

SOONERCARE GENERAL PROVIDER AGREEMENT

ARTICLE I. PURPOSE

The purpose of this Agreement is for Oklahoma Health Care Authority (hereinafter OHCA) and Provider to contract for healthcare services to be provided to members in Oklahoma Medicaid, known as SoonerCare, programs.

ARTICLE II. PARTIES AND DEFINITIONS

2.1 OHCA

- a) OHCA is the single state agency that the Oklahoma Legislature has designated through 63 Okla. Stat. 5009 (B) to administer the Oklahoma Medicaid program, known as SoonerCare.
- b) OHCA has authority to enter into this Agreement pursuant to 63 Okla. Stat. 5006(A). The OHCA Chief Executive Officer has authority to execute this Agreement on behalf of OHCA pursuant to 63 Okla. Stat. 5008(B).
- c) The mailing address for OHCA is: Oklahoma Health Care Authority, Attention: Provider Contracting, P.O. Box 54015, Oklahoma City, OK 73154.

2.2 PROVIDER

- a) Provider is an individual or entity that has supplied provider information to OHCA and executed this Agreement in order to provide healthcare services to SoonerCare members.

2.3 DEFINITIONS

- a) Choice: A medical home program where members choose a primary care provider for care coordination and primary care. All other services are reimbursed on a Fee-For-Service (hereinafter FFS) basis, but services not rendered by the primary care provider may require a referral.
- b) Insure Oklahoma/Oklahoma Employer/Employee Partnership for Insurance Coverage Individuals Plan (hereinafter IO IP): A comprehensive SoonerCare package that requires members to share in the cost through premiums and co-payments. IO members choose a primary care provider who is paid a monthly rate for case management. IO reimburses all other member benefits on a FFS basis, but services not rendered by the primary care provider may require a referral.
- c) Member: A person receiving healthcare benefits from a SoonerCare program.
- d) Provider Information: All information requested from and supplied by Provider to OHCA through its Electronic Provider Enrollment (hereinafter EPE) system or other written communication from Provider.
- e) SoonerCare: All OHCA medical benefit packages including Traditional, Choice, Insure Oklahoma, SoonerPlan, and Supplemental.
- f) SoonerPlan: A limited package of family planning benefits.
- g) Supplemental: A SoonerCare plan that provides medical benefits to supplement those services covered by Medicare (sometimes called “crossover”).
- h) Traditional: A comprehensive SoonerCare package that pays providers for services on a FFS basis.

- i) Type: The category of healthcare provider as delineated in OAC 317:30-1-1-*et seq.*

ARTICLE III. TERM

- 3.1 This Agreement shall be effective upon completion when:
 - a) It is executed by the Provider;
 - b) All necessary documentation has been received and verified by the OHCA; and
 - c) It has been accepted by the OHCA. OHCA acceptance is complete only upon written notification to the Provider by electronic mail. The term of this agreement shall expire as indicated in the Special Provisions for Provider type.
- 3.2 Provider shall not assign or transfer any rights, duties, or obligations under this Agreement without prior written consent from OHCA, except as otherwise provided in this Agreement and applicable addenda.

ARTICLE IV. SCOPE OF WORK

- 4.1 General Provisions
 - Unless otherwise specified in the Special Provisions for provider's type, Provider agrees to the following:
 - a) To provide healthcare services to SoonerCare members appropriate to provider's type and in accordance with applicable professional standards.
 - b) If Provider participates in a Health Information Exchange/Health Information Organization (HIE/HIO), Provider agrees to allow OHCA access to any information related to Provider's practice contained in such HIE, for performance or contract monitoring, quality assurance or research purposes as well as payment, care management and treatment authorizations, subject to state and federal law. OHCA may share a member's eligibility and claims data with all HIE/HIO members who are treating the same patients for the purpose of payment, treatment and authorizations.
 - c) If serving as either an originating or distant site for telemedicine services, Provider shall comply with telemedicine policy at OAC 317:30-3-27.
 - d) That all provider information supplied by provider is correct; provider shall correct or update provider information through EPE to OHCA.
 - e) To maintain all applicable licenses, certifications, and/or accreditations as specified in the Special Provisions for Provider's type during the term of this agreement. Should Provider's licenses, certifications, and/or accreditations be modified, suspended, revoked, or in any other way impaired, Provider shall notify OHCA in writing within three business days of such action. In the event Provider's licenses, certifications, and/or accreditations are modified, Provider shall abide by the terms of the modified licenses, certifications, and/or licenses. In the event of suspension, revocation, or other action making it unlawful for Provider to provide services under this Agreement, the Agreement shall terminate immediately. A violation of this paragraph, at the time of execution or during any part of the agreement term, shall render the Agreement immediately void.
 - f) To comply with all applicable statutes, regulations, policies, and properly promulgated rules of OHCA.
 - g) To maintain a clinical record system as follows:

