code
PO Box 777	AT BE FO BOA)			City	Chinle		AZ		86503
(9) Mailing Address for offic PO Box 709	cial corresponde	nce (MA)	Y BE PO BOX)		City Windo	w Rock	St. AZ	ate	Zip Code 86515
(10) Fax Number (928)871-6456			g Office Phone 1-6235					ne (REQUIRED) 2	
(13) Mailing Email Address mbrandser@navajo	(	4) Billing	g Office Email Add dser@navajc			(15) Locati	on / Pro	vider Email Addres k, Arizona	55
(16) Business Type	Individual / sole			orporation					sional Association
	Limited Liability	/ Compai	ny 🗋 N	Ion-corporate	Business E	Entity / Other	. <u> </u>	Government Enti	ity or Public School
(17) Provider Type (see	(18) Provider		(19) License Int		<b>F</b>	atia - Data		REQUIRED) Individ	
attached list) 221	Specialty (see attached list) 100	•	Number	State	Expir	ation Date	Socia	l Security Number	Date of Birth
(21) NM CRS (Tax & Revenue) Number (If services are provided in NM)	(22) Are NM CR payments curre attach an expla <u>M</u> YES NO	nt? If no			Number IRS let	ederal Tax er / FEIN (atta ter) 092335	ach	(25) Are federal ta current? If not, att YES	x payments tach an explanation.
(26) DEA Number (attach co	ру)	(27) CL	IA Number (attac	h copy)	(28) NO	PDP/NABP	Number	· (pharmacies опly)	)
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(30) Title XVIII Medicare Cert						scal Year En			
(32) JCAHO Certified?	YES	NO	(If YES, attach co	py of letter)	_			December	
	YES 🔀	NO (If	YES, attach copy	of letter)					
(33) Other Certification?	YES		NO 🙀 🛛 (If Y	'ES, attach cop	y of letter)	Certified	by:		
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additional space is needed) Individual's Name, Tit		ov. /pe	Specialty	NM Medicai	d Prov. No			NPI	
	'	he							
(36) If services have already			ledicaid recipient,	, please enter l	Date of Ser	vice and atta	ich copy	of claim:	
	DO	<b>5</b> :							

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(37) To be completed by out-of-state providers only: Home State Medicaid Provider Number:									
Name of Entity / Individual The Navajo	o Nation		EIN / SSN 86-0092335	NPI 1427656065					
	Questi	on 1 to be	answered by all pro	oviders.					
is an agent or managi person's involvement	ng employee of th in any program u grams? If yes, giv	ne provider, l Inder Medica	been convicted of a crim re. Medicaid. or the Title	e provider, or any person who inal offense related to that XX services program since the cription(s) of offense(s). Please	YES 🔲 NO 🙀				
Name	Social Security Number	Date of Birth		Description					



Name of Entity / Individual The Navajo Nati	on EIN / SSI	N 86-0092335	NPI	17404003	365
Question 2 is to be a	answered by all provi	ders, including	non-profit organiz	ations and	charities.
Definition: A managing employee operational or managerial contro or agency." (42 CFR section 455. operations and includes officers,	l over, or who directly or in 101) Managing employees	ndirectly conducts t are in a position to	he day-to-day operatio	ons of an inst	titution, organization,
2. Federal regulation requ pages if necessary:	ires the following informat	tion to be disclosed	on all managing emplo	oyees. Pleas	e use additional
NAME	AD	DRESS	SOCIAL SEC		DATE OF BIRTH
Dr. Michelle Brandser	PO BOX Window Rock, A 86515	rizona			
Miranda Blatchford	PO BOX Chinle, AZ 86503				





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Name of Entity / Individual The Navajo Natio	on	EIN/SSN	86-00923	35	1427656065
Questions 3 – S	5 to be answer	ed by all provide	rs EXCEPT	individual practition	ners.
<ol> <li>Provide the name and addr any subcontractor in which necessary:</li> </ol>	ress of each persor the provider has d	n (individual or corpor lirect or indirect owner	ation) with an o ship of five pe	ownership or control intere rcent or more. Please use a	st in the provider or in Idditional pages if
NAME		ADDRESS		SOCIAL SECURITY NUMBER (IF INDIVIDUAL) OR TAX ID (IF NOT AN INDIVIDUAL)	DATE OF BIRTH (FOR INDIVIDUALS)
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The Navajo Nation	PO Box 7440 Window Rock	, Arizona			
	86515				
В.	1				
C.					
D.					
E					
4. Is any person named in questi	ion #3 related to care	ther as spouss port	abild or aibling		
of person(s) and relationship( person listed in question #3 b	s). Please use additi	onal pages if necessary			
NAME				RELATIONSHIP	





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lame of Entity / In	dividual			SSN				NPI
TI	ne Navajo Nation			,	86-009233	85		142765606
other Medica ownership ar or XX of the S programs su programs est	id provider or in [any entity that id control information because e Social Security Act?] (This inclu ch as Medicaid; Medicare Part A ablished under parts XIX, XX, a	does not pa of participat des particip Medicare I nd XXI of the	amed in question #3 have an ownership or control interest in any loes not participate in Medicaid but is required to disclose certain if participation in any of the programs established under Title V, XVIII, es participation in any federal, state, or jointly funded healthcare Medicare Part B; Medicare Part C; Medicare Part D; CHAMPUS; and d XXI of the Social Security Act.) If yes, give the name(s), Medicaid (es) of the Medicaid provider or entity. Please use additional pages if					
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This AGREEMENT, between the State of New Mexico (STATE), herein referred to as "the STATE," the New Mexico Human Services Department (HSD), herein referred to as "the DEPARTMENT" and the applicant as provider, herein referred to as "the PROVIDER", specifies the terms and conditions for providing health care services to eligible recipients of Medicaid, other medical assistance programs, and other health care programs administered by the Department and other departments of the State of New Mexico for which the Department is authorized to make payment to the PROVIDER. Administration of health care programs including, but not limited to, service authorizations, billing instructions and payment, may be performed by the DEPARTMENT and its agents including other departments and agencies of the State of New Mexico and their contractors, as authorized by joint power of agreements, contracts, or other binding agreements, herein referred to as its "AUTHORIZED AGENTS". This AGREEMENT shall be effective when completed in full with all required documentation attached and when signed by the PROVIDER and the Human Services Department Medical Assistance Division (HSD/MAD) or its designees and shall remain in effect until terminated pursuant to the terms set forth below.

## ARTICLE 1 – OBLIGATIONS OF THE PROVIDER

## The PROVIDER shall:

1.1. Abide by all federal, state, and local laws, rules and regulations, including but not limited to, those laws, regulations, and rules applicable to providers of services under Title XIX (Medicaid) and Title XXI (SCHIP) of the Social Security Act and other health care programs administered by the DEPARTMENT and its AUTHORIZED AGENTS.

1.2. Furnish services, bill for services, and receive payment for services only upon approval of this AGREEMENT by the HSD /MAD Director or his/her designees or its AUTHORIZED AGENTS.

1.3. Be responsible for the accuracy and validity of all claims for which reimbursement is sought by causing claims to be manually or electronically submitted to the DEPARTMENT or its AUTHORIZED AGENTS.

1.4. Comply with all instructions, directives, billing, reimbursement, audit, recoupment, and withholding provisions made available by the DEPARTMENT and its AUTHORIZED AGENTS.
1.5. Obtain, maintain, and keep updated program rules and instructions on billing and utilization review and other pertinent material made available by the DEPARTMENT and its AUTHORIZED AGENTS.

1.6. Not employ or enter into contract with excluded individuals or entities, as identified by the Health and Human Services Office of Inspector General's (HHS-OIG) List of Excluded Individuals/entities (LEIE), the Medicare Exclusion Database (MED), System for Award Management (SAM), Excluded Parties List System (EPLS) or a state's Employee Abuse Registry (EAR) or equivalent. All findings of placement of an employee on EAR should be forwarded to a law enforcement agency for possible prosecution. The HHS-OIG website can be searched by the name of any individual or entity, and must be searched on a monthly basis in order to capture exclusions and reinstatements that have occurred since the last search. Any exclusion information discovered must be immediately reported to the DEPARMENT or its AUTHORIZED AGENTS. A provider must ensure that every healthcare practitioner or other employee providing a service is appropriately licensed, registered, background checked, and/or certified at the time the service is provided, as required by state law or regulation for the service or activity that is provided and is valid in the municipality. All payments made to PROVIDERS for services or items obtained from excluded parties or provided by insufficiently licensed, registered, back-ground checked, or certified individuals are overpayments subject to recoupment. These services or items extend to all methods of

reimbursement, whether payment results from itemized claims, cost reports, fee schedules, or a prospective payment system; payment for administrative and management services not directly related to patient care, but that are a necessary component of providing items and services to Medicaid recipients, when those payments are reported on a cost report or are otherwise payable by the Medicaid program; and payments to cover an excluded individual's salary, expenses, or fringe benefits, regardless of whether they provide direct patient care, when those payments are reported on a cost report or are otherwise payable by the Medicaid program. In addition, civil monetary penalties may be imposed for noncompliance. 42 CFR 1003 .102(a)(2). The PROVIDER must also check New Mexico Courts (http://www.nmcourts.gov/) for records of any incidents involving any employee at the time of employment and annually thereafter. Documentation of the check must be maintained in the employee's personnel folder.

1.7. Comply with the disclosure requirements specified in 42 CFR, Part 455, Subpart B, including but not limited to disclosure upon request of information regarding ownership and control, business transactions and person convicted of crimes. This includes information about ownership of any subcontractor and any significant business transactions between the provider and subcontractor and/or



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provider and any wholly owned supplier. The provider agreement will be terminated if the PROVIDER fails to disclose ownership or control information as required by Federal law. Furnish and update complete 1.8. information on the PROVIDER's address, licensing, certification, board specialties, corporate names, and parties with direct or indirect ownership or controlling interest in the entity or in any subcontractor in which the entity has a direct or indirect ownership interest totaling five percent (5%) or more, and any relationship (spouse, parent, child, or sibling) of these persons to another; the name of any other entity in which a person with an ownership or controlling interest in the disclosing entity also has an ownership or controlling interest in; and information on the conviction of delineated criminal or civil offenses by the PROVIDER or parties with direct or indirect ownership or controlling interest at least sixty (60) calendar days prior to the contemplated change or within ten (10) calendar days after the conviction. Any payment made on the basis of erroneous or outdated information is the responsibility of the PROVIDER and is subject to recoupment, criminal investigative costs, and/or civil penalties. Comply with all applicable 1.9. federal, state, and local laws and regulations regarding-licensure, registration to pay applicable taxes, payment of applicable taxes, permit

requirements, and employee tax filing requirements. 1.10. Assume sole responsibility for all applicable taxes, insurance, licensing,

and other costs of doing business. 1.11. Verify that an individual is eligible for a specified health care program administered by the DEPARTMENT or its AUTHORIZED AGENTS.

1.12. Verify the identity of the eligible recipient on all occasions prior to rendering services.

1.13. Maintain the confidentiality of eligible recipient information and records in accordance with applicable state and federal laws, including 42 CFR 431.305, 8.100.100.13 and .14 NMAC,

and regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended.

Meet the Continuing Care 1.14. Obligations of the PROVIDER. In the event of termination of this AGREEMENT for any reason, the PROVIDER shall continue to provide or arrange services to eligible recipients, including any recipients who become eligible during the termination notice period, beginning on the effective date of termination and continuing until the termination or next renewal date of the recipient's eligibility, unless the DEPARTMENT arranges for the transfer of the eligible recipient to another Provider and provides written notice to the PROVIDER of such transfer prior to the termination or next renewal date of this AGREEMENT.

Notwithstanding the foregoing, at the direction of the DEPARTMENT, the PROVIDER may continue to provide or arrange services to any eligible recipient who cannot be transferred within the time period specified above in accordance with the legal and contractual obligations to: (1) provide services under the applicable health care program; (2) provide notice of termination to eligible recipients; and (3) ensure continuity of care for eligible recipients.

(A) In the event that the PROVIDER terminates this AGREEMENT on the basis of the DEPARTMENT'S failure to make timely payments, the PROVIDER shall continue to arrange for services to those eligible recipients who are hospitalized on an inpatient basis or otherwise residents of a facility at the time the PROVIDER terminates this AGREEMENT until eligible recipients are discharged from the hospital or other facility. The PROVIDER may file a claim with the DFPARTMENT or its AUTHORIZED AGENTS for such services.

(B) The DEPARTMENT or its AUTHORIZED AGENTS will pay the PROVIDER for services provided after the date of termination of this AGREEMENT at the current applicable reimbursement rate to eligible providers as of the dates of service when the services have been authorized by the DEPARTMENT or its AUTHORIZED AGENTS.

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(C) The PROVIDER agrees that the provisions of this section and the obligations of the PROVIDER herein shall survive termination, and shall be construed to be for the benefit of eligible recipients.

1.15. Render covered services to eligible recipients in the same scope, quality, and manner as provided to the general public; comply with all applicable federal and state civil rights laws; and not discriminate on the basis of race, color, national origin, sex, gender, age,

ethnicity, religion, sexual orientation, sexual preference, health status, disability, political belief, or source of payment as per 45 CFR 80.3(a) and (b), 45 CFR 84.52, and 42 CFR 447.20 or other state and federal laws, rules, and regulations.

1.16. Assume all responsibility for any and all claims submitted on behalf of the PROVIDER under the PROVIDER'S identification number. Submission of false or miscoded claims or fraudulent representation may subject the PROVIDER to termination, criminal investigations and charges, and other sanctions specified in the HSD/MAD Program Policy Manual, and federal and state law and regulations.

Create, keep and maintain, and 1.17. have readily retrievable, any and all original medical or business records as necessary to verify the treatment or care of any eligible recipient and to fully disclose the type and extent of all services, goods, and supplies provided to eligible recipients as set forth in 42 CFR 431.107 for at least six (6) years from the date of creation or until ongoing audits are settled, whichever is longer. The PROVIDER agrees that such records shall be made at or near the time at which the services, goods, and supplies are delivered or rendered. Services that have been billed to the DEPARTMENT or its AUTHORIZED



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AGENTS which are not substantiated in the PROVIDER'S record are subject to recoupment, sanction, and/or any other penalty provided for in this AGREEMENT.

1.18. Upon closure of office or facility, inform the DEPARTMENT or its AUTHORIZED AGENTS where records pertaining to eligible recipients will be located.

Furnish immediately to the 1.19. DEPARTMENT or its AUTHORIZED AGENTS, the U.S. Secretary of Health and Human Services, or the Medicaid Fraud Control Unit, at no cost, access to records in any format requested and any information regarding payments claimed by the PROVIDER for furnishing services to eligible recipients. Permit announced and 1.20. unannounced inspection of facilities or the PROVIDER'S offices and other locations used in the provision of services for billing and to eligible recipients by the U.S. Secretary of Health and Human Services, the Medicaid Fraud Control Unit, and the DEPARTMENT and its AUTHORIZED AGENTS. Failure to comply with this provision constitutes a violation of federal and state law and may result in immediate withholding of any pending or future payments. If records are requested by mail, the PROVIDER shall furnish the records within two (2) to ten (10) business days of the receipt of the request or as provided in the request. 1.21. Assist and cooperate in any review, inspection or audit conducted in conformity with the terms of this AGREEMENT.

1.22. Accept as payment in full, the amount paid by the DEPARTMENT or its AUTHORIZED AGENTS for services furnished to eligible recipients in accordance with the reimbursement structure in effect for the period during which services were provided as per the DEPARTMENT'S or its

AUTHORIZED AGENTS

reimbursement rules. No exceptions to, or waiver of standard reimbursements will be permitted without the express written consent of the MAD Director or his/her designee. 1.23. Electronic billing of claims is mandatory unless an exemption has been allowed by the DEPARTMENT or its **AUTHORIZED AGENTS. Exemptions** will be given on a case-by-case basis with consideration being given to any barriers the PROVIDER may face in billing electronically, including when volumes are so small that developing electronic submission capability is impractical. The requirement for electronic submission of claims does not apply to situations for which a paper attachment must accompany the claim form.

1.24. Not collect payments from the eligible recipient or any financially responsible relative or personal representative of the eligible recipient for services furnished to the eligible recipient, except as specifically allowed by the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER may not bill or collect payments from the eligible recipient or their personal representative for any claim denied by the DEPARTMENT or its AUTHORIZED AGENTS for administrative or billing errors on the part of the PROVIDER except as specifically allowed by the DEPARTMENT'S regulations. 1.25. Seek payment from any other payer or insurer before seeking payment from the DEPARTMENT or its

AUTHORIZED AGENTS in the event the eligible recipient is covered by an insurance policy or health plan including Medicare. Refund to the DEPARTMENT or its AUTHORIZED AGENTS the lesser of the payment received from the third party and the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER shall not bill the DEPARTMENT or its AUTHORIZED AGENTS the difference between a "preferred patient care agreement" or "discount" arrangement and the PROVIDER'S billed charge. 1.26. Not refuse to furnish services to an eligible recipient because of a third party's potential liability for payment for the services, except in instances in which an eligible recipient is seeking services from a provider who does not participate

in the HMO or other plan network and would not be paid for services by the HMO or other plan.

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1.27. Inform the DEPARTMENT or its AUTHORIZED AGENTS immediately when an attorney or other party requests information related to the services rendered to an eligible recipient that were paid by the DEPARTMENT or its AUTHORIZED AGENTS and upon receipt of any knowledge of pending or active legal proceedings involving eligible recipients.

1.28. When furnishing services to eligible recipients who sustained injury in an accident or another action that may be subject to a legal proceeding, agree to the following:

(A) The hospital PROVIDER must either file a claim with the DEPARTMENT or its AUTHORIZED AGENTS within the time period specified in 8.302.14 NMAC of the date of hospital discharge or impose a hospital lien on the potential recovery from the liable third party. If the hospital PROVIDER elects to impose a lien, the PROVIDER is prohibited from filing a claim with the DEPARTMENT or its AUTHORIZED AGENTS for payment of any unpaid balance resulting from the third party recovery or from seeking payment from the eligible recipient or their personal representative.

(B) The non-hospital PROVIDER must accept the payment made by the DEPARTMENT or its AUTHORIZED AGENTS as payment in full. The non-hospital PROVIDER may not seek additional payment for those services from the eligible recipient or their personal representative even if the eligible recipient or their personal representative subsequently received a monetary award or settlement from the liable party.

1.29. When entering into contracts with the Medicaid managed care organization (MCOs) contracting with the DEPARTMENT for the provision of managed care services to the Medicaid population, agree to be paid by the MCO at any amount mutually-agreed between the provider or provider group and the MCOs. If the provider or provider group



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and MCO are unable to agree to terms or fail to execute an agreement for any reason, the provider or provider group shall be obligated to accept the percent of the applicable reimbursement rate as stated in the MAD Program Policy Manual based on the provider type. The "applicable reimbursement rate" is defined as the rate paid by the DEPARTMENT to the PROVIDER participating in Medicaid or other medical assistance programs administered by the DEPARTMENT or its AUTHORIZED AGENTS and excludes disproportionate share hospital and medical education payments. When a Medicaid managed 1.30. care organization (MCO) recoups payment from the provider because the DEPARTMENT retroactively disenrolls a recipient from the MCO, the PROVIDER agrees to bill the DEPARTMENT or its AUTHORIZED AGENTS and accept the applicable reimbursement rate as stated in the MAD program policy manual, according to the provider type.

For those caregivers whose 1.31. employment or contractual service with a care provider includes direct care or routine and unsupervised physical or financial access to any care recipient served by that provider, the caregiver and care provider must adhere to provisions in the Caregivers Criminal History Screening Act (CCHS). 1.32. Understand and agree to meet the requirements concerning enrollment and screening, criminal background checks, fingerprinting, use of the National Provider Identifier, federal database checks, site visits, verification of provider licenses, and application fees as found at 42 CFR 455.400 - 455.470.

1.33. To understand the appeal rights that are given to the PROVIDER as provided for in MAD 8.353.2, PROVIDER HEARING, MAD 8.349.2. APPEALS and GRIEVANCE PROCESS, MAD 8.350.2, RECONSIDERATION OF UTILIZATION REVIEW DECISIONS, MAD 8.350.3, ABSTRACT SUBMISSION FOR LEVEL OF CARE DETERMINATIONS, MAD 8.350.4, RECONSIDERATION OF AUDIT SETTLEMENTS, MAD 8.351.2, SANCTIONS AND REMEDIES, MAD 8.352.2, RECIPIENT HEARINGS, MAD 8.353.2, PROVIDER HEARINGS, MAD 8.354.2, PASRR AND PATIENT STATUS HEARING POLICIES, or as amended or their successors, of the Medical Assistance Division Program Policy Manual. 1.34. All work associated with the Agreements contained herein must be performed in the United States of America.

## ARTICLE II – OBLIGATION OF THE HUMAN SERVICES DEPARTMENT

The DEPARTMENT shall: 2.1. Make available on the HSD/MAD website, other DEPARTMENT websites, or in hard copy format information necessary to participate in health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS, including program rules, billing instructions, and other pertinent materials. The PROVIDER must contact the DEPARTMENT or its AUTHORIZED AGENTS to request hard copies of any program rules, manuals, billing and utilization review instructions, and other pertinent materials.

2.2. Process payments in a manner delineated by federal guidelines either internally or through a designated fiscal agent contractor. Please refer to 8.302.2.9 NMAC.

2.3 Reimburse the PROVIDER for furnishing covered services or procedures to eligible recipients when all program rules have been followed by the PROVIDER. Reimbursement is based on the fee schedule, reimbursement rate, or reimbursement methodology in place at the time service is furnished by the PROVIDER. No exception to, or waiver of, standard reimbursement will be permitted without the express written consent of the MAD Director or his/her designee. APPLICANT INITAL HERE CERTIFYING YOU HAVE READ AND UNDERSTAND THE INFORMATION ON THIS PAGE

2.4. Conduct administrative investigations and administrative proceedings to ensure that the PROVIDER complies with the terms of this AGREEMENT and federal and state law, and regulations pertaining to the administration of the health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS, including the Medicaid Provider Act.

## ARTICLE III - PATIENT SELF-DETERMINATION ACT

The nursing facility, intermediate care facility, hospital, home health agency, and hospice PROVIDER shall:

3.1. Furnish written information to all adult eligible recipients or their personal representatives receiving medical care concerning their right to make decisions about medical care; accept or refuse medical or surgical treatment; and formulate arrangements for a living will or durable power of attorney.

3.2 Document in the eligible recipient's medical record whether he/she has executed an advance directive which complies with New Mexico law on advance directives. The provision of care shall not be based on whether the eligible recipient has executed an advance directive.

3.3. Inform each adult eligible recipient or personal representative, orally and in writing, at the time of facility admission or initiation of treatment, of the eligible recipient's legal rights during his or her facility stay or course of treatment.

## ARTICLE IV - SUBMISSION OF COST REPORTS

4.1. The PROVIDER, when delineated by the DEPARTMENT shall furnish the DEPARTMENT or its AUTHORIZED AGENTS with such financial reports, audited or certified cost statements, and other substantiating data as necessary to establish a basis for



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reimbursement or as required by regulation.

4.2. Cost statements or other data are to be furnished no later than 150 (one hundred- fifty) calendar days following the closure of the PROVIDER'S fiscal accounting period. Failure to comply with this provision will result in suspension of payment until the required statements and other data are provided.

## ARTICLE V -STATUS OF PROVIDER

The PROVIDER, its agents, and employees are independent contractors who perform professional services for eligible recipients served through health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS are not employees of the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER shall not purport to bind the DEPARTMENT nor the State of New Mexico to any obligation not expressly authorized herein unless the DEPARTMENT has given the **PROVIDER** express written permission to do so.

## ARTICLE VI - CHANGE IN OWNERSHIP

6.1. As soon as possible, but at least sixty (60) calendar days prior to a change in ownership or status, the PROVIDER must notify the DEPARTMENT or its AUTHORIZED AGENTS of the proposed change in ownership. Upon completion of the transfer of ownership, this initial AGREEMENT is terminated. The new owner must complete and receive approval of a new AGREEMENT before submitting any claims to the DEPARTMENT or its AUTHORIZED AGENTS. Any payment made on the basis of erroneous or outdated information due to the lack of notice is the responsibility of the PROVIDER and is subject to recoupment.

6.2. The previous owner shall be responsible for any overpayments and is entitled to receive payments up to the date of ownership transfer, unless

otherwise specified in the contract for transfer of ownership.

6.3. The new owner shall furnish to the DEPARTMENT or its

AUTHORIZED AGENTS upon receipt of a written request, the contract or other applicable documents specifying the terms of the change in ownership and responsibilities delineated in this AGREEMENT.

6.4. The DEPARTMENT and its AUTHORIZED AGENTS reserve the right to withhold all pending and other claims until the right to payments and/or recoupment is determined, unless the new owner agrees in writing to be liable for any recoupment or overpayment amounts.

6.5. For the PROVIDER who is reimbursed on a cost basis and subject to cost settlements, the DEPARTMENT or its AUTHORIZED AGENTS shall impose a lien and/or penalty of up to ten percent (10%) of the purchase price against the previous owner until such time as the final cost settlement is completed and amounts owed, if applicable, are remitted to the DEPARTMENT, or its AUTHORIZED AGENTS.

## ARTICLE VII - TERMINATION OF PROVIDER AGREEMENT

7.I. The PROVIDER status may be terminated without cause if the PROVIDER or the DEPARTMENT or its AUTHORIZED AGENTS give the other written notice of termination at least sixty (60) calendar days prior to the effective date of the termination. 7.2. The DEPARTMENT or its AUTHORIZED AGENTS may terminate this AGREEMENT for cause, with thirty (30) calendar days notice if the PROVIDER, his or her agent, a managing employee, or any person having an ownership interest equal to five percent (5%) or greater in the health care PROVIDER entity:

(A) Misrepresents, by commission or omission, any information on the AGREEMENT enrollment form. (B) Has previous or current exclusion, suspension, termination from, or the involuntary withdrawal from participation in a health care program administered by the DEPARTMENT, any other state's Medicaid program, Medicare, or any other public or private health insurance program.

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(C) Is convicted under federal or state law of a criminal offense relating to the delivery of the goods, services, or supplies, under a health care program administered by the DEPARTMENT, any other state's Medicaid Program, Medicare, or any other public or private health insurance program.

(D) Is convicted under federal or state law of a criminal offense relating to the neglect or abuse of a patient in connection with the delivery of any goods, services, or supplies.

(E) Is convicted under federal or state law of a criminal offense relating to the unlawful manufacture, distribution, prescription or dispensing of a controlled substance.

(F) Is convicted under federal or state law of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

(G) Is convicted under federal or state law of a criminal offense punishable by imprisonment of a year or more which involved moral turpitude or acts against the elderly, children, or infirm.

(H) Is sanctioned pursuant to a violation of federal or state laws or rules relative to a health care program administered by the DEPARTMENT, any other state's Medicaid Program, Medicare, or any other public health insurance program.

(1) Is convicted under federal or state law of a criminal offense in connection with the interference or obstruction of any investigations into any criminal offense listed in Paragraphs (C) through (H) of

this subsection. (J) Violates licensing or certification conditions or professional standards relating to the licensure or certification of the PROVIDER or the



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required quality of goods, services, or supplies provided.

(K) Fails to pay recovery properly assessed or pursuant to an approved repayment schedule under a health care program administered by the DEPARTMENT or its AUTHORIZED AGENTS.

The PROVIDER's status may 7.3. be terminated immediately, without notice, in instances in which the health and safety of eligible recipients in institutions are deemed to be in immediate jeopardy; are subject to an immediate or serious threat; or when it has been demonstrated, on the basis of reliable evidence, that the PROVIDER has committed fraud, abuse, or other illegal or sanctionable action. For purposes of this provision, institutional providers include nursing facilities, intermediate care facilities for the mentally retarded, all residential psychiatric treatment facilities, group homes, and other facility-based residential treatment programs. The DEPARTMENT or its 74 AUTHORIZED AGENTS reserve the right to terminate this AGREEMENT for cause as summarized in this

AGREEMENT and as delineated in Section MAD-8.351.2, SANCTIONS AND REMEDIES of the Medical Assistance Division Program Policy Manual, or as amended and/or its successor.

7.5. Immediately upon termination for any reason, the PROVIDER shall:

(A) Comply with all directives issued by the DEPARTMENT or its AUTHORIZED AGENTS; and

(B) Take such action as the DEPARTMENT or its AUTHORIZED AGENTS shall direct for the protection, preservation, retention or transfer of all property, included but not limited to all recipient records.

## ARTICLE VIII - IMPOSITION OF SANCTIONS FOR FRAUD OR MISCONDUCT

8.1. If the PROVIDER obtains an excess payment or benefit willfully, by means of false statement, representation,

concealment of any material fact, or other fraudulent scheme or devise with intent to defraud, criminal sentences and fines and/or civil monetary penalties shall be imposed pursuant to, but not limited to, the Medicaid Fraud Act, NMSA 1978, 30-44-1 et seq., 42 USC 1320a-7b, and 42 CFR 455.23.

8.2 In addition to the above criminal and civil penalties, the DEPARTMENT or its AUTHORIZED AGENTS may impose monetary or nonmonetary sanctions, including civil monetary penalties for PROVIDER misconduct or breach of any of the terms of this AGREEMENT.

8.3 Upon written notice to the PROVIDER, the DEPARTMENT or its AUTHORIZED AGENTS may sanction non-performance under this AGREEMENT consistent with the DEPARTMENT's rules through one or more following actions:

(A) Compensation Reduction. As a sanction, the DEPARTMENT or its AUTHORIZED AGENTS may recover past payments to the PROVIDER and/or reduce the compensation of the PROVIDER for past failure to fully and satisfactorily perform, and for any ongoing failure to fully and satisfactorily perform this AGREEMENT's obligations. Imposition of such a penalty does not preclude the DEPARTMENT or its AUTHORIZED AGENTS from recouping or recovering payments as specifically provided in any other law, regulation or this AGREEMENT.

(B) The amount of the compensation paid to the PROVIDER by the DEPARTMENT or its AUTHORIZED AGENTS for services that the PROVIDER did not fully and satisfactorily perform in accordance with the terms of this AGREEMENT. 8.4. The DEPARTMENT or its AUTHORIZED AGENTS may recover funds by reducing future compensation payable by the DEPARTMENT or its AUTHORIZED AGENTS to the PROVIDER. APPLICANT INITAL HERE CERTIFYING YOU HAVE READ AND UNDERSTAND THE INFORMATION ON THIS PAGE

## ARTICLE IX – EMPLOYEE EDUCATION CONCERNING FALSE CLAIMS

9.1. In accordance with Section 1902(a) of the Social Security Act, the PROVIDER must:

(A) Establish written policies and rules for all employees, agents, or contractors, that provide detailed information regarding the New Mexico of Medicaid False Claims Act, NMSA 1978, 27-14-1, et seq.; and the Federal False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statement established under chapter 38 of title 31, United States Code, including but not limited to, preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f) of the Social Security Act);

(B) Include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste and abuse; and

(C) Include in any employee handbook, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the PROVIDER's rules and procedures for detecting and preventing fraud, waste, and abuse. 9.2. The DEPARTMENT may, at its sole discretion, exempt the PROVIDER from the requirements set forth in 9.1 herein; however, the DEPARTMENT shall not exclude the PROVIDER, if the PROVIDER receives at least \$5,000,000 in annual payments from the DEPARTMENT.

9.3 For the purposes of this Article, the following definitions apply:

(A) An "employee" includes any officer or employee of the PROVIDER.

(B) A "contractor" or "agent" includes any contractor, subcontractor, agent or other person which or who, on behalf of the PROVIDER, furnishes, or otherwise authorizes the furnishing of Medicaid or other health care program items or services, performs billing or



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coding functions or is involved in monitoring of health care provided by the PROVIDER.

## ARTICLE X - REFUSAL TO EXECUTE AN AGREEMENT

The DEPARTMENT will not execute an AGREEMENT with the PROVIDER if the PROVIDER, his/her agent, managing employee, or any person having an ownership interest equal to five percent (5%) or greater in the health care PROVIDER commits or has committed any of the violations listed in Article 7.2. of this AGREEMENT or other provisions delineated in Section 8.351.2 or as amended and/or its successor, **REMEDIES AND SANCTIONS of the** Medical Assistance Division Program Policy Manual, when such exclusions are mandatory under federal or state law.

## ARTICLE XI - RECIPIENT FUND ACCOUNT

Nursing facilities, swing bed hospitals, and intermediate care facilities for the mentally retarded shall establish and maintain an acceptable system of accounting for eligible recipients' personal funds, in the manner prescribed by the DEPARTMENT or its AUTHORIZED AGENTS, in those cases in which eligible recipients entrust their personal funds to the facility.

## ARTICLE XII - PRECONDITION FOR PARTICIPATION

The PROVIDER understands that signing this AGREEMENT is a precondition for participating in health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER understands that the provision of services, billing of services, and receipt of payments for services cannot occur until this AGREEMENT is completed by the PROVIDER and approved for execution by the DEPARTMENT.

ARTICLE XIII – INSURANCE

During the term of this 13.1 AGREEMENT, the PROVIDER shall, at its sole cost and expense, carry comprehensive general liability insurance and professional liability insurance in amounts and containing such provisions from time to time deemed adequate by the DEPARTMENT or its AUTHORIZED AGENTS. Upon request, the PROVIDER will provide to the DEPARTMENT and its AUTHORIZED AGENTS certificates evidencing that the insurance required by this Section is in effect. The PROVIDER hereby authorizes the PROVIDER's insurance carrier to notify the DEPARTMENT and its AUTHORIZED AGENTS upon cancellation or termination of the PROVIDER's insurance coverage. The PROVIDER will notify the DEPARTMENT or its AUTHORIZED AGENTS promptly whenever an eligible recipient files a claim or notice of intent to commence action against the PROVIDER. The PROVIDER will notify the DEPARTMENT or its AUTHORIZED AGENTS not more than ten (10) business days after the PROVIDER's receipt of notice of any reduction or cancellation of the insurance coverage required by this Section.

13.2 The DEPARTMENT may, at its sole discretion, exempt the PROVIDER from the requirements of 13.1 for any reason, including but not limited to, the inability of the PROVIDER to procure such insurance.

## ARTICLE XIV – HEALTH INSURANCE

14.1 If the PROVIDER has, or grows to have, six (6) or more employees who work or who are expected to work, an average of at least twenty (20) hours per week over a six (6) month period during the term of this AGREEMENT and by signing it, agree to comply with these provisions.

(A) Have in place, and agree to maintain for the term of this AGREEMENT, health insurance for

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those employees and offer that health insurance to those employees no later than July 1, 2008, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds one million (\$1,000,000) dollars; or

(B) Have in place, and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds five-hundred thousand (\$500,000) dollars; or

(C) Have in place and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds two-hundred and fifty thousand (\$250,000) dollars 14.2 The PROVIDER must agree to maintain a record of the number of

maintain a record of the number of employees who have:

(A) accepted health insurance

(B) declined health insurance due to other health insurance coverage already in place; or

(C) declined health insurance for other reasons.

These records are subject to review and audit by the STATE or its representative(s).

14.3 The PROVIDER must agree to advise all employees of the availability of STATE publicly financed health care coverage programs by providing each employee with, at a minimum, the following web site link (or its successor) for additional information <u>http://www.insurenewmexico.state.nm.u</u>  $\underline{s/}$ 

## **ARTICLE XV - NO WAIVERS**

No terms or provision of this AGREEMENT shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and





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executed by the party claiming to have waived or consented.

## **ARTICLE XVI - APPLICABLE LAW**

This AGREEMENT shall be governed by the laws of the State of New Mexico. All legal proceedings arising from unresolved disputes under this AGREEMENT are subject to administrative and judicial review as provided for in MAD 8.353.2, **PROVIDER HEARING, MAD 8.349.2,** APPEALS and GRIEVANCE **PROCESS, MAD 8.350.2, RECONSIDERATION OF** UTILIZATION REVIEW DECISIONS, MAD 8.350.3, ABSTRACT SUBMISSION FOR LEVEL OF CARE **DETERMINATIONS, MAD 8.350.4, RECONSIDERATION OF AUDIT** SETTLEMENTS, MAD 8.351.2, SANCTIONS AND REMEDIES, MAD 8.352.2, RECIPIENT HEARINGS, MAD 8.353.2, PROVIDER HEARINGS, MAD 8.354.2, PASRR AND PATIENT STATUS HEARING POLICIES, or as amended or their successors, of the Medical Assistance **Division Program Policy Manual.** 

## **ARTICLE XVII - ASSIGNMENT**

The PROVIDER shall not assign or transfer any obligation, duty, or other interest in this AGREEMENT, nor assign any claim for monies due under this AGREEMENT without authorization of the DEPARTMENT or its AUTHORIZED AGENTS. Any assignment or transfer which is not authorized by the DEPARTMENT or its AUTHORIZED AGENTS shall be void.

