

REIMBURSEMENT AGREEMENT FOR PHYSICIAN SERVICES
between
OKLAHOMA HEALTH CARE AUTHORITY
and
OKLAHOMA CITY AREA INDIAN HEALTH SERVICE
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

ARTICLE I. PURPOSE

The purpose of this Agreement is for Oklahoma Health Care Authority (OHCA) and Provider to establish a formal process for Provider to bill and collect from OHCA for physician services to be provided by the Provider to eligible American Indian/Alaskan Native members in the Oklahoma Medicaid programs, known as SoonerCare.

ARTICLE II. THE PARTIES

2.1 OKLAHOMA HEALTH CARE AUTHORITY

- (a) OHCA is the single state agency that the Oklahoma Legislature has designated through 63 Okla. Stat. § 5009(B) to administer Oklahoma's Medicaid Program.
- (b) 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

- (a) Provider is a facility under the Indian Health Service (IHS), an agency of the United States Department of Health and Human Services (HHS) and is authorized by the United States Congress under the Snyder Act and the Indian Health Care Improvement Act (IHCA), 25 U.S.C. § 1601 et seq., to provide a range of health services to eligible American Indians and Alaska Natives, to the extent resources are available.
- (b) Provider (i) is a distinct facility that meets criteria to provide services under the Medicaid program, (ii) is duly licensed and credentialed in accordance with Federal statutes and regulations, and (iii) holds all Federal licenses, certifications, and registrations as applicable to such facility.
- (c) Provider has authority to enter into this Agreement pursuant to 42 U.S.C. § 1396j.
- (d) Provider employees acting within the scope of their employment are covered by the Federal Tort Claims Act (28 U.S.C. §§ 1346(b), 2671-2680). Nothing in this Agreement shall be interpreted to authorize or obligate any employee to operate outside the scope of his/her employment. Provider shall not be required to acquire insurance, provide indemnification, or guarantee that the OHCA will be held harmless.

2.3 DEFINITIONS

- (a) **SoonerCare** means all OHCA medical benefit packages including Traditional, Choice, Insure Oklahoma, SoonerPlan, and Supplemental.
- (b) **Traditional** means a comprehensive SoonerCare package that pays providers for services on a fee-for-service basis.
- (c) **FFS** means fee-for-service.

- (d) **Choice** means a SoonerCare managed care program where members choose a primary care provider (PCP) who is paid a case management fee.
- (e) **Insure Oklahoma (IO)** means a comprehensive SoonerCare package that requires members to share in the cost through premiums and co-payments. IO members choose a PCP who is paid a capitation rate for case management. IO reimburses all other member benefits on a FFS basis, but services not rendered by the PCP may require a referral.
- (f) **SoonerPlan** means a limited SoonerCare package of family planning benefits.
- (g) **Supplemental** means a SoonerCare plan that provides medical benefits to supplement those services covered by Medicare (sometimes called “crossover”.)
- (h) **Member** means a person receiving health care benefits from a SoonerCare program.
- (i) **Early and Periodic Screening, Diagnosis and Treatment (EPSDT)** means a program defined by 42 U.S.C. § 1396a(a)(43) which covers screening and diagnostic services for members under the age of 21 to determine physical and mental defects and to ascertain health care treatment and other measures to correct or ameliorate any defects and chronic conditions discovered.
- (j) **Practice of Medicine** means for purposes of reimbursement under this agreement the “practice of medicine and surgery” as provided in 59 Okla. Stat. § 492(C) and “practice of osteopathic medicine” as provided in 59 Okla. Stat. § 621 or as defined in the appropriate licensure act in the state where services are rendered.

ARTICLE III. TERM

- 3.1** This Agreement shall be effective upon completion when (1) it is executed by OHCA and the Oklahoma City Area Indian Health Service; (2) all necessary documentation has been verified by OHCA; and (3) executed original documents have been received at both OHCA and the Oklahoma City Area Indian Health Service.
- 3.2** This Agreement shall automatically renew for up to four (4) terms of one (1) year. The final expiration date for this Agreement is September 30, 2020.
- 3.3** Neither party shall assign or transfer any rights nor obligations under this Agreement without the other party’s prior written consent except as otherwise provided in this Agreement.

ARTICLE IV. SCOPE OF WORK

4.1 General Provisions

Provider agrees:

- (a) To provide medical services pursuant to professional standards appropriate to physician’s license to SoonerCare members;
- (b) Consistent with IHS statutory authority, comply with all applicable Medicaid statutes, regulations, policies, and applicable promulgated rules of OHCA;
- (c) And OHCA also agrees that IHS is limited to eligibility requirements set forth in the IHCI, Federal regulations at 42 C.F.R. Part 136 (2005), and other applicable Federal law. Health services at Provider are generally unavailable to persons who are not eligible IHS beneficiaries except in emergencies and under certain circumstances described in the IHCI. The parties agree that no clause, term or condition in this Agreement shall be construed in any way to change, reduce, expand, or alter the eligibility requirements for services at Provider’s facility;
- (d) That the state has an obligation under 42 U.S.C. §1396a(a)(25)(A) to ascertain the legal liability of third parties who are liable for the health care 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;
- (e) To maintain at all times, all applicable Federal licenses, certifications, or registrations and to provide services to eligible American Indian/Alaska Native SoonerCare members pursuant to professional standards during the term of this Agreement. Should Provider's licenses, certifications, and/or registrations be modified, suspended, revoked, or in any other way impaired, Provider shall notify OHCA within thirty days of such action. In the event Provider's licenses, certifications, and/or registrations are modified, Provider shall abide by the terms of the modification. In the event of suspension, revocation, or other action making it unlawful for Provider to provide health care services, this 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 participate in the Vaccines for Children Program if Provider provides primary care services to members under the age of eighteen (18);
 - (g) To comply with OHCA rules regarding EPSDT screenings found at O.A.C. 317:30-3-48 if Provider provides primary care services to member under the age of twenty-one (21). EPSDT screenings must contain all elements shown at OAC 317:30-3-50. Provider shall:
 1. Educate families who have members under 21 about the EPSDT Program and its importance to the health of children and adolescents;
 2. Conduct and document EPSDT outreach to ensure that members are current with respect to the periodicity schedule; and
 3. Conduct and document follow ups with members who have missed appointments;
 - (h) To ensure that its employees and persons who engage in health care in its facility shall maintain all applicable state or federal licenses, certifications, and registrations required for such activities during the term of this Agreement;
 - (i) That provision of health care 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 health-care services are not compensable services under the SoonerCare Program, 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 not discriminate on the basis of whether an individual has executed an advance directive;
 - (k) 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; and
 - (l) And OHCA agrees that Provider is not required to receive prior authorizations when referring a patient from one IHS facility to another IHS facility.