- i. The system shall be maintained in accordance with written policies and procedures, which shall be produced to OHCA or its agent upon request;
 - ii. Provider shall designate a professional staff member to be responsible for maintaining the records and for ensuring they are completely and accurately documented, readily accessible, and systematically organized; and
 - iii. Each patient's record shall include, as applicable and in addition to other items set forth herein: member identification and personal, demographic and social data; evidence of consent forms; pertinent medical history; assessment of patient's health status and health-care needs; report of physical examination; brief summary of presenting episode and disposition; education and instruction to patient; all physician orders; diagnostic and laboratory test results; consultative findings; reports of treatments and medications; immunization records; preventive services; and other pertinent information necessary to monitor the patient. All entries must be legible, dated, and include signatures of the physician and other health care professionals rendering the care to the patient.
- h) 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 healthcare expenses of 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.
 - i) That provision of services for purposes of this Agreement shall be limited to those services within the scope of the Oklahoma Medicaid State Plan reflected by properly promulgated rules. To the extent that services are not compensable under SoonerCare, the services may be provided but shall not be compensated by OHCA. Provider acknowledges that covered services may vary between SoonerCare benefit plans.
 - j) To render services in an appropriate physical location, which shall include barrier-free access, adequate space for provision of direct services, appropriate equipment, proper exit signs, and a safe environment for patients.
 - k) To train staff in handling medical and non-medical emergencies to ensure patient safety.
 - l) To have a preventive maintenance program to ensure essential mechanical, electrical, and patient-care equipment is maintained in safe operating condition.
 - m) To develop and enforce policies and procedures in accordance with laws regarding communicable diseases. These policies and procedures shall include universal precautions. Including precautions related to Human Immunodeficiency Virus (HIV) serologically positive patients, which equal or exceed such standards established by the U.S. Occupational Safety and Health Administration.
 - n) To comply and certify compliance with 42 USC 1395cc (a) (1), 1395cc (f), and 1396a (w) which require SoonerCare providers to provide patients with information about patients' rights to accept or refuse medical treatment. Provider shall educate staff and SoonerCare members concerning advance directives. Provider shall include in each member's individual medical record documentation as to whether the member has executed an advance directive. Provider shall not discriminate on the basis of whether an individual has executed an advance directive.

- 4.2 Rights and Responsibilities Related to Member Co-payments and Collections
- a) Pursuant to 42 CFR 447.15, payments made by OHCA shall be considered payment in full for all covered services provided to a member, except for OHCA-allowed member co-payments.
 - b) Provider shall not bill a member or attempt in any way to collect any payment from a member for any covered service, except for co-payments allowed by OHCA. This provision is in force even if Provider elects not to bill OHCA for a covered service. Violation of this provision may result in suspension of payments, recoupment of OHCA reimbursements, and/or contract action up to and including termination of this Agreement.
 - c) Provider shall not require members to pay for services in advance, except for OHCA allowed member co-payments.
 - d) Provider may collect an OHCA allowed co-payment from a member for a covered service and may use any legal means to enforce the member's liability for such co-payment.
 - e) Provider shall not deny covered services to eligible members because of their inability to pay a co-payment unless member is enrolled in the IO IP benefit plan. Provider may deny covered services to eligible IO IP members if they are unable to pay a co-payment. Provision of a covered service to a member unable to pay a co-payment does not eliminate the member's liability for that co-payment.
- 4.3 Payments from OHCA
- a) Unless otherwise specified in the special provisions for Provider's type, OHCA shall pay Provider for services in accordance with the appropriate part of OHCA's Provider Manual.
 - 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) Provider shall accept payment from OHCA by direct deposit to Provider's financial institution. OHCA shall make payment in accordance with the information supplied by Provider on the attached electronic funds transfer (hereafter EFT) form. Provider shall update direct deposit information as needed by sending a signed EFT form to 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) Payments will be made to Provider within forty-five (45) days of submission of a "clean claim" as such term is defined at 42 CFR 447.45(b). Provider is entitled to interest in accordance with 62 O.S. § 34.72 for all payments not made within forty-five days after the clean claim has been submitted to OHCA or its claims payment agent.

- g) Provider certifies with each claim for payment that the services or products for which payment is billed by or on behalf of Provider were medically necessary as defined by OAC 317:30-3-1(f) and were rendered by Provider.

4.4 Billing Procedures

- a) Provider agrees all claims shall be submitted to OHCA in a format acceptable to OHCA and in accordance with OHCA regulations. Electronic and/or Internet submitted claims may receive priority handling.
- b) If Provider enters into a billing service agreement, Provider shall be responsible for the accuracy and integrity of all claims submitted on behalf of Provider by the billing service.
- c) Provider shall not use the billing service or any other entity as a factor, as defined by 42 CFR 447.10.
- d) Provider is responsible for verifying appropriate eligibility of a member by contacting the OHCA Eligibility Verification System (EVS).