#### **ARTICLE XVIII -INDEMNIFICATION**

The PROVIDER shall indemnify. defend, and hold harmless the STATE, the DEPARTMENT, its AUTHORIZED AGENTS, and employees from any and all actions, proceedings, claims, demands, costs, damages, and attorney's fees, from all liabilities or expenses of any kind from any sources accruing to or resulting from the PROVIDER or its employees in connection with the performance of this AGREEMENT and from all claims of any person or entity that may be directly or indirectly injured or damaged by the PROVIDER or its employees in the performance of this AGREEMENT.

#### ARTICLE IXX - ENTIRE AGREEMENT

This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter contained in this AGREEMENT, and all such covenants, agreements, and understandings have been merged into this AGREEMENT. No prior agreement, covenants, or understandings, either verbal or otherwise, of the parties or their agents shall be valid or enforceable unless contained in this AGREEMENT. This AGREEMENT shall not be altered, changed, revised, or amended except by written instrument executed by the parties in the same manner as in this AGREEMENT. Amendments shall contain an effective date. Any amendments to this AGREEMENT shall not be binding upon either party until approved in writing by the DEPARTMENT or its AUTHORIZED AGENTS.





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Name of Entity / Individual The Navajo	Nation	EIN / SSN	ı 86-0092335		NPI 14	27656065			
A) Have you ever had a license revoked, s	suspended or denied in any state?		YES	<u>x</u> NO	Initial				
B) Have you ever been convicted of any o	criminal offense?		YES	<u>×</u> NO	Initial				
C) Have you or any ever been excluded or Title XVIII (Medicare), Title XIX (M	r suspended from participation in edicaid) or any other health care p	rogram?	YES	¥NO	Initial				
If YES to any of the above three questions which handled the matter; any precinct ca	s, attach a brief statement of situat ase identification, and the adjudica	ion; date; tion or otł	city, county a ner result.	and profe	ssional assoc	ciation or court			
New Mexico Medicaid project staff may telephone number.	need to contact you regarding t	ne comple	etion of this f	form. Ple	ase list cont	act person and			
Contact Person: Dr. Michelle Brands	er Teleph	one Num	<u>ber: (928)8</u>	71-624	<u>)                                    </u>				
Whoever knowingly and willfully makes or causes to be made a false statement or representation of this statement, may be prosecuted under applicable federal or State laws. In addition, knowingly and willfully failing to fully and accurately disclose the information requested may result in denial of a request to participate or, where the entity already participates, a termination of its agreement or contract with the State agency.									
INDIVIDUAL PROVIDER:	Original signature required. Plea	ase use blu	ie ink only.						
	I understand that payment of claims will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state law.								
Printed Name of Individual Practition	oner:					<u></u>			
Signature of Individual Practitioner	••••••••••••••••••••••••••••••••••••••			Date:					
FACILITIES AND NON-PRACTITIONER ORG	ANIZATIONS:								
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Printed Name of Authorized Representative:	Jonathan Nez								
Title / Position:	Navajo Nation President								
Address:	PO BOX 7440; Window Roc	<u>k, AZ 86</u>	515						
Telephone Number:	(928)871-7000								
Signature of Authorized Representative:				_ Date:_					
	FOR STATE PURPOS	ES ONL	Y:						
HUMAN SERVICES DEPARTMENT	APPROVAL								
	NOT APPROVED								
Reasons Not Approved:									
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(5) Business Name (DBA) Fort Defiance Outpatie	nt Treatmen	t Center	(6) Federal T	ax (Lega		e Navajo	Nation	
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(9) Mailing Address for official corres PO Box 709	oondence (MA	AY BE PO BOX)		ity Vindo	w Rock	State AZ		Zip Code
(10) Fax Number		ng Office Phone 71-6235		Thu	A Contraction of the Contraction	on Phone (	REQUIRED)	
(928)871-6456 (13) Mailing Email Address mbrandser@navajo-nsn.go	(14) Billio	ng Office Email Addr			(15) Locatio	on / Provid	er Email Address Arizona	
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Limited L (17) Provider Type (see (18) Pro	iability Comp	any License Info	n-corporate Bu	SINESS E	ntity / Other		QUIRED) Individu	or Public School
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(33) Other Certification?	YES	NO 🙀 (If YE	S, attach copy	of letter)	Certified	by:		
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additional space is needed) Individual's Name, Title	Prov.	Specialty	NM Medicaid	Prov. No	).		NPI	
	Туре							
(36) If services have already been rend	lered to a NM DOS:	Medicaid recipient, p	please enter Da	te of Ser	vice and atta	ich copy o	f claim:	

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(37) To be completed by out-of-state providers only: Home State Medicaid Provider Number:								
Name of Entity / Individual The Navaj	o Nation		EIN / SSN 86-0092335	NPI 1740400365				
	Quest	ion 1 to be	e answered by all pro	oviders.				
is an agent or manag person's involvemen	ing employee of t t in any program ograms? If yes, g	he provider, under Medica	been convicted of a crim are, Medicaid, or the Title	e provider, or any person who inal offense related to that XX services program since the ription(s) of offense(s). Please	YES 🗖 NO 🔽			
Name	Social Security Number	Date of Birth		Description				



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Name of Entity / Individual The Navajo Nat	ion	EIN / SSN 86-0092335	NPI	1740400365					
Question 2 is to be	answered by	all providers, includ	ing non-profit organiza	ations and charities.					
Definition: A managing employee is a "general manager, business manager, administrator, director or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operations of an institution, organization, or agency." (42 CFR section 455.101) Managing employees are in a position to exert influence over the conduct of the provider's operations and includes officers, governing boards, or board of directors.									
2. Federal regulation req pages if necessary:	uires the followir	ng information to be discl	osed on all managing emplo	oyees. Please use additional					
NAME		ADDRESS	SOCIAL SECU						
Dr. Michelle Brandser	PO BOX Window 86515	K ∕ Rock, Arizona							
Miranda Blatchford	PO BOX Chinle, 4 86503								





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3. Provide the name and a	ddress of each persor	(individual or corpo	oration) with an o	individual practition wnership or control intere cent or more. Please use a	st in the provider or in	1
NAME		ADDRESS		SOCIAL SECURITY NUMBER (IF INDIVIDUAL) OR TAX ID (IF NOT AN INDIVIDUAL)	DATE OF BIRTH (FOR INDIVIDUALS	)
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Name o	f Entity / Individual The Navajo Nation		EIN /	SSN 86-00	92335		NPI 1740400365	
	Does any person (individual or corporation) na other Medicaid provider or in [any entity that c ownership and control information because of or XX of the Social Security Act?] (This includ programs such as Medicaid; Medicare Part A; programs established under parts XIX, XX, an provider identification number(s) and address necessary:	loes not par f participati es participa Medicare P d XXI of the	rticipation in au ntion in art B; M Social	e in Medicaid but is requiny of the programs esta any federal, state, or joi Medicare Part C; Medica Security Act.) If ves. giv	uired to disclose cert blished under Title V intly funded healthca re Part D; CHAMPUS /e the name(s). Medic	ain , XVIII, re ; and :aid	YES 🔲 NO 🔀	
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Name of Entity / Individual The Navajo Nation EIN / SSN 86-0092335

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This AGREEMENT, between the State of New Mexico (STATE), herein referred to as "the STATE," the New Mexico Human Services Department (HSD), herein referred to as "the DEPARTMENT" and the applicant as provider, herein referred to as "the PROVIDER", specifies the terms and conditions for providing health care services to eligible recipients of Medicaid, other medical assistance programs, and other health care programs administered by the Department and other departments of the State of New Mexico for which the Department is authorized to make payment to the PROVIDER. Administration of health care programs including, but not limited to, service authorizations, billing instructions and payment, may be performed by the DEPARTMENT and its agents including other departments and agencies of the State of New Mexico and their contractors, as authorized by joint power of agreements, contracts, or other binding agreements, herein referred to as its "AUTHORIZED AGENTS". This AGREEMENT shall be effective when completed in full with all required documentation attached and when signed by the PROVIDER and the Human Services Department Medical Assistance Division (HSD/MAD) or its designees and shall remain in effect until terminated pursuant to the terms set forth below.

## ARTICLE 1 – OBLIGATIONS OF THE PROVIDER

## The PROVIDER shall:

1.1. Abide by all federal, state, and local laws, rules and regulations, including but not limited to, those laws, regulations, and rules applicable to providers of services under Title XIX (Medicaid) and Title XXI (SCHIP) of the Social Security Act and other health care programs administered by the DEPARTMENT and its AUTHORIZED AGENTS.

1.2. Furnish services, bill for services, and receive payment for services only upon approval of this AGREEMENT by the HSD /MAD Director or his/her designees or its AUTHORIZED AGENTS.

1.3. Be responsible for the accuracy and validity of all claims for which reimbursement is sought by causing claims to be manually or electronically submitted to the DEPARTMENT or its AUTHORIZED AGENTS.

1.4. Comply with all instructions, directives, billing, reimbursement, audit, recoupment, and withholding provisions made available by the DEPARTMENT and its AUTHORIZED AGENTS.
1.5. Obtain, maintain, and keep updated program rules and instructions on billing and utilization review and other pertinent material made available by the DEPARTMENT and its AUTHORIZED AGENTS.

Not employ or enter into contract 1.6. with excluded individuals or entities, as identified by the Health and Human Services Office of Inspector General's (HHS-OIG) List of Excluded Individuals/entities (LEIE), the Medicare Exclusion Database (MED), System for Award Management (SAM), Excluded Parties List System (EPLS) or a state's Employee Abuse Registry (EAR) or equivalent. All findings of placement of an employee on EAR should be forwarded to a law enforcement agency for possible prosecution. The HHS-OIG website can be searched by the name of any individual or entity, and must be searched on a monthly basis in order to capture exclusions and reinstatements that have occurred since the last search. Any exclusion information discovered must be immediately reported to the DEPARMENT or its AUTHORIZED AGENTS. A provider must ensure that every healthcare practitioner or other employee providing a service is appropriately licensed, registered, background checked, and/or certified at the time the service is provided, as required by state law or regulation for the service or activity that is provided and is valid in the municipality. All payments made to PROVIDERS for services or items obtained from excluded parties or provided by insufficiently licensed, registered, back-ground checked, or certified individuals are overpayments subject to recoupment. These services or items extend to all methods of

reimbursement, whether payment results from itemized claims, cost reports, fee schedules, or a prospective payment system; payment for administrative and management services not directly related to patient care, but that are a necessary component of providing items and services to Medicaid recipients, when those payments are reported on a cost report or are otherwise payable by the Medicaid program; and payments to cover an excluded individual's salary, expenses, or fringe benefits, regardless of whether they provide direct patient care, when those payments are reported on a cost report or are otherwise payable by the Medicaid program. In addition, civil monetary penalties may be imposed for noncompliance. 42 CFR 1003 .102(a)(2). The PROVIDER must also check New Mexico Courts (http://www.nmcourts.gov/) for records of any incidents involving any employee at the time of employment and annually thereafter. Documentation of the check must be maintained in the employee's personnel folder.

1.7. Comply with the disclosure requirements specified in 42 CFR, Part 455, Subpart B, including but not limited to disclosure upon request of information regarding ownership and control, business transactions and person convicted of crimes. This includes information about ownership of any subcontractor and any significant business transactions between the provider and subcontractor and/or



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provider and any wholly owned supplier. The provider agreement will be terminated if the PROVIDER fails to disclose ownership or control information as required by Federal law. Furnish and update complete 1.8. information on the PROVIDER's address, licensing, certification, board specialties, corporate names, and parties with direct or indirect ownership or controlling interest in the entity or in any subcontractor in which the entity has a direct or indirect ownership interest totaling five percent (5%) or more, and any relationship (spouse, parent, child, or sibling) of these persons to another; the name of any other entity in which a person with an ownership or controlling interest in the disclosing entity also has an ownership or controlling interest in; and information on the conviction of delineated criminal or civil offenses by the PROVIDER or parties with direct or indirect ownership or controlling interest at least sixty (60) calendar days prior to the contemplated change or within ten (10) calendar days after the conviction. Any payment made on the basis of erroneous or outdated information is the responsibility of the PROVIDER and is subject to recoupment, criminal investigative costs, and/or civil penalties. Comply with all applicable 1.9. federal, state, and local laws and regulations regarding-licensure, registration to pay applicable taxes, payment of applicable taxes, permit requirements, and employee tax filing

requirements. 1.10. Assume sole responsibility for all applicable taxes, insurance, licensing, and other costs of doing business.

1.11. Verify that an individual is eligible for a specified health care program administered by the DEPARTMENT or its AUTHORIZED AGENTS.

1.12. Verify the identity of the eligible recipient on all occasions prior to rendering services.

1.13. Maintain the confidentiality of eligible recipient information and records in accordance with applicable state and federal laws, including 42 CFR 431.305, 8.100.100.13 and .14 NMAC,

and regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended.

1.14. Meet the Continuing Care Obligations of the PROVIDER. In the event of termination of this AGREEMENT for any reason, the PROVIDER shall continue to provide or arrange services to eligible recipients, including any recipients who become eligible during the termination notice period, beginning on the effective date of termination and continuing until the termination or next renewal date of the recipient's eligibility, unless the DEPARTMENT arranges for the transfer of the eligible recipient to another Provider and provides written notice to the PROVIDER of such transfer prior to the termination or next renewal date of this AGREEMENT.

Notwithstanding the foregoing, at the direction of the DEPARTMENT, the PROVIDER may continue to provide or arrange services to any eligible recipient who cannot be transferred within the time period specified above in accordance with the legal and contractual obligations to: (1) provide services under the applicable health care program; (2) provide notice of termination to eligible recipients; and (3) ensure continuity of care for eligible recipients.

(A) In the event that the PROVIDER terminates this AGREEMENT on the basis of the DEPARTMENT'S failure to make timely payments, the PROVIDER shall continue to arrange for services to those eligible recipients who are hospitalized on an inpatient basis or otherwise residents of a facility at the time the PROVIDER terminates this AGREEMENT until eligible recipients are discharged from the hospital or other facility. The PROVIDER may file a claim with the DEPARTMENT or its AUTHORIZED AGENTS for such services.

(B) The DEPARTMENT or its AUTHORIZED AGENTS will pay the PROVIDER for services provided after the date of termination of this AGREEMENT at the current applicable reimbursement rate to eligible providers as of the dates of service when the services have been authorized by the DEPARTMENT or its AUTHORIZED AGENTS.

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(C) The PROVIDER agrees that the provisions of this section and the obligations of the PROVIDER herein shall survive termination, and shall be construed to be for the benefit of eligible recipients.

1.15. Render covered services to eligible recipients in the same scope, quality, and manner as provided to the general public; comply with all applicable federal and state civil rights laws; and not discriminate on the basis of race, color, national origin, sex, gender, age,

ethnicity, religion, sexual orientation, sexual preference, health status, disability, political belief, or source of payment as per 45 CFR 80.3(a) and (b), 45 CFR 84.52, and 42 CFR 447.20 or other state and federal laws, rules, and regulations.

1.16. Assume all responsibility for any and all claims submitted on behalf of the PROVIDER under the PROVIDER'S identification number. Submission of false or miscoded claims or fraudulent representation may subject the PROVIDER to termination, criminal investigations and charges, and other sanctions specified in the HSD/MAD Program Policy Manual, and federal and state law and regulations.

1.17. Create, keep and maintain, and have readily retrievable, any and all original medical or business records as necessary to verify the treatment or care of any eligible recipient and to fully disclose the type and extent of all services, goods, and supplies provided to eligible recipients as set forth in 42 CFR 431.107 for at least six (6) years from the date of creation or until ongoing audits are settled, whichever is longer. The PROVIDER agrees that such records shall be made at or near the time at which the services, goods, and supplies are delivered or rendered. Services that have been billed to the DEPARTMENT or its AUTHORIZED



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AGENTS which are not substantiated in the PROVIDER'S record are subject to recoupment, sanction, and/or any other penalty provided for in this AGREEMENT.

1.18. Upon closure of office or facility, inform the DEPARTMENT or its AUTHORIZED AGENTS where records pertaining to eligible recipients will be located.

1.19. Furnish immediately to the DEPARTMENT or its AUTHORIZED AGENTS, the U.S. Secretary of Health and Human Services, or the Medicaid Fraud Control Unit, at no cost, access to records in any format requested and any information regarding payments claimed by the PROVIDER for furnishing services to eligible recipients. Permit announced and 1.20. unannounced inspection of facilities or the PROVIDER'S offices and other locations used in the provision of services for billing and to eligible recipients by the U.S. Secretary of Health and Human Services, the Medicaid Fraud Control Unit, and the DEPARTMENT and its AUTHORIZED AGENTS. Failure to comply with this provision constitutes a violation of federal and state law and may result in immediate withholding of any pending or future payments. If records are requested by mail, the PROVIDER shall furnish the records within two (2) to ten (10) business days of the receipt of the request or as provided in the request. 1.21. Assist and cooperate in any review, inspection or audit conducted in conformity with the terms of this AGREEMENT.

1.22. Accept as payment in full, the amount paid by the DEPARTMENT or its AUTHORIZED AGENTS for services furnished to eligible recipients in accordance with the reimbursement structure in effect for the period during which services were provided as per the DEPARTMENT'S or its

AUTHORIZED AGENTS reimbursement rules. No exceptions to, or waiver of standard reimbursements will be permitted without the express written consent of the MAD Director or his/her designee.

Electronic billing of claims is 1.23. mandatory unless an exemption has been allowed by the DEPARTMENT or its AUTHORIZED AGENTS. Exemptions will be given on a case-by-case basis with consideration being given to any barriers the PROVIDER may face in billing electronically, including when volumes are so small that developing electronic submission capability is impractical. The requirement for electronic submission of claims does not apply to situations for which a paper attachment must accompany the claim form.

1.24. Not collect payments from the eligible recipient or any financially responsible relative or personal representative of the eligible recipient for services furnished to the eligible recipient, except as specifically allowed by the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER may not bill or collect payments from the eligible recipient or their personal representative for any claim denied by the DEPARTMENT or its AUTHORIZED AGENTS for administrative or billing errors on the part of the PROVIDER except as specifically allowed by the DEPARTMENT'S regulations. Seek payment from any other 1.25. payer or insurer before seeking payment from the DEPARTMENT or its AUTHORIZED AGENTS in the event the eligible recipient is covered by an insurance policy or health plan including Medicare. Refund to the DEPARTMENT or its AUTHORIZED AGENTS the lesser of the payment received from the third party and the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER shall not bill the DEPARTMENT or its AUTHORIZED AGENTS the difference between a "preferred patient care agreement" or "discount" arrangement and the PROVIDER'S billed charge. Not refuse to furnish services to 1.26. an eligible recipient because of a third party's potential liability for payment for the services, except in instances in which an eligible recipient is seeking services from a provider who does not participate

in the HMO or other plan network and would not be paid for services by the HMO or other plan.

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1.27. Inform the DEPARTMENT or its AUTHORIZED AGENTS immediately when an attorney or other party requests information related to the services rendered to an eligible recipient that were paid by the DEPARTMENT or its AUTHORIZED AGENTS and upon receipt of any knowledge of pending or active legal proceedings involving eligible recipients.

1.28. When furnishing services to eligible recipients who sustained injury in an accident or another action that may be subject to a legal proceeding, agree to the following:

(A) The hospital PROVIDER must either file a claim with the DEPARTMENT or its AUTHORIZED AGENTS within the time period specified in 8.302.14 NMAC of the date of hospital discharge or impose a hospital lien on the potential recovery from the liable third party. If the hospital PROVIDER elects to impose a lien, the PROVIDER is prohibited from filing a claim with the DEPARTMENT or its AUTHORIZED AGENTS for payment of any unpaid balance resulting from the third party recovery or from seeking payment from the eligible recipient or their personal representative.

(B) The non-hospital PROVIDER must accept the payment made by the DEPARTMENT or its AUTHORIZED AGENTS as payment in full. The non-hospital PROVIDER may not seek additional payment for those services from the eligible recipient or their personal representative even if the eligible recipient or their personal representative subsequently received a monetary award or settlement from the liable party.

1.29. When entering into contracts with the Medicaid managed care organization (MCOs) contracting with the DEPARTMENT for the provision of managed care services to the Medicaid population, agree to be paid by the MCO at any amount mutually-agreed between the provider or provider group and the MCOs. If the provider or provider group



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and MCO are unable to agree to terms or fail to execute an agreement for any reason, the provider or provider group shall be obligated to accept the percent of the applicable reimbursement rate as stated in the MAD Program Policy Manual based on the provider type. The "applicable reimbursement rate" is defined as the rate paid by the DEPARTMENT to the PROVIDER participating in Medicaid or other medical assistance programs administered by the DEPARTMENT or its AUTHORIZED AGENTS and excludes disproportionate share hospital and medical education payments. 1.30. When a Medicaid managed care organization (MCO) recoups payment from the provider because the DEPARTMENT retroactively disenrolls a recipient from the MCO, the PROVIDER agrees to bill the DEPARTMENT or its AUTHORIZED AGENTS and accept the applicable reimbursement rate as stated in the MAD program policy manual, according to the provider type.

For those caregivers whose 1.31. employment or contractual service with a care provider includes direct care or routine and unsupervised physical or financial access to any care recipient served by that provider, the caregiver and care provider must adhere to provisions in the Caregivers Criminal History Screening Act (CCHS). 1.32. Understand and agree to meet the requirements concerning enrollment and screening, criminal background checks, fingerprinting, use of the National Provider Identifier, federal database checks, site visits, verification of provider licenses, and application fees as found at 42 CFR 455.400 - 455.470.

1.33. To understand the appeal rights that are given to the PROVIDER as provided for in MAD 8.353.2, PROVIDER HEARING, MAD 8.349.2, APPEALS and GRIEVANCE PROCESS, MAD 8.350.2, RECONSIDERATION OF UTILIZATION REVIEW DECISIONS, MAD 8.350.3, ABSTRACT SUBMISSION FOR LEVEL OF CARE

DETERMINATIONS, MAD 8.350.4. RECONSIDERATION OF AUDIT SETTLEMENTS, MAD 8.351.2, SANCTIONS AND REMEDIES, MAD 8.352.2, RECIPIENT HEARINGS, MAD 8.353.2, PROVIDER HEARINGS, MAD 8.354.2, PASRR AND PATIENT STATUS HEARING POLICIES, or as amended or their successors, of the Medical Assistance Division Program Policy Manual. All work associated with the 1.34. Agreements contained herein must be performed in the United States of America.

## ARTICLE II – OBLIGATION OF THE HUMAN SERVICES DEPARTMENT

The DEPARTMENT shall: 2.1. Make available on the HSD/MAD website, other DEPARTMENT websites, or in hard copy format information necessary to participate in health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS, including program rules, billing instructions, and other pertinent materials. The PROVIDER must contact the DEPARTMENT or its AUTHORIZED AGENTS to request hard copies of any program rules, manuals, billing and utilization review instructions, and other pertinent materials.

2.2. Process payments in a manner delineated by federal guidelines either internally or through a designated fiscal agent contractor. Please refer to 8.302.2.9 NMAC.

2.3 Reimburse the PROVIDER for furnishing covered services or procedures to eligible recipients when all program rules have been followed by the PROVIDER. Reimbursement is based on the fee schedule, reimbursement rate, or reimbursement methodology in place at the time service is furnished by the PROVIDER. No exception to, or waiver of, standard reimbursement will be permitted without the express written consent of the MAD Director or his/her designee. APPLICANT INITAL HERE CERTIFYING YOU HAVE READ AND UNDERSTAND THE INFORMATION ON THIS PAGE

2.4. Conduct administrative investigations and administrative proceedings to ensure that the PROVIDER complies with the terms of this AGREEMENT and federal and state law, and regulations pertaining to the administration of the health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS, including the Medicaid Provider Act.

## ARTICLE III - PATIENT SELF-DETERMINATION ACT

The nursing facility, intermediate care facility, hospital, home health agency, and hospice PROVIDER shall:

3.1. Furnish written information to all adult eligible recipients or their personal representatives receiving medical care concerning their right to make decisions about medical care; accept or refuse medical or surgical treatment; and formulate arrangements for a living will or durable power of attorney.

3.2 Document in the eligible recipient's medical record whether he/she has executed an advance directive which complies with New Mexico law on advance directives. The provision of care shall not be based on whether the eligible recipient has executed an advance directive.

3.3. Inform each adult eligible recipient or personal representative, orally and in writing, at the time of facility admission or initiation of treatment, of the eligible recipient's legal rights during his or her facility stay or course of treatment.

## ARTICLE IV - SUBMISSION OF COST REPORTS

4.1. The PROVIDER, when delineated by the DEP ARTMENT shall furnish the DEPARTMENT or its AUTHORIZED AGENTS with such financial reports, audited or certified cost statements, and other substantiating data as necessary to establish a basis for





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reimbursement or as required by regulation.

4.2. Cost statements or other data are to be furnished no later than 150 (one hundred- fifty) calendar days following the closure of the PROVIDER'S fiscal accounting period. Failure to comply with this provision will result in suspension of payment until the required statements and other data are provided.

## ARTICLE V -STATUS OF PROVIDER

The PROVIDER, its agents, and employees are independent contractors who perform professional services for eligible recipients served through health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS are not employees of the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER shall not purport to bind the DEPARTMENT nor the State of New Mexico to any obligation not expressly authorized herein unless the DEPARTMENT has given the PROVIDER express written permission to do so.

## ARTICLE VI - CHANGE IN OWNERSHIP

As soon as possible, but at least 6.1. sixty (60) calendar days prior to a change in ownership or status, the PROVIDER must notify the DEPARTMENT or its AUTHORIZED AGENTS of the proposed change in ownership. Upon completion of the transfer of ownership, this initial AGREEMENT is terminated. The new owner must complete and receive approval of a new AGREEMENT before submitting any claims to the DEPARTMENT or its AUTHORIZED AGENTS. Any payment made on the basis of erroneous or outdated information due to the lack of notice is the responsibility of the PROVIDER and is subject to recoupment.

6.2. The previous owner shall be responsible for any overpayments and is entitled to receive payments up to the date of ownership transfer, unless

otherwise specified in the contract for transfer of ownership.

6.3. The new owner shall furnish to the DEPARTMENT or its

AUTHORIZED AGENTS upon receipt of a written request, the contract or other applicable documents specifying the terms of the change in ownership and responsibilities delineated in this AGREEMENT.

6.4. The DEPARTMENT and its AUTHORIZED AGENTS reserve the right to withhold all pending and other claims until the right to payments and/or recoupment is determined, unless the new owner agrees in writing to be liable for any recoupment or overpayment amounts.

6.5. For the PROVIDER who is reimbursed on a cost basis and subject to cost settlements, the DEPARTMENT or its AUTHORIZED AGENTS shall impose a lien and/or penalty of up to ten percent (10%) of the purchase price against the previous owner until such time as the final cost settlement is completed and amounts owed, if applicable, are remitted to the DEPARTMENT, or its AUTHORIZED AGENTS.

## ARTICLE VII - TERMINATION OF PROVIDER AGREEMENT

7.1. The PROVIDER status may be terminated without cause if the PROVIDER or the DEPARTMENT or its AUTHORIZED AGENTS give the other written notice of termination at least sixty (60) calendar days prior to the effective date of the termination. 7.2. The DEPARTMENT or its AUTHORIZED AGENTS may terminate this AGREEMENT for cause, with thirty (30) calendar days notice if the PROVIDER, his or her agent, a managing employee, or any person having an ownership interest equal to five percent (5%) or greater in the health care PROVIDER entity:

(A) Misrepresents, by commission or omission, any information on the AGREEMENT enrollment form. (B) Has previous or current exclusion, suspension, termination from, or the involuntary withdrawal from participation in a health care program administered by the DEPARTMENT, any other state's Medicaid program, Medicare, or any other public or private health insurance program.

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(C) Is convicted under federal or state law of a criminal offense relating to the delivery of the goods, services, or supplies, under a health care program administered by the DEPARTMENT, any other state's Medicaid Program, Medicare, or any other public or private health insurance program.

(D) Is convicted under federal or state law of a criminal offense relating to the neglect or abuse of a patient in connection with the delivery of any goods, services, or supplies.

(E) Is convicted under federal or state law of a criminal offense relating to the unlawful manufacture, distribution, prescription or dispensing of a controlled substance.

(F) Is convicted under federal or state law of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

(G) Is convicted under federal or state law of a criminal offense punishable by imprisonment of a year or more which involved moral turpitude or acts against the elderly, children, or infirm.

(H) Is sanctioned pursuant to a violation of federal or state laws or rules relative to a health care program administered by the DEPARTMENT, any other state's Medicaid Program, Medicare, or any other public health insurance program.

(I) Is convicted under federal or state law of a criminal offense in connection with the interference or obstruction of any

investigations into any criminal offense listed in Paragraphs (C) through (H) of this subsection.

(J) Violates licensing or certification conditions or professional standards relating to the licensure or certification of the PROVIDER or the



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required quality of goods, services, or supplies provided.

(K) Fails to pay recovery properly assessed or pursuant to an approved repayment schedule under a health care program administered by the DEPARTMENT or its AUTHORIZED AGENTS.

7.3. The PROVIDER's status may be terminated immediately, without notice, in instances in which the health and safety of eligible recipients in institutions are deemed to be in immediate jeopardy; are subject to an immediate or serious threat; or when it has been demonstrated, on the basis of reliable evidence, that the PROVIDER has committed fraud, abuse. or other illegal or sanctionable action. For purposes of this provision, institutional providers include nursing facilities, intermediate care facilities for the mentally retarded, all residential psychiatric treatment facilities, group homes, and other facility-based residential treatment programs. The DEPARTMENT or its 7.4. AUTHORIZED AGENTS reserve the right to terminate this AGREEMENT for

cause as summarized in this AGREEMENT and as delineated in Section MAD-8.351.2, SANCTIONS AND REMEDIES of the Medical Assistance Division Program Policy Manual, or as amended and/or its successor.

7.5. Immediately upon termination for any reason, the PROVIDER shall:

(A) Comply with all directives issued by the DEPARTMENT or its AUTHORIZED AGENTS; and

(B) Take such action as the DEPARTMENT or its AUTHORIZED AGENTS shall direct for the protection, preservation, retention or transfer of all property, included but not limited to all recipient records.

### ARTICLE VIII - IMPOSITION OF SANCTIONS FOR FRAUD OR MISCONDUCT

8.1. If the PROVIDER obtains an excess payment or benefit willfully, by means of false statement, representation,

concealment of any material fact, or other fraudulent scheme or devise with intent to defraud, criminal sentences and fines and/or civil monetary penalties shall be imposed pursuant to, but not limited to, the Medicaid Fraud Act, NMSA 1978, 30-44-1 et seq., 42 USC 1320a-7b, and 42 CFR 455.23.

8.2 In addition to the above criminal and civil penalties, the DEPARTMENT or its AUTHORIZED AGENTS may impose monetary or nonmonetary sanctions, including civil monetary penalties for PROVIDER misconduct or breach of any of the terms of this AGREEMENT.

8.3 Upon written notice to the PROVIDER, the DEPARTMENT or its AUTHORIZED AGENTS may sanction non-performance under this AGREEMENT consistent with the DEPARTMENT's rules through one or more following actions:

(A) Compensation Reduction. As a sanction, the DEPARTMENT or its AUTHORIZED AGENTS may recover past payments to the PROVIDER and/or reduce the compensation of the PROVIDER for past failure to fully and satisfactorily perform, and for any ongoing failure to fully and satisfactorily perform this AGREEMENT's obligations. Imposition of such a penalty does not preclude the DEPARTMENT or its AUTHORIZED AGENTS from recouping or recovering payments as specifically provided in any other law, regulation or this AGREEMENT.

(B) The amount of the compensation paid to the PROVIDER by the DEPARTMENT or its AUTHORIZED AGENTS for services that the PROVIDER did not fully and satisfactorily perform in accordance with the terms of this AGREEMENT. 8.4. The DEPARTMENT or its AUTHORIZED AGENTS may recover funds by reducing future compensation payable by the DEPARTMENT or its AUTHORIZED AGENTS to the PROVIDER.

## ARTICLE IX – EMPLOYEE EDUCATION CONCERNING FALSE CLAIMS

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9.1. In accordance with Section 1902(a) of the Social Security Act, the PROVIDER must:

(A) Establish written policies and rules for all employees, agents, or contractors, that provide detailed information regarding the New Mexico of Medicaid False Claims Act, NMSA 1978, 27-14-1, et seq.; and the Federal False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statement established under chapter 38 of title 31. United States Code, including but not limited to, preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f) of the Social Security Act);

(B) Include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste and abuse; and

(C) Include in any employee handbook, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the PROVIDER's rules and procedures for detecting and preventing fraud, waste, and abuse. 9.2. The DEPARTMENT may, at its sole discretion, exempt the PROVIDER from the requirements set forth in 9.1 herein; however, the DEPARTMENT shall not exclude the PROVIDER, if the PROVIDER receives at least \$5,000,000 in annual payments from the DEPARTMENT.

9.3 For the purposes of this Article, the following definitions apply:

(A) An "employee" includes any officer or employee of the PROVIDER.

(B) A "contractor" or "agent" includes any contractor, subcontractor, agent or other person which or who, on behalf of the PROVIDER, furnishes, or otherwise authorizes the furnishing of Medicaid or other health care program items or services, performs billing or



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coding functions or is involved in monitoring of health care provided by the PROVIDER.

## ARTICLE X - REFUSAL TO EXECUTE AN AGREEMENT

The DEPARTMENT will not execute an AGREEMENT with the PROVIDER if the PROVIDER, his/her agent, managing employee, or any person having an ownership interest equal to five percent (5%) or greater in the health care PROVIDER commits or has committed any of the violations listed in Article 7.2. of this AGREEMENT or other provisions delineated in Section 8.351.2 or as amended and/or its successor, REMEDIES AND SANCTIONS of the Medical Assistance Division Program Policy Manual, when such exclusions are mandatory under federal or state law.

## ARTICLE XI - RECIPIENT FUND ACCOUNT

Nursing facilities, swing bed hospitals, and intermediate care facilities for the mentally retarded shall establish and maintain an acceptable system of accounting for eligible recipients' personal funds, in the manner prescribed by the DEPARTMENT or its AUTHORIZED AGENTS, in those cases in which eligible recipients entrust their personal funds to the facility.

### ARTICLE XII - PRECONDITION FOR PARTICIPATION

The PROVIDER understands that signing this AGREEMENT is a precondition for participating in health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER understands that the provision of services, billing of services, and receipt of payments for services cannot occur until this AGREEMENT is completed by the PROVIDER and approved for execution by the DEPARTMENT.

ARTICLE XIII – INSURANCE

During the term of this 13.1 AGREEMENT, the PROVIDER shall, at its sole cost and expense, carry comprehensive general liability insurance and professional liability insurance in amounts and containing such provisions from time to time deemed adequate by the DEPARTMENT or its AUTHORIZED AGENTS. Upon request, the PROVIDER will provide to the DEPARTMENT and its AUTHORIZED AGENTS certificates evidencing that the insurance required by this Section is in effect. The PROVIDER hereby authorizes the PROVIDER's insurance carrier to notify the DEPARTMENT and its AUTHORIZED AGENTS upon cancellation or termination of the PROVIDER's insurance coverage. The PROVIDER will notify the DEPARTMENT or its AUTHORIZED AGENTS promptly whenever an eligible recipient files a claim or notice of intent to commence action against the PROVIDER. The PROVIDER will notify the DEPARTMENT or its AUTHORIZED AGENTS not more than ten (10) business days after the PROVIDER's receipt of notice of any reduction or cancellation of the insurance coverage required by this Section.

13.2 The DEPARTMENT may, at its sole discretion, exempt the PROVIDER from the requirements of 13.1 for any reason, including but not limited to, the inability of the PROVIDER to procure such insurance.

## ARTICLE XIV – HEALTH INSURANCE

14.1 If the PROVIDER has, or grows to have, six (6) or more employees who work or who are expected to work, an average of at least twenty (20) hours per week over a six (6) month period during the term of this AGREEMENT and by signing it, agree to comply with these provisions.

