#### LEGISLATIVE SUMMARY SHEET

Tracking No. **1241-21** 

**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.

Posting End	Thence Budget & Finance Committee
Eligible for A	Thence
1	PROPOSED NAVAJO NATION COUNCIL RESOLUTION Naabik'íyáti' Committee Thence
2	24th NAVAJO NATION COUNCIL – Third Year, 2021 Navajo Nation Council
3	INTRODUCED BY
5	Daniel En Jos
6	(Sponsor)
7	
8	TRACKING NO. <b>0241-21</b>
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)

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and 301(B)(15).

- 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**

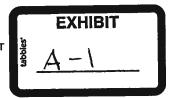
- A. The Navajo Division of Behavioral and Mental Health Services (DBMHS) is a program under the Navajo Department of Health with the purpose of providing "a comprehensive, culturally-centered holistic approach for prevention, treatment, and aftercare of alcohol, controlled substance use disorder, and 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 Participation Agreements and provided a memo expressing concerns regarding an indirect waiver of sovereign immunity
- E. The Provider Participation Agreement requires DBMHS to consent:
  - That the Agreement shall be governed by the laws of the State of New Mexico and all legal proceedings arising from unresolved disputes under the Agreement are subject to administrative and judicial review as provided for in Article XVI of the Agreement.
  - 2. To abide by Human Services Department and Medical Assistance Division Program Policy Manual.
  - 3. That the Navajo Nation shall indemnify the State of New Mexico as provided for in Article XVIII of the Agreement.

# SECTION THREE. APPROVING A LIMITED WAIVER OF SOVEREIGN IMMUNITY

- A. The Navajo Nation hereby approves a limited waiver of sovereign immunity for the Navajo Nation Division of Behavioral and Mental Health Services to enter into the Provider Participation Agreement with the State of New Mexico Medical Assistance Division attached as **Exhibits A-1 through A-7**.
- B. The Navajo Nation authorizes the President of the Navajo Nation to sign the Provider Participation Agreement on page 14 of the attached as **Exhibits A-1 through A-7.**







Return completed application to: THIS AGREEMENT IS FOR GROUPS, ORGANIZATIONS, OR INDIVIDUAL APPLICANTS TO WHOM New Mexico Medicaid Project PAYMENTS WILL BE MADE. IF THE APPLICANT IS AN INDIVIDUAL APPLYING FOR A PROVIDER NUMBER Conduent ONLY FOR IDENTIFYING SERVICES BILLED THROUGH A GROUP PRACTICE OR OTHER ORGANIZATION P.O. Box 27460 AND PAYMENTS WILL BE MADE TO THAT GROUP OR ORGANIZATION, THIS FORM SHOULD NOT BE Albuquerque, NM 87125-7460 USED. USE FORM MAD 312 INSTEAD. (3) Primary Taxonomy (2) National Provider Identifier (NPI) (1) NM Medicaid Number (if previously assigned) 1427656065 Substance Abuse Rehabilitation Treatment, Adult (4) Applicant Name (for individuals - must match license name) Professional Title (MD, DDS, etc) Middle Initial Last Name (5) Business Name (DBA) (6) Federal Tax (Legal) Name **Chinle Adult Residential Treatment** The Navajo Nation (7) Physical Street Address where services are rendered (PO BOX NOT ACCEPTED) City State Zip Code County **NAVAJO ROUTE 7, DUPLEX UNIT 2004** Chinle ΑZ 86503 Apache (8) Billing Office Address(MAY BE PO BOX) City State Zip Code PO Box 777 Chinle AZ 86503 (9) Mailing Address for official correspondence (MAY BE PO BOX) City State Zip Code 86515 PO Box 709 Window Rock AZ (10) Fax Number (11) Billing Office Phone (12) Location Phone (REQUIRED) (928)729-4012 (928)871-6456 (928)871-6235 (13) Mailing Email Address (14) Billing Office Email Address (15) Location / Provider Email Address mbrandser@navajo-nsn.gov mbrandser@navajo-nsn.gov Window Rock, Arizona ☐ Individual / sole proprietor ☐ Corporation Partnership / Professional Association (16) Business Type ☐ Limited Liability Company Non-corporate Business Entity / Other Government Entity or Public School (17) Provider Type (see (18) Provider (19) License Information (20) (REQUIRED) Individual Provider's **Expiration Date** Social Security Number Date of Birth attached list) Specialty (see attached list) 221 100 (22) Are NM CRS tax (24) Federal Tax (21) NM CRS (Tax & (23) Select one: (25) Are federal tax payments payments current? If not, Revenue) Number (If for profit Number / FEIN (attach current? If not, attach an explanation. П services are provided in attach an explanation. IRS letter) YES X not-for-profit (attach YES NM) 86-0092335 □ NO 501(c)3) NO (26) DEA Number (attach copy) (27) CLIA Number (attach copy) (28) NCPDP/NABP Number (pharmacies only) (29) IHS Certified or Tribal 638 Contracted Program? YES □ NO (If YES, attach copy of certification or contract) (30) Title XVIII Medicare Certified? (31) Fiscal Year End Month YES M NO (If YES, attach copy of letter) December (32) JCAHO Certified? YES NO (If YES, attach copy of letter) (If YES, attach copy of letter) (33) Other Certification? YES | NO 🔽 Certified by: (34) To be completed by physicians (provider type 301 or 302) only: (If Certified, attach copy of certificate; if Not Certified or if Eligible for Certification, attach proof of residency completion / training in your specialty area) Certified Not certified Eligible for certification Board certified in the provider specialty listed in box 18? (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, Title Prov. Specialty NM Medicaid Prov. No. Type (36) If services have already been rendered to a NM Medicaid recipient, please enter Date of Service and attach copy of claim:





DIEZKINEZI					
(37) To be completed by out-of-	state providers only:	Hama State	Medicaid Provider Numb	0.5	
Name of Entity / Individual The Nava	ijo Nation		86-0092335	NPI 142765606	5
	Questic	on 1 to be	answered by all pr	oviders.	
Has the provider, or is an agent or mana.	any person who has	s ownership e provider, b	or control interest in the	ne provider, or any person who ninal offense related to that	YES 🔲
person's involveme	nt in any program ur	nder Medicai	re, Medicaid, or the Title	e XX services program since the	NO 🖬
use additional page:	rograms? if yes, giv s if necessary:	e the name(:	s) or person(s) and des	cription(s) of offense(s). Please	_
Name	Social	Date of			
	Security Number	Birth		Description	
	Number				
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DIFARIMINI			
Name of Entity / Individual The Navajo Nation	EIN / SSN 86-0092335	NPI 174040	0365
Question 2 is to be ans	wered by all providers, including	g non-profit organizations a	nd charities.
operational or managerial control over	a "general manager, business manager, er, or who directly or indirectly conduct Managing employees are in a position verning boards, or board of directors.	s the day-to-day operations of an ir	nstitution, organization,
Federal regulation requires pages if necessary:	the following information to be disclose	ed 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		
Miranda Blatchford	PO BOX Chinle, AZ 86503		





DIVERTS INT					
Name of Entity / Individual		EIN / SSN			NPI
The Navajo Natio			86-00923		1427656065
Questions 3 – 5	to be answer	ed by all provid	ers EXCEPT	individual practition	ners.
<ol> <li>Provide the name and address any subcontractor in which necessary:</li> </ol>	ess of each person the provider has d	(individual or corpo irect or indirect owne	ration) with an o ership of five pe	ownership or control intere rcent or more. Please use a	st in the provider or in additional pages if
NAME		ADDRESS		SOCIAL SECURITY NUMBER (IF INDIVIDUAL) OR TAX ID (IF NOT AN INDIVIDUAL)	DATE OF BIRTH (FOR INDIVIDUALS)
A. The Navajo Nation	PO Box 7440 Window Rock	, Arizona			
	86515				
В.					
C.					
<b>o</b> .					
D.					
			_		
Е.					
<ol> <li>Is any person named in question of person(s) and relationship(s person listed in question #3 by</li> </ol>	). Please use addition	onal pages if necessar	, child, or sibling y. <i>NOTE: Design</i>	ate relationship to each	YES NO
NAME				RELATIONSHIP	





