

CONSUMER DIRECTED PERSONAL ASSISTANCE SERVICES AND SUPPORT INDIVIDUAL PROVIDER AGREEMENT

Based upon the following recitals, the Oklahoma Health Care Authority (OHCA hereafter) and Provider enter into this Agreement:

ARTICLE I. PURPOSE

The purpose of this Agreement is for OHCA and Provider to contract for provision of Consumer Directed Personal Assistance Services and Support (hereafter “CD-PASS”) services to eligible SoonerCare members.

ARTICLE II. PARTIES AND DEFINITIONS

2.1 Oklahoma Health Care Authority

OHCA is the single state agency that the Oklahoma Legislature has designated through 63 Okla. Stat. § 5009(B) to administer Oklahoma’s Medicaid program, known as SoonerCare. OHCA has authority to enter into this Agreement pursuant to 63 Okla. Stat. § 5006(A). OHCA’s Chief Executive Officer has authority to execute this Agreement on OHCA’s behalf pursuant to 63 Okla. Stat. § 5008(B).

2.2 PROVIDER

Provider states that Provider is employed by a SoonerCare member eligible for ADvantage Program CD-PASS services and that Provider meets the following minimum qualifications for eligible Providers of CD-PASS ADvantage Program services:

- (a) Has documented age of 18 years or older to employer/member;
- (b) Has documented to employer/member a verifiable identification and verifiable work history and/or personal references;
- (c) Has demonstrated competence to perform required tasks to employer/member’s satisfaction; and,
- (d) As verified by Oklahoma Department of Human Services (hereafter “DHS”), has not been convicted of a crime as defined in 63 Okla. Stat. §1-1950 et seq. has no pending notation of abuse or neglect as reported by the Oklahoma State Department of Health Nurse Aide Registry, and name does not appear on the DHS Community Services Workers Registry.

ARTICLE III. TERM

3.1 This Agreement shall be effective upon completion when; (1) it is executed by Provider, (2) it is received at the Oklahoma City offices of OHCA and (3) all necessary documentation has been received and verified by OHCA. The term of this Agreement shall expire November 30, 2022.

3.2 Provider shall not assign or transfer any rights, duties, or obligations under this Agreement.

ARTICLE IV. SCOPE OF WORK

4.1 General Provisions

- (a) Provider agrees to provide CD-PASS services as defined in O.A.C. 317:30-5-763 to Provider's employer as specified in the Individual Care Plan for Provider's employer.
- (b) Provider agrees to comply with all applicable statutes, regulations, policies, and properly promulgated rules of OHCA.
- (c) Provider agrees that the state has an obligation under 42 USC §1396a(a)(25)(A) to ascertain the legal liability of third parties who are liable for the health care expenses of SoonerCare members under the care of Provider. Because of this obligation, Provider agrees to assist OHCA, or its authorized agents, in determining the liability of third parties.
- (d) Provision of services for purposes of this Agreement shall be limited to those CD-PASS services within the scope of the *ADvantage* Program as defined by properly promulgated rules. To the extent that services are not compensable services under SoonerCare, the services may be provided but shall not be compensated by OHCA.
- (e) Provider shall provide DHS with all information necessary to maintain a clinical record system. Provider shall comply with DHS requirements regarding records policies, procedures, and information contained in each record.

4.2 Payment

- (a) OHCA shall pay DHS or its agent on behalf of Provider for services in accordance with the Individual Care Plan for Provider's employer. Provider understands and agrees that DHS or its agent serves as fiscal intermediary for the CD-PASS services and is responsible for submitting claims to OHCA on Provider's behalf, withholding income and other taxes, and issuing IRS 1099 forms to Provider.
- (b) Provider agrees and understands that payment cannot be made by OHCA to vendors providing services under federally assisted programs unless services are provided without discrimination on the grounds of race, color, religion, sex, national origin or handicap.
- (c) Pursuant to 42 CFR § 447.15, payments made by OHCA shall be considered payment in full for all covered services provided to a SoonerCare member. Provider shall not bill a SoonerCare member for such service and shall not be relieved of this provision by electing not to bill OHCA for the service. This provision shall not apply to co-payments allowed by OHCA.
- (d) Provider shall release any lien securing payment for any SoonerCare compensable service. This provision shall not affect Provider's ability to file a lien for non-covered service or OHCA-permitted co-payment.
- (e) Satisfaction of all claims will be from federal and state funds. Any false claims, statements, or documents, or any concealment of a material fact may be prosecuted.
- (f) Provider certifies with each claim for payment submitted to DHS or its agent that the services or products for which payment is billed by or on behalf of Provider were personally rendered by Provider.

4.3 Billing Procedures

- (a) Provider agrees all claims shall be submitted to DHS or its agent in a format and time frame acceptable to DHS or its agent. Provider accepts any terms and requirements of the DHS or its agent.
- (b) Provider shall be responsible for the accuracy and integrity of all claims submitted on Provider's behalf by the DHS or its agent.