(A) Have in place, and agree to maintain for the term of this AGREEMENT, health insurance for

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those employees and offer that health insurance to those employees no later than July 1, 2008, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds one million (\$1,000,000) dollars; or

(B) Have in place, and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds five-hundred thousand (\$500,000) dollars; or

(C) Have in place and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds two-hundred and fifty thousand (\$250,000) dollars 14.2 The PROVIDER must agree to

14.2 The PROVIDER must agree to maintain a record of the number of employees who have:

(A) accepted health insurance

(B) declined health insurance due to other health insurance coverage already in place; or

(C) declined health insurance for other reasons.

These records are subject to review and audit by the STATE or its representative(s).

14.3 The PROVIDER must agree to advise all employees of the availability of STATE publicly financed health care coverage programs by providing each employee with, at a minimum, the following web site link (or its successor) for additional information http://www.insurenewmexico.state.nm.u

<u>s/</u>

## **ARTICLE XV - NO WAIVERS**

No terms or provision of this AGREEMENT shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and



NPI



Name of Entity / Individual The Navajo Nation

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EIN / SSN

1740400365

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executed by the party claiming to have waived or consented.

## **ARTICLE XVI - APPLICABLE LAW**

This AGREEMENT shall be governed by the laws of the State of New Mexico. All legal proceedings arising from unresolved disputes under this AGREEMENT are subject to administrative and judicial review as provided for in MAD 8.353.2. PROVIDER HEARING, MAD 8.349.2, APPEALS and GRIEVANCE **PROCESS, MAD 8.350.2, RECONSIDERATION OF** UTILIZATION REVIEW DECISIONS, MAD 8.350.3, ABSTRACT SUBMISSION FOR LEVEL OF CARE DETERMINATIONS, MAD 8.350.4, **RECONSIDERATION OF AUDIT** SETTLEMENTS, MAD 8.351.2, SANCTIONS AND REMEDIES, MAD 8.352.2, RECIPIENT HEARINGS, MAD 8.353.2, PROVIDER HEARINGS, MAD 8.354.2, PASRR AND PATIENT STATUS HEARING POLICIES, or as amended or their successors, of the Medical Assistance Division Program Policy Manual.

## **ARTICLE XVII - ASSIGNMENT**

The PROVIDER shall not assign or transfer any obligation, duty, or other interest in this AGREEMENT, nor assign any claim for monies due under this AGREEMENT without authorization of the DEPARTMENT or its AUTHORIZED AGENTS. Any assignment or transfer which is not authorized by the DEPARTMENT or its AUTHORIZED AGENTS shall be void.

## ARTICLE XVIII -INDEMNIFICATION

The PROVIDER shall indemnify. defend, and hold harmless the STATE, the DEPARTMENT, its AUTHORIZED AGENTS, and employees from any and all actions, proceedings, claims, demands, costs, damages, and attorney's fees, from all liabilities or expenses of any kind from any sources accruing to or resulting from the PROVIDER or its employees in connection with the performance of this AGREEMENT and from all claims of any person or entity that may be directly or indirectly injured or damaged by the PROVIDER or its employees in the performance of this AGREEMENT.

## ARTICLE IXX - ENTIRE AGREEMENT

This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter contained in this AGREEMENT, and all such covenants, agreements, and understandings have been merged into this AGREEMENT. No prior agreement, covenants, or understandings, either verbal or otherwise, of the parties or their agents shall be valid or enforceable unless contained in this AGREEMENT. This AGREEMENT shall not be altered, changed, revised, or amended except by written instrument executed by the parties in the same manner as in this AGREEMENT. Amendments shall contain an effective date. Any amendments to this AGREEMENT shall not be binding upon either party until approved in writing by the DEPARTMENT or its AUTHORIZED AGENTS.



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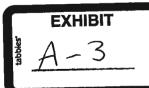
#### STATE OF NEW MEXICO MEDICAL ASSISTANCE DIVISION PROVIDER PARTICIPATION AGREEMENT

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Name of Entity / Individual The Navajo Nation	EIN / SSN NPI 86-0092335 1740400365							
A) Have you ever had a license revoked, suspended or denied in any state?	YES <u>x</u> NO Initial							
B) Have you ever been convicted of any criminal offense?	YES <u>×</u> NO Initial							
C) Have you or any ever been excluded or suspended from participation in Title XVIII (Medicare), Title XIX (Medicaid) or any other health care program?YES <b>x</b> NO Initial								
If YES to any of the above three questions, attach a brief statement of situation; date; city, county and professional association or court which handled the matter; any precinct case identification, and the adjudication or other result.								
New Mexico Medicaid project staff may need to contact you regarding the completion of this form. Please list contact person and telephone number.								
Contact Person: Dr. Michelle Brandser Teleph	none Number: (928)871-6240							
Whoever knowingly and willfully makes or causes to be made a false statement or representation of this statement, may be prosecuted under applicable federal or State laws. In addition, knowingly and willfully failing to fully and accurately disclose the information requested may result in denial of a request to participate or, where the entity already participates, a termination of its agreement or contract with the State agency.								
Original signature required. Ple	ase use blue ink only.							
I understand that payment of claims will be from federal and state fund prosecuted under federal and state law.	s and that any falsification or concealment of a material fact may be							
Printed Name of Individual Practitioner:								
Signature of Individual Practitioner:	Date:							
FACILITIES AND NON-PRACTITIONER ORGANIZATIONS:								
I understand that payment of claims will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state law.								
Printed Name of Authorized Representative: <u>Jonathan Nez</u>								
Title / Position: Navajo Nation President								
Address: PO BOX 7440; Window Roo	ck, AZ 86515							
Telephone Number: (928)871-7000								
ignature of Authorized Representative: Date:								
FOR STATE PURPOS	SES ONLY:							
HUMAN SERVICES DEPARTMENT APPROVAL								
Reasons Not Approved:								
Dates of Agreement: From:								
Authorized Signature	Date							
	I							







THIS AGREEMENT IS FOR GROUPS, ORGANIZATIONS, OR INDIVIDUAL APPLICANTS TO WHOM PAYMENTS WILL BE MADE. IF THE APPLICANT IS AN INDIVIDUAL APPLYING FOR A PROVIDER NUMBER ONLY FOR IDENTIFYING SERVICES BILLED THROUGH A GROUP PRACTICE OR OTHER ORGANIZATION P.O. Box 27460 P.O. Box 27460									
AND PAYMENTS WILL BE MADE TO THAT GROUP OR ORGANIZATION, THIS FORM SHOULD NOT BE USED. USE FORM MAD 312 INSTEAD.							Albuquerque, NM 87125-7460		
(1) NM Medicaid Number		assigned)	(2) National Provid	der Identifier (	(NPI)	(3) Primary	Taxon	omy	
617	35809		15889287	788		Communi	ty/Beh	navioral Health	
(4) Applicant Name (for individuals – must match license name) First Name Middle Initial Last Name							Professional Title (MD, DDS, etc)		
(5) Business Name (DBA) Gallup Outpatient Treatment Center					Tax (Legal) Name The Navajo Nation				
(7) Physical Street Address where services are rendered (PO BOX NOT ACCEPTED) 300 West Nizhoni Blvd. Suite A				CCEPTED)		City State Zip Code Gallup NM 87301 M			
(8) Billing Office Address(M PO BOX 709	AY BE PO BO	X)		City V	 /indow	/ Rock		tate Zip Code AZ 86515	
(9) Mailing Address for office PO Box 709	cial correspon	idence (MA)	Y BE PO BOX)		City State Window Rock AZ 86				
(10) Fax Number		(44) Dilli-	Office Phone					ne (REQUIRED)	
(928)871-6456		(928)87	-			(505)722			
(13) Mailing Email Address mbrandser@navajc	o-nsn.gov		g Office Email Addre dser@navajo-I					/ Provider Email Address Rock, Arizona	
(16) Business Type				rporation				Partnership / Professional Association	
	Limited Liab	ility Compa		n-corporate B	usiness E	Entity / Other		Government Entity or Public School	
(17) Provider Type (see	(18) Provid		(19) License Info		E			REQUIRED) Individual Provider's	
attached list) 221	Specialty ( attached li		Number	State	Expir	ation Date	Socia	I Security Number Date of Birth	
	100								
(21) NM CRS (Tax & Revenue) Number (If					(24) Federal Tax (25) Are federal tax payments Number / FEIN (attach current? If not, attach an explanation.				
services are provided in NM)	attach an ex		not-for-p	rofit (attach	IRS letter) YES			X YES	
,		ES Monot-for-profit (attach 501(c)3)			86-0092335 — NO				
(26) DEA Number (attach co				CPDP/NABP I	Numbe	r (pharmacies only)			
(29) IHS Certified or Tribal 6	38 Contracted	Program?		 E\$ □	NO	(If YES a	ttach c	opy of certification or contract)	
(30) Title XVIII Medicare Cer	tified?			<u> </u>		scal Year End			
	YES	NO NO	(If YES, attach copy	y of letter)				December	
(32) JCAHO Certified?	YES	X NO (If	YES, attach copy of	letter)					
(33) Other Certification?	YE	s 🗌	NO 🖌 (If YE	S, attach copy	of letter	) Certified	by:		
(34) To be completed by ph	iysicians (prov	vider type 3	01 or 302) only: (If C	Certified, atta ertification, at	ch copy c tach proc	of certificate; of of residence	if Not C y comp	Certified or if Eligible for oletion / training in your specialty area)	
Board certified in the provid			18? Certified	Eligible	for certif	ication	Not cert	tified	
(35) Identify individuals who will be providing services for which payments will be made to your group or organization: (Please attach separate page if additional space is needed)									
Individual's Name, Ti		Prov. Type	Specialty	NM Medicaid	Prov. No	o		NPI	
13hg									
(26) If participa have already have and to a NN Mediacid regimient, place and a Complex set of the									
(36) If services have already been rendered to a NM Medicaid recipient, please enter Date of Service and attach copy of claim: DOS:									





(37) To be completed by out-of-state providers only: Home State Medicaid Provider Number:							
Name of Entity / Individual The Navajo Nation			EIN / SSN 86-0092335	NPI 1588925788			
Question 1 to be answered by all providers.							
1. Has the provider, or any person who has ownership or control interest in the provider, or any person who is an agent or managing employee of the provider, been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the Title XX services program since the inception of those programs? If yes, give the name(s) of person(s) and description(s) of offense(s). Please NO RES							
Name	Social Security Number	Date of Birth		Description			
		-					



Name of Entity / Individual		EIN / SSN	NPI			
The Navajo Nat	ion	86-0092335	15889	1588925788		
Question 2 is to be	answered by	all providers, includin	ng non-profit organizations	and charities.		
operational or managerial contr	ol over, or who d 5.101) Managing	lirectly or indirectly conduc employees are in a position	, administrator, director or other in ts the day-to-day operations of an to exert influence over the conduc	institution, organization,		
2. Federal regulation req pages if necessary:	uires the followi	ng information to be disclos	ed on all managing employees. Pl	ease use additional		
NAME		ADDRESS	SOCIAL SECURITY NUMBER	DATE OF BIRTH		
Dr. Michelle Brandser	PO BO Window 86515	X v Rock, Arizona				
Vera John	Gallup N 87301	ew Mexico				





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Name of Entity / Individual		N/SSN		NPI
The Navajo Natio	on	86-00	092335	1588925788
Questions 3 – 5	5 to be answered	by all providers EXC	EPT individual practitio	ners.
			h an ownership or control interv ve percent or more. Please use	
	1	4000500		
NAME		ADDRESS	SOCIAL SECURITY NUMBER (IF	DATE OF BIRTH (FOR INDIVIDUALS)
			(IF NOT AN INDIVIDUAL)	
Α.				
The Navajo Nation	PO Box 7440			
_	Window Rock, An	izona		
		120114		
	86515			
В.				
C				
D.				
	<u> </u>			
E.				
4 lo onu no				
<ol> <li>Is any person named in question of person(s) and relationship(s)</li> </ol>	on #3 related to another	as spouse, parent, child, or s	sibling? If yes, give the name(s)	YES
person listed in question #3 by	y using A., B., C., etc.	pageo il necessary. NOTE: D	eargnate relationship to each	NO
NAME			RELATIONSHIP	
			NELALIONOTIP	





Name of Entity / Individual The Navajo Nation	EIN	SSN 86-00	92335		NPI 1588925788
5. Does any person (individual or corporation) n other Medicaid provider or in [any entity that o ownership and control information because o or XX of the Social Security Act?] (This includ programs such as Medicaid; Medicare Part A; programs established under parts XIX, XX, an provider identification number(s) and address necessary:	rtain V, XVIII, are S; and icaid	YES NO			
NAME		ADDRESS			MEDICAID PROVIDER NUMBER



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Name of Entity / Individual The Navajo Nation EIN / SSN 86-0092335

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This AGREEMENT, between the State of New Mexico (STATE), herein referred to as "the STATE," the New Mexico Human Services Department (HSD), herein referred to as "the DEPARTMENT" and the applicant as provider, herein referred to as "the PROVIDER", specifies the terms and conditions for providing health care services to eligible recipients of Medicaid, other medical assistance programs, and other health care programs administered by the Department and other departments of the State of New Mexico for which the Department is authorized to make payment to the PROVIDER. Administration of health care programs including, but not limited to, service authorizations, billing instructions and payment, may be performed by the DEPARTMENT and its agents including other departments and agencies of the State of New Mexico and their contractors, as authorized by joint power of agreements, contracts, or other binding agreements, herein referred to as its "AUTHORIZED AGENTS". This AGREEMENT shall be effective when completed in full with all required documentation attached and when signed by the PROVIDER and the Human Services Department Medical Assistance Division (HSD/MAD) or its designees and shall remain in effect until terminated pursuant to the terms set forth below.

## ARTICLE 1 – OBLIGATIONS OF THE PROVIDER

## The PROVIDER shall:

1.1. Abide by all federal, state, and local laws, rules and regulations, including but not limited to, those laws, regulations, and rules applicable to providers of services under Title XIX (Medicaid) and Title XXI (SCHIP) of the Social Security Act and other health care programs administered by the DEPARTMENT and its AUTHORIZED AGENTS.

1.2. Furnish services, bill for services, and receive payment for services only upon approval of this AGREEMENT by the HSD /MAD Director or his/her designees or its AUTHORIZED AGENTS.

1.3. Be responsible for the accuracy and validity of all claims for which reimbursement is sought by causing claims to be manually or electronically submitted to the DEPARTMENT or its AUTHORIZED AGENTS.

1.4. Comply with all instructions, directives, billing, reimbursement, audit, recoupment, and withholding provisions made available by the DEPARTMENT and its AUTHORIZED AGENTS.
1.5. Obtain, maintain, and keep updated program rules and instructions on billing and utilization review and other pertinent material made available by the DEPARTMENT and its AUTHORIZED AGENTS.

1.6. Not employ or enter into contract with excluded individuals or entities, as identified by the Health and Human Services Office of Inspector General's (HHS-OIG) List of Excluded Individuals/entities (LEIE), the Medicare Exclusion Database (MED), System for Award Management (SAM), Excluded Parties List System (EPLS) or a state's Employee Abuse Registry (EAR) or equivalent. All findings of placement of an employee on EAR should be forwarded to a law enforcement agency for possible prosecution. The HHS-OIG website can be searched by the name of any individual or entity, and must be searched on a monthly basis in order to capture exclusions and reinstatements that have occurred since the last search. Any exclusion information discovered must be immediately reported to the DEPARMENT or its AUTHORIZED AGENTS. A provider must ensure that every healthcare practitioner or other employee providing a service is appropriately licensed, registered, background checked, and/or certified at the time the service is provided, as required by state law or regulation for the service or activity that is provided and is valid in the municipality. All payments made to PROVIDERS for services or items obtained from excluded parties or provided by insufficiently licensed, registered, back-ground checked, or certified individuals are overpayments subject to recoupment. These services or items extend to all methods of

reimbursement, whether payment results from itemized claims, cost reports, fee schedules, or a prospective payment system; payment for administrative and management services not directly related to patient care, but that are a necessary component of providing items and services to Medicaid recipients, when those payments are reported on a cost report or are otherwise payable by the Medicaid program; and payments to cover an excluded individual's salary, expenses, or fringe benefits, regardless of whether they provide direct patient care, when those payments are reported on a cost report or are otherwise payable by the Medicaid program. In addition, civil monetary penalties may be imposed for noncompliance. 42 CFR 1003 .102(a)(2). The PROVIDER must also check New Mexico Courts (http://www.nmcourts.gov/) for records of any incidents involving any employee at the time of employment and annually thereafter. Documentation of the check must be maintained in the employee's personnel folder. 1.7. Comply with the disclosure

1.7. Comply with the disclosure requirements specified in 42 CFR, Part 455, Subpart B, including but not limited to disclosure upon request of information regarding ownership and control, business transactions and person convicted of crimes. This includes information about ownership of any subcontractor and any significant business transactions between the provider and subcontractor and/or



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provider and any wholly owned supplier. The provider agreement will be terminated if the PROVIDER fails to disclose ownership or control information as required by Federal law. 1.8. Furnish and update complete information on the PROVIDER's address, licensing, certification, board specialties, corporate names, and parties with direct or indirect ownership or controlling interest in the entity or in any subcontractor in which the entity has a direct or indirect ownership interest totaling five percent (5%) or more, and any relationship (spouse, parent, child, or sibling) of these persons to another; the name of any other entity in which a person with an ownership or controlling interest in the disclosing entity also has an ownership or controlling interest in; and information on the conviction of delineated criminal or civil offenses by the PROVIDER or parties with direct or indirect ownership or controlling interest at least sixty (60) calendar days prior to the contemplated change or within ten (10) calendar days after the conviction. Any payment made on the basis of erroneous or outdated information is the responsibility of the PROVIDER and is subject to recoupment, criminal investigative costs, and/or civil penalties. 1.9. Comply with all applicable federal, state, and local laws and regulations regarding-licensure, registration to pay applicable taxes, payment of applicable taxes, permit requirements, and employee tax filing requirements.

1.10. Assume sole responsibility for all applicable taxes, insurance, licensing, and other costs of doing business.

1.11. Verify that an individual is eligible for a specified health care program administered by the DEPARTMENT or its AUTHORIZED AGENTS.

1.12. Verify the identity of the eligible recipient on all occasions prior to rendering services.

1.13. Maintain the confidentiality of eligible recipient information and records in accordance with applicable state and federal laws, including 42 CFR 431.305, 8.100.100.13 and .14 NMAC,

and regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended.

Meet the Continuing Care 1.14. Obligations of the PROVIDER. In the event of termination of this AGREEMENT for any reason, the PROVIDER shall continue to provide or arrange services to eligible recipients. including any recipients who become eligible during the termination notice period, beginning on the effective date of termination and continuing until the termination or next renewal date of the recipient's eligibility, unless the DEPARTMENT arranges for the transfer of the eligible recipient to another Provider and provides written notice to the PROVIDER of such transfer prior to the termination or next renewal date of this AGREEMENT.

Notwithstanding the foregoing, at the direction of the DEPARTMENT, the PROVIDER may continue to provide or arrange services to any eligible recipient who cannot be transferred within the time period specified above in accordance with the legal and contractual obligations to: (1) provide services under the applicable health care program; (2) provide notice of termination to eligible recipients; and (3) ensure continuity of care for eligible recipients.

(A) In the event that the PROVIDER terminates this AGREEMENT on the basis of the DEPARTMENT'S failure to make timely payments, the PROVIDER shall continue to arrange for services to those eligible recipients who are hospitalized on an inpatient basis or otherwise residents of a facility at the time the PROVIDER terminates this AGREEMENT until eligible recipients are discharged from the hospital or other facility. The PROVIDER may file a claim with the DEPARTMENT or its AUTHORIZED AGENTS for such services.

(B) The DEPARTMENT or its AUTHORIZED AGENTS will pay the PROVIDER for services provided after the date of termination of this AGREEMENT at the current applicable reimbursement rate to eligible providers as of the dates of service when the services have been authorized by the DEPARTMENT or its AUTHORIZED AGENTS.

(C) The PROVIDER agrees that the provisions of this section and the obligations of the PROVIDER herein shall survive termination, and shall be construed to be for the benefit of eligible recipients.

1.15. Render covered services to eligible recipients in the same scope, quality, and manner as provided to the general public; comply with all applicable federal and state civil rights laws; and not discriminate on the basis of race, color, national origin, sex, gender, age,

ethnicity, religion, sexual orientation, sexual preference, health status, disability, political belief, or source of payment as per 45 CFR 80.3(a) and (b), 45 CFR 84.52, and 42 CFR 447.20 or other state and federal laws, rules, and regulations.

1.16. Assume all responsibility for any and all claims submitted on behalf of the PROVIDER under the PROVIDER'S identification number. Submission of false or miscoded claims or fraudulent representation may subject the PROVIDER to termination, criminal investigations and charges, and other sanctions specified in the HSD/MAD Program Policy Manual, and federal and state law and regulations.

Create, keep and maintain, and 1.17. have readily retrievable, any and all original medical or business records as necessary to verify the treatment or care of any eligible recipient and to fully disclose the type and extent of all services, goods, and supplies provided to eligible recipients as set forth in 42 CFR 431.107 for at least six (6) years from the date of creation or until ongoing audits are settled, whichever is longer. The PROVIDER agrees that such records shall be made at or near the time at which the services, goods, and supplies are delivered or rendered. Services that have been billed to the DEPARTMENT or its AUTHORIZED



STATE OF NEW MEXICO MEDICAL ASSISTANCE DIVISION PROVIDER PARTICIPATION AGREEMENT

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AGENTS which are not substantiated in the PROVIDER'S record are subject to recoupment, sanction, and/or any other penalty provided for in this AGREEMENT.

1.18. Upon closure of office or facility, inform the DEPARTMENT or its AUTHORIZED AGENTS where records pertaining to eligible recipients will be located.

1.19. Furnish immediately to the DEPARTMENT or its AUTHORIZED AGENTS, the U.S. Secretary of Health and Human Services, or the Medicaid Fraud Control Unit, at no cost, access to records in any format requested and any information regarding payments claimed by the PROVIDER for furnishing services to eligible recipients.

Permit announced and 1.20. unannounced inspection of facilities or the PROVIDER'S offices and other locations used in the provision of services for billing and to eligible recipients by the U.S. Secretary of Health and Human Services, the Medicaid Fraud Control Unit, and the DEPARTMENT and its AUTHORIZED AGENTS. Failure to comply with this provision constitutes a violation of federal and state law and may result in immediate withholding of any pending or future payments. If records are requested by mail, the PROVIDER shall furnish the records within two (2) to ten (10) business days of the receipt of the request or as provided in the request. 1.21. Assist and cooperate in any review, inspection or audit conducted in conformity with the terms of this AGREEMENT.

1.22. Accept as payment in full, the amount paid by the DEPARTMENT or its AUTHORIZED AGENTS for services furnished to eligible recipients in accordance with the reimbursement structure in effect for the period during which services were provided as per the DEPARTMENT'S or its

AUTHORIZED AGENTS

reimbursement rules. No exceptions to, or waiver of standard reimbursements will be permitted without the express written consent of the MAD Director or his/her designee.

Electronic billing of claims is 1.23. mandatory unless an exemption has been allowed by the DEPARTMENT or its **AUTHORIZED AGENTS. Exemptions** will be given on a case-by-case basis with consideration being given to any barriers the PROVIDER may face in billing electronically, including when volumes are so small that developing electronic submission capability is impractical. The requirement for electronic submission of claims does not apply to situations for which a paper attachment must accompany the claim form.

Not collect payments from the 1.24. eligible recipient or any financially responsible relative or personal representative of the eligible recipient for services furnished to the eligible recipient, except as specifically allowed by the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER may not bill or collect payments from the eligible recipient or their personal representative for any claim denied by the DEPARTMENT or its AUTHORIZED AGENTS for administrative or billing errors on the part of the PROVIDER except as specifically allowed by the DEPARTMENT'S regulations. 1.25. Seek payment from any other payer or insurer before seeking payment from the DEPARTMENT or its AUTHORIZED AGENTS in the event the eligible recipient is covered by an insurance policy or health plan including Medicare. Refund to the DEPARTMENT or its AUTHORIZED AGENTS the lesser of the payment received from the third party and the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER shall not bill the DEPARTMENT or its AUTHORIZED AGENTS the difference between a "preferred patient care agreement" or "discount" arrangement and the PROVIDER'S billed charge. 1.26. Not refuse to furnish services to an eligible recipient because of a third party's potential liability for payment for the services, except in instances in which an eligible recipient is seeking services from a provider who does not participate

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in the HMO or other plan network and would not be paid for services by the HMO or other plan.

1.27. Inform the DEPARTMENT or its AUTHORIZED AGENTS immediately when an attorney or other party requests information related to the services rendered to an eligible recipient that were paid by the DEPARTMENT or its AUTHORIZED AGENTS and upon receipt of any knowledge of pending or active legal proceedings involving eligible recipients.

1.28. When furnishing services to eligible recipients who sustained injury in an accident or another action that may be subject to a legal proceeding, agree to the following:

(A) The hospital PROVIDER must either file a claim with the DEPARTMENT or its AUTHORIZED AGENTS within the time period specified in 8.302.14 NMAC of the date of hospital discharge or impose a hospital lien on the potential recovery from the liable third party. If the hospital PROVIDER elects to impose a lien, the PROVIDER is prohibited from filing a claim with the DEPARTMENT or its AUTHORIZED AGENTS for payment of any unpaid balance resulting from the third party recovery or from seeking payment from the eligible recipient or their personal representative.

(B) The non-hospital PROVIDER must accept the payment made by the DEPARTMENT or its AUTHORIZED AGENTS as payment in full. The non-hospital PROVIDER may not seek additional payment for those services from the eligible recipient or their personal representative even if the eligible recipient or their personal representative subsequently received a monetary award or settlement from the liable party.

1.29. When entering into contracts with the Medicaid managed care organization (MCOs) contracting with the DEPARTMENT for the provision of managed care services to the Medicaid population, agree to be paid by the MCO at any amount mutually-agreed between the provider or provider group and the MCOs. If the provider or provider group



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and MCO are unable to agree to terms or fail to execute an agreement for any reason, the provider or provider group shall be obligated to accept the percent of the applicable reimbursement rate as stated in the MAD Program Policy Manual based on the provider type. The "applicable reimbursement rate" is defined as the rate paid by the DEPARTMENT to the PROVIDER participating in Medicaid or other medical assistance programs administered by the DEPARTMENT or its AUTHORIZED AGENTS and excludes disproportionate share hospital and medical education payments. When a Medicaid managed 1.30. care organization (MCO) recoups payment from the provider because the DEPARTMENT retroactively disenrolls a recipient from the MCO, the PROVIDER agrees to bill the DEPARTMENT or its AUTHORIZED AGENTS and accept the applicable reimbursement rate as stated in the MAD program policy manual, according to the

provider type. For those caregivers whose 1.31. employment or contractual service with a care provider includes direct care or routine and unsupervised physical or financial access to any care recipient served by that provider, the caregiver and care provider must adhere to provisions in the Caregivers Criminal History Screening Act (CCHS). 1.32. Understand and agree to meet the requirements concerning enrollment and screening, criminal background checks, fingerprinting, use of the National Provider Identifier, federal database checks, site visits, verification of provider licenses, and application fees as found at 42 CFR 455.400 - 455.470.

1.33. To understand the appeal rights that are given to the PROVIDER as provided for in MAD 8.353.2, PROVIDER HEARING, MAD 8.349.2, APPEALS and GRIEVANCE PROCESS, MAD 8.350.2, RECONSIDERATION OF UTILIZATION REVIEW DECISIONS, MAD 8.350.3, ABSTRACT SUBMISSION FOR LEVEL OF CARE DETERMINATIONS, MAD 8.350.4. RECONSIDERATION OF AUDIT SETTLEMENTS, MAD 8.351.2, SANCTIONS AND REMEDIES, MAD 8.352.2, RECIPIENT HEARINGS, MAD 8.353.2, PROVIDER HEARINGS, MAD 8.354.2, PASRR AND PATIENT STATUS HEARING POLICIES, or as amended or their successors, of the Medical Assistance Division Program Policy Manual. All work associated with the 1.34. Agreements contained herein must be performed in the United States of America.

#### ARTICLE II – OBLIGATION OF THE HUMAN SERVICES DEPARTMENT

The DEPARTMENT shall: 2.1. Make available on the HSD/MAD website, other DEPARTMENT websites, or in hard copy format information necessary to participate in health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS, including program rules, billing instructions, and other pertinent materials. The PROVIDER must contact the DEPARTMENT or its AUTHORIZED AGENTS to request hard copies of any program rules, manuals, billing and utilization review instructions, and other pertinent materials.

2.2. Process payments in a manner delineated by federal guidelines either internally or through a designated fiscal agent contractor. Please refer to 8,302.2.9 NMAC.

2.3 Reimburse the PROVIDER for furnishing covered services or procedures to eligible recipients when all program rules have been followed by the PROVIDER. Reimbursement is based on the fee schedule, reimbursement rate, or reimbursement methodology in place at the time service is furnished by the PROVIDER. No exception to, or waiver of, standard reimbursement will be permitted without the express written consent of the MAD Director or his/her designee. APPLICANT INITAL HERE CERTIFYING YOU HAVE READ AND UNDERSTAND THE INFORMATION ON THIS PAGE

2.4. Conduct administrative investigations and administrative proceedings to ensure that the PROVIDER complies with the terms of this AGREEMENT and federal and state law, and regulations pertaining to the administration of the health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS, including the Medicaid Provider Act.

### ARTICLE III - PATIENT SELF-DETERMINATION ACT

The nursing facility, intermediate care facility, hospital, home health agency, and hospice PROVIDER shall:

3.1. Furnish written information to all adult eligible recipients or their personal representatives receiving medical care concerning their right to make decisions about medical care; accept or refuse medical or surgical treatment; and formulate arrangements for a living will or durable power of attorney.

3.2 Document in the eligible recipient's medical record whether he/she has executed an advance directive which complies with New Mexico law on advance directives. The provision of care shall not be based on whether the eligible recipient has executed an advance directive.

3.3. Inform each adult eligible recipient or personal representative, orally and in writing, at the time of facility admission or initiation of treatment, of the eligible recipient's legal rights during his or her facility stay or course of treatment.

# ARTICLE IV - SUBMISSION OF COST REPORTS

4.1. The PROVIDER, when delineated by the DEP NTMENT shall furnish the DEPARTMENT or its AUTHORIZED AGENTS with such financial reports, audited or certified cost statements, and other substantiating data as necessary to establish a basis for





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reimbursement or as required by regulation.

4.2. Cost statements or other data are to be furnished no later than 150 (one hundred- fifty) calendar days following the closure of the PROVIDER'S fiscal accounting period. Failure to comply with this provision will result in suspension of payment until the required statements and other data are provided.

## ARTICLE V -STATUS OF PROVIDER

The PROVIDER, its agents, and employees are independent contractors who perform professional services for eligible recipients served through health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS are not employees of the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER shall not purport to bind the DEPARTMENT nor the State of New Mexico to any obligation not expressly authorized herein unless the DEPARTMENT has given the PROVIDER express written permission to do so.

#### ARTICLE VI - CHANGE IN OWNERSHIP

6.1. As soon as possible, but at least sixty (60) calendar days prior to a change in ownership or status, the PROVIDER must notify the DEPARTMENT or its AUTHORIZED AGENTS of the proposed change in ownership. Upon completion of the transfer of ownership, this initial AGREEMENT is terminated. The new owner must complete and receive approval of a new AGREEMENT before submitting any claims to the DEPARTMENT or its AUTHORIZED AGENTS. Any payment made on the basis of erroneous or outdated information due to the lack of notice is the responsibility of the PROVIDER and is subject to recoupment.

6.2. The previous owner shall be responsible for any overpayments and is entitled to receive payments up to the date of ownership transfer, unless

otherwise specified in the contract for transfer of ownership.

6.3. The new owner shall furnish to the DEPARTMENT or its

AUTHORIZED AGENTS upon receipt of a written request, the contract or other applicable documents specifying the terms of the change in ownership and responsibilities delineated in this AGREEMENT.

6.4. The DEPARTMENT and its AUTHORIZED AGENTS reserve the right to withhold all pending and other claims until the right to payments and/or recoupment is determined, unless the new owner agrees in writing to be liable for any recoupment or overpayment amounts.

6.5. For the PROVIDER who is reimbursed on a cost basis and subject to cost settlements, the DEPARTMENT or its AUTHORIZED AGENTS shall impose a lien and/or penalty of up to ten percent (10%) of the purchase price against the previous owner until such time as the final cost settlement is completed and amounts owed, if applicable, are remitted to the DEPARTMENT, or its AUTHORIZED AGENTS.

## ARTICLE VII - TERMINATION OF PROVIDER AGREEMENT

The PROVIDER status may be 7.1. terminated without cause if the PROVIDER or the DEPARTMENT or its AUTHORIZED AGENTS give the other written notice of termination at least sixty (60) calendar days prior to the effective date of the termination. The DEPARTMENT or its 7.2. AUTHORIZED AGENTS may terminate this AGREEMENT for cause, with thirty (30) calendar days notice if the PROVIDER, his or her agent, a managing employee, or any person having an ownership interest equal to five percent (5%) or greater in the health care PROVIDER entity:

(A) Misrepresents, by commission or omission, any information on the AGREEMENT enrollment form. (B) Has previous or current exclusion, suspension, termination from, or the involuntary withdrawal from participation in a health care program administered by the DEPARTMENT, any other state's Medicaid program, Medicare, or any other public or private health insurance program.

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(C) Is convicted under federal or state law of a criminal offense relating to the delivery of the goods, services, or supplies, under a health care program administered by the DEPARTMENT, any other state's Medicaid Program, Medicare, or any other public or private health insurance program.

(D) Is convicted under federal or state law of a criminal offense relating to the neglect or abuse of a patient in connection with the delivery of any goods, services, or supplies.

(E) Is convicted under federal or state law of a criminal offense relating to the unlawful manufacture, distribution, prescription or dispensing of a controlled substance.

(F) Is convicted under federal or state law of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

(G) Is convicted under federal or state law of a criminal offense punishable by imprisonment of a year or more which involved moral turpitude or acts against the elderly, children, or infirm.

(H) Is sanctioned pursuant to a violation of federal or state laws or rules relative to a health care program administered by the DEPARTMENT, any other state's Medicaid Program, Medicare, or any other public health insurance program.

(1) Is convicted under federal or state law of a criminal offense in connection with the interference or obstruction of any

investigations into any criminal offense listed in Paragraphs (C) through (H) of this subsection.

(J) Violates licensing or certification conditions or professional standards relating to the licensure or certification of the PROVIDER or the



#### STATE OF NEW MEXICO MEDICAL ASSISTANCE DIVISION PROVIDER PARTICIPATION AGREEMENT

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required quality of goods, services, or supplies provided.

(K) Fails to pay recovery properly assessed or pursuant to an approved repayment schedule under a health care program administered by the DEPARTMENT or its AUTHORIZED AGENTS.

7.3. The PROVIDER's status may be terminated immediately, without notice, in instances in which the health and safety of eligible recipients in institutions are deemed to be in immediate jeopardy; are subject to an immediate or serious threat; or when it has been demonstrated, on the basis of reliable evidence, that the PROVIDER has committed fraud, abuse, or other illegal or sanctionable action. For purposes of this provision, institutional providers include nursing facilities, intermediate care facilities for the mentally retarded, all residential psychiatric treatment facilities, group homes, and other facility-based residential treatment programs. The DEPARTMENT or its 74 AUTHORIZED AGENTS reserve the right to terminate this AGREEMENT for cause as summarized in this AGREEMENT and as delineated in Section MAD-8.351.2, SANCTIONS AND REMEDIES of the Medical Assistance Division Program Policy Manual, or as amended and/or its successor.

7.5. Immediately upon termination for any reason, the PROVIDER shall:

(A) Comply with all directives issued by the DEPARTMENT or its AUTHORIZED AGENTS; and

(B) Take such action as the DEPARTMENT or its AUTHORIZED AGENTS shall direct for the protection, preservation, retention or transfer of all property, included but not limited to all recipient records.

#### ARTICLE VIII - IMPOSITION OF SANCTIONS FOR FRAUD OR MISCONDUCT

8.1. If the PROVIDER obtains an excess payment or benefit willfully, by means of false statement, representation,

concealment of any material fact, or other fraudulent scheme or devise with intent to defraud, criminal sentences and fines and/or civil monetary penalties shall be imposed pursuant to, but not limited to, the Medicaid Fraud Act, NMSA 1978, 30-44-1 et seq., 42 USC 1320a-7b, and 42 CFR 455.23.