4.5 Secure Website

- a) OHCA may assign Provider a user ID number and password that allows Provider to access the secure website for the purpose of retrieving information about SoonerCare programs and members.
- b) Provider agrees to protect access to the website by safeguarding user ID numbers and passwords.
- c) Confidentiality requirements in Article VII apply to all member information on the secure website, including information related to third party liability and prior authorizations for medical services.
- d) Pursuant to 21 Okla. Stat. 1953, any person who willfully missuses a computer or computer information may be prosecuted.
- e) Any violation of the terms of this section or the confidentiality requirements of Article VII, including unauthorized use or modification of any information on the secure website, may result in suspension or termination of Provider's access to the secure website.

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 healthcare professions, and (iv) any other laws cited in the 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. Age Discrimination in Employment Act, 29 U.S.C. § 621 *et seq.*;
- B. Rehabilitation Act, 29 U.S.C. § 701 *et seq.*;
- C. Drug-Free Workplace Act, 41 U.S.C. § 8101 *et seq.*;
- D. Title XIX and Title XXI of the Social Security Act, 42 U.S.C. § 1396 *et seq.* and § 2101 *et seq.*;
- E. Civil Rights Act, 42 U.S.C. § 2000d *et seq.* and § 2000e *et seq.*;
- F. Age Discrimination Act, 42 U.S.C. § 6101 *et seq.*;

- G. Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*;
- H. Oklahoma Anti-Discrimination Act, 25 Okla. Stat. § 1101 *et seq.*;
- I. Oklahoma Worker’s Compensation Act, 85A Okla. Stat. § 1 *et seq.*;
- J. Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*;
- K. Equal Pay Act, 29 U.S.C. § 206(d);
- L. 31 U.S.C. § 1352 and 45 C.F.R. § 93.100 *et seq.*, which (1) prohibit the use of federal funds paid under this Contract to lobby Congress or any federal official to enhance or protect the monies paid under the Contract, and (2) require disclosures to be made if other monies are used for such lobbying;
- M. Presidential Executive Orders 11141, 11246, 11375, and 11478, and Amendments thereto, and 5 U.S.C. § 3501, and as supplemented in the Department of Labor regulations at 41 C.F.R. Chapter 60, which together require certain federal contractors and subcontractors to institute affirmative action plans to ensure absence of discrimination for employment because of age, race, color, religion, sex, sexual orientation, gender identity, disability, or national origin;
- N. The Federal Privacy Regulations and the Federal Security Regulations as contained in 45 C.F.R. Parts 160 through 164 that are applicable to such party as mandated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the Health Information Technology for Economic and Clinical Health Act¹ (HITECH) (42 U.S.C. § 300jj *et seq.* and § 17921 *et seq.*);
- O. Vietnam Era Veterans’ Readjustment Assistance Act, 38 U.S.C. § 4212 and 41 C.F.R. Part 60-300;
- P. Protective Services for Vulnerable Adults Act, 43A Okla. Stat. § 10-101 *et seq.*;
- Q. Nonprocurement, debarment, and suspension, 2 C.F.R. Part 376;
- R. 74 Okla. Stat. § 85.44(B) and (C) and 45 C.F.R. §§ 75.320, 75.439, and 75.465 (as defined by 45 C.F.R. § 75.2);
- S. Anti-Kickback Act of 1986, 41 U.S.C. § 8701 *et seq.*;
- T. Oklahoma Anti-Kickback Act of 1974, 74 Okla. Stat. § 3401 *et seq.*;
- U. Federal False Claims Act, 31 U.S.C. §§ 3729-3733 and § 3801 *et seq.*;
- V. Oklahoma Medicaid False Claims Act, 63 Okla. Stat. § 5053 *et seq.*; and
- W. Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 Okla. Stat. § 1313 and participates in the Status Verification System. The Status Verification System is defined at 25 Okla. Stat. § 1312 and includes, but is not limited to, the free Employment Verification Program (e-Verify) available at www.dhs.gov/E-Verify.

[¹The American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5), pursuant to Title XIII of Division A and Title IV of Division B, called the “Health Information Technology for Economic and Clinical Health” (HITECH) Act, provides modifications to the HIPAA Security and Privacy Rule (hereinafter, all references to the “HIPAA Security and Privacy Rule” are deemed to include all amendments to such rule contained in the HITECH Act and any accompanying regulations, and any other subsequently adopted amendments or regulations).]