		-	
Name of Entity / Individual The Navajo Nation	EIN / SSN	86-0092335	NPI 1427656065
5. Does any person (individual or corporation) no other Medicaid provider or in [any entity that cownership 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 provider identification number(s) and address necessary:	es not participate in Me participation in any of the participation in any fec ledicare Part B; Medicar XXI of the Social Securi	dicaid but is required to disclose c te programs established under Title deral, state, or jointly funded health re Part C; Medicare Part D; CHAMP tv Act.) If ves. give the name(s). Me	ertain  V, XVIII, care US; and dicaid
NAME		ADDRESS	MEDICAID PROVIDER NUMBER





Name of Entity / Individual The Navajo Nation	86-0092335	1427656065	APPLICANT INITAL HERE  CERTIFYING YOU HAVE READ AND UNDERSTAND THE INFORMATION ON THIS PAGE
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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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Name of Entity / Individual
The Navajo Nation

EIN / SSN 86-0092335

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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 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 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.
- (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,
- 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





- 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.

- 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. 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.
- 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





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 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
- 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.

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





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 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.
- (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.
- 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.
- 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

# 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 seg.; 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

PROVIDER.





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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
- 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

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 <a href="http://www.insurenewmexico.state.nm.u">http://www.insurenewmexico.state.nm.u</a>

#### 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

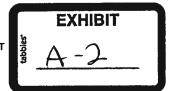
This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter contained in this AGREEMENT, and all such covenants, agreements, and understandings have been merged into this AGREEMENT. No prior agreement, covenants, or understandings, 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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A) Have you ever had a license revoked, su		YES	<u>x</u> _NO	 Initial_		
B) Have you ever been convicted of any cr			 YE\$	x_NO	Initial_	
C) Have you or any ever been excluded or : Title XVIII (Medicare), Title XIX (Me		rogram?	YE\$	χNΟ	Initial	
If YES to any of the above three questions, which handled the matter; any precinct cas	, attach a brief statement of situat se identification, and the adjudica	ion; date; ci tion or othe	ity, county a er result.	nd profes	ssional ass	sociation or court
New Mexico Medicaid project staff may r telephone number.	need to contact you regarding t	he completi	ion of this f	orm. Plea	ase list co	ntact person and
Contact Person: Dr. Michelle Brandse	er Teleph	one Numbe	er: (928)87	71-6240	<u> </u>	
Whoever knowingly and willfully makes or car applicable federal or State laws. In addition, k denial of a request to participate or, where the	enowingly and willfully failing to full	y and accura	ately disclose	the infor	mation requ	uested may result in
INDIVIDUAL PROVIDER:	Original signature required. Plea	ase use blue	ink only.			
I understand that payment of claims prosecuted under federal and state		s and that ar	ny falsification	n or conce	ealment of	a material fact may b
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Signature of Individual Practitioner:				Date:		
FACILITIES AND NON-PRACTITIONER ORGAN						
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Printed Name of Authorized Representative:	Jonathan Nez			<del>.</del>		
Title / Position:	Navajo Nation President					
Address:	PO BOX 7440; Window Roc	k, AZ 865	515			
Telephone Number:	(928)871-7000					
Signature of Authorized Representative:			_	_ Date:		
	FOR STATE PURPOS	ES ONLY:	:			
HUMAN SERVICES DEPARTMENT A	PPROVAL					
APPROVED	NOT APPROVED					
Reasons Not Approved:						
Dates of Agreement: From:			-			
Authorized Signature			Date			ı
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Return completed application to:



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 AND PAYMENTS WILL BE MADE TO THAT GROUP OR ORGANIZATION, THIS FORM SHOULD NOT BE USED. USE FORM MAD 312 INSTEAD.							New Mexico Medicaid Conduent P.O. Box 2746 Albuquerque, NM 871:	Project 0	
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(4) Applicant Name (for indi- First Name	Middle li			Last Name				Professional Title (I	vID, DDS, etc)
(5) Business Name (DBA) Fort Defiance	Outpatient 1	reatment	Center	(6) Federal	ľax (Lega		e Navajo N	lation	
(7) Physical Street Address .5 MILES SW OF TH					c ort Def	ity	State AZ	Zip Code <b>86504</b>	County Apache
			DE BLDG #0		nt Dei			· · · · · · · · · · · · · · · · · · ·	
(8) Billing Office Address(M PO BOX 1490	AY BE PO BO	<b>X</b> )		City Fo	rt Def	iance	State AZ	86504	ode
(9) Mailing Address for office PO Box 709	ial correspon	dence (MAY	BE PO BOX)		City <b>Vindo</b>	w Rock	State AZ	865	Zip Code 15
(10) Fax Number (928)871-6456		(11) Billing (928)87	Office Phone 1-6235			(12) Location (928)72	on Phone (R 9-4012	EQUIRED)	
(13) Mailing Email Address mbrandser@navajo	-nsn.gov		Office Email Ad Iser@navajo				on/Provide / Rock, A	r Email Address Arizona	
(16) Business Type	Individual / s	ole propriet	or 🔲 (	Corporation			☐ Partr	ership / Professiona	I Association
	Limited Liabi	ility Compar	ıy 🗆 P	Non-corporate Bi	usiness E	ntity / Other	⊠ G	overnment Entity or I	ublic School
(17) Provider Type (see attached list) 221	(18) Provid Specialty (s attached lis	see	(19) License In Number	nformation State	Expir	ation Date		UIRED) Individual Pr curity 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	rrent? If no planation.			Numbe IRS let	ederal Tax er / FEIN (atta ter) 092335	ich cur	Are federal tax pay rent? If not, attach a YES	
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(29) IHS Certified or Tribal 6	38 Contracted	Program?			<u> </u>				
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(32) JCAHO Certified?	YES	NO (If	YES, attach copy	of letter)					
(33) Other Certification?	YE	s 🗆	NO 🕢 (If	YES, attach copy	of letter)	Certified	by:		
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(35) Identify individuals who additional space is needed)						•	ganization:	·	ate page if
Individual's Name, Tit	tle	Prov. Type	Specialty	NM Medicaid	Prov. No	•		NPI	
(36) If services have already		ed to a NM M	ledicaid recipient	t, please enter Da	te of Ser	vice and atta	ich copy of	claim:	





(37) To be completed by out-of-sta	te providers only:	: Home State	Medicaid Provider Number	r:					
Name of Entity / Individual The Navajo Nation			EIN / SSN 86-0092335	NPI 1740400365					
Question 1 to be answered by all providers.									
is an agent or managir person's involvement	ng employee of the in any program of grams? If yes, gi	he provider, i under <b>M</b> edica	been convicted of a crimi 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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Question 2 is to be an	swered by a	all providers,	including no	n-profit organizations	and charities.
Definition: A managing employee is operational or managerial control or agency." (42 CFR section 455.10 operations and includes officers, g	over, or who dir 1) Managing e	ectly or indirect mployees are in	ly conducts the a position to ex-	day-to-day operations of ar	institution, organization,
Federal regulation require pages if necessary:	es the following	g information to	be disclosed on	all managing employees. P	Please use additional
NAME		ADDRESS		SOCIAL SECURITY NUMBER	DATE OF BIRTH
Dr. Michelle Brandser	PO BOX Window 86515	Rock, Arizona			
Miranda Blatchford	PO BOX Chinle, A 86503				





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Name of Entity / Individual The Navajo Natio	on	EIN / SSN	86-00	09233		NPI 1740400	)365
Questions 3 - F	to be answer	ed hy all i	providers EXC	EPT I	ndividual practition	ners.	
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NAME		ADDRES	SS		SOCIAL SECURITY NUMBER (IF INDIVIDUAL) OR TAX ID (IF NOT AN INDIVIDUAL)	DATE OF B	
A. The Navajo Nation	PO Box 7440 Window Rock, 86515	, Arizona					
В.							
C.							
D.							
E.							
4. Is any person named in question of person(s) and relationship(see person listed in question #3 by	s). Please use additio	onal pages if			e relationship to each		
NAME					RELATIONSHIP		





Name of Entity / Individual The Navajo Nation		EIN /	86-0092335	NPI 1740400365
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	does not pa f participati les participa Medicare F id XXI of the	rticipat ion in a ation in Part B; M Social	As have an ownership or control interest in any e in Medicaid but is required to disclose certain my 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 d provider or entity. Please use additional pages if	YES
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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 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.
- (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,
- 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 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.
- 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





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 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 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.

