

MEMORANDUM OF AGREEMENT
 Between
New Mexico Department of Health
 And
New Mexico Human Services Department

This Agreement entered into between New Mexico Department of Health (DOH) Family Health Bureau and **New Mexico Human Services Department (HSD)**.

IT IS AGREED BETWEEN THE PARTIES

1. PURPOSE

The purpose of this agreement is to provide a framework for collaboration and coordination of efforts between the DOH Family Health Bureau, which is the NM Title V Agency and includes all programs under the oversight of the NM Title V Director, and HSD, which is the NM Medicaid agency; to provide and promote prompt access to high quality health care and services for pregnant women, infants, children and adolescents eligible for benefits under Title V and Medicaid (Title XIX). Federal grant requirements stipulate that each state will have a written memorandum of understanding between the Title V and Medicaid agencies. Working together, these agencies have the capacity to reduce morbidity and mortality among women, infants, children and adolescents, and to improve the health status of women and children in New Mexico.

2. SCOPE OF WORK

A. DOH Responsibilities:

1. Work to improve the health of the maternal child health population, including children and youth with special healthcare needs, by providing and/or assuring access to high quality prenatal, maternal, child and adolescent services.
2. Help Medicaid with enrollment and outreach through our public health offices and WIC clinics;
3. Work together to ensure and deliver appropriate trainings to staff on MCH issues;
4. Serve as lead on interagency projects related to maternal child health topics, such as the Infant Mortality workgroup, the Children with Special Healthcare Needs Action Collaborative, the Perinatal Collaborative, and others
5. Produce and share the annual Title V Report and Five Year Needs Assessment to assist with program planning, development, implementation and evaluation of maternal and child health services in the state;
6. Assist with developing maternal child health quality standards and performance measures;
7. Encourage providers to enroll with Medicaid;
8. Assist with data analysis and linkage.

B. HSD Responsibilities:

1. Work to improve the health of the maternal child health population, including children and youth with special healthcare needs, by assuring access to high quality prenatal, maternal, child and adolescent services;
2. Promote enrollment in WIC and other DOH programs that serve Medicaid clients and ensure that appropriate referrals are made;
3. Receive written designation from the Secretary of HSD that it is permitted to share confidential HSD applicant and participant information for FHB program use: HSD will

share participant name, date of birth, address, phone number(s) and other family or household members who may qualify for FHB programs.

4. Cooperate with federal guidelines regarding payment for WIC services such as acknowledging WIC as a supplemental source for special formulas for infants and children;
5. Support use of DOH programs for women and children among Medicaid clients and managed care organizations, including payment for these services;
6. Participate collaboratively in interagency projects related to maternal child health topics, such as the Infant Mortality workgroup, the Children with Special Healthcare Needs Action Collaborative, the Perinatal Collaborative, and others.

C. Responsibilities Applicable to Both Parties:

1. Designate personnel from relevant divisions of Title V and Medicaid to meet on a regular basis and as deemed necessary by Title V and Medicaid administrators to discuss areas of mutual and singular responsibility, update each other on new developments, and maintain and enhance communication and cooperation between the two entities;
2. Collaborate to improve birth outcomes and reduce maternal, infant, child and adolescent morbidity and mortality in New Mexico;
3. Collaborate on the establishment of quality improvement standards and performance measures relative to the delivery of maternal and child care;
4. Participate in joint projects related to maternal child health, development of policies, regulations and quality of care standards for services to pregnant women, infants, children and adolescents, and children and youth with special healthcare needs;
5. Promote partnership, cooperation, and communication between Title V/Family Health Bureau and Medicaid to share expertise and improve the delivery of maternal child health services.
6. Provide program data and other information upon request, including client data and linkage analyses, to support shared goals, aligned services, and available supports for consumers.

3. **ADMINISTERING AGENCY**

The administering agency is the DOH.

4. **COMPENSATION**

The Entity shall receive no compensation for work performed pursuant to the Scope of Work described in Article 2.

5. **PROPERTY**

The parties understand and agree that property acquired under this Agreement shall be the property of the DOH.

6. **CLIENT RECORDS AND CONFIDENTIALITY**

- A. The Entity shall protect the confidentiality, privacy and security of all confidential information and records and shall not release any confidential information to any other third party without the express written authorization of the client when the record is a client record, or the DOH.
- B. The Entity shall comply with the Federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act) and applicable regulations and all other State and Federal rules, regulations and laws protecting the confidentiality of information. If the Entity may reasonably be expected to have access to Departments' Protected Health Information (PHI) as defined by HIPAA, Entity shall execute the HIPAA/HITECH Business Associate Agreement

as a separately executed mandatory agreement which is hereby incorporated by reference into and made part of this Agreement. Failure to execute the HIPAA/HITECH Business Associate Agreement when required by the DEPARTMENT shall constitute grounds for termination of this Agreement in accordance with Article 9 of this Agreement.