- 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 INSPECTION

- 6.1 As required by federal and state law, Provider shall keep such records as are necessary to disclose fully the extent of services provided to Members and shall furnish records and information regarding any claim for providing such service to OHCA, the Oklahoma Attorney General's Medicaid Fraud Control Unit (hereinafter MFCU), and the U.S. Secretary of Health and Human Services (hereinafter Secretary). Provider agrees to keep records to disclose the services it provides for seven years from the date of service. Provider shall not destroy or dispose of records, which are under audit, review or investigation when the seven-year limitation is met. Provider shall maintain such records until informed in writing by the auditing, reviewing or investigating agency that the audit, review or investigation is complete.
- 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 CFR 431.107. If Provider fails to submit records to OHCA or its agent within reasonable specified timeframes, all SoonerCare payments to Provider may be suspended until records are submitted.
- 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.
- 6.4 Provider shall submit, within thirty-five days of a request by OHCA, MFCU, or the Secretary, all documents, as defined by 12 Okla. Stat. 3234, in its possession, custody, or control concerning (i) the ownership of any subcontractor with whom Provider has had business transactions totaling more than twenty five thousand dollars during the twelve months preceding the date of the request, or (ii) any significant business transactions between Provider and any wholly owned supplier or between Provider and any subcontractor during the five years preceding the date of the request.
- 6.5 If Provider is an entity other than an individual person, Provider shall provide OHCA with information concerning Provider's ownership in accordance with 42 CFR 455.100 *et seq.* Provider agrees to update its Provider Information within twenty (20) days of any change in ownership. Ownership information is critical for determining whether a person with an ownership interest has been convicted of a program crime under Titles V, XVIII, XIX, XX and XXI of the federal Social Security Act, 42 USC 301 *et seq.* Provider shall also furnish ownership information to OHCA upon further request.

ARTICLE VII. CONFIDENTIALITY

- 7.1 Provider agrees that SoonerCare member information is confidential pursuant to 42 USC 1396a (7), 42 CFR 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 permission from OHCA.
- 7.2 Provider shall have written policies and procedures governing the use and removal of patient records from Provider's facility. The patient's written consent shall be required for release of information not authorized by law, which consent shall not be required for state and federal personnel working with records of members.
- 7.3 Provider agrees that SoonerCare member and provider information cannot be remarketed, summarized, distributed, or sold to any other organization without the express written approval of OHCA.
- 7.4 Provider agrees to comply with the Federal Privacy Regulations and the Federal Security Regulations as contained in 45 C.F.R. Parts 160 through 164 that are applicable to such party as mandated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and 42 U.S.C. 1320d-1230d-8.
- 7.5 Provider must report a known breach of confidentiality, privacy, or security, as defined under HIPAA, to the OHCA Privacy and Confidentiality Officer within 48 hours of knowledge of an unauthorized act. Failure to perform may constitute immediate termination of the Agreement.
- 7.6 Provider agrees to report potential known violations of 21 Okla. Stat. 1953 to the OHCA Legal Division within 48 hours of knowledge of an unauthorized act. In general, this criminal statute makes it a crime to willfully and without authorization gain access to, alter, modify, disrupt, or threaten a computer system.
- 7.7 Provider shall, following the discovery of a breach of unsecured PHI as defined in the HITECH (The Health Information Technology for Economic and Clinical Health Act) or accompanying regulations, notify the OHCA of such breach pursuant to the terms of 45 CFR 164.410 and cooperate in the OHCA's breach analysis procedures, including risk assessment, if requested. A breach shall be treated as discovered by Provider on the first date on which such breach is known to Provider or, by exercising reasonable diligence, would have been known to Provider.
- 7.8 Provider shall report to the OHCA any use or disclosure of PHI which is not in compliance with the terms of this Agreement of which it becomes aware. Provider shall report to OHCA any Security Incident of which it becomes aware. For purposes of this Agreement, "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. In addition, Provider agrees to mitigate, to the extent practicable, any harmful effect that is known to Provider of a use or disclosure of PHI by Provider in violation of the requirements of this Agreement.

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 members, (b) upon evidence of fraud, (c) pursuant to Paragraph 4.1 (e) above.

- 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 members' healthcare.

ARTICLE IX. OTHER PROVISIONS

- 9.1 The representations made in the 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, signed by Provider and accepted by OHCA; OHCA acceptance is complete only upon written notification to Provider by mail or electronic mail.
- 9.2 Attachments to this Agreement which are made part of the Agreement and incorporated by reference are (i) Special Provisions for Provider's type; and (ii) Provider Information.
- 9.3 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.
- 9.4 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.
- 9.5 OHCA does not create and Provider does not obtain any license by virtue of this Agreement. OHCA does not guarantee Provider will receive any patients, and Provider does not obtain any property right or interest in any SoonerCare member business by this Agreement.