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 \RTMENT 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 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.

  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
- (A) Misrepresents, by commission or omission, any information on the AGREEMENT enrollment form.

care PROVIDER entity:

- (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.
- (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.
- 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

# 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

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 <a href="http://www.insurenewmexico.state.nm.u">http://www.insurenewmexico.state.nm.u</a> 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

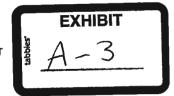
This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter contained in this AGREEMENT, and all such covenants, agreements, and understandings have been merged into this AGREEMENT. No prior agreement, covenants, or understandings, 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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A) Have you ever had a license revoked, s		YE:	s <u>x</u> NO	Initial				
B) Have you ever been convicted of any c	riminal offense?	YE	s <u>x</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?YESXNOInitial								
If YES to any of the above three questions which handled the matter; any precinct case	, attach a brief statement of situa se identification, and the adjudica	tion; date; city, co ation or other resu	ounty and profesult.	ssional association or court				
New Mexico Medicaid project staff may telephone number.	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 Brandse	erTeleph	one Number: (S	28)871-6240	)				
Whoever knowingly and willfully makes or ca applicable federal or State laws. In addition, I denial of a request to participate or, where the	mowingly and willfully failing to full	ly and accurately d	lisclose the infor	mation requested may result in				
INDIVIDUAL PROVIDER:	Original signature required. Ple	ase use blue ink oi	nly.					
I understand that payment of claims prosecuted under federal and state		s and that any fals	ification or conc	ealment of a material fact may be				
Printed Name of Individual Practitio	ner:							
Signature of Individual Practitioner:			Date:					
FACILITIES AND NON-PRACTITIONER ORGA	NIZATIONS:							
I understand that payment of claims prosecuted under federal and state		s and that any fals	ification or conc	ealment of a material fact may be				
Printed Name of Authorized Representative:	Jonathan Nez			44)				
Title / Position:	Navajo Nation President			190090109				
Address:	PO BOX 7440; Window Roo	ck, AZ 86515						
Telephone Number:	(928)871-7000							
Signature of Authorized Representative:								
	FOR STATE PURPOS	SES ONLY:						
HUMAN SERVICES DEPARTMENT A	PPROVAL							
APPROVED	NOT APPROVED		_					
Reasons Not Approved:								
Dates of Agreement: From:								
Authorized Signature		<del></del>	Date					
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Return completed application to:



County

THIS AGREEMENT IS FOR GROUPS, ORGANIZATIONS, OR INDIVIDUAL APPLICANTS TO WHOM New Mexico Medicaid Project 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 Conduent P.O. Box 27460 AND PAYMENTS WILL BE MADE TO THAT GROUP OR ORGANIZATION, THIS FORM SHOULD NOT BE Albuquerque, NM 87125-7460 USED. USE FORM MAD 312 INSTEAD. (1) NM Medicaid Number (if previously assigned) (2) National Provider Identifier (NPI) 61735809 1588928788 Community/Behavioral Health (4) Applicant Name (for individuals - must match license name) Professional Title (MD, DDS, etc) Middle Initial Last Name First Name (5) Business Name (DBA) (6) Federal Tax (Legal) Name **Gallup Outpatient Treatment Center** The Navajo Nation (7) Physical Street Address where services are rendered (PO BOX NOT ACCEPTED) City State Zip Code NM 87301 300 West Nizhoni Blvd. Suite A Gallup McKinley (8) Billing Office Address(MAY BE PO BOX) Zip Code State **PO BOX 709** Window Rock 86515 ΑZ (9) Mailing Address for official correspondence (MAY BE PO BOX) Zip Code City State PO Box 709 Window Rock AZ 86515 (10) Fax Number (11) Billing Office Phone (12) Location Phone (REQUIRED) (928)871-6456 (928)871-6235 (505)722-9470

(13) Mailing Email Address (14) Billing Office Email Address (15) Location / Provider Email Address mbrandser@navajo-nsn.gov mbrandser@navajo-nsn.gov Window Rock, Arizona Corporation Partnership / Professional Association ☐ Individual / sole proprietor (16) Business Type ☐ Limited Liability Company ☐ Non-corporate Business Entity / Other ☑ Government Entity or Public School (17) Provider Type (see (18) Provider (19) License Information (20) (REQUIRED) Individual Provider's Date of Birth attached list) Specialty (see Number State **Expiration Date** Social Security Number 221 attached list) 100 (22) Are NM CRS tax (21) NM CRS (Tax & (23) Select one: (24) Federal Tax (25) Are federal tax payments ☐ for profit payments current? If not, Number / FEIN (attach current? If not, attach an explanation. Revenue) Number (If services are provided in attach an explanation. IRS letter) YES X YES not-for-profit (attach 86-0092335 □ NO 501(c)3) NO (28) NCPDP/NABP Number (pharmacies only) (26) DEA Number (attach copy) (27) CLIA Number (attach copy) (29) IHS Certified or Tribal 638 Contracted Program? X YES ☐ NO (If YES, attach copy of certification or contract) (30) Title XVIII Medicare Certified? (31) Fiscal Year End Month (If YES, attach copy of letter) YES П December (32) JCAHO Certified? YES NO (If YES, attach copy of letter) (33) Other Certification? YES | (If YES, attach copy of letter) Certified by: NO 🔽 (34) To be completed by physicians (provider type 301 or 302) only: (If Certified, attach copy of certificate; if Not Certified or if Eligible for Certification, attach proof of residency completion / training in your specialty area) Not certified Certified Board certified in the provider specialty listed in box 18? Eligible for certification (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. Title Prov. Specialty NM Medicaid Prov. No. NPI Type (36) If services have already been rendered to a NM Medicaid recipient, please enter Date of Service and attach copy of claim:





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(37) To be completed by out-of-	state providers only:	Home State	Medicaid Provider Numb	er:	
Name of Entity / Individual The Nava	ajo Nation		EIN / SSN 86-0092335	NPI 15889257	88
	Questi	on 1 to be	answered by all pr	oviders.	
is an agent or mana person's involveme	ging employee of th nt in any program u programs? If yes, giv	ne provider, Inder Medica	been convicted of a crin are, Medicaid, or the Title	ne provider, or any person who ninal offense related to that e XX services program since the cription(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 Nation		EIN / SSN 86-0092		NPI	158892	5788
Question 2 is to be an	swered by a	all providers, in	cluding non-	profit organiz	ations a	nd charities.
Definition: A managing employee is operational or managerial control o or agency." (42 CFR section 455.10 operations and includes officers, go	ver, or who dii 1) Managing ei	rectly or indirectly mployees are in a p	conducts the da osition to exert	y-to-day operation	ns of an i	istitution, organization,
Federal regulation require pages if necessary:	s the following	g information to be	disclosed on a	ll managing emplo	oyees. Ple	ase use additional
NAME		ADDRESS		SOCIAL SECTION		DATE OF BIRTH
Dr. Michelle Brandser	PO BOX Window 86515	Rock, Arizona				
Vera John	Gallup Ne 87301	w Mexico				
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Name of Entity / Individual		EIN / SSN				NPI
The Navajo Natio	on		8	6-00923	35	1588925788
Questions 3 – 5	5 to be answer	ed by all i	oroviders	EXCEPT	individual practition	ners.
Provide the name and addr any subcontractor in which necessary:	ess of each persor	ı (individual e	or corporation	n) with an o	wnership or control intere	st in the provider or in
NAME		ADDRES	SS	·	SOCIAL SECURITY	DATE OF BIRTH
					NUMBER (IF INDIVIDUAL) OR TAX ID (IF NOT AN INDIVIDUAL)	(FOR INDIVIDUALS)
A.						
The Navajo Nation	PO Box 7440					
	Window Rock 86515	, Arizona				
	00313					
В.						-
C.						
D.	-					
E.						
	1					
4. Is any person named in questi	ion #3 rolated to	thor or	9 mare-4 -1-11	1 as a 15 (1).	O If was privated	VE 2
<ol> <li>Is any person named in questi of person(s) and relationship(s person listed in question #3 by</li> </ol>	s). Please use additi	onal pages if	e, parent, child necessary. <i>NO</i>	a, or sibling TE: Designa	र ।र yes, give the name(s) ate relationship to each	YES NO
NAME					RELATIONSHIP	