8.2 In addition to the above criminal and civil penalties, the DEPARTMENT or its AUTHORIZED AGENTS may impose monetary or nonmonetary sanctions, including civil monetary penalties for PROVIDER misconduct or breach of any of the terms of this AGREEMENT.

8.3 Upon written notice to the PROVIDER, the DEPARTMENT or its AUTHORIZED AGENTS may sanction non-performance under this AGREEMENT consistent with the DEPARTMENT's rules through one or more following actions:

(A) Compensation Reduction. As a sanction, the DEPARTMENT or its AUTHORIZED AGENTS may recover past payments to the PROVIDER and/or reduce the compensation of the PROVIDER for past failure to fully and satisfactorily perform, and for any ongoing failure to fully and satisfactorily perform this AGREEMENT's obligations. Imposition of such a penalty does not preclude the DEPARTMENT or its AUTHORIZED AGENTS from recouping or recovering payments as specifically provided in any other law, regulation or this AGREEMENT.

(B) The amount of the compensation paid to the PROVIDER by the DEPARTMENT or its AUTHORIZED AGENTS for services that the PROVIDER did not fully and satisfactorily perform in accordance with the terms of this AGREEMENT. 8.4. The DEPARTMENT or its AUTHORIZED AGENTS may recover funds by reducing future compensation payable by the DEPARTMENT or its AUTHORIZED AGENTS to the PROVIDER.

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#### ARTICLE IX – EMPLOYEE EDUCATION CONCERNING FALSE CLAIMS

9.1. In accordance with Section 1902(a) of the Social Security Act, the PROVIDER must:

(A) Establish written policies and rules for all employees, agents, or contractors, that provide detailed information regarding the New Mexico of Medicaid False Claims Act, NMSA 1978, 27-14-1, et seq.; and the Federal False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statement established under chapter 38 of title 31, United States Code, including but not limited to, preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f) of the Social Security Act):

(B) Include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste and abuse; and

(C) Include in any employee handbook, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the PROVIDER's rules and procedures for detecting and preventing fraud, waste, and abuse. 9.2. The DEPARTMENT may, at its sole discretion, exempt the PROVIDER from the requirements set forth in 9.1 herein; however, the DEPARTMENT shall not exclude the PROVIDER, if the PROVIDER receives at least \$5,000,000 in annual payments from the DEPARTMENT.

9.3 For the purposes of this Article, the following definitions apply:

(A) An "employee" includes any officer or employee of the PROVIDER.

(B) A "contractor" or "agent" includes any contractor, subcontractor, agent or other person which or who, on behalf of the PROVIDER, furnishes, or otherwise authorizes the furnishing of Medicaid or other health care program items or services, performs billing or



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coding functions or is involved in monitoring of health care provided by the PROVIDER.

### ARTICLE X - REFUSAL TO EXECUTE AN AGREEMENT

The DEPARTMENT will not execute an AGREEMENT with the PROVIDER if the PROVIDER, his/her agent, managing employee, or any person having an ownership interest equal to five percent (5%) or greater in the health care PROVIDER commits or has committed any of the violations listed in Article 7.2. of this AGREEMENT or other provisions delineated in Section 8.351.2 or as amended and/or its successor, **REMEDIES AND SANCTIONS of the** Medical Assistance Division Program Policy Manual, when such exclusions are mandatory under federal or state law.

#### ARTICLE XI - RECIPIENT FUND ACCOUNT

Nursing facilities, swing bed hospitals, and intermediate care facilities for the mentally retarded shall establish and maintain an acceptable system of accounting for eligible recipients' personal funds, in the manner prescribed by the DEPARTMENT or its AUTHORIZED AGENTS, in those cases in which eligible recipients entrust their personal funds to the facility.

#### ARTICLE XII - PRECONDITION FOR PARTICIPATION

The PROVIDER understands that signing this AGREEMENT is a precondition for participating in health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER understands that the provision of services, billing of services, and receipt of payments for services cannot occur until this AGREEMENT is completed by the PROVIDER and approved for execution by the DEPARTMENT.

**ARTICLE XIII – INSURANCE** 

13.1 During the term of this AGREEMENT, the PROVIDER shall, at its sole cost and expense, carry comprehensive general liability insurance and professional liability insurance in amounts and containing such provisions from time to time deemed adequate by the DEPARTMENT or its AUTHORIZED AGENTS. Upon request, the PROVIDER will provide to the DEPARTMENT and its AUTHORIZED AGENTS certificates evidencing that the insurance required by this Section is in effect. The PROVIDER hereby authorizes the PROVIDER's insurance carrier to notify the DEPARTMENT and its AUTHORIZED AGENTS upon cancellation or termination of the PROVIDER's insurance coverage. The PROVIDER will notify the DEPARTMENT or its AUTHORIZED AGENTS promptly whenever an eligible recipient files a claim or notice of intent to commence action against the PROVIDER. The PROVIDER will notify the DEPARTMENT or its AUTHORIZED AGENTS not more than ten (10) business days after the PROVIDER's receipt of notice of any reduction or cancellation of the insurance coverage required by this Section.

13.2 The DEPARTMENT may, at its sole discretion, exempt the PROVIDER from the requirements of 13.1 for any reason, including but not limited to, the inability of the PROVIDER to procure such insurance.

### ARTICLE XIV – HEALTH INSURANCE

14.1 If the PROVIDER has, or grows to have, six (6) or more employees who work or who are expected to work, an average of at least twenty (20) hours per week over a six (6) month period during the term of this AGREEMENT and by signing it, agree to comply with these provisions.

(A) Have in place, and agree to maintain for the term of this AGREEMENT, health insurance for

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those employees and offer that health insurance to those employees no later than July 1, 2008, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds one million (\$1,000,000) dollars; or

(B) Have in place, and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds five-hundred thousand (\$500,000) dollars; or

(C) Have in place and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds two-hundred and fifty thousand (\$250,000) dollars 14.2 The PROVIDER must agree to maintain a record of the number of

maintain a record of the number of employees who have:

(A) accepted health insurance

(B) declined health insurance due to other health insurance coverage already in place; or

(C) declined health insurance for other reasons.

These records are subject to review and audit by the STATE or its representative(s).

14.3 The PROVIDER must agree to advise all employees of the availability of STATE publicly financed health care coverage programs by providing each employee with, at a minimum, the following web site link (or its successor) for additional information http://www.insurenewmexico.state.nm.u s/

## **ARTICLE XV - NO WAIVERS**

No terms or provision of this AGREEMENT shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and



#### STATE OF NEW MEXICO MEDICAL ASSISTANCE DIVISION PROVIDER PARTICIPATION AGREEMENT

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executed by the party claiming to have waived or consented.

### **ARTICLE XVI - APPLICABLE LAW**

This AGREEMENT shall be governed by the laws of the State of New Mexico. All legal proceedings arising from unresolved disputes under this AGREEMENT are subject to administrative and judicial review as provided for in MAD 8.353.2, PROVIDER HEARING, MAD 8.349.2, APPEALS and GRIEVANCE PROCESS, MAD 8.350.2, **RECONSIDERATION OF** UTILIZATION REVIEW DECISIONS. MAD 8.350.3. ABSTRACT SUBMISSION FOR LEVEL OF CARE DETERMINATIONS, MAD 8.350.4, **RECONSIDERATION OF AUDIT** SETTLEMENTS, MAD 8.351.2. SANCTIONS AND REMEDIES, MAD 8.352.2, RECIPIENT HEARINGS, MAD 8.353.2, PROVIDER HEARINGS, MAD 8.354.2, PASRR AND PATIENT STATUS HEARING POLICIES, or as amended or their successors, of the Medical Assistance Division Program Policy Manual.

### **ARTICLE XVII - ASSIGNMENT**

The PROVIDER shall not assign or transfer any obligation, duty, or other interest in this AGREEMENT, nor assign any claim for monies due under this AGREEMENT without authorization of the DEPARTMENT or its AUTHORIZED AGENTS. Any assignment or transfer which is not authorized by the DEPARTMENT or its AUTHORIZED AGENTS shall be void.

#### **ARTICLE XVIII -INDEMNIFICATION**

The PROVIDER shall indemnify. defend, and hold harmless the STATE, the DEPARTMENT, its AUTHORIZED AGENTS, and employees from any and all actions, proceedings, claims, demands, costs, damages, and attorney's fees, from all liabilities or expenses of any kind from any sources accruing to or resulting from the PROVIDER or its employees in connection with the performance of this AGREEMENT and from all claims of any person or entity that may be directly or indirectly injured or damaged by the PROVIDER or its employees in the performance of this AGREEMENT.

#### ARTICLE IXX - ENTIRE AGREEMENT

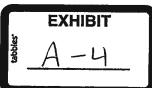
This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter contained in this AGREEMENT, and all such covenants, agreements, and understandings have been merged into this AGREEMENT. No prior agreement, covenants, or understandings, either verbal or otherwise, of the parties or their agents shall be valid or enforceable unless contained in this AGREEMENT. This AGREEMENT shall not be altered. changed, revised, or amended except by written instrument executed by the parties in the same manner as in this AGREEMENT. Amendments shall contain an effective date. Any amendments to this AGREEMENT shall not be binding upon either party until approved in writing by the DEPARTMENT or its AUTHORIZED AGENTS.





DEENSTRENT									
Name of Entity / Individual The Navajo Nation	EIN / SSN NPI 86-0092335 1588925788								
A) Have you ever had a license revoked, suspended or denied in any state?	YES <u>x</u> _NO Initial								
B) Have you ever been convicted of any criminal offense?	YES X_NO Initial								
C) Have you or any ever been excluded or suspended from participation in Title XVIII (Medicare), Title XIX (Medicaid) or any other health care pr	ogram?YES <u>x</u> NO Initial								
If YES to any of the above three questions, attach a brief statement of situation which handled the matter; any precinct case identification, and the adjudication adjudication and the adjudication adjudi	on; date; city, county and professional association or court ion or other result.								
New Mexico Medicaid project staff may need to contact you regarding the telephone number.	e completion of this form. Please list contact person and								
Contact Person: Dr. Michelle Brandser Teleph	one Number: (928)871-6240								
Whoever knowingly and willfully makes or causes to be made a false statement or representation of this statement, may be prosecuted under applicable federal or State laws. In addition, knowingly and willfully failing to fully and accurately disclose the information requested may result in denial of a request to participate or, where the entity already participates, a termination of its agreement or contract with the State agency.									
Original signature required. Plea	se use blue ink only.								
I understand that payment of claims will be from federal and state funds prosecuted under federal and state law.	and that any falsification or concealment of a material fact may l	be							
Printed Name of Individual Practitioner:									
Signature of Individual Practitioner:	Date:								
FACILITIES AND NON-PRACTITIONER ORGANIZATIONS:									
l understand that payment of claims will be from federal and state funds prosecuted under federal and state law.	and that any falsification or concealment of a material fact may b	be							
Printed Name of Authorized Representative: <u>Jonathan Nez</u>									
Title / Position: Navajo Nation President									
Address: PO BOX 7440; Window Roc	k, AZ 86515								
Telephone Number: (928)871-7000									
Signature of Authorized Representative:	Date:								
FOR STATE PURPOS	ES ONLY:	٦							
HUMAN SERVICES DEPARTMENT APPROVAL		7							
Reasons Not Approved:									
Dates of Agreement: From:									
Authorized Signature	Date								
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THIS AGREEMENT IS FOR ( PAYMENTS WILL BE MADE	IF THE APPL	ICANT IS AN	N INDIVIDUAL APPL`	YING FOR A PF	ROVIDEF	RNUMBER			completed appli lexico Medicaid Conduent	
ONLY FOR IDENTIFYING SE AND PAYMENTS WILL BE M USED. USE FORM MAD 312	ADE TO THAT	ED THROUG GROUP O	GH A GROUP PRACT R ORGANIZATION, T	TICE OR OTHE	R ORGA	NIZATION OT BE			P.O. Box 27460 lerque, NM 8712	
(1)         NM Medicaid Number (if previously assigned)         (2) National Provider Identifier (NPI)         (3) Primary Taxonomy										
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(4) Applicant Name (for indi First Name	viduals – mus Middle li			t Name				Profe	essional Title (I	MD, DDS, etc)
	outpatient Tr			(6) Federal T	ax (Lega		e Nava	ajo Natior	 1	
(7) Physical Street Address 1/4 MILES SOUTH (						<sub>ity</sub> ewland	Sta AZ	ate 7	Zip Code 86512	County Apache
(8) Billing Office Address(M PO BOX 1086	IAY BE PO BO	X)	<u> </u>	City	lewlar	nd		itate VZ	Zip 0 865	
(9) Mailing Address for office PO Box 709	cial correspon	dence (MA	Y BE PO BOX)		city Vindo	w Rock		ate AZ	865	Zip Code 515
(10) Fax Number (928)871-6456			g Office Phone 71-6235			(12) Locatio (928)688		•	RED)	
(13) Mailing Email Address mbrandser@navajc	o-nsn.gov		g Office Email Addre dser@navajo-			(15) Locatio Window				
(16) Business Type	Individual / s	ole propriet	tor Co	rporation				Partnership	p / Professiona	Association
	Limited Liabi	ility Compa	ny 🗌 No:	n-corporate Bu	isiness E	ntity / Other	G	Governr	nent Entity or F	ublic School
(17) Provider Type (see attached list) 221	(18) Provid Specialty ( attached lis 100	see	(19) License Info Number	rmation State	Expir	ation Date		REQUIRED I Security	)) Individual Pr Number	ovider's Date of Birth
(21) NM CRS (Tax & Revenue) Number (If services are provided in NM)	(22) Are NM ( payments cu attach an exp <b>bx</b> YE	rrent? If no			Numbe IRS let		r / FEIN (attach er) YES YES			
(26) DEA Number (attach co			LIA Number (attach	сору)	(28) NC	PDP/NABP I	Numbe	r (pharmac	ies only)	
(29) IHS Certified or Tribal 6	38 Contracted	Program?	 X Y	ES 🗌	NO	(If YES, a	ttach c	opy of cert	tification or co	ntract)
(30) Title XVIII Medicare Cer	tified? YES	NO	(If YES, attach cop	y of letter)	(31) Fis	scal Year End		n Decem	ber	
(32) JCAHO Certified?	YES		YES, attach copy of	letter)						
(33) Other Certification?	YE	s 🗌	NO 🙀 (If YE	S, attach copy	of letter)	Certified	by:			
(34) To be completed by ph	ysicians (prov	vider type 30	C			f of residenc			if <i>Eligible for</i> ining in your s <sub>l</sub>	pecialty area)
Board certified in the provid							lot cerl			
(35) Identify individuals who additional space is needed)		ling service	es for which paymer	its will be mad	e to you	r group or or	ganizat	tion: (Pleas	se attach separ	ate page if
Individual's Name, Ti		Рго <b>v.</b> Туре	Specialty	NM Medicaid	Prov. No				NPI	
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(36) If services have already		ed to a NM M DOS:	Medicaid recipient, p	lease enter Da	te of Ser	vice and atta	ch cop	y of claim:		
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(37) To be completed by out-of-state providers only: Home State Medicaid Provider Number:										
Name of Entity / Individual The Navajo	Nation		EIN / SSN 86-0092335	NPI 1316129216	<b>i</b>					
Question 1 to be answered by all providers.										
<ol> <li>Has the provider, or any person who has ownership or control interest in the provider, or any person who is an agent or managing employee of the provider, been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the Title XX services program since the inception of those programs? If yes, give the name(s) of person(s) and description(s) of offense(s). Please use additional pages if necessary:</li> </ol>										
Name	Social Security Number	Date of Birth		Description						

STATE OF NEW MEXICO         MEDICAL ASSISTANCE DIVISION         H U M       VICES         PROVIDER PARTICIPATION AGREEMENT							
Name of Entity / Individual The Navajo Natio	EIN / SSN 86-0092335	NPI 13161	29216				
Question 2 is to be a	answered by all providers, includin	g non-profit organizations a	and charities.				
operational or managerial contro or agency." (42 CFR section 455.	e is a "general manager, business manager I over, or who directly or indirectly conduc 101) Managing employees are in a position governing boards, or board of directors.	ts the day-to-day operations of an	institution, organization,				
2. Federal regulation requ pages if necessary:	ires the following information to be disclos	ed on all managing employees. Pl	ease use additional				
NAME	ADDRESS	SOCIAL SECURITY NUMBER	DATE OF BIRTH				
Dr. Michelle Brandser	PO BOX Window Rock, Arizona 86515						
Miranda Blatchford	PO Box Fort Defiance, AZ 86512-1086						





Name of Entity / Individual	• • • • • •	EIN / SSN			NPI
The Navajo Natio	on		86-00923	35	1316129216
Questions 3 – 9	5 to be answer	ed by all provider	s EXCEPT	individual practition	ners.
3. Provide the name and addr	ress of each persor	i (individual or corporat	ion) with an o	ownership or control intere	st in the provider or in
any subcontractor in which	the provider has d	irect or indirect owners	hip of five pe	rcent or more. Please use a	idditional pages if
necessary:					
NAME		ADDRESS		SOCIAL SECURITY	DATE OF BIRTH
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				INDIVIDUAL) OR TAX ID (IF NOT AN INDIVIDUAL)	
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The Navajo Nation					
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	Window Rock	, Arizona			
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D.					
<b>E</b> .					
				1	
	1			1	
4. Is any person named in questi	ion #3 related to ano	ther as spouse, parent, c	hild, or sibling	? If yes, give the name(s)	YES
of person(s) and relationship(	s). Please use additi	onal pages if necessary.	NOTE: Design	ate relationship to each	L .
person listed in question #3 by	y using A., B., C., etc	<b>.</b> .			NO 🔀
NAME				RELATIONSHIP	

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The Navajo Nation			86-0092335		1316129216
5. Does any person (individual or corporation) i	named in qu	estion #3 have an	ownership or control	interest in any	YES
other Medicaid provider or in [any entity that ownership and control information because of	of participat	ion in any of the p	rograms established u	ınder Title V, XVIII,	NO 🛒
or XX of the Social Security Act?] (This inclu programs such as Medicaid; Medicare Part A	; Medicare F	Part B; Medicare P	art C; Medicare Part D	; CHAMPUS; and	
programs established under parts XIX, XX, an provider identification number(s) and addres	nd XXI of the s(es) of the	e Social Security / Medicaid provide	Act.) If yes, give the na r or entity. Please use	me(s), Medicaid additional pages if	
necessary:					
NAME			ADDRESS		MEDICAID PROVIDE NUMBER



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This AGREEMENT, between the State of New Mexico (STATE), herein referred to as "the STATE," the New Mexico Human Services Department (HSD), herein referred to as "the DEPARTMENT" and the applicant as provider, herein referred to as "the PROVIDER", specifies the terms and conditions for providing health care services to eligible recipients of Medicaid, other medical assistance programs, and other health care programs administered by the Department and other departments of the State of New Mexico for which the Department is authorized to make payment to the PROVIDER. Administration of health care programs including, but not limited to, service authorizations, billing instructions and payment, may be performed by the DEPARTMENT and its agents including other departments and agencies of the State of New Mexico and their contractors, as authorized by joint power of agreements, contracts, or other binding agreements, herein referred to as its "AUTHORIZED AGENTS". This AGREEMENT shall be effective when completed in full with all required documentation attached and when signed by the PROVIDER and the Human Services Department Medical Assistance Division (HSD/MAD) or its designees and shall remain in effect until terminated pursuant to the terms set forth below.

## ARTICLE 1 – OBLIGATIONS OF THE PROVIDER

### The PROVIDER shall:

1.1. Abide by all federal, state, and local laws, rules and regulations, including but not limited to, those laws, regulations, and rules applicable to providers of services under Title XIX (Medicaid) and Title XXI (SCHIP) of the Social Security Act and other health care programs administered by the DEPARTMENT and its AUTHORIZED AGENTS.

1.2. Furnish services, bill for services, and receive payment for services only upon approval of this AGREEMENT by the HSD /MAD Director or his/her designees or its AUTHORIZED AGENTS.

1.3. Be responsible for the accuracy and validity of all claims for which reimbursement is sought by causing claims to be manually or electronically submitted to the DEPARTMENT or its AUTHORIZED AGENTS.

1.4. Comply with all instructions, directives, billing, reimbursement, audit, recoupment, and withholding provisions made available by the DEPARTMENT and its AUTHORIZED AGENTS. 1.5. Obtain, maintain, and keep updated program rules and instructions on billing and utilization review and other pertinent material made available by the DEPARTMENT and its AUTHORIZED AGENTS.

1.6. Not employ or enter into contract with excluded individuals or entities, as identified by the Health and Human Services Office of Inspector General's (HHS-OIG) List of Excluded Individuals/entities (LEIE), the Medicare Exclusion Database (MED), System for Award Management (SAM), Excluded Parties List System (EPLS) or a state's Employee Abuse Registry (EAR) or equivalent. All findings of placement of an employee on EAR should be forwarded to a law enforcement agency for possible prosecution. The HHS-OIG website can be searched by the name of any individual or entity, and must be searched on a monthly basis in order to capture exclusions and reinstatements that have occurred since the last search. Any exclusion information discovered must be immediately reported to the DEPARMENT or its AUTHORIZED AGENTS. A provider must ensure that every healthcare practitioner or other employee providing a service is appropriately licensed, registered, background checked, and/or certified at the time the service is provided, as required by state law or regulation for the service or activity that is provided and is valid in the municipality. All payments made to **PROVIDERS** for services or items obtained from excluded parties or provided by insufficiently licensed, registered, back-ground checked, or certified individuals are overpayments subject to recoupment. These services or items extend to all methods of

reimbursement, whether payment results from itemized claims, cost reports, fee schedules, or a prospective payment system; payment for administrative and management services not directly related to patient care, but that are a necessary component of providing items and services to Medicaid recipients, when those payments are reported on a cost report or are otherwise payable by the Medicaid program; and payments to cover an excluded individual's salary. expenses, or fringe benefits, regardless of whether they provide direct patient care, when those payments are reported on a cost report or are otherwise payable by the Medicaid program. In addition, civil monetary penalties may be imposed for noncompliance. 42 CFR 1003 .102(a)(2). The PROVIDER must also check New Mexico Courts (http://www.nmcourts.gov/) for records of any incidents involving any employee at the time of employment and annually thereafter. Documentation of the check must be maintained in the employee's personnel folder.

1.7. Comply with the disclosure requirements specified in 42 CFR, Part 455, Subpart B, including but not limited to disclosure upon request of information regarding ownership and control, business transactions and person convicted of crimes. This includes information about ownership of any subcontractor and any significant business transactions between the provider and subcontractor and/or



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provider and any wholly owned supplier. The provider agreement will be terminated if the PROVIDER fails to disclose ownership or control information as required by Federal law. Furnish and update complete 1.8. information on the PROVIDER's address, licensing, certification, board specialties, corporate names, and parties with direct or indirect ownership or controlling interest in the entity or in any subcontractor in which the entity has a direct or indirect ownership interest totaling five percent (5%) or more, and any relationship (spouse, parent, child, or sibling) of these persons to another; the name of any other entity in which a person with an ownership or controlling interest in the disclosing entity also has an ownership or controlling interest in; and information on the conviction of delineated criminal or civil offenses by the PROVIDER or parties with direct or indirect ownership or controlling interest at least sixty (60) calendar days prior to the contemplated change or within ten (10) calendar days after the conviction. Any payment made on the basis of erroneous or outdated information is the responsibility of the PROVIDER and is subject to recoupment, criminal investigative costs, and/or civil penalties. 1.9. Comply with all applicable federal, state, and local laws and regulations regarding-licensure, registration to pay applicable taxes, payment of applicable taxes, permit requirements, and employee tax filing

requirements. 1.10. Assume sole responsibility for all applicable taxes, insurance, licensing, and other costs of doing business. 1.11. Verify that an individual is eligible for a specified health care program administered by the DEPARTMENT or its AUTHORIZED AGENTS.

1.12. Verify the identity of the eligible recipient on all occasions prior to rendering services.

1.13. Maintain the confidentiality of eligible recipient information and records in accordance with applicable state and federal laws, including 42 CFR 431.305, 8.100.100.13 and .14 NMAC,

and regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended.

1.14. Meet the Continuing Care Obligations of the PROVIDER. In the event of termination of this AGREEMENT for any reason, the PROVIDER shall continue to provide or arrange services to eligible recipients, including any recipients who become eligible during the termination notice period, beginning on the effective date of termination and continuing until the termination or next renewal date of the recipient's eligibility, unless the DEPARTMENT arranges for the transfer of the eligible recipient to another Provider and provides written notice to the PROVIDER of such transfer prior to the termination or next renewal date of this AGREEMENT.

Notwithstanding the foregoing, at the direction of the DEPARTMENT, the PROVIDER may continue to provide or arrange services to any eligible recipient who cannot be transferred within the time period specified above in accordance with the legal and contractual obligations to: (1) provide services under the applicable health care program; (2) provide notice of termination to eligible recipients; and (3) ensure continuity of care for eligible recipients.

(A) In the event that the **PROVIDER** terminates this AGREEMENT on the basis of the DEPARTMENT'S failure to make timely payments, the PROVIDER shall continue to arrange for services to those eligible recipients who are hospitalized on an inpatient basis or otherwise residents of a facility at the time the **PROVIDER** terminates this AGREEMENT until eligible recipients are discharged from the hospital or other facility. The PROVIDER may file a claim with the DEPARTMENT or its AUTHORIZED AGENTS for such services

(B) The DEPARTMENT or its AUTHORIZED AGENTS will pay the PROVIDER for services provided after the date of termination of this AGREEMENT at the current applicable reimbursement rate to eligible providers as of the dates of service when the services have been authorized by the DEPARTMENT or its AUTHORIZED AGENTS.

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(C) The PROVIDER agrees that the provisions of this section and the obligations of the PROVIDER herein shall survive termination, and shall be construed to be for the benefit of eligible recipients.

1.15. Render covered services to eligible recipients in the same scope, quality, and manner as provided to the general public; comply with all applicable federal and state civil rights laws; and not discriminate on the basis of race, color, national origin, sex, gender, age,

ethnicity, religion, sexual orientation, sexual preference, health status, disability, political belief, or source of payment as per 45 CFR 80.3(a) and (b), 45 CFR 84.52, and 42 CFR 447.20 or other state and federal laws, rules, and regulations.

1.16. Assume all responsibility for any and all claims submitted on behalf of the PROVIDER under the PROVIDER'S identification number. Submission of false or miscoded claims or fraudulent representation may subject the PROVIDER to termination, criminal investigations and charges, and other sanctions specified in the HSD/MAD Program Policy Manual, and federal and state law and regulations.

1.17. Create, keep and maintain, and have readily retrievable, any and all original medical or business records as necessary to verify the treatment or care of any eligible recipient and to fully disclose the type and extent of all services, goods, and supplies provided to eligible recipients as set forth in 42 CFR 431.107 for at least six (6) years from the date of creation or until ongoing audits are settled, whichever is longer. The PROVIDER agrees that such records shall be made at or near the time at which the services, goods, and supplies are delivered or rendered. Services that have been billed to the DEPARTMENT or its AUTHORIZED



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AGENTS which are not substantiated in the PROVIDER'S record are subject to recoupment, sanction, and/or any other penalty provided for in this AGREEMENT.

1.18. Upon closure of office or facility, inform the DEPARTMENT or its AUTHORIZED AGENTS where records pertaining to eligible recipients will be located.

1.19. Furnish immediately to the DEPARTMENT or its AUTHORIZED AGENTS, the U.S. Secretary of Health and Human Services, or the Medicaid Fraud Control Unit, at no cost, access to records in any format requested and any information regarding payments claimed by the PROVIDER for furnishing services to eligible recipients.

1.20. Permit announced and unannounced inspection of facilities or the PROVIDER'S offices and other locations used in the provision of services for billing and to eligible recipients by the U.S. Secretary of Health and Human Services, the Medicaid Fraud Control Unit, and the DEPARTMENT and its AUTHORIZED AGENTS. Failure to comply with this provision constitutes a violation of federal and state law and may result in immediate withholding of any pending or future payments. If records are requested by mail, the PROVIDER shall furnish the records within two (2) to ten (10) business days of the receipt of the request or as provided in the request. 1.21. Assist and cooperate in any review, inspection or audit conducted in conformity with the terms of this AGREEMENT.

1.22. Accept as payment in full, the amount paid by the DEPARTMENT or its AUTHORIZED AGENTS for services furnished to eligible recipients in accordance with the reimbursement structure in effect for the period during which services were provided as per the DEPARTMENT'S or its

AUTHORIZED AGENTS reimbursement rules. No exceptions to,

or waiver of standard reimbursements will be permitted without the express written consent of the MAD Director or his/her designee.

Electronic billing of claims is 1.23. mandatory unless an exemption has been allowed by the DEPARTMENT or its AUTHORIZED AGENTS. Exemptions will be given on a case-by-case basis with consideration being given to any barriers the PROVIDER may face in billing electronically, including when volumes are so small that developing electronic submission capability is impractical. The requirement for electronic submission of claims does not apply to situations for which a paper attachment must accompany the claim form.

1.24. Not collect payments from the eligible recipient or any financially responsible relative or personal representative of the eligible recipient for services furnished to the eligible recipient, except as specifically allowed by the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER may not bill or collect payments from the eligible recipient or their personal representative for any claim denied by the DEPARTMENT or its AUTHORIZED AGENTS for administrative or billing errors on the part of the PROVIDER except as specifically allowed by the DEPARTMENT'S regulations. 1.25. Seek payment from any other payer or insurer before seeking payment from the DEPARTMENT or its AUTHORIZED AGENTS in the event the eligible recipient is covered by an insurance policy or health plan including Medicare. Refund to the DEPARTMENT or its AUTHORIZED AGENTS the lesser of the payment received from the third party and the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER shall not bill the DEPARTMENT or its AUTHORIZED AGENTS the difference between a "preferred patient care agreement" or "discount" arrangement and the PROVIDER'S billed charge. 1.26. Not refuse to furnish services to an eligible recipient because of a third party's potential liability for payment for the services, except in instances in which an eligible recipient is seeking services from a provider who does not participate

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in the HMO or other plan network and would not be paid for services by the HMO or other plan.

1.27. Inform the DEPARTMENT or its AUTHORIZED AGENTS immediately when an attorney or other party requests information related to the services rendered to an eligible recipient that were paid by the DEPARTMENT or its AUTHORIZED AGENTS and upon receipt of any knowledge of pending or active legal proceedings involving eligible recipients.

1.28. When furnishing services to eligible recipients who sustained injury in an accident or another action that may be subject to a legal proceeding, agree to the following:

(A) The hospital PROVIDER must either file a claim with the DEPARTMENT or its AUTHORIZED AGENTS within the time period specified in 8.302.14 NMAC of the date of hospital discharge or impose a hospital lien on the potential recovery from the liable third party. If the hospital PROVIDER elects to impose a lien, the PROVIDER is prohibited from filing a claim with the DEPARTMENT or its AUTHORIZED AGENTS for payment of any unpaid balance resulting from the third party recovery or from seeking payment from the eligible recipient or their personal representative.

(B) The non-hospital PROVIDER must accept the payment made by the DEPARTMENT or its AUTHORIZED AGENTS as payment in full. The non-hospital PROVIDER may not seek additional payment for those services from the eligible recipient or their personal representative even if the eligible recipient or their personal representative subsequently received a monetary award or settlement from the liable party.

1.29. When entering into contracts with the Medicaid managed care organization (MCOs) contracting with the DEPARTMENT for the provision of managed care services to the Medicaid population, agree to be paid by the MCO at any amount mutually-agreed between the provider or provider group and the MCOs. If the provider or provider group



medical assistance programs

care organization (MCO) recoups

a recipient from the MCO, the

PROVIDER agrees to bill the

payment from the provider because the

DEPARTMENT retroactively disenrolls

DEPARTMENT or its AUTHORIZED

reimbursement rate as stated in the MAD

program policy manual, according to the

employment or contractual service with

a care provider includes direct care or

routine and unsupervised physical or

financial access to any care recipient

served by that provider, the caregiver

provisions in the Caregivers Criminal

the requirements concerning enrollment

and screening, criminal background

National Provider Identifier, federal

that are given to the PROVIDER as

provided for in MAD 8.353.2,

APPEALS and GRIEVANCE

**PROCESS, MAD 8.350.2.** 

**RECONSIDERATION OF** 

MAD 8.350.3, ABSTRACT

database checks, site visits, verification

as found at 42 CFR 455.400 - 455.470.

PROVIDER HEARING, MAD 8,349.2.

UTILIZATION REVIEW DECISIONS.

SUBMISSION FOR LEVEL OF CARE

of provider licenses, and application fees

checks, fingerprinting, use of the

Understand and agree to meet

To understand the appeal rights

and care provider must adhere to

History Screening Act (CCHS).

For those caregivers whose

AGENTS and accept the applicable

L.30.

provider type.

1.31.

1.32.

1.33.

#### STATE OF NEW MEXICO MEDICAL ASSISTANCE DIVISION PROVIDER PARTICIPATION AGREEMENT

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and MCO are unable to agree to terms or DETERMINATIONS, MAD 8.350.4, **RECONSIDERATION OF AUDIT** fail to execute an agreement for any reason, the provider or provider group SETTLEMENTS, MAD 8.351.2, SANCTIONS AND REMEDIES, MAD shall be obligated to accept the percent of the applicable reimbursement rate as 8.352.2, RECIPIENT HEARINGS, stated in the MAD Program Policy MAD 8.353.2, PROVIDER Manual based on the provider type. The HEARINGS, MAD 8.354.2, PASRR "applicable reimbursement rate" is AND PATIENT STATUS HEARING defined as the rate paid by the POLICIES, or as amended or their DEPARTMENT to the PROVIDER successors, of the Medical Assistance Division Program Policy Manual. participating in Medicaid or other 1.34. All work associated with the administered by the DEPARTMENT or Agreements contained herein must be its AUTHORIZED AGENTS and performed in the United States of excludes disproportionate share hospital America. and medical education payments. When a Medicaid managed

### **ARTICLE II – OBLIGATION OF** THE HUMAN SERVICES DEPARTMENT

The DEPARTMENT shall: 2.1. Make available on the HSD/MAD website, other DEPARTMENT websites, or in hard copy format information necessary to participate in health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS, including program rules, billing instructions, and other pertinent materials. The PROVIDER must contact the DEPARTMENT or its AUTHORIZED AGENTS to request hard copies of any program rules, manuals, billing and utilization review instructions, and other pertinent materials.

Process payments in a manner 2.2. delineated by federal guidelines either internally or through a designated fiscal agent contractor. Please refer to 8.302.2.9 NMAC.

2.3 Reimburse the PROVIDER for furnishing covered services or procedures to eligible recipients when all program rules have been followed by the PROVIDER. Reimbursement is based on the fee schedule, reimbursement rate. or reimbursement methodology in place at the time service is furnished by the PROVIDER. No exception to, or waiver of, standard reimbursement will be permitted without the express written consent of the MAD Director or his/her designee.

2.4. Conduct administrative investigations and administrative proceedings to ensure that the PROVIDER complies with the terms of this AGREEMENT and federal and state law, and regulations pertaining to the administration of the health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS, including the Medicaid

### **ARTICLE III - PATIENT** SELF-DETERMINATION ACT

The nursing facility, intermediate care facility, hospital, home health agency, and hospice PROVIDER shall:

3.1. Furnish written information to all adult eligible recipients or their personal representatives receiving medical care concerning their right to make decisions about medical care; accept or refuse medical or surgical treatment; and formulate arrangements for a living will or durable power of attorney.

3.2 Document in the eligible recipient's medical record whether he/she has executed an advance directive which complies with New Mexico law on advance directives. The provision of care shall not be based on whether the eligible recipient has executed an advance directive.

Inform each adult eligible 3.3. recipient or personal representative, orally and in writing, at the time of facility admission or initiation of treatment, of the eligible recipient's legal rights during his or her facility stay or course of treatment.

## **ARTICLE IV - SUBMISSION OF** COST REPORTS

4.1. The PROVIDER, when delineated by the DEPARTMENT shall furnish the DEPARTMENT or its AUTHORIZED AGENTS with such financial reports, audited or certified cost statements, and other substantiating data as necessary to establish a basis for

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reimbursement or as required by regulation.

4.2. Cost statements or other data are to be furnished no later than 150 (one hundred- fifty) calendar days following the closure of the PROVIDER'S fiscal accounting period. Failure to comply with this provision will result in suspension of payment until the required statements and other data are provided.

## ARTICLE V -STATUS OF PROVIDER

The PROVIDER, its agents, and employees are independent contractors who perform professional services for eligible recipients served through health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS are not employees of the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER shall not purport to bind the DEPARTMENT nor the State of New Mexico to any obligation not expressly authorized herein unless the DEPARTMENT has given the PROVIDER express written permission to do so.