ARTICLE V. LAWS APPLICABLE

- 5.1 The parties to this Agreement acknowledge and expect that over the term of this Agreement laws may change. Specifically, the parties acknowledge and expect (i) federal Medicaid statutes and regulations, (ii) state Medicaid statutes and rules, (iii) state statutes and rules governing practice of health-care professions, and (iv) any other laws cited in this agreement may change. The parties shall be mutually bound by such changes.
- 5.2 As applicable, Provider shall comply with and certifies compliance with:
 - (a) Drug-Free Workplace Act, 41 USC § 701 et seq.;
 - (b) Title XIX of the Social Security Act), 42 USC § 1396 et seq.;
 - (c) 31 USC § 1352 and 45 C.F.R. § 93.100 et seq., which (1) prohibits the use of federal funds paid under this Agreement to lobby Congress or any federal official to enhance or protect the monies paid under this Agreement and (2) requires disclosures to be made if other monies are used for such lobbying;
 - (d) Protective Services for Vulnerable Adults Act, 43A O. S. § 10-101 et seq.; and
 - (e) Federal False Claims Act; 31 USC § 3729-3733; 31 USC § 3801
- 5.3 The explicit inclusion of some statutory and regulatory duties in this Agreement shall not exclude other statutory or regulatory duties.
- 5.4 All questions pertaining to validity, interpretation, and administration of this Agreement shall be determined in accordance with the laws of the State of Oklahoma, regardless of where any service is performed or product is provided.
- 5.5 The venue for legal actions arising from this Agreement shall be in the District Court of Oklahoma County, State of Oklahoma.

ARTICLE VI. AUDIT AND INSPECTION

- 6.1 Provider shall cooperate with DHS in keeping such records as are necessary to disclose fully the extent of services provided to SoonerCare members.
- 6.2 Authorized representatives of OHCA, MFCU, and the Secretary shall have the right to make physical inspection of Provider's place of business and to examine records relating to financial statements or claims submitted by Provider under this Agreement and to audit Provider's financial records as provided by 42 C.F.R. § 431.107.
- 6.3 Pursuant to 74 Okla. Stat. § 85.41, OHCA and the Oklahoma State Auditor and Inspector shall have the right to examine Provider's books, records, documents, accounting procedures, practices, or any other items relevant to this Agreement.

ARTICLE VII. CONFIDENTIALITY

- 7.1 Provider agrees that SoonerCare member information is confidential pursuant to 42 U.S.C. § 1396a(7), 42 C.F.R. § 431:300-306, and 63 Okla. Stat. § 5018. Provider shall not release the information governed by these requirements to any entity or person without proper authorization or OHCA's permission.

- 7.2 Provider agrees to comply with the provisions of the Health Insurance and Portability Accounting Act of 1996 (HIPAA), specifically the privacy provisions of that act found at 45 C.F.R. Part 164.

ARTICLE VIII. TERMINATION

- 8.1 This Agreement may be terminated by three methods: (i) Either party may terminate this Agreement for cause with a thirty-day written notice to the other party; (ii) either party may terminate this Agreement without cause with a sixty-day written notice to the other party; or (iii) OHCA may terminate the agreement immediately a) to protect the health and safety of SoonerCare members, b) upon evidence of fraud
- 8.2 In the event funding of SoonerCare from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to the anticipated Agreement expiration date, this Agreement may be terminated immediately by OHCA.
- 8.3 In the event of termination, Provider shall provide any records or other assistance necessary for an orderly transition of SoonerCare patients' health care.

ARTICLE IX. OTHER PROVISIONS

- 9.1 The representations made in this memorialization of the Agreement constitute the sole basis of the parties' contractual relationship. No oral representation by either party relating to services covered by this Agreement shall be binding on either party. Any amendment to this Agreement shall be in writing and signed by both parties, except the address in Article 2.3 which requires Provider's signature only.
- 9.2 If any provision of this Agreement is determined to be invalid for any reason, such invalidity shall not affect any other provision, and the invalid provision shall be wholly disregarded.
- 9.3 Titles and subheadings used in this Agreement are provided solely for the reader's convenience and shall not be used to interpret any provision of this Agreement.

ARTICLE X. NON-COLLUSION CERTIFICATION

Provider certifies that:

- 10.1 Neither Provider nor anyone subject to Provider's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring this contract herein;
- 10.2 No person who has been involved in any manner in the development of the Agreement to which this statement is attached while employed by the State of Oklahoma shall be employed by Provider to fulfill any of the services provided for under said contract.

DHS certifies that this Provider has not been convicted of a crime as defined in 63 Okla Stat. § 1-1950, et seq., has no pending notation of abuse or neglect as reported by the Oklahoma State Department of Health Nurse Aide Registry, and that the Provider name does not appear on the DHS Community Services Workers Registry. Furthermore, DHS attests that training and support has been provided to the Employer/member of this Provider regarding Provider qualification requirements and documentation of Provider age, identification, work history and training/competence to perform CD-PASS services and procedures for documentation of compliance with required Provider requirements and that Employer/member is to keep original documentation on file and provide copies to DHS.