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			<del></del>				
5. Does any person (individual or corporation) n							YES
other Medicaid provider or in [any entity that on the control information because o	does not pa	rticipate in	Medicaid but	is required to	disclose certain	/III	NO 🗖
or XX of the Social Security Act?] (This include	des particip	ation in any	/ federal, state	, or jointly fur	ided healthcare		NO X
programs such as Medicaid; Medicare Part A; programs established under parts XIX, XX, an	Medicare F	Part B; Med	icare Part C; N	Medicare Part	D; CHAMPUS; an ame(s) Medicaid	nd	
provider identification number(s) and address	s(es) of the	Medicaid p	rovider or enti	ty. Please use	additional page	sif	
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CERTIFYING YOU HAVE READ AND UNDERSTAND THE INFORMATION ON THIS PAGE

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





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 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,
- 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.

- Upon closure of office or 1.18. 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.
- 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.
- 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 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.
- 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 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 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.

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 \RTMENT 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





Name of Entity / Individual The Navajo Nation 86-009	CERTIFYING Y	ITAL HERE OU HAVE READ AND THE INFORMATION ON
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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 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
- (A) Misrepresents, by commission or omission, any information on the AGREEMENT enrollment form.

care PROVIDER entity:

- (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.
- (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





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

### 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 seg.; 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

PROVIDER.





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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 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
- 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 <a href="http://www.insurenewmexico.state.nm.u">http://www.insurenewmexico.state.nm.u</a> <a href="https://www.insurenewmexico.state.nm.u">http://www.insurenewmexico.state.nm.u</a> <a href="https://www.insurenewmexico.state.nm.u">https://www.insurenewmexico.state.nm.u</a> <a href="https://www.insurenewmexico.state.nm.u]</a>

### **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

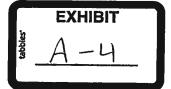
This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter contained in this AGREEMENT, and all such covenants, agreements, and understandings have been merged into this AGREEMENT. No prior agreement, covenants, or understandings, 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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A) Have you ever had a license revoked, su	uspended or denied in any state?		YES .	x_NO	Initial	
B) Have you ever been convicted of any co	riminal offense?		YES .	X_NO	Initial	
C) Have you or any ever been excluded or Title XVIII (Medicare), Title XIX (Me		ogram?	_YES	×ΝΟ	Initial	
If YES to any of the above three questions, which handled the matter; any precinct cas	attach a brief statement of situat se identification, and the adjudica	ion; date; city tion or other r	county and	d profes	sional associa	tion or court
New Mexico Medicaid project staff may retelephone number.	need to contact you regarding t	ne completion	of this for	m. Plea	se list contac	t person and
Contact Person: Dr. Michelle Brandse	er <u>Teleph</u>	one Number:	(928)871	1-6240		<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	ise use blue ini	conly.			
I understand that payment of claims prosecuted under federal and state		and that any t	alsification	or conce	alment of a mat	erial fact may be
Printed Name of Individual Practition	ner:					
Signature of Individual Practitioner:				_ Date: _		
FACILITIES AND NON-PRACTITIONER ORGANIZATIONS:						
I understand that payment of claims prosecuted under federal and state		and that any f	alsification (	or conce	alment of a mat	erial fact may be
Printed Name of Authorized Representative:	Jonathan Nez					
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:				
HUMAN SERVICES DEPARTMENT A	PPROVAL					
APPROVED	NOT APPROVED					
Reasons Not Approved:						
Dates of Agreement: From:	<u> </u>					
Authorized Signature		··	Date		1	





Return completed application to:



THIS AGREEMENT IS FOR GROUPS, ORGANIZATIONS, OR INDIVIDUAL APPLICANTS TO WHOM New Mexico Medicaid Project PAYMENTS WILL BE MADE. IF THE APPLICANT IS AN INDIVIDUAL APPLYING FOR A PROVIDER NUMBER Conduent ONLY FOR IDENTIFYING SERVICES BILLED THROUGH A GROUP PRACTICE OR OTHER ORGANIZATION P.O. Box 27460 AND PAYMENTS WILL BE MADE TO THAT GROUP OR ORGANIZATION, THIS FORM SHOULD NOT BE Albuquerque, NM 87125-7460 USED. USE FORM MAD 312 INSTEAD. (2) National Provider Identifier (NPI) (3) Primary Taxonomy (1) NM Medicaid Number (if previously assigned) Community/Behavioral Health 1316129216 (4) Applicant Name (for individuals - must match license name) Professional Title (MD, DDS, etc) Middle Initial Last Name (6) Federal Tax (Legal) Name (5) Business Name (DBA) The Navajo Nation **Newlands Outpatient Treatment Center** (7) Physical Street Address where services are rendered (PO BOX NOT ACCEPTED) State Zip Code County City 1/4 MILES SOUTH OF SANDERS HIGH SCHOOL, SHONDIIN St. Newland ΑZ 86512 Apache (8) Billing Office Address(MAY BE PO BOX) State Zip Code Newland AZ 86512 **PO BOX 1086** (9) Mailing Address for official correspondence (MAY BE PO BOX) City State Zip Code 86515 Window Rock AZ PO Box 709 (12) Location Phone (REQUIRED) (10) Fax Number (11) Billing Office Phone (928)871-6456 (928)871-6235 (928)688-3475 (14) Billing Office Email Address (15) Location / Provider Email Address (13) Mailing Email Address mbrandser@navajo-nsn.gov mbrandser@navajo-nsn.gov Window Rock, Arizona Individual / sole proprietor Corporation ☐ Partnership / Professional Association (16) Business Type ☐ Non-corporate Business Entity / Other ☐ Limited Liability Company Government Entity or Public School (18) Provider (19) License Information (20) (REQUIRED) Individual Provider's (17) Provider Type (see **Expiration Date** Social Security Number Date of Birth Specialty (see Number attached list) attached list) 221 100 (22) Are NM CRS tax (24) Federal Tax (21) NM CRS (Tax & (23) Select one: (25) Are federal tax payments ☐ for profit current? If not, attach an explanation. Revenue) Number (If payments current? If not, Number / FEIN (attach services are provided in attach an explanation. IRS letter) YES X not-for-profit (attach YES NM) 86-0092335 □ NO 501(c)3) NO (26) DEA Number (attach copy) (27) CLIA Number (attach copy) (28) NCPDP/NABP Number (pharmacies only) (29) IHS Certified or Tribal 638 Contracted Program? (If YES, attach copy of certification or contract) X YES ☐ NO (31) Fiscal Year End Month (30) Title XVIII Medicare Certified? YES M NO (If YES, attach copy of letter) December (32) JCAHO Certified? YES NO (If YES, attach copy of letter) (33) Other Certification? YES | NO 🔽 (If YES, attach copy of letter) Certified by: (34) To be completed by physicians (provider type 301 or 302) only: (If Certified, attach copy of certificate; if Not Certified or if Eligible for Certification, attach proof of residency completion / training in your specialty area) Not certified Certified Eligible for certification Board certified in the provider specialty listed in box 18? (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, Title Prov. Specialty NM Medicaid Prov. No. Type (36) If services have already been rendered to a NM Medicaid recipient, please enter Date of Service and attach copy of claim:





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(37) To be completed by out-of	-state providers only:	Home State I	Medicaid Provider Numbe		
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	Questic	on 1 to be	answered by all pro	oviders.	
is an agent or mana person's involveme	aging employee of the ent in any program u programs? If yes, giv	e provider, b nder Medicar	or control interest in th een convicted of a crim e, Medicaid, or the Title s) of person(s) and desc	inal offense re XX services p	lated to that rogram since the
Name	Social Security Number	Date of Birth		Descri	ption
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Question 2 is to be ans	wered by all providers, including nor	n-profit organizations a	and charities.
operational or managerial control ov or agency." (42 CFR section 455.101)	a "general manager, business manager, adminer, or who directly or indirectly conducts the office of the managing employees are in a position to exeverning boards, or board of directors.	day-to-day operations of an i	institution, organization,
Federal regulation requires pages if necessary:	the following information to be disclosed on	all managing employees. Ple	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		





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Name of Entity / Individual The Navajo Natio		EIN / SSN	86-00923		NPI 1316129216
Questions 3 – 5	5 to be answer	ed by all provid	ers EXCEPT	individual practition	ners.
3. Provide the name and addr any subcontractor in which necessary:	ess of each person	(individual or corpo	oration) with an o	ownership or control interes	st in the provider or in
NAME		ADDRESS		SOCIAL SECURITY NUMBER (IF INDIVIDUAL) OR TAX ID (IF NOT AN INDIVIDUAL)	DATE OF BIRTH (FOR INDIVIDUALS)
A. The Navajo Nation	PO Box 7440 Window Rock, 86515	, Arizona			
В.					
C.					
D.					
E.					
<ol> <li>Is any person named in questi of person(s) and relationship(s person listed in question #3 by NAME</li> </ol>	s). Please use addition	onal pages if necessa	t, child, or sibling ry. <i>NOTE: Design</i>	? If yes, give the name(s) ate relationship to each RELATIONSHIP	YES NO
MANIE		ı		NELATIONOMIC	





Name of Entity / Individual The Navajo Nation	EIN / SSN 86-0092335	NPI 1316129216
other Medicaid provider or in [any entity that of ownership and control information because or or XX of the Social Security Act?] (This includ programs such as Medicaid; Medicare Part A; programs established under parts XIX, XX, an	med in question #3 have an ownership or control interest in any ones not participate in Medicaid but is required to disclose certain 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 I 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	YES NO
NAME	ADDRESS	MEDICAID PROVIDER NUMBER
	_	





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The Navajo Nation

86-0092335

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CERTIFYING YOU HAVE READ AND UNDERSTAND THE INFORMATION ON THIS PAGE

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 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.
- (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.

Render covered services to

1.15.

regulations.

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

- 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 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.

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 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.
- 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 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 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.

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 DFP \RTMFNT 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





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 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

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- 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





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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.
- 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
- 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

- 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.
- 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
  - (A) accepted health insurance
- (B) declined health insurance due to other health insurance coverage already in place; or

employees who have:

- (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 <a href="http://www.insurenewmexico.state.nm.u">http://www.insurenewmexico.state.nm.u</a>

### **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

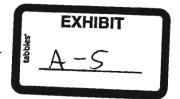
This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter contained in this AGREEMENT, and all such covenants, agreements, and understandings have been merged into this AGREEMENT. No prior agreement, covenants, or understandings, 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	lation	EIN / SSN 86-0092335	1316129216
A) Have you ever had a license revoked, su	uspended or denied in any state?	YES _x_NO	Initial
B) Have you ever been convicted of any cr	riminal offense?	YESX_NO	Initial
C) Have you or any ever been excluded or Title XVIII (Medicare), Title XIX (Me	dicaid) or any other health care p		Initial
If YES to any of the above three questions, which handled the matter; any precinct case	, attach a brief statement of situations identification, and the adjudica	tion; date; city, county and profe ation or other result.	essional association or court
New Mexico Medicaid project staff may relephone number.	need to contact you regarding t	he completion of this form. Pla	ease list contact person and
Contact Person: Dr. Michelle Brandse	r Teleph	none Number: (928)871-624	0
Whoever knowingly and willfully makes or ca applicable federal or State laws. In addition, k denial of a request to participate or, where the	enowingly and willfully failing to full	ly and accurately disclose the info	rmation requested may result in
INDIVIDUAL PROVIDER:	Original signature required. Plea	ase use blue ink only.	
I understand that payment of claims prosecuted under federal and state		s and that any falsification or con	cealment of a material fact may be
Printed Name of Individual Practition	ner:		
Signature of Individual Practitioner:		Date	Y
FACILITIES AND NON-PRACTITIONER ORGA			
I understand that payment of claims prosecuted under federal and state		s and that any falsification or con	cealment of a material fact may be
Printed Name of Authorized Representative:	Jonathan Nez		
Title / Position:	Navajo Nation President		
Address:	PO BOX 7440; Window Roo	ck, AZ 86515	
Telephone Number:	(928)871-7000		
Signature of Authorized Representative:		Date:	
	FOR STATE PURPOS	SES ONLY:	
HUMAN SERVICES DEPARTMENT A	PPROVAL		
APPROVED	NOT APPROVED		
Reasons Not Approved:			
Dates of Agreement: From:			
Authorized Signature		Date	







Return completed application to: THIS AGREEMENT IS FOR GROUPS, ORGANIZATIONS, OR INDIVIDUAL APPLICANTS TO WHOM New Mexico Medicaid Project PAYMENTS WILL BE MADE. IF THE APPLICANT IS AN INDIVIDUAL APPLYING FOR A PROVIDER NUMBER Conduent ONLY FOR IDENTIFYING SERVICES BILLED THROUGH A GROUP PRACTICE OR OTHER ORGANIZATION P.O. Box 27460 AND PAYMENTS WILL BE MADE TO THAT GROUP OR ORGANIZATION, THIS FORM SHOULD NOT BE Albuquerque, NM 87125-7460 USED. USE FORM MAD 312 INSTEAD. (2) National Provider Identifier (NPI) (3) Primary Taxonomy (1) NM Medicaid Number (if previously assigned) Community/Behavioral Health 1316545940 (4) Applicant Name (for individuals - must match license name) Professional Title (MD, DDS, etc) Last Name Middle Initial **First Name** (5) Business Name (DBA) (6) Federal Tax (Legal) Name The Navajo Nation Red Mesa Outpatient Treatment Center Zip Code (7) Physical Street Address where services are rendered (PO BOX NOT ACCEPTED) City State County ΑZ 86514 Apache Red Mesa **US HWY 160 & NAVAJO ROUTE 35** Zip Code (8) Billing Office Address(MAY BE PO BOX) City State **Shiprock** NM 87420 PO BOX 1830 Zip Code State (9) Mailing Address for official correspondence (MAY BE PO BOX) City 86515 PO Box 709 Window Rock AZ (11) Billing Office Phone (12) Location Phone (REQUIRED) (10) Fax Number (928)871-6456 (928)871-6235 (928)688-3475 (14) Billing Office Email Address (15) Location / Provider Email Address (13) Mailing Email Address mbrandser@navajo-nsn.gov mbrandser@navajo-nsn.gov Window Rock, Arizona ☐ Individual / sole proprietor Corporation Partnership / Professional Association (16) Business Type ☐ Limited Liability Company Non-corporate Business Entity / Other Government Entity or Public School (19) License Information (20) (REQUIRED) Individual Provider's (17) Provider Type (see (18) Provider **Expiration Date** Social Security Number Date of Birth attached list) Specialty (see Number 221 attached list) 100 (22) Are NM CRS tax (24) Federal Tax (25) Are federal tax payments (21) NM CRS (Tax & (23) Select one: ☐ for profit payments current? If not, Number / FEIN (attach current? If not, attach an explanation. Revenue) Number (If YES services are provided in attach an explanation. IRS letter) X not-for-profit (attach YES NM) 86-0092335 □ NO 501(c)3) NO (26) DEA Number (attach copy) (27) CLIA Number (attach copy) (28) NCPDP/NABP Number (pharmacies only) (29) IHS Certified or Tribal 638 Contracted Program? YES (If YES, attach copy of certification or contract) (30) Title XVIII Medicare Certified? (31) Fiscal Year End Month (If YES, attach copy of letter) December (32) JCAHO Certified? NO (If YES, attach copy of letter) YES (33) Other Certification? YES | NO 🔽 (If YES, attach copy of letter) Certified by: (34) To be completed by physicians (provider type 301 or 302) only: (If Certified, attach copy of certificate; if Not Certified or if Eligible for Certification, attach proof of residency completion / training in your specialty area) Certified Board certified in the provider specialty listed in box 18? Eligible for certification Not certified (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, Title NM Medicaid Prov. No. NPI Prov. Specialty Type (36) If services have already been rendered to a NM Medicaid recipient, please enter Date of Service and attach copy of claim:





(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	1316545940		
Question 1 to be answered by all providers.						
is an agent or mana	ging employee of the nt in any program u programs? If yes, giv	ne provider, b Inder Medicar	een convicted of a cringe. Medicaid, or the Title	ne provider, or any person who ninal offense related to that e XX services program since the cription(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 Nation	EIN / SSN 86-0092335	NPI 131654	15940
Question 2 is to be ans	wered by all providers, includi	ng non-profit organizations a	nd charities.
operational or managerial control ov or agency." (42 CFR section 455.101)	a "general manager, business manage er, or who directly or indirectly condu ) Managing employees are in a positio verning boards, or board of directors.	cts the day-to-day operations of an i	nstitution, organization,
Federal regulation requires pages if necessary:	the following information to be disclo	sed on all managing employees. Ple	ease use additional
NAME	ADDRESS	SOCIAL SECURITY NUMBER	DATE OF BIRTH
Dr. Michelle Brandser	PO BOX Window Rock, Arizona 86515		
Dr. Sidney Brown	PO Box Shiprock, NM 87420		





18 1 8 1 8 1 1 1					
Name of Entity / Individual		EIN / SSN			NPI
The Navajo Na	tion		86-00923	35	1316545940
Questions 3 -	- 5 to be answer	ed by all provide	rs EXCEPT	individual practition	iers.
Provide the name and ad any subcontractor in white necessary:	dress of each person ch the provider has di	(individual or corpora irect or indirect owner	ation) <b>w</b> ith an o	ownership or control intere rcent or more. Please use a	st in the provider or in dditional pages if
NAME		ADDRESS		SOCIAL SECURITY NUMBER (IF INDIVIDUAL) OR TAX ID	DATE OF BIRTH (FOR INDIVIDUALS)
<b>A</b> .				(IF NOT AN INDIVIDUAL)	
The Navajo Nation	PO Box 7440				
	Window Rock,	, Arizona			
	86515				
В.			<del></del>		
C.					
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E.					
4. Is any person named in que	stion #3 related to see	bor as enouse mare-4	abild or sibline	2 If you give the array(a)	VEO
of person(s) and relationshiperson listed in question #3	p(s). Please use additic	onal pages if necessary.	. NOTE: Designa	ate relationship to each	YES
NAME		·		RELATIONSHIP	NO 🔀





		:		
Name of Entity / Individual The Navajo Nation		EIN	SSN 86-0092335	NPI 1316545940
The Navajo Nation			55 552555	1010010010
other Medicaid provider or in [any entity that d 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	oes not pa participates participates Medicare F I XXI of the	irticipat ion in a ation in Part B; l e 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 NO 5
NAME			ADDRESS	MEDICAID PROVIDER
				NUMBER





Name of Entity / Individual The Navajo Nation	86-0092335	1316545940	APPLICANT INITAL HERE CERTIFYING YOU HAVE READ AND UNDERSTAND THE INFORMATION ON THIS PAGE
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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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The Navajo Nation

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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 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.
- (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,
- 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.

- 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.
- 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.
- 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 (NCOs) 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





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.
- 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 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:

- 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 \RTMENT 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 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





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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.
- 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

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

employees who have:

(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 <a href="http://www.insurenewmexico.state.nm.u">http://www.insurenewmexico.state.nm.u</a> 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

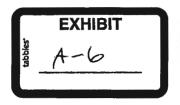
This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter contained in this AGREEMENT, and all such covenants, agreements, and understandings have been merged into this AGREEMENT. No prior agreement, covenants, or understandings, 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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A) Have you ever had a license revoked, su		YE	s <u>x</u> NO	Initial	
B) Have you ever been convicted of any cr	iminal offense?	YE	s <u>x</u> NO	Initial	
C) Have you or any ever been excluded or s Title XVIII (Medicare), Title XIX (Med	suspended from participation in dicaid) or any other health care p	rogram?Y	es <u>x</u> no	Initial	
If YES to any of the above three questions, which handled the matter; any precinct cas	attach a brief statement of situa e identification, and the adjudica	tion; date; city, continued the continued to the city of the city	ounty and profeult.	essional associa	tion or court
New Mexico Medicald project staff may net telephone number.	leed to contact you regarding t	he completion o	f this form. Pl	ease list contac	t person and
Contact Person: Dr. Michelle Brandse	r Telepl	one Number: (	928)871-624	0	
Whoever knowingly and willfully makes or car applicable federal or State laws. In addition, k denial of a request to participate or, where the	nowingly and willfully failing to ful	v and accurately of	disclose the info	rmation requeste	d may result in
INDIVIDUAL PROVIDER:	Original signature required. Ple	ase use blue ink o	nly.		
I understand that payment of claims		s and that any fals	sification or con	cealment of a ma	terial fact may be
Printed Name of Individual Practition	ner:				
Signature of Individual Practitioner:			Date	e:	
FACILITIES AND NON-PRACTITIONER ORGA					
I understand that payment of claims prosecuted under federal and state		s and that any fals	sification or con	cealment of a ma	terial fact may be
Printed Name of Authorized Representative:	Jonathan Nez				
Title / Position:	Navajo Nation President				
Address:	PO BOX 7440; Window Ro	ck, AZ 86515	_		
Telephone Number:	(928)871-7000				
Signature of Authorized Representative:			Date:		
	FOR STATE PURPO	SES ONLY:			
HUMAN SERVICES DEPARTMENT A	PPROVAL				
APPROVED	NOT APPROVED				
Reasons Not Approved:					
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Return completed application to:



THIS AGREEMENT IS FOR GROUPS, ORGANIZATIONS, OR INDIVIDUAL APPLICANTS TO WHOM New Mexico Medicaid Project PAYMENTS WILL BE MADE. IF THE APPLICANT IS AN INDIVIDUAL APPLYING FOR A PROVIDER NUMBER Conduent ONLY FOR IDENTIFYING SERVICES BILLED THROUGH A GROUP PRACTICE OR OTHER ORGANIZATION P.O. Box 27460 AND PAYMENTS WILL BE MADE TO THAT GROUP OR ORGANIZATION, THIS FORM SHOULD NOT BE Albuquerque, NM 87125-7460 USED. USE FORM MAD 312 INSTEAD. (1) NM Medicaid Number (if previously assigned) (2) National Provider Identifier (NPI) (3) Primary Taxonomy 1366040818 Substance Abuse Rehabilitation Treatment, Adult (4) Applicant Name (for individuals - must match license name) Professional Title (MD, DDS, etc) Middle Initial Last Name First Name (6) Federal Tax (Legal) Name (5) Business Name (DBA) The Navajo Nation NRBHC Adult Residential Treatment (7) Physical Street Address where services are rendered (PO BOX NOT ACCEPTED) County City State Zip Code Shiprock NM 87420 San Juan PINON & COTTONWOOD DR BUILDING #2301 City State Zip Code (8) Billing Office Address(MAY BE PO BOX) PO Box 1830 Shiprock NM 87420 City State Zip Code (9) Mailing Address for official correspondence (MAY BE PO BOX) Window Rock 86515 PO Box 709 (12) Location Phone (REQUIRED) (10) Fax Number (11) Billing Office Phone (928)871-6456 (928)871-6235 (505)368-1438 (15) Location / Provider Email Address (13) Mailing Email Address (14) Billing Office Email Address Window Rock, Arizona mbrandser@navajo-nsn.gov mbrandser@navajo-nsn.gov Corporation ☐ Individual / sole proprietor ☐ Partnership / Professional Association (16) Business Type Non-corporate Business Entity / Other ☐ Limited Liability Company Government Entity or Public School (20) (REQUIRED) Individual Provider's (17) Provider Type (see (18) Provider (19) License Information Specialty (see attached list) **Expiration Date** Social Security Number attached list) Number 221 100 (21) NM CRS (Tax & (22) Are NM CRS tax (23) Select one: (24) Federal Tax (25) Are federal tax payments current? If not, attach an explanation. Revenue) Number (If payments current? If not, for profit Number / FEIN (attach attach an explanation. IRS letter) YES services are provided in X not-for-profit (attach YES 86-0092335 □ NO 501(c)3) NO (26) DEA Number (attach copy) (27) CLIA Number (attach copy) (28) NCPDP/NABP Number (pharmacies only) (29) IHS Certified or Tribal 638 Contracted Program? X YES (If YES, attach copy of certification or contract) (30) Title XVIII Medicare Certified? (31) Fiscal Year End Month YES MO K (If YES, attach copy of letter) December (32) JCAHO Certified? П YES NO (If YES, attach copy of letter) YES X NO 🗆 (If YES, attach copy of letter) Certified by: CARF (33) Other Certification? (34) To be completed by physicians (provider type 301 or 302) only: (If Certified, attach copy of certificate; if Not Certified or if Eligible for Certification, attach proof of residency completion / training in your specialty area) Not certified Certified Board certified in the provider specialty listed in box 18? Eligible for certification (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, Title NM Medicaid Prov. No. Prov. Specialty Type (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-sta	te providers only	: Home State	e Medicaid Provider Numbe	er:		
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	Questi	on 1 to be	e answered by all pro	oviders.		
is an agent or managir person's involvement	າg employee of th in any program ເ grams? If yes, gi	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	
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Questions 3 –	5 to be answer	ed by all provid	ers EXCEPT	individual practition	ners.
<ol> <li>Provide the name and add any subcontractor in which necessary:</li> </ol>	lress of each person h the provider has d	i (individual or corpo irect or indirect own	oration) with an o ership 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)
A.				(IF NOT AN INDIVIDUAL)	
The Navajo Nation	PO Box 7440				
	Window Rock	, Arizona			
	86515				
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4. Is any person named in ques	tion #3 related to and	ther as should north	t child or sibling	2 If yes give the name(s)	VES =
of person(s) and relationship person listed in question #3 i	(s). Please use additi	onal pages if necessar	ry. NOTE: Design	ate relationship to each	YES
NAME		-	<u> </u>	RELATIONSHIP	NO 🔀





Name of Entity / Individual	EIN / SSN	NPI
Name of Entity / Individual The Navajo Nation	86-0092335	1366040818
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5. Does any person (individual or corporation) na	med in question #3 have an ownership or control interest in any	YES 🗖
other Medicaid provider or in [any entity that de	es not participate in Medicaid but is required to disclose certain	YES
ownership and control information because of	participation in any of the programs established under Title V, XVIII, s participation in any federal, state, or jointly funded healthcare	NO X
programs such as Medicaid; Medicare Part A; I	Medicare Part B; Medicare Part C; Medicare Part D; CHAMPUS; and	
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necessary:	provide the meaning provider or county, a reason and a county program provides the provider program provides the program provides the p	
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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.
- I.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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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 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.

erroneous or outdated information is the

Any payment made on the basis of

provider and any wholly owned supplier.

- 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 DFP 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.

- (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.

- 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.
- 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.
- 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 care organization (MCO) recoups

- 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.
- 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 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:

- 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 definented by the DEP \RT\IF\T 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 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





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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.
- 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

- 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.
- 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
- 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 <a href="http://www.insurenewmexico.state.nm.u">http://www.insurenewmexico.state.nm.u</a>

#### **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

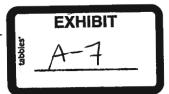
This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter contained in this AGREEMENT, and all such covenants, agreements, and understandings have been merged into this AGREEMENT. No prior agreement, covenants, or understandings, 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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A) Have you ever had a license revoked, su	spended or denied in any state?		YES	<u>x</u> NO	Initial	
B) Have you ever been convicted of any cr	iminal offense?		YE\$	<u>x</u> _NO	Initial	
C) Have you or any ever been excluded or s Title XVIII (Medicare), Title XIX (Medicare)	suspended from participation in dicaid) or any other health care p	rogram?	YE\$	×ΝΟ	Initial	
If YES to any of the above three questions, which handled the matter; any precinct cas	attach a brief statement of situate identification, and the adjudica	tion; date; ition or oth	city, county ner result.	and profe	ssional association or	court
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 Brandse	Teleph	one Num	ber: (928)	871-624	)	
Whoever knowingly and willfully makes or car applicable federal or State laws. In addition, k denial of a request to participate or, where the	nowingly and willfully failing to full	y and accu	rately disclo	se the info	mation requested may	result in
INDIVIDUAL PROVIDER:	Original signature required. Ple	ase use blu	ie ink only.			
I understand that payment of claims prosecuted under federal and state		s and that	any falsificat	ion or cond	ealment of a material fa	act may be
Printed Name of Individual Practition						
Signature of Individual Practitioner: Date:						
FACILITIES AND NON-PRACTITIONER ORGANIZATIONS:						
I understand that payment of claims prosecuted under federal and state		s and that	any falsificat	ion o <b>r c</b> ond	ealment of a material fa	act may be
Printed Name of Authorized Representative:	Jonathan Nez					
Title / Position:	Navajo Nation President					
Address:	PO BOX 7440; Window Roo	ck, AZ 86	6515			_
Telephone Number:	(928)871-7000					_
Signature of Authorized Representative:				Date:_		
	FOR STATE PURPO	SES ONL	Y:			
HUMAN SERVICES DEPARTMENT A	PPROVAL					
APPROVED	NOT APPROVED					
Reasons Not Approved:						
Dates of Agreement: From:						
Authorized Signature			וט	ate		
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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 AND PAYMENTS WILL BE MADE TO THAT GROUP OR ORGANIZATION, THIS FORM SHOULD NOT BE USED. USEF FORM MAD 312 INSTEAD.

Return completed application to: New Mexico Medicaid Project Conduent P.O. Box 27460 Albuquerque NM 87125-7460