#### ARTICLE VI - CHANGE IN OWNERSHIP

As soon as possible, but at least 6.1. sixty (60) calendar days prior to a change in ownership or status, the PROVIDER must notify the DEPARTMENT or its AUTHORIZED AGENTS of the proposed change in ownership. Upon completion of the transfer of ownership, this initial AGREEMENT is terminated. The new owner must complete and receive approval of a new AGREEMENT before submitting any claims to the DEPARTMENT or its AUTHORIZED AGENTS. Any payment made on the basis of erroneous or outdated information due to the lack of notice is the responsibility of the PROVIDER and is subject to recoupment.

6.2. The previous owner shall be responsible for any overpayments and is entitled to receive payments up to the date of ownership transfer, unless

otherwise specified in the contract for transfer of ownership.

6.3. The new owner shall furnish to the DEPARTMENT or its

AUTHORIZED AGENTS upon receipt of a written request, the contract or other applicable documents specifying the terms of the change in ownership and responsibilities delineated in this AGREEMENT.

6.4. The DEPARTMENT and its AUTHORIZED AGENTS reserve the right to withhold all pending and other claims until the right to payments and/or recoupment is determined, unless the new owner agrees in writing to be liable for any recoupment or overpayment amounts.

6.5. For the PROVIDER who is reimbursed on a cost basis and subject to cost settlements, the DEPARTMENT or its AUTHORIZED AGENTS shall impose a lien and/or penalty of up to ten percent (10%) of the purchase price against the previous owner until such time as the final cost settlement is completed and amounts owed, if applicable, are remitted to the DEPARTMENT, or its AUTHORIZED AGENTS.

## ARTICLE VII - TERMINATION OF PROVIDER AGREEMENT

71 The PROVIDER status may be terminated without cause if the PROVIDER or the DEPARTMENT or its AUTHORIZED AGENTS give the other written notice of termination at least sixty (60) calendar days prior to the effective date of the termination. 7.2. The DEPARTMENT or its AUTHORIZED AGENTS may terminate this AGREEMENT for cause, with thirty (30) calendar days notice if the PROVIDER, his or her agent, a managing employee, or any person having an ownership interest equal to five percent (5%) or greater in the health care PROVIDER entity:

(A) Misrepresents, by commission or omission, any information on the AGREEMENT enrollment form. CERTIFYING YOU HAVE READ AND UNDERSTAND THE INFORMATION ON THIS PAGE (B) Has previous or current exclusion, suspension, termination fro

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exclusion, suspension, termination from, or the involuntary withdrawal from participation in a health care program administered by the DEPARTMENT, any other state's Medicaid program, Medicare, or any other public or private health insurance program.

(C) Is convicted under federal or state law of a criminal offense relating to the delivery of the goods, services, or supplies, under a health care program administered by the DEPARTMENT, any other state's Medicaid Program, Medicare, or any other public or private health insurance program.

(D) Is convicted under federal or state law of a criminal offense relating to the neglect or abuse of a patient in connection with the delivery of any goods, services, or supplies.

(E) Is convicted under federal or state law of a criminal offense relating to the unlawful manufacture, distribution, prescription or dispensing of a controlled substance.

(F) Is convicted under federal or state law of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

(G) Is convicted under federal or state law of a criminal offense punishable by imprisonment of a year or more which involved moral turpitude or acts against the elderly, children, or infirm.

(H) Is sanctioned pursuant to a violation of federal or state laws or rules relative to a health care program administered by the DEPARTMENT, any other state's Medicaid Program, Medicare, or any other public health insurance program.

(1) Is convicted under federal or state law of a criminal offense in connection with the interference or obstruction of any

investigations into any criminal offense listed in Paragraphs (C) through (H) of this subsection.

(J) Violates licensing or certification conditions or professional standards relating to the licensure or certification of the PROVIDER or the



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required quality of goods, services, or supplies provided.

(K) Fails to pay recovery properly assessed or pursuant to an approved repayment schedule under a health care program administered by the DEPARTMENT or its AUTHORIZED AGENTS.

The PROVIDER's status may 7.3. be terminated immediately, without notice, in instances in which the health and safety of eligible recipients in institutions are deemed to be in immediate jeopardy; are subject to an immediate or serious threat; or when it has been demonstrated, on the basis of reliable evidence, that the PROVIDER has committed fraud, abuse, or other illegal or sanctionable action. For purposes of this provision. institutional providers include nursing facilities, intermediate care facilities for the mentally retarded, all residential psychiatric treatment facilities, group homes, and other facility-based residential treatment programs. The DEPARTMENT or its 7.4

AUTHORIZED AGENTS reserve the right to terminate this AGREEMENT for cause as summarized in this AGREEMENT and as delineated in Section MAD-8.351.2, SANCTIONS AND REMEDIES of the Medical Assistance Division Program Policy Manual, or as amended and/or its successor.

7.5. Immediately upon termination for any reason, the PROVIDER shall:

(A) Comply with all directives issued by the DEPARTMENT or its AUTHORIZED AGENTS; and

(B) Take such action as the DEPARTMENT or its AUTHORIZED AGENTS shall direct for the protection, preservation, retention or transfer of all property, included but not limited to all recipient records.

#### ARTICLE VIII - IMPOSITION OF SANCTIONS FOR FRAUD OR MISCONDUCT

8.1. If the PROVIDER obtains an excess payment or benefit willfully, by means of false statement, representation,

concealment of any material fact, or other fraudulent scheme or devise with intent to defraud, criminal sentences and fines and/or civil monetary penalties shall be imposed pursuant to, but not limited to, the Medicaid Fraud Act, NMSA 1978, 30-44-1 et seq., 42 USC 1320a-7b, and 42 CFR 455.23.

8.2 In addition to the above criminal and civil penalties, the DEPARTMENT or its AUTHORIZED AGENTS may impose monetary or nonmonetary sanctions, including civil monetary penalties for PROVIDER misconduct or breach of any of the terms of this AGREEMENT.

8.3 Upon written notice to the PROVIDER, the DEPARTMENT or its AUTHORIZED AGENTS may sanction non-performance under this AGREEMENT consistent with the DEPARTMENT's rules through one or more following actions:

(A) Compensation Reduction. As a sanction, the DEPARTMENT or its AUTHORIZED AGENTS may recover past payments to the PROVIDER and/or reduce the compensation of the PROVIDER for past failure to fully and satisfactorily perform, and for any ongoing failure to fully and satisfactorily perform this AGREEMENT's obligations. Imposition of such a penalty does not preclude the DEPARTMENT or its AUTHORIZED AGENTS from recouping or recovering payments as specifically provided in any other law, regulation or this AGREEMENT.

(B) The amount of the compensation paid to the PROVIDER by the DEPARTMENT or its AUTHORIZED AGENTS for services that the PROVIDER did not fully and satisfactorily perform in accordance with the terms of this AGREEMENT. 8.4. The DEPARTMENT or its

8.4. The DEPARTMENT or its AUTHORIZED AGENTS may recover funds by reducing future compensation payable by the DEPARTMENT or its AUTHORIZED AGENTS to the PROVIDER. APPLICANT INITAL HERE CERTIFYING YOU HAVE READ AND UNDERSTAND THE INFORMATION ON THIS PAGE

#### ARTICLE IX – EMPLOYEE EDUCATION CONCERNING FALSE CLAIMS

9.1. In accordance with Section 1902(a) of the Social Security Act, the PROVIDER must:

(A) Establish written policies and rules for all employees, agents, or contractors, that provide detailed information regarding the New Mexico of Medicaid False Claims Act, NMSA 1978, 27-14-1, et seq.; and the Federal False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statement established under chapter 38 of title 31, United States Code, including but not limited to, preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f) of the Social Security Act);

(B) Include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste and abuse; and

(C) Include in any employee handbook, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the PROVIDER's rules and procedures for detecting and preventing fraud, waste, and abuse. The DEPARTMENT may, at its 9.2. sole discretion, exempt the PROVIDER from the requirements set forth in 9.1 herein: however, the DEPARTMENT shall not exclude the PROVIDER, if the PROVIDER receives at least \$5,000,000 in annual payments from the DEPARTMENT.

9.3 For the purposes of this Article, the following definitions apply:

(A) An "employee" includes any officer or employee of the PROVIDER.

(B) A "contractor" or "agent" includes any contractor, subcontractor, agent or other person which or who, on behalf of the PROVIDER, furnishes, or otherwise authorizes the furnishing of Medicaid or other health care program items or services, performs billing or



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coding functions or is involved in monitoring of health care provided by the PROVIDER.

## ARTICLE X - REFUSAL TO EXECUTE AN AGREEMENT

The DEPARTMENT will not execute an AGREEMENT with the PROVIDER if the PROVIDER, his/her agent, managing employee, or any person having an ownership interest equal to five percent (5%) or greater in the health care PROVIDER commits or has committed any of the violations listed in Article 7.2. of this AGREEMENT or other provisions delineated in Section 8.351.2 or as amended and/or its successor, **REMEDIES AND SANCTIONS of the** Medical Assistance Division Program Policy Manual, when such exclusions are mandatory under federal or state law.

#### ARTICLE XI - RECIPIENT FUND ACCOUNT

Nursing facilities, swing bed hospitals, and intermediate care facilities for the mentally retarded shall establish and maintain an acceptable system of accounting for eligible recipients' personal funds, in the manner prescribed by the DEPARTMENT or its AUTHORIZED AGENTS, in those cases in which eligible recipients entrust their personal funds to the facility.

#### ARTICLE XII - PRECONDITION FOR PARTICIPATION

The PROVIDER understands that signing this AGREEMENT is a precondition for participating in health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER understands that the provision of services, billing of services, and receipt of payments for services cannot occur until this AGREEMENT is completed by the PROVIDER and approved for execution by the DEPARTMENT.

### ARTICLE XIII – INSURANCE

During the term of this 13.1 AGREEMENT, the PROVIDER shall, at its sole cost and expense, carry comprehensive general liability insurance and professional liability insurance in amounts and containing such provisions from time to time deemed adequate by the DEPARTMENT or its AUTHORIZED AGENTS. Upon request, the PROVIDER will provide to the DEPARTMENT and its AUTHORIZED AGENTS certificates evidencing that the insurance required by this Section is in effect. The PROVIDER hereby authorizes the PROVIDER's insurance carrier to notify the DEPARTMENT and its AUTHORIZED AGENTS upon cancellation or termination of the PROVIDER's insurance coverage. The PROVIDER will notify the DEPARTMENT or its AUTHORIZED AGENTS promptly whenever an eligible recipient files a claim or notice of intent to commence action against the PROVIDER. The PROVIDER will notify the DEPARTMENT or its AUTHORIZED AGENTS not more than ten (10) business days after the PROVIDER's receipt of notice of any reduction or cancellation of the insurance coverage required by this Section.

13.2 The DEPARTMENT may, at its sole discretion, exempt the PROVIDER from the requirements of 13.1 for any reason, including but not limited to, the inability of the PROVIDER to procure such insurance.

### ARTICLE XIV – HEALTH INSURANCE

14.1 If the PROVIDER has, or grows to have, six (6) or more employees who work or who are expected to work, an average of at least twenty (20) hours per week over a six (6) month period during the term of this AGREEMENT and by signing it, agree to comply with these provisions.

(A) Have in place, and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2008, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds one million (\$1,000,000) dollars; or

(B) Have in place, and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds five-hundred thousand (\$500,000) dollars; or

(C) Have in place and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds two-hundred and fifty thousand (\$250,000) dollars

14.2 The PROVIDER must agree to maintain a record of the number of employees who have:

(A) accepted health insurance

(B) declined health insurance due to other health insurance coverage already in place; or

(C) declined health insurance for other reasons.

These records are subject to review and audit by the STATE or its representative(s).

14.3 The PROVIDER must agree to advise all employees of the availability of STATE publicly financed health care coverage programs by providing each employee with, at a minimum, the following web site link (or its successor) for additional information <u>http://www.insurenewmexico.state.nm.u</u> s/

### **ARTICLE XV - NO WAIVERS**

No terms or provision of this AGREEMENT shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and



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Name of Entity / Individual The Navajo Nation

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EIN / SSN

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executed by the party claiming to have waived or consented.

## ARTICLE XVI - APPLICABLE LAW

This AGREEMENT shall be governed by the laws of the State of New Mexico. All legal proceedings arising from unresolved disputes under this AGREEMENT are subject to administrative and judicial review as provided for in MAD 8.353.2, PROVIDER HEARING, MAD 8.349.2, APPEALS and GRIEVANCE **PROCESS, MAD 8.350.2,** RECONSIDERATION OF UTILIZATION REVIEW DECISIONS, MAD 8.350.3, ABSTRACT SUBMISSION FOR LEVEL OF CARE DETERMINATIONS, MAD 8.350.4, **RECONSIDERATION OF AUDIT** SETTLEMENTS, MAD 8.351.2, SANCTIONS AND REMEDIES, MAD 8.352.2, RECIPIENT HEARINGS, MAD 8.353.2, PROVIDER HEARINGS, MAD 8.354.2, PASRR AND PATIENT STATUS HEARING POLICIES, or as amended or their successors, of the Medical Assistance Division Program Policy Manual.

### ARTICLE XVII - ASSIGNMENT

The PROVIDER shall not assign or transfer any obligation, duty, or other interest in this AGREEMENT, nor assign any claim for monies due under this AGREEMENT without authorization of the DEPARTMENT or its AUTHORIZED AGENTS. Any assignment or transfer which is not authorized by the DEPARTMENT or its AUTHORIZED AGENTS shall be void.

#### **ARTICLE XVIII -INDEMNIFICATION**

The PROVIDER shall indemnify. defend, and hold harmless the STATE, the DEPARTMENT, its AUTHORIZED AGENTS, and employees from any and all actions, proceedings, claims, demands, costs, damages, and attorney's fees, from all liabilities or expenses of any kind from any sources accruing to or resulting from the PROVIDER or its employees in connection with the performance of this AGREEMENT and from all claims of any person or entity that may be directly or indirectly injured or damaged by the PROVIDER or its employees in the performance of this AGREEMENT.

#### ARTICLE IXX - ENTIRE AGREEMENT

This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter contained in this AGREEMENT, and all such covenants, agreements, and understandings have been merged into this AGREEMENT. No prior agreement, covenants, or understandings, either verbal or otherwise, of the parties or their agents shall be valid or enforceable unless contained in this AGREEMENT. This AGREEMENT shall not be altered. changed, revised, or amended except by written instrument executed by the parties in the same manner as in this AGREEMENT. Amendments shall contain an effective date. Any amendments to this AGREEMENT shall not be binding upon either party until approved in writing by the DEPARTMENT or its AUTHORIZED AGENTS.





DEPORTORIST								
Name of Entity / Individual The Navajo Nation	EIN / SSN 86-0092335	NPI 1316129216						
A) Have you ever had a license revoked, suspended or denied in any state?	YES _ <b></b> NO	Initial						
B) Have you ever been convicted of any criminal offense?	YESNO	Initial						
C) Have you or any ever been excluded or suspended from participation in Title XVIII (Medicare), Title XIX (Medicaid) or any other health care p	rogram? YES XNO	Initial						
If YES to any of the above three questions, attach a brief statement of situat which handled the matter; any precinct case identification, and the adjudica	tion; date; city, county and profe ition or other result.	essional association or court						
New Mexico Medicaid project staff may need to contact you regarding t telephone number.	he completion of this form. Ple	ease list contact person and						
Contact Person: Dr. Michelle Brandser Teleph	one Number: (928)871-624	0						
Whoever knowingly and willfully makes or causes to be made a false statement or representation of this statement, may be prosecuted under applicable federal or State laws. In addition, knowingly and willfully failing to fully and accurately disclose the information requested may result in denial of a request to participate or, where the entity already participates, a termination of its agreement or contract with the State agency.								
Original signature required. Ple	ase use blue ink only.							
I understand that payment of claims will be from federal and state fund prosecuted under federal and state law.	s and that any falsification or cond	cealment of a m <mark>ater</mark> ial fact may be						
Printed Name of Individual Practitioner:								
Signature of Individual Practitioner:	Date	:						
FACILITIES AND NON-PRACTITIONER ORGANIZATIONS:								
l understand that payment of claims will be from federal and state fund prosecuted under federal and state law.	s and that any falsification or cond	cealment of a material fact may be						
Printed Name of Authorized Representative:								
Title / Position: Navajo Nation President								
Address: PO BOX 7440; Window Roc	ck, AZ 86515							
Telephone Number: (928)871-7000								
Signature of Authorized Representative:	Date:							
FOR STATE PURPOS	SES ONLY:							
HUMAN SERVICES DEPARTMENT APPROVAL								
APPROVED NOT APPROVED								
Reasons Not Approved:								
Dates of Agreement: From: Authorized Signature	Date							
Autionzed Signature								



	EXHIBIT
tabbles"	<u>A-5</u>



THIS AGREEMENT IS FOR PAYMENTS WILL BE MADE ONLY FOR IDENTIFYING SI AND PAYMENTS WILL BE N USED. USE FORM MAD 31	IF THE APPL ERVICES BILL NADE TO THAT	ICANT IS AN	I INDIVIDUAL APPLY	ING FOR A F	PROVIDER ER ORGA	R NUMBER NIZATION OT BE		New Albuq	completed appli Mexico Medicaid Conduent P.O. Box 2746 uerque, NM 871	Project
							Taxon ty/Bel	omy navioral	Health	
(4) Applicant Name (for indi First Name	viduals – mus Middle I			t Name		1		Pro	fessional Title (I	MD, DDS, etc)
(5) Business Name (DBA) Red Mesa C	utpatient Tr	eatment C	enter	(6) Federal	Tax (Lega		e Nava	ajo Natio	on	
(7) Physical Street Address US HWY 160 & NA	where service	es are rende		CCEPTED)		<sup>ity</sup> d Mesa	St AZ	ate	Zip Code 86514	County Apache
(8) Billing Office Address(M PO BOX 1830	IAY BE PO BO	X)		City	Shipro	ck		itate NM		Code 420
(9) Mailing Address for offi PO Box 709	cial correspon	Idence (MA)	( BE PO BOX)		<sub>City</sub> Windo	w Rock		tate AZ	86	Zip Code 515
(10) Fax Number (928)871-6456		(11) Billing (928)87	g Office Phone			(12) Locatio			IRED)	
(13) Mailing Email Address mbrandser@navajo	o-nsn.gov		office Email Addre			(15) Locatio Window	Roc	k, Ariz		
(16) Business Type	Individual / s	ole propriet	or Cor	poration				Partnersh	ip / Professiona	Association
	Limited Liab	ility Compa			Business B	Entity / Other			nment Entity or I	
(17) Provider Type (see attached list)	(18) Provid Specialty (		(19) License Infor Number	rmation State	Expir	ation Date			D) Individual Pr / Number	ovider's Date of Birth
221	attached li 100									
(21) NM CRS (Tax & Revenue) Number (If	(22) Are NM payments cu		(23) Select on t, ☐ for profit			ederal Tax er / FEIN (atta	ich		federal tax pay If not, attach a	
services are provided in NM)	attach an ex	planation.		rofit (attach		IRS letter) YES				
		10	501(c)3)		86-0	86-0092335				
(26) DEA Number (attach co	ору)	(27) CL	IA Number (attach o	сору)	(28) N	CPDP/NABP I	Numbe	r (pharma	cies only)	
(29) IHS Certified or Tribal 6	38 Contracted	Program?	<b>X</b> Y	ES 🗍	NO	(If YES, a	ittach d	opy of ce	rtification or co	ntract)
(30) Title XVIII Medicare Cer			(If YES, attach copy			scal Year End		h		
(32) JCAHO Certified?	YES	NO 🕅	(IF YES, attach copy	of letter)	4			Decen	nber	
	YES	X NO (If	YES, attach copy of	letter)						
(33) Other Certification?		s 🗌		S, attach cop						
(34) To be completed by ph	iysicians (prov	vider type 30		ertification, a		of of residenc			r if <i>Eligible for</i> aining in your s	pecialty area)
Board certified in the provid					for certif		Not cer			
(35) Identify individuals wh additional space is needed		ding service	es for which paymen	its will be ma	de to you	r group or or	ganiza	tion: (Plea	ase attach sepa	rate page if
Individual's Name, T		Prov. Type	Specialty	NM Medicai	d Prov. No	<b>.</b>			NPI	
(36) If services have alread	•		ledicaid recipient, p	lease enter D	Date of Se	rvice and atta	ich cop	by of clain	n:	
1		DOS:								





(37) To be completed by out-of-state providers only: Home State Medicaid Provider Number:									
Name of Entity / Individual The Navajo	NPI 1316545940								
Question 1 to be answered by all providers.									
<ol> <li>Has the provider, or any person who has ownership or control interest in the provider, or any person who is an agent or managing employee of the provider, been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the Title XX services program since the inception of those programs? If yes, give the name(s) of person(s) and description(s) of offense(s). Please use additional pages if necessary:</li> </ol>									
Name	Social Security Number	Date of Birth		Description					
	Number								
<b>-</b>									



Name of Entity / Individual The Navajo Nati		EIN / SSN 86-0092335	NPI 131654	15940
Question 2 is to be	answered by a	III providers, including	non-profit organizations a	nd charities.
operational or managerial control	ol over, or who dir .101) Managing er	ectly or indirectly conducts nployees are in a position t	administrator, director or other in the day-to-day operations of an i o exert influence over the conduc	nstitution, organization,
2. Federal regulation requ pages if necessary:	ires the following	j information to be disclose	d on all managing employees. Ple	ase use additional
NAME		ADDRESS	SOCIAL SECURITY NUMBER	DATE OF BIRTH
Dr. Michelle Brandser	PO BOX Window 86515	Rock, Arizona		
Dr. Sidney Brown	PO Box Shiprock, 1 87420	NM		





DITARTWINT									
Name of Entity / Individual		EIN / SSN			NPI				
The Navajo Natio	86-0092335			1316545940					
Questions 3 – S	5 to be answer	ed by all provid	ers EXCEPT	individual practition	ners.				
<ol> <li>Provide the name and address of each person (individual or corporation) with an ownership or control interest in the provider or in any subcontractor in which the provider has direct or indirect ownership of five percent or more. Please use additional pages if necessary:</li> </ol>									
	-1			<u>.</u>	, -				
NAME		ADDRESS		SOCIAL SECURITY					
				NUMBER (IF INDIVIDUAL) OR TAX ID	(FOR INDIVIDUALS)				
				(IF NOT AN INDIVIDUAL)					
A.									
The Navajo Nation	PO Box 7440								
	Window Rock	Arizona							
	86515								
	00313								
В.									
C									
0.									
D.									
E									
	1								
4. Is any person named in questi of person(s) and relationship(s	on #3 related to anot	ther as spouse, parent	, child, or sibling	? If yes, give the name(s)	YES				
person listed in question #3 by			, NOTE: Design	are relationship to each					
NAME				RELATIONSHIP	NO X				
HOME .				RELATIONSHIP					





Name of Entity / Individual EIN /			SSN NPI				
The Navajo Nation				86-0092335	1316545940		
5.	other Medicaid provider or in [any entity that of ownership and control information because of or XX of the Social Security Act?] (This include programs such as Medicaid; Medicare Part A; programs established under parts XIX. XX. and	does not pa f participati les participa Medicare P d XXI of the	rticipat on in a tion in art B;   Social	#3 have an ownership or control interest in any e in Medicaid but is required to disclose certain ny of the programs established under Title V, XVIII, any federal, state, or jointly funded healthcare Medicare Part C; Medicare Part D; CHAMPUS; and Security Act.) If yes, give the name(s), Medicaid id provider or entity. Please use additional pages if	YES D		
	NAME			MEDICAID PROVIDER NUMBER			
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Name of Entity / Individual The Navajo Nation EIN / SSN 86-0092335

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This AGREEMENT, between the State of New Mexico (STATE), herein referred to as "the STATE," the New Mexico Human Services Department (HSD), herein referred to as "the DEPARTMENT" and the applicant as provider, herein referred to as "the PROVIDER", specifies the terms and conditions for providing health care services to eligible recipients of Medicaid, other medical assistance programs, and other health care programs administered by the Department and other departments of the State of New Mexico for which the Department is authorized to make payment to the PROVIDER. Administration of health care programs including, but not limited to, service authorizations, billing instructions and payment, may be performed by the DEPARTMENT and its agents including other departments and agencies of the State of New Mexico and their contractors, as authorized by joint power of agreements, contracts, or other binding agreements, herein referred to as its "AUTHORIZED AGENTS". This AGREEMENT shall be effective when completed in full with all required documentation attached and when signed by the PROVIDER and the Human Services Department Medical Assistance Division (HSD/MAD) or its designees and shall remain in effect until terminated pursuant to the terms set forth below.

## ARTICLE 1 – OBLIGATIONS OF THE PROVIDER

## The PROVIDER shall:

1.1. Abide by all federal, state, and local laws, rules and regulations, including but not limited to, those laws, regulations, and rules applicable to providers of services under Title XIX (Medicaid) and Title XXI (SCHIP) of the Social Security Act and other health care programs administered by the DEPARTMENT and its AUTHORIZED AGENTS.

1.2. Furnish services, bill for services, and receive payment for services only upon approval of this AGREEMENT by the HSD /MAD Director or his/her designees or its AUTHORIZED AGENTS.

1.3. Be responsible for the accuracy and validity of all claims for which reimbursement is sought by causing claims to be manually or electronically submitted to the DEPARTMENT or its AUTHORIZED AGENTS.

1.4. Comply with all instructions, directives, billing, reimbursement, audit, recoupment, and withholding provisions made available by the DEPARTMENT and its AUTHORIZED AGENTS. 1.5. Obtain, maintain, and keep updated program rules and instructions on billing and utilization review and other pertinent material made available by the DEPARTMENT and its AUTHORIZED AGENTS.

1.6. Not employ or enter into contract with excluded individuals or entities, as identified by the Health and Human Services Office of Inspector General's (HHS-OIG) List of Excluded Individuals/entities (LEIE), the Medicare Exclusion Database (MED), System for Award Management (SAM), Excluded Parties List System (EPLS) or a state's Employee Abuse Registry (EAR) or equivalent. All findings of placement of an employee on EAR should be forwarded to a law enforcement agency for possible prosecution. The HHS-OIG website can be searched by the name of any individual or entity, and must be searched on a monthly basis in order to capture exclusions and reinstatements that have occurred since the last search. Any exclusion information discovered must be immediately reported to the DEPARMENT or its AUTHORIZED AGENTS. A provider must ensure that every healthcare practitioner or other employee providing a service is appropriately licensed, registered, background checked, and/or certified at the time the service is provided, as required by state law or regulation for the service or activity that is provided and is valid in the municipality. All payments made to **PROVIDERS** for services or items obtained from excluded parties or provided by insufficiently licensed. registered, back-ground checked, or certified individuals are overpayments subject to recoupment. These services or items extend to all methods of

reimbursement, whether payment results from itemized claims, cost reports, fee schedules, or a prospective payment system; payment for administrative and management services not directly related to patient care, but that are a necessary component of providing items and services to Medicaid recipients, when those payments are reported on a cost report or are otherwise payable by the Medicaid program; and payments to cover an excluded individual's salary, expenses, or fringe benefits, regardless of whether they provide direct patient care, when those payments are reported on a cost report or are otherwise payable by the Medicaid program. In addition, civil monetary penalties may be imposed for noncompliance. 42 CFR 1003 .102(a)(2). The PROVIDER must also check New Mexico Courts (http://www.nmcourts.gov/) for records of any incidents involving any employee at the time of employment and annually thereafter. Documentation of the check must be maintained in the employee's personnel folder.

1.7. Comply with the disclosure requirements specified in 42 CFR, Part 455, Subpart B, including but not limited to disclosure upon request of information regarding ownership and control, business transactions and person convicted of crimes. This includes information about ownership of any subcontractor and any significant business transactions between the provider and subcontractor and/or



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provider and any wholly owned supplier. The provider agreement will be terminated if the PROVIDER fails to disclose ownership or control information as required by Federal law. Furnish and update complete 1.8. information on the PROVIDER's address, licensing, certification, board specialties, corporate names, and parties with direct or indirect ownership or controlling interest in the entity or in any subcontractor in which the entity has a direct or indirect ownership interest totaling five percent (5%) or more, and any relationship (spouse, parent, child, or sibling) of these persons to another; the name of any other entity in which a person with an ownership or controlling interest in the disclosing entity also has an ownership or controlling interest in; and information on the conviction of delineated criminal or civil offenses by the PROVIDER or parties with direct or indirect ownership or controlling interest at least sixty (60) calendar days prior to the contemplated change or within ten (10) calendar days after the conviction. Any payment made on the basis of erroneous or outdated information is the responsibility of the PROVIDER and is subject to recoupment, criminal investigative costs, and/or civil penalties. Comply with all applicable 1.9. federal, state, and local laws and regulations regarding-licensure, registration to pay applicable taxes,

payment of applicable taxes, permit requirements, and employee tax filing requirements. 1.10. Assume sole responsibility for

all applicable taxes, insurance, licensing, and other costs of doing business. 1.11. Verify that an individual is

eligible for a specified health care program administered by the DEPARTMENT or its AUTHORIZED AGENTS.

1.12. Verify the identity of the eligible recipient on all occasions prior to rendering services.

1.13. Maintain the confidentiality of eligible recipient information and records in accordance with applicable state and federal laws, including 42 CFR 431.305, 8.100.100.13 and .14 NMAC,

and regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended.

1.14. Meet the Continuing Care Obligations of the PROVIDER. In the event of termination of this AGREEMENT for any reason, the PROVIDER shall continue to provide or arrange services to eligible recipients, including any recipients who become eligible during the termination notice period, beginning on the effective date of termination and continuing until the termination or next renewal date of the recipient's eligibility, unless the DEPARTMENT arranges for the transfer of the eligible recipient to another Provider and provides written notice to the PROVIDER of such transfer prior to the termination or next renewal date of this AGREEMENT.

Notwithstanding the foregoing, at the direction of the DEPARTMENT, the PROVIDER may continue to provide or arrange services to any eligible recipient who cannot be transferred within the time period specified above in accordance with the legal and contractual obligations to: (1) provide services under the applicable health care program; (2) provide notice of termination to eligible recipients; and (3) ensure continuity of care for eligible recipients.

(A) In the event that the PROVIDER terminates this AGREEMENT on the basis of the DEPARTMENT'S failure to make timely payments, the PROVIDER shall continue to arrange for services to those eligible recipients who are hospitalized on an inpatient basis or otherwise residents of a facility at the time the **PROVIDER** terminates this AGREEMENT until eligible recipients are discharged from the hospital or other facility. The PROVIDER may file a claim with the DEPARTMENT or its AUTHORIZED AGENTS for such services.

(B) The DEPARTMENT or its AUTHORIZED AGENTS will pay the PROVIDER for services provided after the date of termination of this APPLICANT INITAL HERE \_\_\_\_\_ CERTIFYING YOU HAVE READ AND UNDERSTAND THE INFORMATION ON THIS PAGE

AGREEMENT at the current applicable reimbursement rate to eligible providers as of the dates of service when the services have been authorized by the DEPARTMENT or its AUTHORIZED AGENTS.

(C) The PROVIDER agrees that the provisions of this section and the obligations of the PROVIDER herein shall survive termination, and shall be construed to be for the benefit of eligible recipients.

1.15. Render covered services to eligible recipients in the same scope, quality, and manner as provided to the general public; comply with all applicable federal and state civil rights laws; and not discriminate on the basis of race, color, national origin, sex, gender, age,

ethnicity, religion, sexual orientation, sexual preference, health status, disability, political belief, or source of payment as per 45 CFR 80.3(a) and (b), 45 CFR 84.52, and 42 CFR 447.20 or other state and federal laws, rules, and regulations.

1.16. Assume all responsibility for any and all claims submitted on behalf of the PROVIDER under the PROVIDER'S identification number. Submission of false or miscoded claims or fraudulent representation may subject the PROVIDER to termination, criminal investigations and charges, and other sanctions specified in the HSD/MAD Program Policy Manual, and federal and state law and regulations.

1.17. Create, keep and maintain, and have readily retrievable, any and all original medical or business records as necessary to verify the treatment or care of any eligible recipient and to fully disclose the type and extent of all services, goods, and supplies provided to eligible recipients as set forth in 42 CFR 431.107 for at least six (6) years from the date of creation or until ongoing audits are settled, whichever is longer. The PROVIDER agrees that such records shall be made at or near the time at which the services, goods, and supplies are delivered or rendered. Services that have been billed to the DEPARTMENT or its AUTHORIZED



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AGENTS which are not substantiated in the PROVIDER'S record are subject to recoupment, sanction, and/or any other penalty provided for in this AGREEMENT.

1.18. Upon closure of office or facility, inform the DEPARTMENT or its AUTHORIZED AGENTS where records pertaining to eligible recipients will be located.

1.19. Furnish immediately to the DEPARTMENT or its AUTHORIZED AGENTS, the U.S. Secretary of Health and Human Services, or the Medicaid Fraud Control Unit, at no cost, access to records in any format requested and any information regarding payments claimed by the PROVIDER for furnishing services to eligible recipients. 1.20. Permit announced and unannounced inspection of facilities or the PROVIDER'S offices and other locations used in the provision of services for billing and to eligible recipients by the U.S. Secretary of Health and Human Services, the Medicaid Fraud Control Unit, and the DEPARTMENT and its AUTHORIZED AGENTS. Failure to comply with this provision constitutes a violation of federal and state law and may result in immediate withholding of any pending or future payments. If records are requested by mail, the PROVIDER shall furnish the records within two (2) to ten (10) business days of the receipt of the request or as provided in the request. Assist and cooperate in any 1.21. review, inspection or audit conducted in conformity with the terms of this AGREEMENT.

1.22. Accept as payment in full, the amount paid by the DEPARTMENT or its AUTHORIZED AGENTS for services furnished to eligible recipients in accordance with the reimbursement structure in effect for the period during which services were provided as per the DEPARTMENT'S or its

AUTHORIZED AGENTS reimbursement rules. No exceptions to, or waiver of standard reimbursements will be permitted without the express written consent of the MAD Director or his/her designee.

Electronic billing of claims is 1.23. mandatory unless an exemption has been allowed by the DEPARTMENT or its **AUTHORIZED AGENTS. Exemptions** will be given on a case-by-case basis with consideration being given to any barriers the PROVIDER may face in billing electronically, including when volumes are so small that developing electronic submission capability is impractical. The requirement for electronic submission of claims does not apply to situations for which a paper attachment must accompany the claim form.

1.24. Not collect payments from the eligible recipient or any financially responsible relative or personal representative of the eligible recipient for services furnished to the eligible recipient, except as specifically allowed by the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER may not bill or collect payments from the eligible recipient or their personal representative for any claim denied by the DEPARTMENT or its AUTHORIZED AGENTS for administrative or billing errors on the part of the PROVIDER except as specifically allowed by the DEPARTMENT'S regulations. 1.25. Seek payment from any other payer or insurer before seeking payment from the DEPARTMENT or its AUTHORIZED AGENTS in the event the eligible recipient is covered by an insurance policy or health plan including Medicare. Refund to the DEPARTMENT or its AUTHORIZED AGENTS the lesser of the payment received from the third party and the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER shall not bill the DEPARTMENT or its AUTHORIZED AGENTS the difference between a "preferred patient care agreement" or "discount" arrangement and the PROVIDER'S billed charge. 1.26. Not refuse to furnish services to an eligible recipient because of a third party's potential liability for payment for the services, except in instances in which an eligible recipient is seeking services from a provider who does not participate

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in the HMO or other plan network and would not be paid for services by the HMO or other plan.

1.27. Inform the DEPARTMENT or its AUTHORIZED AGENTS immediately when an attorney or other party requests information related to the services rendered to an eligible recipient that were paid by the DEPARTMENT or its AUTHORIZED AGENTS and upon receipt of any knowledge of pending or active legal proceedings involving eligible recipients.

1.28. When furnishing services to eligible recipients who sustained injury in an accident or another action that may be subject to a legal proceeding, agree to the following:

(A) The hospital PROVIDER must either file a claim with the DEPARTMENT or its AUTHORIZED AGENTS within the time period specified in 8.302.14 NMAC of the date of hospital discharge or impose a hospital lien on the potential recovery from the liable third party. If the hospital PROVIDER elects to impose a lien, the PROVIDER is prohibited from filing a claim with the DEPARTMENT or its AUTHORIZED AGENTS for payment of any unpaid balance resulting from the third party recovery or from seeking payment from the eligible recipient or their personal representative.