7. FUNDS ACCOUNTABILITY

The Entity shall receive no compensation for work performed pursuant to the Scope of Work described in Article 2.

8. LIABILITY

As between the parties, each party will be responsible for claims or damages arising from personal injury or damage to persons or tangible property to the extent they result from negligence of its employees, subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq., NMSA 1978, as amended.

9. TERMINATION OF AGREEMENT

This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the DOH's sole liability upon such termination shall be to pay for acceptable work performed prior to the Entity's receipt of the notice of termination, if the DOH is the terminating party, or the Entity's sending of the notice of termination, if the Entity is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Entity shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Entity if the Entity becomes unable to perform the services contracted for, as determined by the DOH or if, during the term of this Agreement, the Entity or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to insufficient appropriation by the Legislature to the DOH. ***THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE STATE'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE ENTITY'S DEFAULT/BREACH OF THIS AGREEMENT.***

10. APPLICABLE LAW

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978 Section 38-3-1(G). By execution of this Agreement, the Entity acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement. The parties agree to abide by all state and federal laws and regulations.

11. PERIOD OF AGREEMENT

This Agreement shall be effective upon approval of both parties, whichever is later and shall terminate on **June 30, 2018** or as stated in **ARTICLE 9, Termination of Agreement**. Any and all amendments shall be made in writing and shall be agreed to and executed by the respective parties before becoming effective.

12. FEDERAL GRANT OR OTHER FEDERALLY FUNDED AGREEMENTS.

A. Lobbying. The Entity shall not use any funds provided under this Agreement, either directly or indirectly, for the purpose of conducting lobbying activities or hiring a lobbyist or lobbyists on its behalf at the federal, state, or local government level, as defined in the Lobbyist

Regulation Act, NMSA 1978, Sections 2-11-1, et. seq., and applicable federal law. No federal appropriated funds can be paid or will be paid, by or on behalf of the Entity, or any person for influencing or attempting to influence an officer or employee of any Department, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any Department, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of any applicable Federal contract, grant, loan, or cooperative agreement, the Entity shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- B. Suspension and Debarment. For contracts which involve the expenditure of Federal funds, each party represents that neither it, nor any of its management or any other employees or independent Entities who will have any involvement in the services or products supplied under this Agreement, have been excluded from participation in any government healthcare program, debarred from or under any other Federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7, and that it, its employees, and independent Entities are not otherwise ineligible for participation in Federal healthcare or education programs. Further, each party represents that it is not aware of any such pending action(s) (including criminal actions) against it or its employees or independent Entities. Each party shall notify the other party immediately upon becoming aware of any pending or final action in any of these areas.
- C. Political Activity. No funds hereunder shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.
- D. Grantor and Entity Information.
1. If applicable, funding under this agreement is from the Catalog of Federal Domestic Assistance (CFDA) Program:
 - i. CFDA Number – XXX_____. OR N/A
 - ii. Program Title – XXX_____. OR N/A
 - iii. AGENCY/OFFICE – XXX_____. OR N/A
 - iv. GRANT NUMBER – XXX_____. OR N/A
 2. ENTITY'S Dun and Bradstreet Data Universal Numbering System Number (DUNS Number) is XXX_____. OR N/A
- E. Entity Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Sept. 2013)[Federal Grant funded projects only].
1. This Agreement and employees working on this Agreement will be subject to the whistleblower rights and remedies in the pilot program on Entity employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L.112-239) and FAR 3.908.
 2. The Entity shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
 3. The Entity shall insert the substance of this clause, including this paragraph (3), in all subcontracts over the simplified acquisition threshold.
- F. For contracts and subgrants which involve the expenditure of Federal funds for amounts in excess of \$150,000, requires the Entity to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be

reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

- G. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) — For contracts which involve the expenditure of Federal funds, Entities that apply or bid for an contract exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- H. For contracts which involve the expenditure of Federal funds, Entity must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- I. For contracts which involve the expenditure of Federal funds, and under which the Entity is considered a subrecipient, the provisions of Appendix A shall apply and are incorporated herein. The operating code of this agreement is 0000000005.

IN WITNESS WHEREOF the parties have executed this AGREEMENT at Santa Fe, New Mexico. The effective date is upon approval of both parties, whichever is later.

New Mexico Department of Health

Entity

By: _____
Authorized Signature Designee

By: _____

Date: _____

Date: _____

Certified For Legal Sufficiency:

By: _____
Department of Health
Assistant General Counsel

By: _____

Date: _____

Date: _____