USED. USE FORM MAD 312 INS		· Orcorning				Albu	iquerque, ivivi 87	123-7460
(1) NM Medicaid Number (if prev		(2) National Provi	der Identifier (N	IPI)	(3) Primary	Taxonomy		
		10737116	693	1	Substance	e Abuse Reha	abilitation Tre	atment, Child
(4) Applicant Name (for individuals – must match license name)  First Name Middle Initial Last Name Professional Title (MD, DDS, etc)								
(5) Business Name (DBA)			(6) Federal Ta	ax (Legal	I) Name			
NRBHC Adolesce	ent Residential Tre					e Navajo Nati		
(7) Physical Street Address whe PINON & COTTONWO				Shiprock		State NM	Zip Code <b>87420</b>	County San Juan
(8) Billing Office Address(MAY E PO Box 1830	BE PO BOX)		City	hipro	ck	State NM	87420	Code
(9) Mailing Address for official o	correspondence (MA	Y BE PO BOX)		<sub>ity</sub> Vindov	w Rock	State AZ	865	Zip Code
(10) Fax Number (928)871-6456	(928)87	Office Phone 71-6235			(505)368			
(13) Mailing Email Address mbrandser@navajo-ns		g Office Email Addr dser@navajo-				on / Provider Ei / Rock, Ari		
(16) Business Type Ind	lividual / sole propriet	tor Co	rporation			Partners	hip / Profession	al Association
	nited Liability Compa	nv 🗆 No	n-corporate Bus	siness E	ntity / Other	_	rnment Entity or	Public School
(17) Provider Type (see (	18) Provider Specialty (see attached list) 100	(19) License Info Number			ation Date		(ED) Individual F	
Revenue) Number (If pay	21) NM CRS (Tax & (22) Are NM CRS tax (23) Select one: (24) Fe Revenue) Number (If payments current? If not, ervices are provided in attach an explanation.			Numbe IRS lett	deral Tax er / FEIN (atta ter) 092335		re federal tax pa t? If not, attach YES NO	
(26) DEA Number (attach copy)	(27) C	LIA Number (attach	сору)	(28) NC	PDP/NABP	Number (pharn	nacies only)	
(29) IHS Certified or Tribal 638 C	Contracted Program?	<b>⊠</b> Y	res 📋 i	NO			certification or c	ontract)
(30) Title XVIII Medicare Certifie	d? ∕ES ☑ NO	(If YES, attach cop	y of letter)	(31) Fis	scal Year En		mber	
(32) JCAHO Certified?	res 🛣 NO (If	YES, attach copy of	f letter)					
(33) Other Certification?	YES 🗷	NO (If YE	S, attach copy	of letter)	Certified	by: <u>CARF</u>		
(34) To be completed by physic	cians (provider type 3						or if <i>Eligible for</i> training in your	
Board certified in the provider s (35) Identify individuals who wi		18? Certified				Not certified rganization: (P	lease attach sep	arate page if
additional space is needed) Individual's Name, Title	Prov.	Specialty	NM Medicaid	Prov. No	,		NPI	
mulvidual's Name, Title	Type	Specialty			<u></u>			
(36) If services have already be	een rendered to a NM DOS:	Medicald recipient,	please enter Da	ate of Ser	rvice and att	ach copy of cla	im:	





(37) To be completed by out-of-state providers only:  Home State Medicaid Provider Number:					
Name of Entity / Individual The Nava	jo Nation		EIN / SSN 86-0092335	NPI 1073711693	3
	Questi	on 1 to be	answered by all pro	oviders.	
is an agent or manag	ging employee of t nt in any program ι rograms? If yes, gi	he provider, under Medica	been convicted of a crim are, Medicaid, or the Title	ne provider, or any person who ninal offense related to that e XX services program since the cription(s) of offense(s). Please	YES
Name	Social Security Number	Date of Birth		Description	
-					
					-



013 (81 61 61				
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Question 2 is to be	e answered by all	providers, including	non-profit organizations a	nd charities.
operational or managerial cont	rol over, or who direct 5.101) Managing emp	tly or indirectly conducts t loyees are in a position to	dministrator, director or other ind the day-to-day operations of an i exert influence over the conduct	nstitution, organization,
2. Federal regulation rec pages if necessary:	quires the following in	formation 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 Roo 86515	ck, Arizona		
Dr. Sidney Brown	PO Box Shiprock, NM 87420	(		





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Name of Entity / Individual The Navajo Natio	on	EIN / SSN	86-00923	35	NPI 1073711693
Questions 3 –	5 to be answer	ed by all provid	ers EXCEPT	individual practition	ners.
Provide the name and addr any subcontractor in which necessary:	ress of each person the provider has d	(individual or corpo irect or indirect owns	ration) with an o ership of five per	ownership or control interest reent or more. Please use a	st in the provider or in additional pages if
NAME		ADDRESS		SOCIAL SECURITY NUMBER (IF INDIVIDUAL) OR TAX ID (IF NOT AN INDIVIDUAL)	DATE OF BIRTH (FOR INDIVIDUALS)
A. The Navajo Nation	PO Box 7440 Window Rock 86515	, Arizona			
В.					
C.			_		
D.					
Е.					
4. Is any person named in quest of person(s) and relationship person listed in question #3 b	(s). Please use additi	onal pages if necessa		ate relationship to each	YES ☐ NO 🔀
NAME				RELATIONSHIP	





Name of Entity / Individual The Navajo Nation	EIN / SS	NPI 1073711693	
<ol> <li>Does any person (individual or corporation) of other Medicaid provider or in [any entity that ownership and control information because of or XX of the Social Security Act?] (This inclu- programs such as Medicaid; Medicare Part A programs established under parts XIX, XX, ar provider identification number(s) and address necessary:</li> </ol>	loes not participate in l participation in any of es participation in any Medicare Part B; Medi I XXI of the Social Sec	Medicaid but is required to disclos f the programs established under 1 federal, state, or jointly funded he care Part C; Medicare Part D; CHAI urity Act.) If yes, give the name(s),	e certain Fitte V, XVIII, kithcare MPUS; and Medicaid
NAME		ADDRESS	MEDICAID PROVIDER 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.
- 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 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 DFP 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.

- (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,
- 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.

- 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.
- 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.
- 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 (NCOs) 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 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 VRING, 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.

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 DFP \RTMFNT 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 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.
- (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.
- 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

- 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.
- 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





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 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
- 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 <a href="http://www.insurenewmexico.state.nm.u">http://www.insurenewmexico.state.nm.u</a> <a href="https://www.insurenewmexico.state.nm.u">http://www.insurenewmexico.state.nm.u</a> <a href="https://www.insurenewmexico.state.nm.u">https://www.insurenewmexico.state.nm.u</a> <a href="https://www.insurenewmexico.state.nm.u]</a>

#### **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 N	lation	EIN / SSN 86-0092335	1073711693
A) Have you ever had a license revoked, su	spended or denied in any state?	YES <u>x</u> NO	Initial
B) Have you ever been convicted of any cr	iminal offense?	YES X NO	nitial
C) Have you or any ever been excluded or : Title XVIII (Medicare), Title XIX (Me	suspended from participation in dicaid) or any other health care p	rogram?YES <u>x</u> NO	Initial
If YES to any of the above three questions, which handled the matter; any precinct cas	attach a brief statement of situate identification, and the adjudica	tion; date; city, county and profetion or other result.	essional association or court
New Mexico Medicaid project staff may relephone number.	need to contact you regarding t	he completion of this form. Ple	ease list contact person and
Contact Person: Dr. Michelle Brandse	rTeleph	one Number: (928)871-624	0
Whoever knowingly and willfully makes or ca applicable federal or State laws. In addition, k denial of a request to participate or, where the	nowingly and willfully failing to full	y and accurately disclose the info	rmation requested may result in
INDIVIDUAL PROVIDER:	Original signature required. Plea	ase use blue ink only.	
I understand that payment of claims prosecuted under federal and state		s and that any falsification or con	cealment of a material fact may be
Printed Name of Individual Practition	ner:		
Signature of Individual Practitioner:		Date	*
FACILITIES AND NON-PRACTITIONER ORGA	NIZATIONS:		
I understand that payment of claims prosecuted under federal and state		s and that any falsification or con	cealment of a material fact may be
Printed Name of Authorized Representative:	Jonathan Nez		
Title / Position:	Navajo Nation President		
Address:	PO BOX 7440; Window Roo	ck, AZ_86515	
Telephone Number:	(928)871-7000		
Signature of Authorized Representative:		Date:_	
	FOR STATE PURPOS	SES ONLY:	
HUMAN SERVICES DEPARTMENT A	PPROVAL	<del></del>	
APPROVED	NOT APPROVED		
Reasons Not Approved:			
Dates of Agreement: From:		*	
Authorized Signature		Date	



#### MEMORANDUM

TO: Honorable Daniel Tso

2th Navajo Nation Council Delegate

FROM:

Chad Abeyta, Attorney

Office of Legislative Counsel

DATE: November 15, 2021

RE: AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN

AND **FINANCE** AND NAABIK'İYATI' 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 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.*