(B) The non-hospital PROVIDER must accept the payment made by the DEPARTMENT or its AUTHORIZED AGENTS as payment in full. The non-hospital PROVIDER may not seek additional payment for those services from the eligible recipient or their personal representative even if the eligible recipient or their personal representative subsequently received a monetary award or settlement from the liable party.

1.29. When entering into contracts with the Medicaid managed care organization (MCOs) contracting with the DEPARTMENT for the provision of managed care services to the Medicaid population, agree to be paid by the MCO at any amount mutually-agreed between the provider or provider group and the MCOs. If the provider or provider group





NPI EIN / SSN Name of Entity / Individual APPLICANT INITAL HERE 1316545940 86-0092335 The Navajo Nation CERTIFYING YOU HAVE READ AND UNDERSTAND THE INFORMATION ON THIS PAGE DETERMINATIONS, MAD 8.350.4, 2.4. and MCO are unable to agree to terms or RECONSIDERATION OF AUDIT fail to execute an agreement for any SETTLEMENTS, MAD 8.351.2, reason, the provider or provider group shall be obligated to accept the percent SANCTIONS AND REMEDIES, MAD of the applicable reimbursement rate as 8.352.2, RECIPIENT HEARINGS, MAD 8.353.2. PROVIDER stated in the MAD Program Policy HEARINGS, MAD 8.354.2, PASRR Manual based on the provider type. The AND PATIENT STATUS HEARING "applicable reimbursement rate" is defined as the rate paid by the POLICIES, or as amended or their DEPARTMENT to the PROVIDER successors, of the Medical Assistance Division Program Policy Manual. Provider Act. participating in Medicaid or other medical assistance programs 1.34. All work associated with the Agreements contained herein must be administered by the DEPARTMENT or performed in the United States of its AUTHORIZED AGENTS and excludes disproportionate share hospital America. and medical education payments. When a Medicaid managed **ARTICLE II – OBLIGATION OF** 1.30. THE HUMAN SERVICES care organization (MCO) recoups shall: payment from the provider because the DEPARTMENT 3.1. DEPARTMENT retroactively disenrolls a recipient from the MCO, the The DEPARTMENT shall: Make available on the PROVIDER agrees to bill the 2.1. DEPARTMENT or its AUTHORIZED HSD/MAD website, other AGENTS and accept the applicable DEPARTMENT websites, or in hard reimbursement rate as stated in the MAD copy format information necessary to participate in health care programs program policy manual, according to the provider type. administered by the DEPARTMENT or attorney. For those caregivers whose its AUTHORIZED AGENTS, including 1.31. employment or contractual service with program rules, billing instructions, and 3.2

a care provider includes direct care or routine and unsupervised physical or financial access to any care recipient served by that provider, the caregiver and care provider must adhere to provisions in the Caregivers Criminal History Screening Act (CCHS). 1.32. Understand and agree to meet the requirements concerning enrollment and screening, criminal background checks, fingerprinting, use of the National Provider Identifier, federal database checks, site visits, verification of provider licenses, and application fees as found at 42 CFR 455,400 - 455,470.

To understand the appeal rights 1.33. that are given to the PROVIDER as provided for in MAD 8.353.2, PROVIDER HEARING, MAD 8.349.2. APPEALS and GRIEVANCE **PROCESS, MAD 8.350.2,** RECONSIDERATION OF UTILIZATION REVIEW DECISIONS, MAD 8.350.3, ABSTRACT SUBMISSION FOR LEVEL OF CARE

other pertinent materials. The PROVIDER must contact the DEPARTMENT or its AUTHORIZED AGENTS to request hard copies of any program rules, manuals, billing and utilization review instructions, and other pertinent materials.

2.2. Process payments in a manner delineated by federal guidelines either internally or through a designated fiscal agent contractor. Please refer to 8.302.2.9 NMAC.

2.3 Reimburse the PROVIDER for furnishing covered services or procedures to eligible recipients when all program rules have been followed by the PROVIDER. Reimbursement is based on the fee schedule, reimbursement rate, or reimbursement methodology in place at the time service is furnished by the PROVIDER. No exception to, or waiver of, standard reimbursement will be permitted without the express written consent of the MAD Director or his/her designee.

Conduct administrative investigations and administrative proceedings to ensure that the PROVIDER complies with the terms of this AGREEMENT and federal and state law, and regulations pertaining to the administration of the health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS, including the Medicaid

#### **ARTICLE III - PATIENT** SELF-DETERMINATION ACT

The nursing facility, intermediate care facility, hospital, home health agency, and hospice PROVIDER

Furnish written information to all adult eligible recipients or their personal representatives receiving medical care concerning their right to make decisions about medical care; accept or refuse medical or surgical treatment; and formulate arrangements for a living will or durable power of

Document in the eligible recipient's medical record whether he/she has executed an advance directive which complies with New Mexico law on advance directives. The provision of care shall not be based on whether the eligible recipient has executed an advance directive.

3.3. Inform each adult eligible recipient or personal representative, orally and in writing, at the time of facility admission or initiation of treatment, of the eligible recipient's legal rights during his or her facility stay or course of treatment.

## **ARTICLE IV - SUBMISSION OF** COST REPORTS

4.1. The PROVIDER, when delineated by the DEP ARTMENT shall furnish the DEPARTMENT or its AUTHORIZED AGENTS with such financial reports, audited or certified cost statements, and other substantiating data as necessary to establish a basis for





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reimbursement or as required by regulation.

4.2. Cost statements or other data are to be furnished no later than 150 (one hundred- fifty) calendar days following the closure of the PROVIDER'S fiscal accounting period. Failure to comply with this provision will result in suspension of payment until the required statements and other data are provided.

## ARTICLE V -STATUS OF PROVIDER

The PROVIDER, its agents, and employees are independent contractors who perform professional services for eligible recipients served through health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS are not employees of the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER shall not purport to bind the DEPARTMENT nor the State of New Mexico to any obligation not expressly authorized herein unless the DEPARTMENT has given the PROVIDER express written permission to do so.

#### ARTICLE VI - CHANGE IN OWNERSHIP

As soon as possible, but at least 6.1. sixty (60) calendar days prior to a change in ownership or status, the PROVIDER must notify the DEPARTMENT or its AUTHORIZED AGENTS of the proposed change in ownership. Upon completion of the transfer of ownership, this initial AGREEMENT is terminated. The new owner must complete and receive approval of a new AGREEMENT before submitting any claims to the DEPARTMENT or its AUTHORIZED AGENTS. Any payment made on the basis of erroneous or outdated information due to the lack of notice is the responsibility of the PROVIDER and is subject to recoupment.

6.2. The previous owner shall be responsible for any overpayments and is entitled to receive payments up to the date of ownership transfer, unless

otherwise specified in the contract for transfer of ownership.

6.3. The new owner shall furnish to the DEPARTMENT or its

AUTHORIZED AGENTS upon receipt of a written request, the contract or other applicable documents specifying the terms of the change in ownership and responsibilities delineated in this AGREEMENT.

6.4. The DEPARTMENT and its AUTHORIZED AGENTS reserve the right to withhold all pending and other claims until the right to payments and/or recoupment is determined, unless the new owner agrees in writing to be liable for any recoupment or overpayment amounts.

6.5. For the PROVIDER who is reimbursed on a cost basis and subject to cost settlements, the DEPARTMENT or its AUTHORIZED AGENTS shall impose a lien and/or penalty of up to ten percent (10%) of the purchase price against the previous owner until such time as the final cost settlement is completed and amounts owed, if applicable, are remitted to the DEPARTMENT, or its AUTHORIZED AGENTS.

## ARTICLE VII - TERMINATION OF PROVIDER AGREEMENT

7.1. The PROVIDER status may be terminated without cause if the PROVIDER or the DEPARTMENT or its AUTHORIZED AGENTS give the other written notice of termination at least sixty (60) calendar days prior to the effective date of the termination. 7.2. The DEPARTMENT or its AUTHORIZED AGENTS may terminate this AGREEMENT for cause, with thirty (30) calendar days notice if the PROVIDER, his or her agent, a managing employee, or any person having an ownership interest equal to five percent (5%) or greater in the health care PROVIDER entity:

(A) Misrepresents, by commission or omission, any information on the AGREEMENT enrollment form. (B) Has previous or current exclusion, suspension, termination from, or the involuntary withdrawal from participation in a health care program administered by the DEPARTMENT, any other state's Medicaid program, Medicare, or any other public or private health insurance program.

(C) Is convicted under federal or state law of a criminal offense relating to the delivery of the goods, services, or supplies, under a health care program administered by the DEPARTMENT, any other state's Medicaid Program, Medicare, or any other public or private health insurance program.

(D) Is convicted under federal or state law of a criminal offense relating to the neglect or abuse of a patient in connection with the delivery of any goods, services, or supplies.

(E) Is convicted under federal or state law of a criminal offense relating to the unlawful manufacture, distribution, prescription or dispensing of a controlled substance.

(F) Is convicted under federal or state law of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

(G) Is convicted under federal or state law of a criminal offense punishable by imprisonment of a year or more which involved moral turpitude or acts against the elderly, children, or infirm.

(H) Is sanctioned pursuant to a violation of federal or state laws or rules relative to a health care program administered by the DEPARTMENT, any other state's Medicaid Program, Medicare, or any other public health insurance program.

(1) Is convicted under federal or state law of a criminal offense in connection with the interference or obstruction of any

investigations into any criminal offense listed in Paragraphs (C) through (H) of this subsection.

(J) Violates licensing or certification conditions or professional standards relating to the licensure or certification of the PROVIDER or the



STATE OF NEW MEXICO MEDICAL ASSISTANCE DIVISION PROVIDER PARTICIPATION AGREEMENT

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required quality of goods, services, or supplies provided.

(K) Fails to pay recovery properly assessed or pursuant to an approved repayment schedule under a health care program administered by the DEPARTMENT or its AUTHORIZED AGENTS.

The PROVIDER's status may 7.3. be terminated immediately, without notice, in instances in which the health and safety of eligible recipients in institutions are deemed to be in immediate jeopardy; are subject to an immediate or serious threat; or when it has been demonstrated, on the basis of reliable evidence, that the PROVIDER has committed fraud, abuse, or other illegal or sanctionable action. For purposes of this provision, institutional providers include nursing facilities, intermediate care facilities for the mentally retarded, all residential psychiatric treatment facilities, group homes, and other facility-based residential treatment programs. The DEPARTMENT or its 7.4. AUTHORIZED AGENTS reserve the right to terminate this AGREEMENT for cause as summarized in this AGREEMENT and as delineated in Section MAD-8.351.2, SANCTIONS AND REMEDIES of the Medical Assistance Division Program Policy Manual, or as amended and/or its successor.

7.5. Immediately upon termination for any reason, the PROVIDER shall:

(A) Comply with all directives issued by the DEPARTMENT or its AUTHORIZED AGENTS; and

(B) Take such action as the DEPARTMENT or its AUTHORIZED AGENTS shall direct for the protection, preservation, retention or transfer of all property, included but not limited to all recipient records.

#### ARTICLE VIII - IMPOSITION OF SANCTIONS FOR FRAUD OR MISCONDUCT

8.1. If the PROVIDER obtains an excess payment or benefit willfully, by means of false statement, representation,

concealment of any material fact, or other fraudulent scheme or devise with intent to defraud, criminal sentences and fines and/or civil monetary penalties shall be imposed pursuant to, but not limited to, the Medicaid Fraud Act, NMSA 1978, 30-44-1 et seq., 42 USC 1320a-7b, and 42 CFR 455.23.

8.2 In addition to the above criminal and civil penalties, the DEPARTMENT or its AUTHORIZED AGENTS may impose monetary or nonmonetary sanctions, including civil monetary penalties for PROVIDER misconduct or breach of any of the terms of this AGREEMENT.

8.3 Upon written notice to the PROVIDER, the DEPARTMENT or its AUTHORIZED AGENTS may sanction non-performance under this AGREEMENT consistent with the DEPARTMENT's rules through one or more following actions:

(A) Compensation Reduction. As a sanction, the DEPARTMENT or its AUTHORIZED AGENTS may recover past payments to the PROVIDER and/or reduce the compensation of the PROVIDER for past failure to fully and satisfactorily perform, and for any ongoing failure to fully and satisfactorily perform this AGREEMENT's obligations. Imposition of such a penalty does not preclude the DEPARTMENT or its AUTHORIZED AGENTS from recouping or recovering payments as specifically provided in any other law, regulation or this AGREEMENT.

(B) The amount of the compensation paid to the PROVIDER by the DEPARTMENT or its AUTHORIZED AGENTS for services that the PROVIDER did not fully and satisfactorily perform in accordance with the terms of this AGREEMENT. 8.4. The DEPARTMENT or its AUTHORIZED AGENTS may recover funds by reducing future compensation payable by the DEPARTMENT or its AUTHORIZED AGENTS to the PROVIDER.

### THIS PAGE ARTICLE IX – EMPLOYEE EDUCATION CONCERNING FALSE CLAIMS

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9.1. In accordance with Section 1902(a) of the Social Security Act, the PROVIDER must:

(A) Establish written policies and rules for all employees, agents, or contractors, that provide detailed information regarding the New Mexico of Medicaid False Claims Act, NMSA 1978, 27-14-1, et seq.; and the Federal False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statement established under chapter 38 of title 31, United States Code, including but not limited to, preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f) of the Social Security Act);

(B) Include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste and abuse; and

(C) Include in any employee handbook, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the PROVIDER's rules and procedures for detecting and preventing fraud, waste, and abuse. 9.2. The DEPARTMENT may, at its sole discretion, exempt the PROVIDER from the requirements set forth in 9.1 herein: however, the DEPARTMENT shall not exclude the PROVIDER, if the PROVIDER receives at least \$5,000,000 in annual payments from the DEPARTMENT.

9.3 For the purposes of this Article, the following definitions apply:

(A) An "employee" includes any officer or employee of the PROVIDER.

(B) A "contractor" or "agent" includes any contractor, subcontractor, agent or other person which or who, on behalf of the PROVIDER, furnishes, or otherwise authorizes the furnishing of Medicaid or other health care program items or services, performs billing or



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coding functions or is involved in monitoring of health care provided by the PROVIDER.

#### ARTICLE X - REFUSAL TO EXECUTE AN AGREEMENT

The DEPARTMENT will not execute an AGREEMENT with the PROVIDER if the PROVIDER, his/her agent, managing employee, or any person having an ownership interest equal to five percent (5%) or greater in the health care PROVIDER commits or has committed any of the violations listed in Article 7.2. of this AGREEMENT or other provisions delineated in Section 8.351.2 or as amended and/or its successor, **REMEDIES AND SANCTIONS of the** Medical Assistance Division Program Policy Manual, when such exclusions are mandatory under federal or state law.

#### ARTICLE XI - RECIPIENT FUND ACCOUNT

Nursing facilities, swing bed hospitals, and intermediate care facilities for the mentally retarded shall establish and maintain an acceptable system of accounting for eligible recipients' personal funds, in the manner prescribed by the DEPARTMENT or its AUTHORIZED AGENTS, in those cases in which eligible recipients entrust their personal funds to the facility.

#### ARTICLE XII - PRECONDITION FOR PARTICIPATION

The PROVIDER understands that signing this AGREEMENT is a precondition for participating in health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER understands that the provision of services, billing of services, and receipt of payments for services cannot occur until this AGREEMENT is completed by the PROVIDER and approved for execution by the DEPARTMENT.

## ARTICLE XIII – INSURANCE

During the term of this 13.1 AGREEMENT, the PROVIDER shall, at its sole cost and expense, carry comprehensive general liability insurance and professional liability insurance in amounts and containing such provisions from time to time deemed adequate by the DEPARTMENT or its AUTHORIZED AGENTS. Upon request, the PROVIDER will provide to the DEPARTMENT and its AUTHORIZED AGENTS certificates evidencing that the insurance required by this Section is in effect. The PROVIDER hereby authorizes the PROVIDER's insurance carrier to notify the DEPARTMENT and its AUTHORIZED AGENTS upon cancellation or termination of the PROVIDER's insurance coverage. The PROVIDER will notify the DEPARTMENT or its AUTHORIZED AGENTS promptly whenever an eligible recipient files a claim or notice of intent to commence action against the PROVIDER. The PROVIDER will notify the DEPARTMENT or its AUTHORIZED AGENTS not more than ten (10) business days after the PROVIDER's receipt of notice of any reduction or cancellation of the insurance coverage required by this Section.

13.2 The DEPARTMENT may, at its sole discretion, exempt the PROVIDER from the requirements of 13.1 for any reason, including but not limited to, the inability of the PROVIDER to procure such insurance.

### ARTICLE XIV – HEALTH INSURANCE

14.1 If the PROVIDER has, or grows to have, six (6) or more employees who work or who are expected to work, an average of at least twenty (20) hours per week over a six (6) month period during the term of this AGREEMENT and by signing it, agree to comply with these provisions.

(A) Have in place, and agree to maintain for the term of this AGREEMENT, health insurance for

#### those employees and offer that health insurance to those employees no later than July 1, 2008, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds one million (\$1,000,000) dollars; or

(B) Have in place, and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds five-hundred thousand (\$500,000) dollars; or

(C) Have in place and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds two-hundred and fifty thousand (\$250,000) dollars

14.2 The PROVIDER must agree to maintain a record of the number of employees who have:

(A) accepted health insurance

(B) declined health insurance due to other health insurance coverage already in place; or

(C) declined health insurance for other reasons.

These records are subject to review and audit by the STATE or its representative(s).

14.3 The PROVIDER must agree to advise all employees of the availability of STATE publicly financed health care coverage programs by providing each employee with, at a minimum, the following web site link (or its successor) for additional information http://www.insurenewmexico.state.nm.u s/

### **ARTICLE XV - NO WAIVERS**

No terms or provision of this AGREEMENT shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and



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executed by the party claiming to have waived or consented.

# ARTICLE XVI - APPLICABLE LAW

This AGREEMENT shall be governed by the laws of the State of New Mexico. All legal proceedings arising from unresolved disputes under this AGREEMENT are subject to administrative and judicial review as provided for in MAD 8.353.2, PROVIDER HEARING, MAD 8.349.2, APPEALS and GRIEVANCE PROCESS, MAD 8.350.2, **RECONSIDERATION OF** UTILIZATION REVIEW DECISIONS. MAD 8.350.3, ABSTRACT SUBMISSION FOR LEVEL OF CARE DETERMINATIONS, MAD 8.350.4, **RECONSIDERATION OF AUDIT** SETTLEMENTS, MAD 8.351.2, SANCTIONS AND REMEDIES, MAD 8.352.2, RECIPIENT HEARINGS, MAD 8.353.2, PROVIDER HEARINGS, MAD 8.354.2, PASRR AND PATIENT STATUS HEARING POLICIES, or as amended or their successors, of the Medical Assistance Division Program Policy Manual.

# **ARTICLE XVII - ASSIGNMENT**

The PROVIDER shall not assign or transfer any obligation, duty, or other interest in this AGREEMENT, nor assign any claim for monies due under this AGREEMENT without authorization of the DEPARTMENT or its AUTHORIZED AGENTS. Any assignment or transfer which is not authorized by the DEPARTMENT or its AUTHORIZED AGENTS shall be void.

## ARTICLE XVIII -INDEMNIFICATION

The PROVIDER shall indemnify: defend, and hold harmless the STATE, the DEPARTMENT, its AUTHORIZED AGENTS, and employees from any and all actions, proceedings, claims, demands, costs, damages, and attorney's fees, from all liabilities or expenses of any kind from any sources accruing to or resulting from the PROVIDER or its employees in connection with the performance of this AGREEMENT and from all claims of any person or entity that may be directly or indirectly injured or damaged by the PROVIDER or its employees in the performance of this AGREEMENT.

## ARTICLE IXX - ENTIRE AGREEMENT

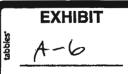
This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter contained in this AGREEMENT, and all such covenants, agreements, and understandings have been merged into this AGREEMENT. No prior agreement, covenants, or understandings, either verbal or otherwise, of the parties or their agents shall be valid or enforceable unless contained in this AGREEMENT. This AGREEMENT shall not be altered, changed, revised, or amended except by written instrument executed by the parties in the same manner as in this AGREEMENT. Amendments shall contain an effective date. Any amendments to this AGREEMENT shall not be binding upon either party until approved in writing by the DEPARTMENT or its AUTHORIZED AGENTS.





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Name of Entity / Individual The Navajo	Nation	EIN / SSN	86-0092335		NPI 1316545940
A) Have you ever had a license revoked,	suspended or denied in any state?	?	YES	<u>x</u> NO	Initial
B) Have you ever been convicted of any	criminal offense?		YES	<u>×</u> _NO	Initial
	Medicaid) or any other health care p	program?		<u>x</u> NO	Initial
If YES to any of the above three question which handled the matter; any precinct of	ns, attach a brief statement of situa case identification, and the adjudic	ation; date; ation or ot	city, county a her result.	nd profe	ssional association or court
New Mexico Medicaid project staff ma telephone number.	y need to contact you regarding	the comple	etion of this fo	orm. Ple	ease list contact person and
Contact Person: Dr. Michelle Brand	ser Telep	hone Num	ber: (928)87	1-624	0
Whoever knowingly and willfully makes or applicable federal or State laws. In additior denial of a request to participate or, where	n, knowingly and willfully failing to ful	Ily and accu	arately disclose	the info	rmation requested may result in
INDIVIDUAL PROVIDER:	Original signature required. Ple	ease use bl	ue ink only.		
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Printed Name of Authorized Representative	e: <u>Jonathan Nez</u>				
Title / Position:	Navajo Nation President				
Address:	PO BOX 7440; Window Ro	ock, AZ 8	6515		
Telephone Number:	<u>(928)871-7000</u>				
Signature of Authorized Representative:			· · · · · · · · · · · · · · · · · · ·	_ Date:_	
	FOR STATE PURPO	SES ONL	Y:		
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(9) Mailing Address for offi PO Box 709	cial correspon	dence (MA	Y BE PO BOX)		City Windo	w Rock	Sta	te 8651	Zip Code 5
(10) Fax Number (928)871-6456			g Office Phone 71-6235			(12) Location (505)36			
(13) Mailing Email Address mbrandser@navajo			g Office Email Addro dser@navajo-					rider Email Address K, <b>Arizona</b>	
(16) Business Type	Individual / s	ole proprie	tor Co	rporation			Pa	artnership / Professional /	Association
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(36) If services have alread	-		Medicaid recipient, (	please enter	Date of Se	rvice and atta	ach copy	of claim:	
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(37) To be completed by out-of-state providers only: Home State Medicaid Provider Number:									
Name of Entity / Individual The Navajo	Nation		EIN / SSN 86-0092335	NPI 1366040818					
	Question 1 to be answered by all providers.								
is an agent or managir person's involvement i	ig employee of t in any program grams? If yes, g	he provider, under Medica	been convicted of a crim are, Medicaid, or the Title	e provider, or any person who inal offense related to that XX services program since the ription(s) of offense(s). Please					
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Question 2 is to be	answered by a	all providers, including	non-profit organizations a	nd charities.
operational or managerial conti	rol over, or who dir	ectly or indirectly conducts	idministrator, director or other inc the day-to-day operations of an in	nstitution, organization,
or agency." (42 CFR section 45 operations and includes officer			exert influence over the conduct	of the provider's
<ol> <li>Federal regulation rec pages if necessary:</li> </ol>	uires the following	information to be disclosed	d on all managing employees. Ple	ase use additional
NAME		ADDRESS	SOCIAL SECURITY	DATE OF BIRTH
	DO DOM		NUMBER	
Dr. Michelle Brandser	PO BOX Window F	Rock, Arizona		
	86515			
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Dr. Sidney Brown	PO Box Shiprock, N	SM		
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Questions 3 – 5	5 to be answer	ed by all provid	ers EXCEPT	individual practition	ne <b>rs</b> .
3. Provide the name and addr					
any subcontractor in which necessary:	the provider has d	frect or indirect owne	rship of five pe	rcent or more. Please use a	idditional pages if
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				NUMBER (IF INDIVIDUAL) OR TAX ID	(FOR INDIVIDUALS)
				(IF NOT AN INDIVIDUAL)	
A.					
The Navajo Nation	PO Box 7440				
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NAME				RELATIONSHIP	





Name	of Entity / Individual The Navajo Nation		EIN	SSN 86-0092335		NPI 13660408	318
5.	Does any person (individual or corporation) n other Medicaid provider or in [any entity that or ownership and control information because o or XX of the Social Security Act?] (This includ programs such as Medicaid; Medicare Part A; programs established under parts XIX, XX, an provider identification number(s) and address necessary:	does not pa f participati les participa Medicare P d XXI of the	rticipat on in a tion in art B; Social	e in Medicaid but is required to dis ny of the programs established und any federal, state, or jointly funded Redicare Part C; Medicare Part D; C Security Act.) If yes, give the name	close certain der Title V, XVIII, d healthcare CHAMPUS; and e(s), Medicaid	YES 🗖 NO 🔽	
	NAME			ADDRESS		MEDICAID PROV	/IDEF



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This AGREEMENT, between the State of New Mexico (STATE), herein referred to as "the STATE," the New Mexico Human Services Department (HSD), herein referred to as "the DEPARTMENT" and the applicant as provider, herein referred to as "the PROVIDER", specifies the terms and conditions for providing health care services to eligible recipients of Medicaid, other medical assistance programs, and other health care programs administered by the Department and other departments of the State of New Mexico for which the Department is authorized to make payment to the PROVIDER. Administration of health care programs including, but not limited to, service authorizations, billing instructions and payment, may be performed by the DEPARTMENT and its agents including other departments and agencies of the State of New Mexico and their contractors, as authorized by joint power of agreements, contracts, or other binding agreements, herein referred to as its "AUTHORIZED AGENTS". This AGREEMENT shall be effective when completed in full with all required documentation attached and when signed by the PROVIDER and the Human Services Department Medical Assistance Division (HSD/MAD) or its designees and shall remain in effect until terminated pursuant to the terms set forth below.

# ARTICLE 1 – OBLIGATIONS OF THE PROVIDER

# The PROVIDER shall:

1.1. Abide by all federal, state, and local laws, rules and regulations, including but not limited to, those laws, regulations, and rules applicable to providers of services under Title X1X (Medicaid) and Title XXI (SCHIP) of the Social Security Act and other health care programs administered by the DEPARTMENT and its AUTHORIZED AGENTS.

1.2. Furnish services, bill for services, and receive payment for services only upon approval of this AGREEMENT by the HSD /MAD Director or his/her designees or its AUTHORIZED AGENTS.

1.3. Be responsible for the accuracy and validity of all claims for which reimbursement is sought by causing claims to be manually or electronically submitted to the DEPARTMENT or its AUTHORIZED AGENTS.

1.4. Comply with all instructions, directives, billing, reimbursement, audit, recoupment, and withholding provisions made available by the DEPARTMENT and its AUTHORIZED AGENTS. 1.5. Obtain, maintain, and keep updated program rules and instructions on billing and utilization review and other pertinent material made available by the DEPARTMENT and its AUTHORIZED AGENTS.

1.6. Not employ or enter into contract with excluded individuals or entities, as identified by the Health and Human Services Office of Inspector General's (HHS-OIG) List of Excluded Individuals/entities (LEIE), the Medicare Exclusion Database (MED), System for Award Management (SAM), Excluded Parties List System (EPLS) or a state's Employee Abuse Registry (EAR) or equivalent. All findings of placement of an employee on EAR should be forwarded to a law enforcement agency for possible prosecution. The HHS-OIG website can be searched by the name of any individual or entity, and must be searched on a monthly basis in order to capture exclusions and reinstatements that have occurred since the last search. Any exclusion information discovered must be immediately reported to the DEPARMENT or its AUTHORIZED AGENTS. A provider must ensure that every healthcare practitioner or other employee providing a service is appropriately licensed, registered, background checked, and/or certified at the time the service is provided, as required by state law or regulation for the service or activity that is provided and is valid in the municipality. All payments made to PROVIDERS for services or items obtained from excluded parties or provided by insufficiently licensed, registered, back-ground checked, or certified individuals are overpayments subject to recoupment. These services or items extend to all methods of

reimbursement, whether payment results from itemized claims, cost reports, fee schedules, or a prospective payment system; payment for administrative and management services not directly related to patient care, but that are a necessary component of providing items and services to Medicaid recipients, when those payments are reported on a cost report or are otherwise payable by the Medicaid program; and payments to cover an excluded individual's salary, expenses, or fringe benefits, regardless of whether they provide direct patient care, when those payments are reported on a cost report or are otherwise payable by the Medicaid program. In addition, civil monetary penalties may be imposed for noncompliance. 42 CFR 1003 .102(a)(2). The PROVIDER must also check New Mexico Courts (http://www.nmcourts.gov/) for records of any incidents involving any employee at the time of employment and annually thereafter. Documentation of the check must be maintained in the employee's personnel folder. 1.7. Comply with the disclosure

1.7. Comply with the disclosure requirements specified in 42 CFR, Part 455, Subpart B, including but not limited to disclosure upon request of information regarding ownership and control, business transactions and person convicted of crimes. This includes information about ownership of any subcontractor and any significant business transactions between the provider and subcontractor and/or



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provider and any wholly owned supplier. The provider agreement will be terminated if the PROVIDER fails to disclose ownership or control information as required by Federal law. 1.8. Furnish and update complete information on the PROVIDER's address, licensing, certification, board specialties, corporate names, and parties with direct or indirect ownership or controlling interest in the entity or in any subcontractor in which the entity has a direct or indirect ownership interest totaling five percent (5%) or more, and any relationship (spouse, parent, child, or sibling) of these persons to another; the name of any other entity in which a person with an ownership or controlling interest in the disclosing entity also has an ownership or controlling interest in; and information on the conviction of delineated criminal or civil offenses by the PROVIDER or parties with direct or indirect ownership or controlling interest at least sixty (60) calendar days prior to the contemplated change or within ten (10) calendar days after the conviction. Any payment made on the basis of erroneous or outdated information is the responsibility of the PROVIDER and is subject to recoupment, criminal investigative costs, and/or civil penalties. 1.9. Comply with all applicable federal, state, and local laws and regulations regarding-licensure, registration to pay applicable taxes, payment of applicable taxes, permit requirements, and employee tax filing

requirements. 1.10. Assume sole responsibility for all applicable taxes, insurance, licensing, and other costs of doing business. 1.11. Verify that an individual is eligible for a specified health care program administered by the DEPARTMENT or its AUTHORIZED AGENTS.

1.12. Verify the identity of the eligible recipient on all occasions prior to rendering services.

1.13. Maintain the confidentiality of eligible recipient information and records in accordance with applicable state and federal laws, including 42 CFR 431.305, 8.100.100.13 and .14 NMAC,

and regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended.

1.14. Meet the Continuing Care Obligations of the PROVIDER. In the event of termination of this AGREEMENT for any reason, the PROVIDER shall continue to provide or arrange services to eligible recipients, including any recipients who become eligible during the termination notice period, beginning on the effective date of termination and continuing until the termination or next renewal date of the recipient's eligibility, unless the DEPARTMENT arranges for the transfer of the eligible recipient to another Provider and provides written notice to the PROVIDER of such transfer prior to the termination or next renewal date of this AGREEMENT.

Notwithstanding the foregoing, at the direction of the DEPARTMENT, the PROVIDER may continue to provide or arrange services to any eligible recipient who cannot be transferred within the time period specified above in accordance with the legal and contractual obligations to: (1) provide services under the applicable health care program; (2) provide notice of termination to eligible recipients; and (3) ensure continuity of care for eligible recipients.

(A) In the event that the PROVIDER terminates this AGREEMENT on the basis of the DEPARTMENT'S failure to make timely payments, the PROVIDER shall continue to arrange for services to those eligible recipients who are hospitalized on an inpatient basis or otherwise residents of a facility at the time the PROVIDER terminates this AGREEMENT until eligible recipients are discharged from the hospital or other facility. The PROVIDER may file a claim with the DEP ARTMENT or its AUTHORIZED AGENTS for such services.

(B) The DEPARTMENT or its AUTHORIZED AGENTS will pay the PROVIDER for services provided after the date of termination of this AGREEMENT at the current applicable reimbursement rate to eligible providers as of the dates of service when the services have been authorized by the DEPARTMENT or its AUTHORIZED AGENTS.

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(C) The PROVIDER agrees that the provisions of this section and the obligations of the PROVIDER herein shall survive termination, and shall be construed to be for the benefit of eligible recipients.

1.15. Render covered services to eligible recipients in the same scope, quality, and manner as provided to the general public; comply with all applicable federal and state civil rights laws; and not discriminate on the basis of race, color, national origin, sex, gender, age,

ethnicity, religion, sexual orientation, sexual preference, health status, disability, political belief, or source of payment as per 45 CFR 80.3(a) and (b), 45 CFR 84.52, and 42 CFR 447.20 or other state and federal laws, rules, and regulations.

1.16. Assume all responsibility for any and all claims submitted on behalf of the PROVIDER under the PROVIDER'S identification number. Submission of false or miscoded claims or fraudulent representation may subject the PROVIDER to termination, criminal investigations and charges, and other sanctions specified in the HSD/MAD Program Policy Manual, and federal and state law and regulations.

Create, keep and maintain, and 1.17. have readily retrievable, any and all original medical or business records as necessary to verify the treatment or care of any eligible recipient and to fully disclose the type and extent of all services, goods, and supplies provided to eligible recipients as set forth in 42 CFR 431.107 for at least six (6) years from the date of creation or until ongoing audits are settled, whichever is longer. The PROVIDER agrees that such records shall be made at or near the time at which the services, goods, and supplies are delivered or rendered. Services that have been billed to the DEPARTMENT or its AUTHORIZED



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AGENTS which are not substantiated in the PROVIDER'S record are subject to recoupment, sanction, and/or any other penalty provided for in this AGREEMENT.

1.18. Upon closure of office or facility, inform the DEPARTMENT or its AUTHORIZED AGENTS where records pertaining to eligible recipients will be located.

Furnish immediately to the 1.19. DEPARTMENT or its AUTHORIZED AGENTS, the U.S. Secretary of Health and Human Services, or the Medicaid Fraud Control Unit, at no cost, access to records in any format requested and any information regarding payments claimed by the PROVIDER for furnishing services to eligible recipients. 1.20. Permit announced and unannounced inspection of facilities or the PROVIDER'S offices and other locations used in the provision of services for billing and to eligible recipients by the U.S. Secretary of Health and Human Services, the Medicaid Fraud Control Unit, and the DEPARTMENT and its AUTHORIZED AGENTS. Failure to comply with this provision constitutes a violation of federal and state law and may result in immediate withholding of any pending or future payments. If records are requested by mail, the PROVIDER shall furnish the records within two (2) to ten (10) business days of the receipt of the request or as provided in the request. 1.21. Assist and cooperate in any review, inspection or audit conducted in conformity with the terms of this AGREEMENT.

1.22. Accept as payment in full, the amount paid by the DEPARTMENT or its AUTHORIZED AGENTS for services furnished to eligible recipients in accordance with the reimbursement structure in effect for the period during which services were provided as per the DEPARTMENT'S or its

AUTHORIZED AGENTS reimbursement rules. No exceptions to, or waiver of standard reimbursements will be permitted without the express written consent of the MAD Director or his/her designee. 1.23. Electronic billing of claims is mandatory unless an exemption has been allowed by the DEPARTMENT or its AUTHORIZED AGENTS. Exemptions will be given on a case-by-case basis with consideration being given to any barriers the PROVIDER may face in billing electronically, including when volumes are so small that developing electronic submission capability is impractical. The requirement for electronic submission of claims does not apply to situations for which a paper attachment must accompany the claim form.

1.24. Not collect payments from the eligible recipient or any financially responsible relative or personal representative of the eligible recipient for services furnished to the eligible recipient, except as specifically allowed by the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER may not bill or collect payments from the eligible recipient or their personal representative for any claim denied by the DEPARTMENT or its AUTHORIZED AGENTS for administrative or billing errors on the part of the PROVIDER except as specifically allowed by the DEPARTMENT'S regulations. 1.25. Seek payment from any other payer or insurer before seeking payment from the DEPARTMENT or its AUTHORIZED AGENTS in the event the eligible recipient is covered by an insurance policy or health plan including Medicare. Refund to the DEPARTMENT or its AUTHORIZED AGENTS the lesser of the payment received from the third party and the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER shall not bill the DEPARTMENT or its AUTHORIZED AGENTS the difference between a "preferred patient care agreement" or "discount" arrangement and the PROVIDER'S billed charge. Not refuse to furnish services to 1.26. an eligible recipient because of a third party's potential liability for payment for the services, except in instances in which an eligible recipient is seeking services from a provider who does not participate

in the HMO or other plan network and would not be paid for services by the HMO or other plan.