4.2 Rights and Responsibilities Related to Member Co-payments and Collections

- (a) Pursuant to 42 C.F.R. § 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.

- (b) OHCA acknowledges that Provider generally cannot charge co-payments, deductibles, and/or premiums to eligible American Indians and Alaskan Natives.

4.3 Payments from OHCA

- (a) OHCA shall reimburse Provider for compensable services that are billed outside the Office of Management and Budget encounter rate.
- (b) OHCA shall make payment in accordance with the information supplied by Provider on the attached electronic funds transfer (hereafter EFT) form.
- (c) 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 under applicable federal laws.
- (d) Payments will be made to Provider within forty-five (45) days of submission of a “clean claim” as such term is defined at 42 C.F.R. § 447.45(b). U.S. Department of Treasury is entitled to interest in accordance with 62 Okla. Stat. § 41.4B (1991) for all payments not made within forty-five days after the clean claim has been submitted to OHCA or its claims payment agent.
- (e) The services for which payment is billed by or on behalf of Provider were medically necessary and were rendered by Provider. For purposes of this Agreement Provider agrees to use the definition of medically necessary as defined by O.A.C. 317:30-3-1(f).

4.4 Billing Procedures

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.

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) applicable state Medicaid statutes and rules, and (iii) any other laws cited in this Agreement may change. The parties shall be mutually bound by applicable changes.
- 5.2** Provider shall comply with and certifies compliance with all applicable laws, subject to the eligibility restrictions disclosed above:
 - (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. § 701 et seq.;
 - (d) Title XIX of the Social Security Act, 42 U.S.C. § 1396 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) 31 U.S.C. § 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;
 - (i) Presidential Executive Orders 11141, 11246 and 11375 at 5 U.S.C. § 3501 and as supplemented in Department of Labor regulations 41 C.F.R. §§ 741.1-741.84, which together require certain federal contractors and subcontractors to institute affirmative action plans to ensure absence of discrimination for employment because of race, color, religion, sex, or national origin;
 - (j) Vietnam Era Veterans’ Readjustment Assistance Act, Public Law 93-508, 88 Stat. 1578;

- (k) Debarment, Suspension and other Responsibility Matters, 45 C.F.R. §§76.105 and 76.110;
- (l) False Claims Act, 31 U.S.C. Sec 3729 – 3733;
- (m) Anti-deficiency Act, 31 U.S.C. §1341.

- 5.4** In lieu of binding arbitration, the parties agree to meet and confer in good faith to resolve any problems or disputes that may arise with regard to performance or interpretation of any of the terms of this Agreement. This Agreement and any addenda thereto shall be governed and construed in accordance with Federal law of the United States. In the event of a conflict between the Agreement and applicable Federal Law, the parties acknowledge that Federal law will prevail and supersede the terms of such Agreement. Nothing in this Agreement shall be construed to constitute an acknowledgement that Provider is governed by any state law not expressly agreed to within this Agreement.
- 5.5** The venue for all legal actions arising from this Agreement shall be in the United States District Court, Western District of Oklahoma.

ARTICLE VI. AUDIT AND INSPECTION

- 6.1** 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 under this Agreement and to audit financial records as provided by 42 C.F.R. § 431.107.
- 6.2** Provider agrees that OHCA and the Oklahoma State Auditor and Inspector shall have the right to examine books, records, documents, accounting procedures, practices, or any other items relevant to this Agreement.

ARTICLE VII. CONFIDENTIALITY

- 7.1** Provider and OHCA agree that member information is confidential pursuant to 42 U.S.C. § 1396a(a)(7) and 42 C.F.R. § 431.300-306. Provider and OHCA shall not release the information governed by these requirements to any entity or person without proper authorization.
- 7.2** All data, reports, research, and records generated, collected, or prepared by IHS shall be deemed owned by IHS.
- 7.3** Provider and OHCA agree to comply with the provisions of the Federal Privacy Act of 1974, 5 U.S.C. §552a, 45 C.F.R. Part 5b; Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2; and the Health Insurance Portability and Accountability Act of 1996, 45 C.F.R. Parts 160-164, as well as all regulations promulgated pursuant to such laws.

ARTICLE VIII. TERMINATION

- 8.1** This Agreement may be terminated by two methods. (i) Either party may terminate this Agreement with or without cause at any time upon thirty-day written notice to the other party; or (ii) OHCA may terminate the Agreement immediately (a) to protect the health and safety of members, or (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, a copy of any and all records or other assistance necessary for an orderly transition of SoonerCare members' health care would be made.

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 those matters addressed in Section 2.3.
- 9.2** Attachments to this Agreement which are made part of the Agreement and incorporated by reference are (i) Electronic Funds Transfer Authorization, and (ii) Provider Application Form.
- 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.