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1.27. Inform the DEPARTMENT or its AUTHORIZED AGENTS immediately when an attorney or other party requests information related to the services rendered to an eligible recipient that were paid by the DEPARTMENT or its AUTHORIZED AGENTS and upon receipt of any knowledge of pending or active legal proceedings involving eligible recipients.

1.28. When furnishing services to eligible recipients who sustained injury in an accident or another action that may be subject to a legal proceeding, agree to the following:

(A) The hospital PROVIDER must either file a claim with the DEPARTMENT or its AUTHORIZED AGENTS within the time period specified in 8.302.14 NMAC of the date of hospital discharge or impose a hospital lien on the potential recovery from the liable third party. If the hospital PROVIDER elects to impose a lien, the PROVIDER is prohibited from filing a claim with the DEPARTMENT or its AUTHORIZED AGENTS for payment of any unpaid balance resulting from the third party recovery or from seeking payment from the eligible recipient or their personal representative.

(B) The non-hospital PROVIDER must accept the payment made by the DEPARTMENT or its AUTHORIZED AGENTS as payment in full. The non-hospital PROVIDER may not seek additional payment for those services from the eligible recipient or their personal representative even if the eligible recipient or their personal representative subsequently received a monetary award or settlement from the liable party.

1.29. When entering into contracts with the Medicaid managed care organization (MCOs) contracting with the DEPARTMENT for the provision of managed care services to the Medicaid population, agree to be paid by the MCO at any amount mutually-agreed between the provider or provider group and the MCOs. If the provider or provider group



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and MCO are unable to agree to terms or fail to execute an agreement for any reason, the provider or provider group shall be obligated to accept the percent of the applicable reimbursement rate as stated in the MAD Program Policy Manual based on the provider type. The "applicable reimbursement rate" is defined as the rate paid by the DEPARTMENT to the PROVIDER participating in Medicaid or other medical assistance programs administered by the DEPARTMENT or its AUTHORIZED AGENTS and excludes disproportionate share hospital and medical education payments. When a Medicaid managed 1.30. care organization (MCO) recoups payment from the provider because the DEPARTMENT retroactively disenrolls a recipient from the MCO, the PROVIDER agrees to bill the DEPARTMENT or its AUTHORIZED AGENTS and accept the applicable reimbursement rate as stated in the MAD program policy manual, according to the provider type.

For those caregivers whose 1.31. employment or contractual service with a care provider includes direct care or routine and unsupervised physical or financial access to any care recipient served by that provider, the caregiver and care provider must adhere to provisions in the Caregivers Criminal History Screening Act (CCHS). 1.32. Understand and agree to meet the requirements concerning enrollment and screening, criminal background checks, fingerprinting, use of the National Provider Identifier, federal database checks, site visits, verification of provider licenses, and application fees as found at 42 CFR 455,400 - 455,470.

1.33. To understand the appeal rights that are given to the PROVIDER as provided for in MAD 8.353.2, PROVIDER HEARING, MAD 8.349.2. APPEALS and GRIEVANCE PROCESS, MAD 8.350.2, RECONSIDERATION OF UTILIZATION REVIEW DECISIONS, MAD 8.350.3, ABSTRACT SUBMISSION FOR LEVEL OF CARE DETERMINATIONS, MAD 8.350.4, **RECONSIDERATION OF AUDIT** SETTLEMENTS, MAD 8.351.2, SANCTIONS AND REMEDIES, MAD 8.352.2, RECIPIENT HEARINGS, MAD 8.353.2, PROVIDER HEARINGS, MAD 8.354.2, PASRR AND PATIENT STATUS HEARING POLICIES, or as amended or their successors, of the Medical Assistance Division Program Policy Manual. All work associated with the 1.34. Agreements contained herein must be performed in the United States of America.

# ARTICLE II – OBLIGATION OF THE HUMAN SERVICES DEPARTMENT

The DEPARTMENT shall: Make available on the 2.1. HSD/MAD website, other DEPARTMENT websites, or in hard copy format information necessary to participate in health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS, including program rules, billing instructions, and other pertinent materials. The PROVIDER must contact the DEPARTMENT or its AUTHORIZED AGENTS to request hard copies of any program rules, manuals, billing and utilization review instructions, and other pertinent materials.

2.2. Process payments in a manner delineated by federal guidelines either internally or through a designated fiscal agent contractor. Please refer to 8.302.2.9 NMAC.

2.3 Reimburse the PROVIDER for furnishing covered services or procedures to eligible recipients when all program rules have been followed by the PROVIDER. Reimbursement is based on the fee schedule, reimbursement rate, or reimbursement methodology in place at the time service is furnished by the PROVIDER. No exception to, or waiver of, standard reimbursement will be permitted without the express written consent of the MAD Director or his/her designee. 2.4. Conduct administrative investigations and administrative proceedings to ensure that the PROVIDER complies with the terms of this AGREEMENT and federal and state law, and regulations pertaining to the administration of the health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS, including the Medicaid Provider Act.

# ARTICLE III - PATIENT SELF-DETERMINATION ACT

The nursing facility, intermediate care facility, hospital, home health agency, and hospice PROVIDER shall:

3.1. Furnish written information to all adult eligible recipients or their personal representatives receiving medical care concerning their right to make decisions about medical care; accept or refuse medical or surgical treatment; and formulate arrangements for a living will or durable power of attorney.

3.2 Document in the eligible recipient's medical record whether he/she has executed an advance directive which complies with New Mexico law on advance directives. The provision of care shall not be based on whether the eligible recipient has executed an advance directive.

3.3. Inform each adult eligible recipient or personal representative, orally and in writing, at the time of facility admission or initiation of treatment, of the eligible recipient's legal rights during his or her facility stay or course of treatment.

# ARTICLE IV - SUBMISSION OF COST REPORTS

4.1. The PROVIDER, when delineated by the DEP ARTMENT shall furnish the DEPARTMENT or its AUTHORIZED AGENTS with such financial reports, audited or certified cost statements, and other substantiating data as necessary to establish a basis for





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reimbursement or as required by regulation.

4.2. Cost statements or other data are to be furnished no later than 150 (one hundred- fifty) calendar days following the closure of the PROVIDER'S fiscal accounting period. Failure to comply with this provision will result in suspension of payment until the required statements and other data are provided.

# ARTICLE V -STATUS OF PROVIDER

The PROVIDER, its agents, and employees are independent contractors who perform professional services for eligible recipients served through health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS are not employees of the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER shall not purport to bind the DEPARTMENT nor the State of New Mexico to any obligation not expressly authorized herein unless the DEPARTMENT has given the PROVIDER express written permission to do so.

## ARTICLE VI - CHANGE IN OWNERSHIP

6.1. As soon as possible, but at least sixty (60) calendar days prior to a change in ownership or status, the PROVIDER must notify the DEPARTMENT or its AUTHORIZED AGENTS of the proposed change in ownership. Upon completion of the transfer of ownership, this initial AGREEMENT is terminated. The new owner must complete and receive approval of a new AGREEMENT before submitting any claims to the DEPARTMENT or its AUTHORIZED AGENTS. Any payment made on the basis of erroneous or outdated information due to the lack of notice is the responsibility of the PROVIDER and is subject to recoupment.

6.2. The previous owner shall be responsible for any overpayments and is entitled to receive payments up to the date of ownership transfer, unless

otherwise specified in the contract for transfer of ownership.

6.3. The new owner shall furnish to the DEPARTMENT or its AUTHORIZED AGENTS upon receipt of a written request, the contract or other applicable documents specifying the terms of the change in ownership and responsibilities delineated in this AGREEMENT.

6.4. The DEPARTMENT and its AUTHORIZED AGENTS reserve the right to withhold all pending and other claims until the right to payments and/or recoupment is determined, unless the new owner agrees in writing to be liable for any recoupment or overpayment amounts.

6.5. For the PROVIDER who is reimbursed on a cost basis and subject to cost settlements, the DEPARTMENT or its AUTHORIZED AGENTS shall impose a lien and/or penalty of up to ten percent (10%) of the purchase price against the previous owner until such time as the final cost settlement is completed and amounts owed, if applicable, are remitted to the DEPARTMENT, or its AUTHORIZED AGENTS.

# ARTICLE VII - TERMINATION OF PROVIDER AGREEMENT

The PROVIDER status may be 7.1. terminated without cause if the PROVIDER or the DEPARTMENT or its AUTHORIZED AGENTS give the other written notice of termination at least sixty (60) calendar days prior to the effective date of the termination. The DEPARTMENT or its 7.2. AUTHORIZED AGENTS may terminate this AGREEMENT for cause. with thirty (30) calendar days notice if the PROVIDER, his or her agent, a managing employee, or any person having an ownership interest equal to five percent (5%) or greater in the health care PROVIDER entity:

(A) Misrepresents, by commission or omission, any information on the AGREEMENT enrollment form. (B) Has previous or current exclusion, suspension, termination from, or the involuntary withdrawal from participation in a health care program administered by the DEPARTMENT, any other state's Medicaid program, Medicare, or any other public or private health insurance program.

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(C) Is convicted under federal or state law of a criminal offense relating to the delivery of the goods, services, or supplies, under a health care program administered by the DEPARTMENT, any other state's Medicaid Program, Medicare, or any other public or private health insurance program.

(D) Is convicted under federal or state law of a criminal offense relating to the neglect or abuse of a patient in connection with the delivery of any goods, services, or supplies.

(E) Is convicted under federal or state law of a criminal offense relating to the unlawful manufacture, distribution, prescription or dispensing of a controlled substance.

(F) Is convicted under federal or state law of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

(G) Is convicted under federal or state law of a criminal offense punishable by imprisonment of a year or more which involved moral turpitude or acts against the elderly, children, or infirm.

(H) Is sanctioned pursuant to a violation of federal or state laws or rules relative to a health care program administered by the DEPARTMENT, any other state's Medicaid Program, Medicare, or any other public health insurance program.

(1) Is convicted under federal or state law of a criminal offense in connection with the interference or obstruction of any

investigations into any criminal offense listed in Paragraphs (C) through (H) of this subsection.

(J) Violates licensing or certification conditions or professional standards relating to the licensure or certification of the PROVIDER or the



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required quality of goods, services, or supplies provided.

(K) Fails to pay recovery properly assessed or pursuant to an approved repayment schedule under a health care program administered by the DEPARTMENT or its AUTHORIZED AGENTS.

The PROVIDER's status may 73 be terminated immediately, without notice, in instances in which the health and safety of eligible recipients in institutions are deemed to be in immediate jeopardy; are subject to an immediate or serious threat; or when it has been demonstrated, on the basis of reliable evidence, that the PROVIDER has committed fraud, abuse, or other illegal or sanctionable action. For purposes of this provision, institutional providers include nursing facilities, intermediate care facilities for the mentally retarded, all residential psychiatric treatment facilities, group homes, and other facility-based residential treatment programs. The DEPARTMENT or its 7.4. AUTHORIZED AGENTS reserve the right to terminate this AGREEMENT for cause as summarized in this AGREEMENT and as delineated in Section MAD-8.351.2, SANCTIONS AND REMEDIES of the Medical Assistance Division Program Policy

Manual, or as amended and/or its successor. 7.5. Immediately upon termination

for any reason, the PROVIDER shall: (A) Comply with all directives issued by the DEPARTMENT or its AUTHORIZED AGENTS; and

(B) Take such action as the DEPARTMENT or its AUTHORIZED AGENTS shall direct for the protection, preservation, retention or transfer of all property, included but not limited to all recipient records.

# ARTICLE VIII - IMPOSITION OF SANCTIONS FOR FRAUD OR MISCONDUCT

8.1. If the PROVIDER obtains an excess payment or benefit willfully, by means of false statement, representation,

concealment of any material fact, or other fraudulent scheme or devise with intent to defraud, criminal sentences and fines and/or civil monetary penalties shall be imposed pursuant to, but not limited to, the Medicaid Fraud Act, NMSA 1978, 30-44-1 et seq., 42 USC 1320a-7b, and 42 CFR 455.23.

8.2 In addition to the above criminal and civil penalties, the DEPARTMENT or its AUTHORIZED AGENTS may impose monetary or nonmonetary sanctions, including civil monetary penalties for PROVIDER misconduct or breach of any of the terms of this AGREEMENT.

8.3 Upon written notice to the PROVIDER, the DEPARTMENT or its AUTHORIZED AGENTS may sanction non-performance under this AGREEMENT consistent with the DEPARTMENT's rules through one or more following actions:

(A) Compensation Reduction. As a sanction, the DEPARTMENT or its AUTHORIZED AGENTS may recover past payments to the PROVIDER and/or reduce the compensation of the PROVIDER for past failure to fully and satisfactorily perform, and for any ongoing failure to fully and satisfactorily perform this AGREEMENT's obligations. Imposition of such a penalty does not preclude the DEPARTMENT or its AUTHORIZED AGENTS from recouping or recovering payments as specifically provided in any other law, regulation or this AGREEMENT.

(B) The amount of the compensation paid to the PROVIDER by the DEPARTMENT or its AUTHORIZED AGENTS for services that the PROVIDER did not fully and satisfactorily perform in accordance with the terms of this AGREEMENT. 8.4. The DEPARTMENT or its AUTHORIZED AGENTS may recover funds by reducing future compensation payable by the DEPARTMENT or its AUTHORIZED AGENTS to the PROVIDER. APPLICANT INITAL HERE CERTIFYING YOU HAVE READ AND UNDERSTAND THE INFORMATION ON THIS PAGE

# ARTICLE IX – EMPLOYEE EDUCATION CONCERNING FALSE CLAIMS

9.1. In accordance with Section 1902(a) of the Social Security Act, the PROVIDER must:

(A) Establish written policies and rules for all employees, agents, or contractors, that provide detailed information regarding the New Mexico of Medicaid False Claims Act, NMSA 1978, 27-14-1, et seq.; and the Federal False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statement established under chapter 38 of title 31, United States Code, including but not limited to, preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section I128B(f) of the Social Security Act);

(B) Include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste and abuse; and

(C) Include in any employee handbook, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the PROVIDER's rules and procedures for detecting and preventing fraud, waste, and abuse. 9.2. The DEPARTMENT may, at its sole discretion, exempt the PROVIDER from the requirements set forth in 9.1 herein; however, the DEPARTMENT shall not exclude the PROVIDER, if the **PROVIDER** receives at least \$5,000,000 in annual payments from the DEPARTMENT.

9.3 For the purposes of this Article, the following definitions apply:

(A) An "employee" includes any officer or employee of the PROVIDER.

(B) A "contractor" or "agent" includes any contractor, subcontractor, agent or other person which or who, on behalf of the PROVIDER, furnishes, or otherwise authorizes the furnishing of Medicaid or other health care program items or services, performs billing or



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coding functions or is involved in monitoring of health care provided by the PROVIDER.

# ARTICLE X - REFUSAL TO EXECUTE AN AGREEMENT

The DEPARTMENT will not execute an AGREEMENT with the PROVIDER if the PROVIDER, his/her agent, managing employee, or any person having an ownership interest equal to five percent (5%) or greater in the health care PROVIDER commits or has committed any of the violations listed in Article 7.2. of this AGREEMENT or other provisions delineated in Section 8.351.2 or as amended and/or its successor. **REMEDIES AND SANCTIONS of the** Medical Assistance Division Program Policy Manual, when such exclusions are mandatory under federal or state law.

## ARTICLE XI - RECIPIENT FUND ACCOUNT

Nursing facilities, swing bed hospitals, and intermediate care facilities for the mentally retarded shall establish and maintain an acceptable system of accounting for eligible recipients' personal funds, in the manner prescribed by the DEPARTMENT or its AUTHORIZED AGENTS, in those cases in which eligible recipients entrust their personal funds to the facility.

## ARTICLE XII - PRECONDITION FOR PARTICIPATION

The PROVIDER understands that signing this AGREEMENT is a precondition for participating in health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER understands that the provision of services, billing of services, and receipt of payments for services cannot occur until this AGREEMENT is completed by the PROVIDER and approved for execution by the DEPARTMENT.

# **ARTICLE XIII – INSURANCE**

During the term of this 13.1 AGREEMENT, the PROVIDER shall, at its sole cost and expense, carry comprehensive general liability insurance and professional liability insurance in amounts and containing such provisions from time to time deemed adequate by the DEPARTMENT or its AUTHORIZED AGENTS. Upon request, the PROVIDER will provide to the DEPARTMENT and its AUTHORIZED AGENTS certificates evidencing that the insurance required by this Section is in effect. The PROVIDER hereby authorizes the PROVIDER's insurance carrier to notify the DEPARTMENT and its AUTHORIZED AGENTS upon cancellation or termination of the PROVIDER's insurance coverage. The PROVIDER will notify the DEPARTMENT or its AUTHORIZED AGENTS promptly whenever an eligible recipient files a claim or notice of intent to commence action against the PROVIDER. The PROVIDER will notify the DEPARTMENT or its AUTHORIZED AGENTS not more than ten (10) business days after the PROVIDER's receipt of notice of any reduction or cancellation of the insurance coverage required by this Section.

13.2 The DEPARTMENT may, at its sole discretion, exempt the PROVIDER from the requirements of 13.1 for any reason, including but not limited to, the inability of the PROVIDER to procure such insurance.

# ARTICLE XIV – HEALTH INSURANCE

14.1 If the PROVIDER has, or grows to have, six (6) or more employees who work or who are expected to work, an average of at least twenty (20) hours per week over a six (6) month period during the term of this AGREEMENT and by signing it, agree to comply with these provisions.

(A) Have in place, and agree to maintain for the term of this AGREEMENT, health insurance for

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those employees and offer that health insurance to those employees no later than July 1, 2008, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds one million (\$1,000,000) dollars; or

(B) Have in place, and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds five-hundred thousand (\$500,000) dollars; or

(C) Have in place and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds two-hundred and fifty thousand (\$250,000) dollars 14.2 The PROVIDER must agree to

14.2 The PROVIDER must agree to maintain a record of the number of employees who have:

(A) accepted health insurance

(B) declined health insurance due to other health insurance coverage already in place; or

(C) declined health insurance for other reasons.

These records are subject to review and audit by the STATE or its representative(s).

14.3 The PROVIDER must agree to advise all employees of the availability of STATE publicly financed health care coverage programs by providing each employee with, at a minimum, the following web site link (or its successor) for additional information http://www.insurenewmexico.state.nm.u

# **ARTICLE XV - NO WAIVERS**

No terms or provision of this AGREEMENT shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and

<sup>&</sup>lt;u>s/</u>



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Name of Entity / Individual The Navajo Nation

86-0092335

EIN / SSN

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executed by the party claiming to have waived or consented.

# ARTICLE XVI - APPLICABLE LAW

This AGREEMENT shall be governed by the laws of the State of New Mexico. All legal proceedings arising from unresolved disputes under this AGREEMENT are subject to administrative and judicial review as provided for in MAD 8.353.2, PROVIDER HEARING, MAD 8.349.2, APPEALS and GRIEVANCE PROCESS, MAD 8.350.2, RECONSIDERATION OF UTILIZATION REVIEW DECISIONS, MAD 8.350.3, ABSTRACT SUBMISSION FOR LEVEL OF CARE DETERMINATIONS, MAD 8.350.4, RECONSIDERATION OF AUDIT SETTLEMENTS, MAD 8.351.2. SANCTIONS AND REMEDIES, MAD 8.352.2, RECIPIENT HEARINGS, MAD 8.353.2, PROVIDER HEARINGS, MAD 8.354.2, PASRR AND PATIENT STATUS HEARING POLICIES, or as amended or their successors, of the Medical Assistance Division Program Policy Manual.

# **ARTICLE XVII - ASSIGNMENT**

The PROVIDER shall not assign or transfer any obligation, duty, or other interest in this AGREEMENT, nor assign any claim for monies due under this AGREEMENT without authorization of the DEPARTMENT or its AUTHORIZED AGENTS. Any assignment or transfer which is not authorized by the DEPARTMENT or its AUTHORIZED AGENTS shall be void.

## ARTICLE XVIII -INDEMNIFICATION

The PROVIDER shall indemnify. defend, and hold harmless the STATE, the DEPARTMENT, its AUTHORIZED AGENTS, and employees from any and all actions, proceedings, claims, demands, costs, damages, and attorney's fees, from all liabilities or expenses of any kind from any sources accruing to or resulting from the PROVIDER or its employees in connection with the performance of this AGREEMENT and from all claims of any person or entity that may be directly or indirectly injured or damaged by the PROVIDER or its employees in the performance of this AGREEMENT.

# ARTICLE IXX - ENTIRE AGREEMENT

This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter contained in this AGREEMENT, and all such covenants, agreements, and understandings have been merged into this AGREEMENT. No prior agreement, covenants, or understandings, either verbal or otherwise, of the parties or their agents shall be valid or enforceable unless contained in this AGREEMENT. This AGREEMENT shall not be altered. changed, revised, or amended except by written instrument executed by the parties in the same manner as in this AGREEMENT. Amendments shall contain an effective date. Any amendments to this AGREEMENT shall not be binding upon either party until approved in writing by the DEPARTMENT or its AUTHORIZED AGENTS.





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Name of Entity / Individual The Navajo Nation	EIN / SSN NPI 86-0092335 1366040818							
A) Have you ever had a license revoked, suspended or denied in any state?	YES _x_NO Initial							
B) Have you ever been convicted of any criminal offense?YESNO Initial								
C) Have you or any ever been excluded or suspended from participation in Title XVIII (Medicare), Title XIX (Medicaid) or any other health care program?YES <u>x</u> NO Initial								
If YES to any of the above three questions, attach a brief statement of situat which handled the matter; any precinct case identification, and the adjudica	ion; date; city, county and professional association or court tion or other result.							
New Mexico Medicaid project staff may need to contact you regarding t telephone number.	e completion of this form. Please list contact person and							
Contact Person: Dr. Michelle Brandser Teleph	one Number: (928)871-6240							
Whoever knowingly and willfully makes or causes to be made a false statement of applicable federal or State laws. In addition, knowingly and willfully failing to full denial of a request to participate or, where the entity already participates, a terminate of a request to be the statement of a re	y and accurately disclose the information requested may result in							
Original signature required. Ple INDIVIDUAL PROVIDER:	ase use blue ink only.							
I understand that payment of claims will be from federal and state fund prosecuted under federal and state law.	s and that any falsification or concealment of a material fact may be							
Printed Name of Individual Practitioner:								
Signature of Individual Practitioner:	Date:							
FACILITIES AND NON-PRACTITIONER ORGANIZATIONS:								
I understand that payment of claims will be from federal and state fund prosecuted under federal and state law.	s and that any falsification or concealment of a material fact may be							
Printed Name of Authorized Representative: Jonathan Nez								
Title / Position: Navajo Nation President								
Address: PO BOX 7440; Window Rod	:k, AZ 86515							
Telephone Number: (928)871-7000								
Signature of Authorized Representative:	Date:							
FOR STATE PURPOS	SES ONLY:							
HUMAN SERVICES DEPARTMENT APPROVAL								
APPROVED NOT APPROVED								
Reasons Not Approved:								
Dates of Agreement: From:								
Authorized Signature	Date							



EXHIBIT



	ES .	PROVIDER PART	ICIPATION AGRE	EMENT tappies	A-7		
THIS AGREEMENT IS FOR GROUPS, ORGANIZATIONS, OR INDIVIDUAL APPLICANTS TO WHOM       Return completed application to:         PAYMENTS WILL BE MADE. IF THE APPLICANT IS AN INDIVIDUAL APPLYING FOR A PROVIDER NUMBER       New Mexico Medicaid Project         ONLY FOR IDENTIFYING SERVICES BILLED THROUGH A GROUP PRACTICE OR OTHER ORGANIZATION       OTHER ORGANIZATION         AND PAYMENTS WILL BE MADE TO THAT GROUP OR ORGANIZATION, THIS FORM SHOULD NOT BE       P.O. Box 27460         Albuquerque, NM 87125-7460							
(1) NM Medicaid Number (if pre	viously assigned)	(2) National Provid 10737116	der Identifier (NPI) 593		/ Taxonomy :e Abuse Reha	bilitation Trea	atment, Child
(4) Applicant Name (for individ First Name	uals – must match Middle Initial	license name)	t Name	1	Pro	ofessional Title (	MD, DDS, etc)
(5) Business Name (DBA) NRBHC Adolesc	ent Residential	Treatment	(6) Federal Tax (L		ne Navajo Natio	on	
(7) Physical Street Address wh PINON & COTTONWC				City Drock	State NM	Zip Code 87420	County San Juan
(8) Billing Office Address(MAY PO Box 1830	BE PO BOX)		City Ship	orock	State NM	Zip 87420	Code
(9) Mailing Address for official PO Box 709	correspondence (	MAY BE PO BOX)	City Wint	dow Rock	State	865	Zip Code
(10) Fax Number (928)871-6456		illing Office Phone )871-6235		(12) Locati (505)36	8-1438	JIRED)	
(13) Mailing Email Address mbrandser@navajo-n		illing Office Email Addre andser@navajo-		, , ,	ion / Provider Em v Rock, Ariz		
	dividual / sole pro		rporation		Partners	hip / Profession	al Association
	imited Liability Co		n-corporate Busine	ss Entity / Othe		mment Entity or	
(17) Provider Type (see attached list) 221	(18) Provider Specialty (see attached list) 100	(19) License Info Number		(20) (REQUIRED) Individual Provider's Social Security Number Date of Birth			
Revenue) Number (If p	22) Are NM CRS tax ayments current? ttach an explanation x YES	If not, for profi	t Nu IRS	(24) Federal Tax     (25) Are federal tax paymen current? If not, attach an ex       Number / FEIN (attach     X       IRS letter)     X       86-0092335     NO			
(26) DEA Number (attach copy	) NO	7) CLIA Number (attach	copy) (28	NCPDP/NABP	Number (pharm		
(29) IHS Certified or Tribal 638							
(30) Title XVIII Medicare Certifi			(ES ] NO	(If YES, ) Fiscal Year Er	attach copy of c	ertification or co	ontract)
(32) JCAHO Certified?		0 (If YES, attach cop		,	Decer	mber	
		) (If YES, attach copy of	f letter)				
(33) Other Certification?	YES 🖬		S, attach copy of le		d by: CARF		
(34) To be completed by phys		C C	ertification, attach p	proof of residen	cy completion / t		
Board certified in the provider (35) Identify individuals who w additional space is needed)					Not certified organization: (Ple	ease attach sep	arate page if
Individual's Name, Title	Prov. Type	Specialty	NM Medicaid Prov	/. No.		NPI	
(36) If services have already b	been rendered to a DOS:	NM Medicaid recipient,	please enter Date o	f Service and at	tach copy of clai	im:	

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(37) To be completed by out-of-state providers only: Home State Medicaid Provider Number:									
Name of Entity / Individual The Navajo Nation EIN / SSN 86-0092335 1073711693									
	Question 1 to be answered by all providers.								
1. Has the provider, or any person who has ownership or control interest in the provider, or any person who is an agent or managing employee of the provider, been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the Title XX services program since the inception of those programs? If yes, give the name(s) of person(s) and description(s) of offense(s). Please use additional pages if necessary:									
Name	Social Security Number	Date of Birth		Description					



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Name of Entity / Individual The Navajo Nati	EIN / SSN 86-0092335	NPI 107371	1693
Question 2 is to be	answered by all providers, including	non-profit organizations a	nd charities.
operational or managerial contro or agency." (42 CFR section 455	e is a "general manager, business manager, ac ol over, or who directly or indirectly conducts t .101) Managing employees are in a position to , governing boards, or board of directors.	he day-to-day operations of an i	nstitution, organizatio
2. Federal regulation requision pages if necessary:	uires the following information to be disclosed	on all managing employees. Ple	ase use additional
NAME	ADDRESS	SOCIAL SECURITY NUMBER	DATE OF BIRTH
Dr. Michelle Brandser	PO BOX Window Rock, Arizona 86515		
r. Sidney Brown	PO Box Shiprock, NM 87420		





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Name of Entity / Individual		EIN/SSN			NPI
The Navajo Natio	วท		86-00923	35	1073711693
			EVOCOT		
Questions 3 – 5	to be answer	ed by all provid	ers EXCEPT	individual practition	iers.
<ol> <li>Provide the name and addread any subcontractor in which necessary:</li> </ol>	ess of each person the provider has di	i (individual or corpo irect or indirect owne	ration) with an o rship of five pe	ownership or control intere rcent or more. Please use a	st in the provider or in Idditional pages if
NAME		ADDRESS		SOCIAL SECURITY	DATE OF BIRTH
				NUMBER (IF INDIVIDUAL) OR TAX ID	(FOR INDIVIDUALS)
				(IF NOT AN INDIVIDUAL)	
A.					
The Navajo Nation	PO Box 7440				
	Window Rock	, Arizona			
	86515				
В.	+				
5.					
С.					
D.		· · · · · · · · · · · · · · · · · · ·			
E.	-				
	1				
4. Is any person named in quest	ion #3 related to and	ther as should have	t child or eibling	12 If yes, give the name/a)	YES 🗖
of person(s) and relationship(	s). Please use additi	ional pages if necessa	γ. NOTE: Desigr	nate relationship to each	
person listed in question #3 b	y using A., B., C., etc	c.			NO 🔀
NAME				RELATIONSHIP	





Name of Entity / Individual		NPi					
The Navajo Nation	86-0092335	1073711693					
other Medicaid provider or in [any entity that of ownership and control information because of or XX of the Social Security Act?] (This includ programs such as Medicaid; Medicare Part A; programs established under parts XIX, XX, and	other Medicaid provider or in [any entity that does not participate in Medicaid but is required to disclose certain ownership and control information because of participation in any of the programs established under Title V, XVIII, or XX of the Social Security Act?] (This includes participation in any federal, state, or jointly funded healthcare programs such as Medicaid; Medicare Part A; Medicare Part B; Medicare Part C; Medicare Part D; CHAMPUS; and programs established under parts XIX, XX, and XXI of the Social Security Act.) If yes, give the name(s), Medicaid provider identification number(s) and address(es) of the Medicaid provider or entity. Please use additional pages if						
NAME	ADDRESS						



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Name of Entity / Individual The Navajo Nation EIN / SSN 86-0092335

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This AGREEMENT, between the State of New Mexico (STATE), herein referred to as "the STATE," the New Mexico Human Services Department (HSD), herein referred to as "the DEPARTMENT" and the applicant as provider, herein referred to as "the PROVIDER", specifies the terms and conditions for providing health care services to eligible recipients of Medicaid, other medical assistance programs, and other health care programs administered by the Department and other departments of the State of New Mexico for which the Department is authorized to make payment to the PROVIDER. Administration of health care programs including, but not limited to, service authorizations, billing instructions and payment, may be performed by the DEPARTMENT and its agents including other departments and agencies of the State of New Mexico and their contractors, as authorized by joint power of agreements, contracts, or other binding agreements, herein referred to as its "AUTHORIZED AGENTS". This AGREEMENT shall be effective when completed in full with all required documentation attached and when signed by the PROVIDER and the Human Services Department Medical Assistance Division (HSD/MAD) or its designees and shall remain in effect until terminated pursuant to the terms set forth below.

# ARTICLE 1 – OBLIGATIONS OF THE PROVIDER

# The PROVIDER shall:

1.1. Abide by all federal, state, and local laws, rules and regulations, including but not limited to, those laws, regulations, and rules applicable to providers of services under Title XIX (Medicaid) and Title XXI (SCHIP) of the Social Security Act and other health care programs administered by the DEPARTMENT and its AUTHORIZED AGENTS.

1.2. Furnish services, bill for services, and receive payment for services only upon approval of this AGREEMENT by the HSD /MAD Director or his/her designees or its AUTHORIZED AGENTS.

1.3. Be responsible for the accuracy and validity of all claims for which reimbursement is sought by causing claims to be manually or electronically submitted to the DEPARTMENT or its AUTHORIZED AGENTS.

1.4. Comply with all instructions, directives, billing, reimbursement, audit, recoupment, and withholding provisions made available by the DEPARTMENT and its AUTHORIZED AGENTS.
1.5. Obtain, maintain, and keep updated program rules and instructions on billing and utilization review and other pertinent material made available by the DEPARTMENT and its AUTHORIZED AGENTS.

Not employ or enter into contract 1.6. with excluded individuals or entities, as identified by the Health and Human Services Office of Inspector General's (HHS-OIG) List of Excluded Individuals/entities (LEIE), the Medicare Exclusion Database (MED), System for Award Management (SAM), Excluded Parties List System (EPLS) or a state's Employee Abuse Registry (EAR) or equivalent. All findings of placement of an employee on EAR should be forwarded to a law enforcement agency for possible prosecution. The HHS-OIG website can be searched by the name of any individual or entity, and must be searched on a monthly basis in order to capture exclusions and reinstatements that have occurred since the last search. Any exclusion information discovered must be immediately reported to the DEPARMENT or its AUTHORIZED AGENTS. A provider must ensure that every healthcare practitioner or other employee providing a service is appropriately licensed, registered, background checked, and/or certified at the time the service is provided, as required by state law or regulation for the service or activity that is provided and is valid in the municipality. All payments made to PROVIDERS for services or items obtained from excluded parties or provided by insufficiently licensed, registered, back-ground checked, or certified individuals are overpayments subject to recoupment. These services or items extend to all methods of

reimbursement, whether payment results from itemized claims, cost reports, fee schedules, or a prospective payment system; payment for administrative and management services not directly related to patient care, but that are a necessary component of providing items and services to Medicaid recipients, when those payments are reported on a cost report or are otherwise payable by the Medicaid program; and payments to cover an excluded individual's salary, expenses, or fringe benefits, regardless of whether they provide direct patient care, when those payments are reported on a cost report or are otherwise payable by the Medicaid program. In addition, civil monetary penalties may be imposed for noncompliance. 42 CFR 1003 .102(a)(2). The PROVIDER must also check New Mexico Courts (http://www.nmcourts.gov/) for records of any incidents involving any employee at the time of employment and annually thereafter. Documentation of the check must be maintained in the employee's personnel folder.

1.7. Comply with the disclosure requirements specified in 42 CFR, Part 455, Subpart B, including but not limited to disclosure upon request of information regarding ownership and control, business transactions and person convicted of crimes. This includes information about ownership of any subcontractor and any significant business transactions between the provider and subcontractor and/or



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provider and any wholly owned supplier. The provider agreement will be terminated if the PROVIDER fails to disclose ownership or control information as required by Federal law. Furnish and update complete 1.8. information on the PROVIDER's address, licensing, certification, board specialties, corporate names, and parties with direct or indirect ownership or controlling interest in the entity or in any subcontractor in which the entity has a direct or indirect ownership interest totaling five percent (5%) or more, and any relationship (spouse, parent, child, or sibling) of these persons to another; the name of any other entity in which a person with an ownership or controlling interest in the disclosing entity also has an ownership or controlling interest in; and information on the conviction of delineated criminal or civil offenses by the PROVIDER or parties with direct or indirect ownership or controlling interest at least sixty (60) calendar days prior to the contemplated change or within ten (10) calendar days after the conviction. Any payment made on the basis of erroneous or outdated information is the responsibility of the PROVIDER and is subject to recoupment, criminal investigative costs, and/or civil penalties. Comply with all applicable 1.9. federal, state, and local laws and regulations regarding-licensure, registration to pay applicable taxes, payment of applicable taxes, permit requirements, and employee tax filing

requirements. 1.10. Assume sole responsibility for all applicable taxes, insurance, licensing, and other costs of doing business. 1.11. Verify that an individual is eligible for a specified health care program administered by the DEPARTMENT or its AUTHORIZED AGENTS.

1.12. Verify the identity of the eligible recipient on all occasions prior to rendering services.

1.13. Maintain the confidentiality of eligible recipient information and records in accordance with applicable state and federal laws, including 42 CFR 431.305, 8.100.100.13 and .14 NMAC,

and regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended.

1.14. Meet the Continuing Care Obligations of the PROVIDER. In the event of termination of this AGREEMENT for any reason, the PROVIDER shall continue to provide or arrange services to eligible recipients, including any recipients who become eligible during the termination notice period, beginning on the effective date of termination and continuing until the termination or next renewal date of the recipient's eligibility, unless the DEPARTMENT arranges for the transfer of the eligible recipient to another Provider and provides written notice to the PROVIDER of such transfer prior to the termination or next renewal date of this AGREEMENT.

Notwithstanding the foregoing, at the direction of the DEPARTMENT, the PROVIDER may continue to provide or arrange services to any eligible recipient who cannot be transferred within the time period specified above in accordance with the legal and contractual obligations to: (1) provide services under the applicable health care program; (2) provide notice of termination to eligible recipients; and (3) ensure continuity of care for eligible recipients.

(A) In the event that the **PROVIDER** terminates this AGREEMENT on the basis of the DEPARTMENT'S failure to make timely payments, the PROVIDER shall continue to arrange for services to those eligible recipients who are hospitalized on an inpatient basis or otherwise residents of a facility at the time the PROVIDER terminates this AGREEMENT until eligible recipients are discharged from the hospital or other facility. The PROVIDER may file a claim with the DFPARTMENT or its AUTHORIZED AGENTS for such services.

(B) The DEPARTMENT or its AUTHORIZED AGENTS will pay the PROVIDER for services provided after the date of termination of this AGREEMENT at the current applicable reimbursement rate to eligible providers as of the dates of service when the services have been authorized by the DEPARTMENT or its AUTHORIZED AGENTS.

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(C) The PROVIDER agrees that the provisions of this section and the obligations of the PROVIDER herein shall survive termination, and shall be construed to be for the benefit of eligible recipients.

1.15. Render covered services to eligible recipients in the same scope, quality, and manner as provided to the general public; comply with all applicable federal and state civil rights laws; and not discriminate on the basis of race, color, national origin, sex, gender, age,

ethnicity, religion, sexual orientation, sexual preference, health status, disability, political belief, or source of payment as per 45 CFR 80.3(a) and (b), 45 CFR 84.52, and 42 CFR 447.20 or other state and federal laws, rules, and regulations.

1.16. Assume all responsibility for any and all claims submitted on behalf of the PROVIDER under the PROVIDER'S identification number. Submission of false or miscoded claims or fraudulent representation may subject the PROVIDER to termination, criminal investigations and charges, and other sanctions specified in the HSD/MAD Program Policy Manual, and federal and state law and regulations.

Create, keep and maintain, and 1.17. have readily retrievable, any and all original medical or business records as necessary to verify the treatment or care of any eligible recipient and to fully disclose the type and extent of all services, goods, and supplies provided to eligible recipients as set forth in 42 CFR 431.107 for at least six (6) years from the date of creation or until ongoing audits are settled, whichever is longer The PROVIDER agrees that such records shall be made at or near the time at which the services, goods, and supplies are delivered or rendered. Services that have been billed to the DEPARTMENT or its AUTHORIZED



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AGENTS which are not substantiated in the PROVIDER'S record are subject to recoupment, sanction, and/or any other penalty provided for in this AGREEMENT.

1.18. Upon closure of office or facility, inform the DEPARTMENT or its AUTHORIZED AGENTS where records pertaining to eligible recipients will be located.

1.19. Furnish immediately to the DEPARTMENT or its AUTHORIZED AGENTS, the U.S. Secretary of Health and Human Services, or the Medicaid Fraud Control Unit, at no cost, access to records in any format requested and any information regarding payments claimed by the PROVIDER for furnishing services to eligible recipients. 1.20. Permit announced and unannounced inspection of facilities or the PROVIDER'S offices and other locations used in the provision of services for billing and to eligible recipients by the U.S. Secretary of Health and Human Services, the Medicaid Fraud Control Unit, and the DEPARTMENT and its AUTHORIZED AGENTS. Failure to comply with this provision constitutes a violation of federal and state law and may result in immediate withholding of any pending or future payments. If records are requested by mail, the PROVIDER shall furnish the records within two (2) to ten (10) business days of the receipt of the request or as provided in the request. 1.21. Assist and cooperate in any review, inspection or audit conducted in conformity with the terms of this AGREEMENT.

1.22. Accept as payment in full, the amount paid by the DEPARTMENT or its AUTHORIZED AGENTS for services furnished to eligible recipients in accordance with the reimbursement structure in effect for the period during which services were provided as per the DEPARTMENT'S or its

AUTHORIZED AGENTS reimbursement rules. No exceptions to, or waiver of standard reimbursements will be permitted without the express written consent of the MAD Director or his/her designee.

Electronic billing of claims is 1.23. mandatory unless an exemption has been allowed by the DEPARTMENT or its AUTHORIZED AGENTS. Exemptions will be given on a case-by-case basis with consideration being given to any barriers the PROVIDER may face in billing electronically, including when volumes are so small that developing electronic submission capability is impractical. The requirement for electronic submission of claims does not apply to situations for which a paper attachment must accompany the claim form.

1.24. Not collect payments from the eligible recipient or any financially responsible relative or personal representative of the eligible recipient for services furnished to the eligible recipient, except as specifically allowed by the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER may not bill or collect payments from the eligible recipient or their personal representative for any claim denied by the DEPARTMENT or its AUTHORIZED AGENTS for administrative or billing errors on the part of the PROVIDER except as specifically allowed by the DEPARTMENT'S regulations. 1.25. Seek payment from any other payer or insurer before seeking payment from the DEPARTMENT or its AUTHORIZED AGENTS in the event the eligible recipient is covered by an insurance policy or health plan including Medicare. Refund to the DEPARTMENT or its AUTHORIZED AGENTS the lesser of the payment received from the third party and the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER shall not bill the DEPARTMENT or its AUTHORIZED AGENTS the difference between a "preferred patient care agreement" or "discount" arrangement and the PROVIDER'S billed charge. 1.26. Not refuse to furnish services to an eligible recipient because of a third party's potential liability for payment for the services, except in instances in which an eligible recipient is seeking services from a provider who does not participate

in the HMO or other plan network and would not be paid for services by the HMO or other plan.

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1.27. Inform the DEPARTMENT or its AUTHORIZED AGENTS immediately when an attorney or other party requests information related to the services rendered to an eligible recipient that were paid by the DEPARTMENT or its AUTHORIZED AGENTS and upon receipt of any knowledge of pending or active legal proceedings involving eligible recipients.

1.28. When furnishing services to eligible recipients who sustained injury in an accident or another action that may be subject to a legal proceeding, agree to the following:

(A) The hospital PROVIDER must either file a claim with the DEPARTMENT or its AUTHORIZED AGENTS within the time period specified in 8.302.14 NMAC of the date of hospital discharge or impose a hospital lien on the potential recovery from the liable third party. If the hospital PROVIDER elects to impose a lien, the PROVIDER is prohibited from filing a claim with the DEPARTMENT or its AUTHORIZED AGENTS for payment of any unpaid balance resulting from the third party recovery or from seeking payment from the eligible recipient or their personal representative.

(B) The non-hospital PROVIDER must accept the payment made by the DEPARTMENT or its AUTHORIZED AGENTS as payment in full. The non-hospital PROVIDER may not seek additional payment for those services from the eligible recipient or their personal representative even if the eligible recipient or their personal representative subsequently received a monetary award or settlement from the liable party.

1.29. When entering into contracts with the Medicaid managed care organization (MCOs) contracting with the DEPARTMENT for the provision of managed care services to the Medicaid population, agree to be paid by the MCO at any amount mutually-agreed between the provider or provider group and the MCOs. If the provider or provider group



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and MCO are unable to agree to terms or fail to execute an agreement for any reason, the provider or provider group shall be obligated to accept the percent of the applicable reimbursement rate as stated in the MAD Program Policy Manual based on the provider type. The "applicable reimbursement rate" is defined as the rate paid by the DEPARTMENT to the PROVIDER participating in Medicaid or other medical assistance programs administered by the DEPARTMENT or its AUTHORIZED AGENTS and excludes disproportionate share hospital and medical education payments. When a Medicaid managed 1.30. care organization (MCO) recoups payment from the provider because the DEPARTMENT retroactively disenrolls a recipient from the MCO, the PROVIDER agrees to bill the DEPARTMENT or its AUTHORIZED AGENTS and accept the applicable reimbursement rate as stated in the MAD program policy manual, according to the provider type.

1.31. For those caregivers whose employment or contractual service with a care provider includes direct care or routine and unsupervised physical or financial access to any care recipient served by that provider, the caregiver and care provider must adhere to provisions in the Caregivers Criminal History Screening Act (CCHS). 1.32. Understand and agree to meet the requirements concerning enrollment and screening, criminal background checks, fingerprinting, use of the National Provider Identifier, federal database checks, site visits, verification of provider licenses, and application fees as found at 42 CFR 455.400 - 455.470.

1.33. To understand the appeal rights that are given to the PROVIDER as provided for in MAD 8.353.2, PROVIDER HE ARING, MAD 8.349.2. APPEALS and GRIEVANCE PROCESS, MAD 8.350.2, RECONSIDERATION OF UTILIZATION REVIEW DECISIONS, MAD 8.350.3, ABSTRACT SUBMISSION FOR LEVEL OF CARE

DETERMINATIONS, MAD 8.350.4, **RECONSIDERATION OF AUDIT** SETTLEMENTS, MAD 8.351.2, SANCTIONS AND REMEDIES, MAD 8.352.2, RECIPIENT HEARINGS, MAD 8.353.2, PROVIDER HEARINGS, MAD 8.354.2, PASRR AND PATIENT STATUS HEARING POLICIES, or as amended or their successors, of the Medical Assistance Division Program Policy Manual. All work associated with the 134 Agreements contained herein must be performed in the United States of America.

# ARTICLE II – OBLIGATION OF THE HUMAN SERVICES DEPARTMENT

The DEPARTMENT shall: 2.1. Make available on the HSD/MAD website, other DEPARTMENT websites, or in hard copy format information necessary to participate in health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS, including program rules, billing instructions, and other pertinent materials. The PROVIDER must contact the DEPARTMENT or its AUTHORIZED AGENTS to request hard copies of any program rules, manuals, billing and utilization review instructions, and other pertinent materials.

2.2. Process payments in a manner delineated by federal guidelines either internally or through a designated fiscal agent contractor. Please refer to 8.302.2.9 NMAC.

2.3 Reimburse the PROVIDER for furnishing covered services or procedures to eligible recipients when all program rules have been followed by the PROVIDER. Reimbursement is based on the fee schedule, reimbursement rate, or reimbursement methodology in place at the time service is furnished by the PROVIDER. No exception to, or waiver of, standard reimbursement will be permitted without the express written consent of the MAD Director or his/her designee. APPLICANT INITAL HERE CERTIFYING YOU HAVE READ AND UNDERSTAND THE INFORMATION ON THIS PAGE

2.4. Conduct administrative investigations and administrative proceedings to ensure that the PROVIDER complies with the terms of this AGREEMENT and federal and state law, and regulations pertaining to the administration of the health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS, including the Medicaid Provider Act.

# ARTICLE III - PATIENT SELF-DETERMINATION ACT

The nursing facility, intermediate care facility, hospital, home health agency, and hospice PROVIDER shall:

3.1. Furnish written information to all adult eligible recipients or their personal representatives receiving medical care concerning their right to make decisions about medical care; accept or refuse medical or surgical treatment; and formulate arrangements for a living will or durable power of attorney.

3.2 Document in the eligible recipient's medical record whether he/she has executed an advance directive which complies with New Mexico law on advance directives. The provision of care shall not be based on whether the eligible recipient has executed an advance directive.

3.3. Inform each adult eligible recipient or personal representative, orally and in writing, at the time of facility admission or initiation of treatment, of the eligible recipient's legal rights during his or her facility stay or course of treatment.

# ARTICLE IV - SUBMISSION OF COST REPORTS

4.1. The PROVIDER, when delineated by the DEPARTMENT shall furnish the DEPARTMENT or its AUTHORIZED AGENTS with such financial reports, audited or certified cost statements, and other substantiating data as necessary to establish a basis for





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reimbursement or as required by regulation.

4.2. Cost statements or other data are to be furnished no later than 150 (one hundred- fifty) calendar days following the closure of the PROVIDER'S fiscal accounting period. Failure to comply with this provision will result in suspension of payment until the required statements and other data are provided.

# ARTICLE V -STATUS OF PROVIDER

The PROVIDER, its agents, and employees are independent contractors who perform professional services for eligible recipients served through health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS are not employees of the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER shall not purport to bind the DEPARTMENT nor the State of New Mexico to any obligation not expressly authorized herein unless the DEPARTMENT has given the PROVIDER express written permission to do so.

## ARTICLE VI - CHANGE IN OWNERSHIP

As soon as possible, but at least 6.1. sixty (60) calendar days prior to a change in ownership or status, the PROVIDER must notify the DEPARTMENT or its AUTHORIZED AGENTS of the proposed change in ownership. Upon completion of the transfer of ownership, this initial AGREEMENT is terminated. The new owner must complete and receive approval of a new AGREEMENT before submitting any claims to the DEPARTMENT or its AUTHORIZED AGENTS. Any payment made on the basis of erroneous or outdated information due to the lack of notice is the responsibility of the PROVIDER and is subject to recoupment.

6.2. The previous owner shall be responsible for any overpayments and is entitled to receive payments up to the date of ownership transfer, unless

otherwise specified in the contract for transfer of ownership.

6.3. The new owner shall furnish to the DEPARTMENT or its

AUTHORIZED AGENTS upon receipt of a written request, the contract or other applicable documents specifying the terms of the change in ownership and responsibilities delineated in this AGREEMENT.

6.4. The DEPARTMENT and its AUTHORIZED AGENTS reserve the right to withhold all pending and other claims until the right to payments and/or recoupment is determined, unless the new owner agrees in writing to be liable for any recoupment or overpayment amounts.

6.5. For the PROVIDER who is reimbursed on a cost basis and subject to cost settlements, the DEPARTMENT or its AUTHORIZED AGENTS shall impose a lien and/or penalty of up to ten percent (10%) of the purchase price against the previous owner until such time as the final cost settlement is completed and amounts owed, if applicable, are remitted to the DEPARTMENT, or its AUTHORIZED AGENTS.

# ARTICLE VII - TERMINATION OF PROVIDER AGREEMENT

7.1. The PROVIDER status may be terminated without cause if the PROVIDER or the DEPARTMENT or its AUTHORIZED AGENTS give the other written notice of termination at least sixty (60) calendar days prior to the effective date of the termination. 7.2. The DEPARTMENT or its AUTHORIZED AGENTS may terminate this AGREEMENT for cause, with thirty (30) calendar days notice if the PROVIDER, his or her agent, a managing employee, or any person having an ownership interest equal to five percent (5%) or greater in the health care PROVIDER entity:

(A) Misrepresents, by commission or omission, any information on the AGREEMENT enrollment form. (B) Has previous or current exclusion, suspension, termination from, or the involuntary withdrawal from participation in a health care program administered by the DEPARTMENT, any other state's Medicaid program, Medicare, or any other public or private health insurance program.

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(C) Is convicted under federal or state law of a criminal offense relating to the delivery of the goods, services, or supplies, under a health care program administered by the DEPARTMENT, any other state's Medicaid Program, Medicare, or any other public or private health insurance program.

(D) Is convicted under federal or state law of a criminal offense relating to the neglect or abuse of a patient in connection with the delivery of any goods, services, or supplies.

(E) Is convicted under federal or state law of a criminal offense relating to the unlawful manufacture, distribution, prescription or dispensing of a controlled substance.

(F) Is convicted under federal or state law of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

(G) Is convicted under federal or state law of a criminal offense punishable by imprisonment of a year or more which involved moral turpitude or acts against the elderly, children, or infirm.

(H) Is sanctioned pursuant to a violation of federal or state laws or rules relative to a health care program administered by the DEPARTMENT, any other state's Medicaid Program, Medicare, or any other public health insurance program.

(1) Is convicted under federal or state law of a criminal offense in connection with the interference or obstruction of any

investigations into any criminal offense listed in Paragraphs (C) through (H) of this subsection.

(J) Violates licensing or certification conditions or professional standards relating to the licensure or certification of the PROVIDER or the



STATE OF NEW MEXICO MEDICAL ASSISTANCE DIVISION PROVIDER PARTICIPATION AGREEMENT

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required quality of goods, services, or supplies provided.

(K) Fails to pay recovery properly assessed or pursuant to an approved repayment schedule under a health care program administered by the DEPARTMENT or its AUTHORIZED AGENTS.

7.3. The PROVIDER's status may be terminated immediately, without notice, in instances in which the health and safety of eligible recipients in institutions are deemed to be in immediate jeopardy; are subject to an immediate or serious threat; or when it has been demonstrated, on the basis of reliable evidence, that the PROVIDER has committed fraud, abuse, or other illegal or sanctionable action. For purposes of this provision, institutional providers include nursing facilities, intermediate care facilities for the mentally retarded, all residential psychiatric treatment facilities, group homes, and other facility-based residential treatment programs. 7.4. The DEPARTMENT or its AUTHORIZED AGENTS reserve the right to terminate this AGREEMENT for cause as summarized in this AGREEMENT and as delineated in Section MAD-8.351.2, SANCTIONS AND REMEDIES of the Medical Assistance Division Program Policy Manual, or as amended and/or its successor.

7.5. Immediately upon termination for any reason, the PROVIDER shall:

(A) Comply with all directives issued by the DEPARTMENT or its AUTHORIZED AGENTS; and

(B) Take such action as the DEPARTMENT or its AUTHORIZED AGENTS shall direct for the protection, preservation, retention or transfer of all property, included but not limited to all recipient records.

# ARTICLE VIII - IMPOSITION OF SANCTIONS FOR FRAUD OR MISCONDUCT

8.1. If the PROVIDER obtains an excess payment or benefit willfully, by means of false statement, representation,

concealment of any material fact, or other fraudulent scheme or devise with intent to defraud, criminal sentences and fines and/or civil monetary penalties shall be imposed pursuant to, but not limited to, the Medicaid Fraud Act, NMSA 1978, 30-44-1 et seq., 42 USC 1320a-7b, and 42 CFR 455.23.

8.2 In addition to the above criminal and civil penalties, the DEPARTMENT or its AUTHORIZED AGENTS may impose monetary or nonmonetary sanctions, including civil monetary penalties for PROVIDER misconduct or breach of any of the terms of this AGREEMENT.

8.3 Upon written notice to the PROVIDER, the DEPARTMENT or its AUTHORIZED AGENTS may sanction non-performance under this AGREEMENT consistent with the DEPARTMENT's rules through one or more following actions:

(A) Compensation Reduction. As a sanction, the DEPARTMENT or its AUTHORIZED AGENTS may recover past payments to the PROVIDER and/or reduce the compensation of the PROVIDER for past failure to fully and satisfactorily perform, and for any ongoing failure to fully and satisfactorily perform this AGREEMENT's obligations. Imposition of such a penalty does not preclude the DEPARTMENT or its AUTHORIZED AGENTS from recouping or recovering payments as specifically provided in any other law, regulation or this AGREEMENT.

(B) The amount of the compensation paid to the PROVIDER by the DEPARTMENT or its AUTHORIZED AGENTS for services that the PROVIDER did not fully and satisfactorily perform in accordance with the terms of this AGREEMENT. 8.4. The DEPARTMENT or its AUTHORIZED AGENTS may recover funds by reducing future compensation payable by the DEPARTMENT or its AUTHORIZED AGENTS to the PROVIDER.

# ARTICLE IX – EMPLOYEE EDUCATION CONCERNING FALSE CLAIMS

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9.1. In accordance with Section 1902(a) of the Social Security Act, the PROVIDER must:

(A) Establish written policies and rules for all employees, agents, or contractors, that provide detailed information regarding the New Mexico of Medicaid False Claims Act, NMSA 1978, 27-14-1, et seq.; and the Federal False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statement established under chapter 38 of title 31, United States Code, including but not limited to, preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f) of the Social Security Act);

(B) Include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste and abuse; and

(C) Include in any employee handbook, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the PROVIDER's rules and procedures for detecting and preventing fraud, waste, and abuse. 9.2. The DEPARTMENT may, at its sole discretion, exempt the PROVIDER from the requirements set forth in 9.1 herein; however, the DEPARTMENT shall not exclude the PROVIDER, if the PROVIDER receives at least \$5,000,000 in annual payments from the DEPARTMENT.

9.3 For the purposes of this Article, the following definitions apply:

(A) An "employee" includes any officer or employee of the PROVIDER.

(B) A "contractor" or "agent" includes any contractor, subcontractor, agent or other person which or who, on behalf of the PROVIDER, furnishes, or otherwise authorizes the furnishing of Medicaid or other health care program items or services, performs billing or



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coding functions or is involved in monitoring of health care provided by the PROVIDER.

# ARTICLE X - REFUSAL TO EXECUTE AN AGREEMENT

The DEPARTMENT will not execute an AGREEMENT with the PROVIDER if the PROVIDER, his/her agent, managing employee, or any person having an ownership interest equal to five percent (5%) or greater in the health care PROVIDER commits or has committed any of the violations listed in Article 7.2. of this AGREEMENT or other provisions delineated in Section 8.351.2 or as amended and/or its successor, **REMEDIES AND SANCTIONS of the** Medical Assistance Division Program Policy Manual, when such exclusions are mandatory under federal or state law.

## ARTICLE XI - RECIPIENT FUND ACCOUNT

Nursing facilities, swing bed hospitals, and intermediate care facilities for the mentally retarded shall establish and maintain an acceptable system of accounting for eligible recipients' personal funds, in the manner prescribed by the DEPARTMENT or its AUTHORIZED AGENTS, in those cases in which eligible recipients entrust their personal funds to the facility.

## ARTICLE XII - PRECONDITION FOR PARTICIPATION

The PROVIDER understands that signing this AGREEMENT is a precondition for participating in health care programs administered by the DEPARTMENT or its AUTHORIZED AGENTS. The PROVIDER understands that the provision of services, billing of services, and receipt of payments for services cannot occur until this AGREEMENT is completed by the PROVIDER and approved for execution by the DEPARTMENT.

ARTICLE XIII – INSURANCE

During the term of this 13.1 AGREEMENT, the PROVIDER shall, at its sole cost and expense, carry comprehensive general liability insurance and professional liability insurance in amounts and containing such provisions from time to time deemed adequate by the DEPARTMENT or its AUTHORIZED AGENTS. Upon request, the PROVIDER will provide to the DEPARTMENT and its AUTHORIZED AGENTS certificates evidencing that the insurance required by this Section is in effect. The PROVIDER hereby authorizes the PROVIDER's insurance carrier to notify the DEPARTMENT and its AUTHORIZED AGENTS upon cancellation or termination of the PROVIDER's insurance coverage. The PROVIDER will notify the DEPARTMENT or its AUTHORIZED AGENTS promptly whenever an eligible recipient files a claim or notice of intent to commence action against the PROVIDER. The PROVIDER will notify the DEPARTMENT or its AUTHORIZED AGENTS not more than ten (10) business days after the PROVIDER's receipt of notice of any reduction or cancellation of the insurance coverage required by this Section.

13.2 The DEPARTMENT may, at its sole discretion, exempt the PROVIDER from the requirements of 13.1 for any reason, including but not limited to, the inability of the PROVIDER to procure such insurance.

# ARTICLE XIV – HEALTH INSURANCE

14.1 If the PROVIDER has, or grows to have, six (6) or more employees who work or who are expected to work, an average of at least twenty (20) hours per week over a six (6) month period during the term of this AGREEMENT and by signing it, agree to comply with these provisions.

(A) Have in place, and agree to maintain for the term of this AGREEMENT, health insurance for

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those employees and offer that health insurance to those employees no later than July 1, 2008, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds one million (\$1,000,000) dollars; or

(B) Have in place, and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds five-hundred thousand (\$500,000) dollars; or

(C) Have in place and agree to maintain for the term of this AGREEMENT, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010, if the expected annual value in the aggregate of any and all contracts between the PROVIDER and the STATE exceeds two-hundred and fifty thousand (\$250,000) dollars 14.2 The PROVIDER must agree to

14.2 The PROVIDER must agree to maintain a record of the number of employees who have:

(A) accepted health insurance

(B) declined health insurance due to other health insurance coverage already in place; or

(C) declined health insurance for other reasons.

These records are subject to review and audit by the STATE or its representative(s).

14.3 The PROVIDER must agree to advise all employees of the availability of STATE publicly financed health care coverage programs by providing each employee with, at a minimum, the following web site link (or its successor) for additional information http://www.insurenewmexico.state.nm.u  $\underline{s/}$ 

# **ARTICLE XV - NO WAIVERS**

No terms or provision of this AGREEMENT shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and



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executed by the party claiming to have waived or consented.

# **ARTICLE XVI - APPLICABLE LAW**

This AGREEMENT shall be governed by the laws of the State of New Mexico. All legal proceedings arising from unresolved disputes under this AGREEMENT are subject to administrative and judicial review as provided for in MAD 8.353.2, PROVIDER HEARING, MAD 8.349.2, APPEALS and GRIEVANCE **PROCESS. MAD 8.350.2.** RECONSIDERATION OF UTILIZATION REVIEW DECISIONS, MAD 8.350.3, ABSTRACT SUBMISSION FOR LEVEL OF CARE DETERMINATIONS, MAD 8.350.4, RECONSIDERATION OF AUDIT SETTLEMENTS, MAD 8.351.2, SANCTIONS AND REMEDIES, MAD 8.352.2, RECIPIENT HEARINGS, MAD 8.353.2, PROVIDER HEARINGS, MAD 8.354.2, PASRR AND PATIENT STATUS HEARING POLICIES, or as amended or their successors, of the Medical Assistance Division Program Policy Manual.

# **ARTICLE XVII - ASSIGNMENT**

The PROVIDER shall not assign or transfer any obligation, duty, or other interest in this AGREEMENT, nor assign any claim for monies due under this AGREEMENT without authorization of the DEPARTMENT or its AUTHORIZED AGENTS. Any assignment or transfer which is not authorized by the DEPARTMENT or its AUTHORIZED AGENTS shall be void.

# ARTICLE XVIII -INDEMNIFICATION

The PROVIDER shall indemnify. defend, and hold harmless the STATE, the DEPARTMENT, its AUTHORIZED AGENTS, and employees from any and all actions, proceedings, claims, demands, costs, damages, and attorney's fees, from all liabilities or expenses of any kind from any sources accruing to or resulting from the PROVIDER or its employees in connection with the performance of this AGREEMENT and from all claims of any person or entity that may be directly or indirectly injured or damaged by the PROVIDER or its employees in the performance of this AGREEMENT.

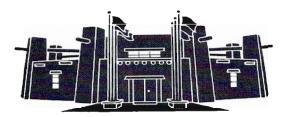
# ARTICLE IXX - ENTIRE AGREEMENT

This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter contained in this AGREEMENT, and all such covenants, agreements, and understandings have been merged into this AGREEMENT. No prior agreement, covenants, or understandings, either verbal or otherwise, of the parties or their agents shall be valid or enforceable unless contained in this AGREEMENT. This AGREEMENT shall not be altered, changed, revised, or amended except by written instrument executed by the parties in the same manner as in this AGREEMENT, Amendments shall contain an effective date. Any amendments to this AGREEMENT shall not be binding upon either party until approved in writing by the DEPARTMENT or its AUTHORIZED AGENTS.





DETABLMENT				101-	
Name of Entity / Individual The Navajo Nation	EIN / SSN 86-0	0092335		NPI 1073711693	
A) Have you ever had a license revoked, suspended or denied in any state?		YES	<u>x</u> NO	Initial	
B) Have you ever been convicted of any criminal offense?		YES	<u>×</u> _NO	Initial	
C) Have you or any ever been excluded or suspended from participation in Title XVIII (Medicare), Title XIX (Medicaid) or any other health care pr	ogram?	_YES	<u>x</u> N0	Initial	
If YES to any of the above three questions, attach a brief statement of situati which handled the matter; any precinct case identification, and the adjudicat	on; date; city ion or other r	, county a esult.	and profe	ssional association or court	
New Mexico Medicaid project staff may need to contact you regarding th telephone number.	e completior	n of this f	form. Ple	ase list contact person and	
Contact Person: Dr. Michelle Brandser Telepho	one Number:	(928)8	<u>71-624(</u>	<u>.                                    </u>	
Whoever knowingly and willfully makes or causes to be made a false statement o applicable federal or State laws. In addition, knowingly and willfully failing to fully denial of a request to participate or, where the entity already participates, a termin	and accurate	y disclose	e the infor	mation requested may result in	
Original signature required. Plea	se use blue ini	k only.			
I understand that payment of claims will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state law.					
Printed Name of Individual Practitioner:			***		
Signature of Individual Practitioner:			Date:	• •	
FACILITIES AND NON-PRACTITIONER ORGANIZATIONS:					
l understand that payment of claims will be from federal and state funds prosecuted under federal and state law.	and that any f	alsificatio	on or conc	ealment of a material fact may be	
Printed Name of Authorized Representative: <u>Jonathan Nez</u>					
Title / Position: Navajo Nation President					
Address: PO BOX 7440; Window Rock	k, AZ_86515	5			
Telephone Number: (928)871-7000					
Signature of Authorized Representative:			_ Date:_		
FOR STATE PURPOS	ES ONLY:				
HUMAN SERVICES DEPARTMENT APPROVAL					
APPROVED NOT APPROVED					
Reasons Not Approved:					
Dates of Agreement: From:					
Authorized Signature		Date	,		



Honorable Seth Damon Speaker 24<sup>th</sup> Navajo Nation Council

# **MEMORANDUM**

TO: Honorable Daniel Tso 2th Navajo Nation Council Delegate

in

FROM : Chad Abeyta, Attorney Office of Legislative Counsel

DATE: November 15, 2021

AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN RE: AND **FINANCE** AND NAABIK'İYÁTI' SERVICES. BUDGET **NAVAJO** NATION THE COUNCIL; COMMITTEES AND APPROVING A LIMITED WAIVER OF SOVEREIGN IMMUNITY IN THE STATE OF NEW MEXICO MEDICAL ASSISTANCE DIVISION AGREEMENT PARTICIPATION BETWEEN THE PROVIDER NAVAJO NATION DIVISION OF BEHAVIORAL AND MENTAL HEALTH SERVICES AND THE STATE OF NEW MEXICO

Per your request, the Office of Legislative Counsel has prepared the above-reference proposed legislation and associated legislative summary sheet. Based on existing law, the legislation as drafted is legally sufficient. However, as with all legislation, the proposed resolution is subject to review by the courts in the event of a challenge.

The Office of Legislative Counsel recommends the appropriate standing committee(s) reviews based on the standing committees powers outlined in 2 N.N.C. §§ 301, 401, 501, 601, and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration. 2 N.N.C. § 164(A)(5).

Please review the proposed legislation to ensure it is drafted to your satisfaction. If you approve, please sign as "Primary Sponsor" and submit it to the Office of Legislative Services where the proposed legislation will be given a tracking number and referred to the Office of the Speaker. If the proposed legislation is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of any revisions requested.

# THE NAVAJO NATION LEGISLATIVE BRANCH INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0241-21\_\_

**SPONSOR:** <u>Daniel E. Tso</u>

**TITLE:** An Action Relating to Health, Education and Human Services, Budget and Finance and Naabik'íyáti' Committees and the Navajo Nation Council; Approving a Limited Waiver of Sovereign Immunity in the State of New Mexico Medical Assistance Division Provider Participation Agreement Between the Navajo Nation Division of Behavioral and Mental Health Services and the State of New Mexico

Date posted: November 15, 2021 at 5:30 PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director Office of Legislative Services P.O. Box 3390 Window Rock, AZ 86515 (928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

**Please note**: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. *§374 et. seq.* 

# THE NAVAJO NATION LEGISLATIVE BRANCH INTERNET PUBLIC REVIEW SUMMARY

# LEGISLATION NO.: 0241-21

# SPONSOR: Honorable Daniel E. Tso

TITLE: <u>An Action Relating to Health, Education and Human Services, Budget</u> and Finance and Naabik'íyáti' Committees and the Navajo Nation Council; <u>Approving a Limited Waiver of Sovereign Immunity in the State of New Mexico</u> <u>Medical Assistance Division Provider Participation Agreement Between the</u> <u>Navajo Nation Division of Behavioral and Mental Health Services and the State</u> <u>of New Mexico</u>

# Posted: November 15, 2021 at 5:30 PM

# 5 DAY Comment Period Ended: November 20, 2021

**Digital Comments received:** 

Comments Supporting	None
Comments Opposing	None
Comments/Recommendations	None

Legislotive/Tracking Secretary Office of Legislative Services

November 21, 2021; 9:15 PM Date/Time

# HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE 24<sup>TH</sup> NAVAJO NATION COUNCIL

# THIRD YEAR 2021

# **COMMITTEE REPORT**

Mr. Speaker,

The **HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE** to whom has been assigned:

**Legislation #0241-21:** An Action Relating to Health, Education and Human Services, Budget and Finance and Naabik'íyáti' Committees and the Navajo Nation Council; Approving a Limited Waiver of Sovereign Immunity in the State of New Mexico Medical Assistance Division Provider Participation Agreement Between the Navajo Nation Division of Behavioral and Mental Health Services and the State of New Mexico

Sponsor: Delegate Daniel E. Tso

Has had it under consideration and reports the same with the recommendation that it DO PASS with no amendments

And thence is referred to the Budget and Finance Committee.

Respectfully submitted,

Carl R. Slater, Vice-Chairman Health, Education and Human Services Committee 24th Navajo Nation Council

Date: November 24, 2021

Main Motion:Motion:Honorable Charlaine TsoSecond:Honorable Edison J. WaunekaVote:5-0-0

# HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE Regular Meeting November 24, 2021

**Legislation #0241-21:** An Action Relating to Health, Education and Human Services, Budget and Finance and Naabik'íyáti' Committees and the Navajo Nation Council; Approving a Limited Waiver of Sovereign Immunity in the State of New Mexico Medical Assistance Division Provider Participation Agreement Between the Navajo Nation Division of Behavioral and Mental Health Services and the State of New Mexico

Sponsor: Delegate Daniel E. Tso

# VOTE TALLY SHEET:

Main Motion Motion: Second:	: Honorable Charlaine Tso Honorable Edison J. Wauneka
Yea:	Paul Begay, Jr.; Pernell Halona; Charlaine Tso; Daniel E. Tso; Edison J. Wauneka
Nay:	None
Not Voting:	Carl R. Slater (Presiding Vice-Chairman)
Excused:	
Absent:	
Vote:	5-0-0

Carl R. Slater, Vice-Chairman Health, Education and Human Services Committee 24<sup>th</sup> Navajo Nation Council

Inclote Dorally

Angelita Benally, Legislative Advisor Health, Education and Human Services Committee Office of Legislative Services

# 24th NAVAJO NATION COUNCIL

Third Year 2021

Mr. Speaker:

The **BUDGET & FINANCE COMMITTEE** to whom has been assigned

# NAVAJO LEGISLATIVE BILL # 0241-21:

An Action Relating to Health, Education and Human Services, Budget and Finance and Naabik'íyáti' Committees and the Navajo Nation Council; Approving a Limited Waiver of Sovereign Immunity in the State of New Mexico Medical Assistance Division Provider Participation Agreement Between the Navajo Nation Division of Behavioral and Mental Health Services and the State of New Mexico *Sponsored by Daniel E. Tso, Council Delegate* 

has had it under consideration and reports the same with the recommendation that It **Do Pass** without amendment.

And, therefore referred to the NAABIKIYATI Committee

Respectfully submitted,

Jamie Henio, Chairman

Adopted ve Advisor

Not Adopted: \_

Legislative Advisor

# **21 DECEMBER 2021**

The vote was **4** in favor **0** opposed *yeas: Jimmy Yellowhair, Amber K. Crotty, Nathaniel Brown, Elmer P. Begay nays:* Main Motion: Jimmy Yellowhair Second: Amber K. Crotty

# BUDGET AND FINANCE COMMITTEE 21 DECEMBER 2021 Regular Meeting

# **VOTE TALLY SHEET:**

**Legislation No. 0241-21:** An Action Relating to Health, Education and Human Services, Budget and Finance and Naabik'íyáti' Committees and the Navajo Nation Council; Approving a Limited Waiver of Sovereign Immunity in the State of New Mexico Medical Assistance Division Provider Participation Agreement Between the Navajo Nation Division of Behavioral and Mental Health Services and the State of New Mexico Sponsored by Daniel E. Tso, Council Delegate

Motion: Jimmy Yellowhair Second: Amber K. Crotty Vote: 4-0, Chairman not voting

# **Final Vote Tally:**

Jamie Henio	
Raymond Smith Jr.	
Elmer P. Begay	yea
Nathaniel Brown	yea
Amber K. Crotty	yea
Jimmy Yellowhair	yea

Absent: Raymond Smith, Jr.

Jamie Henio, Chairman Budget & Finance Committee

Peggy Nakai, Legislative Advisor Budget & Finance Committee