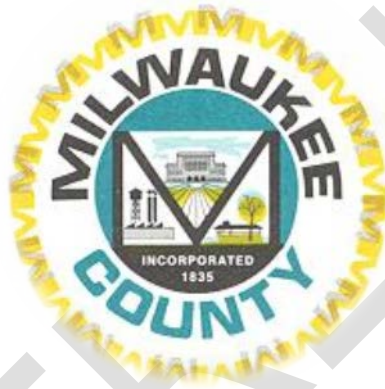


MILWAUKEE COUNTY  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
PROGRAMS

# 2014 FEE-FOR-SERVICE AGREEMENT



for  
**Fee-for-Service  
Providers**

**WRAPAROUND MILWAUKEE  
2014 FEE-FOR-SERVICE AGREEMENT**

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**MILWAUKEE COUNTY  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**WRAPAROUND MILWAUKEE**

**2014 FEE-FOR-SERVICE  
AGREEMENT**

THIS AGREEMENT is made and entered into this 1<sup>st</sup> day of January, 2014 by and between the Milwaukee County Department of Health and Human Services - WRAPAROUND MILWAUKEE (hereafter referred to as "**Purchaser**") and \_\_\_\_\_ (hereinafter referred to as "**Provider**"), and shall become effective January 1, 2014 and continue in full force until December 31, 2014.

WITNESS that:

WHEREAS, Purchaser is a governmental subunit of Milwaukee County and/or a Specialized Managed Care Organization managing and providing mental health, substance abuse and/or health and social services; and

WHEREAS, Purchaser also arranges for the provision and purchase of such services from Mental Health and Health and Social Services Providers for adults, children and families in Milwaukee County-operated programs or programs managed by Purchaser; and

WHEREAS, Provider desires to provide such services for Purchaser.

NOW, THEREFORE, in consideration of the mutual promises herein stated, it is agreed by and between the parties that the Provider shall provide the services at the rates set forth in the attachment identified as "Attachment A – Schedule of Services & Rates - 2014 Fee-for-Service Agreement" and that said services will cover the following duties and obligations.

## SECTION ONE

### Definitions

As used in this Agreement, the following terms shall have the meanings set forth herein, except where the context is clear that such meanings are not intended:

- A. **"Agreement"** - this document with summary page, all attachments, exhibits, schedules, references and amendments. The Milwaukee County Department of Health and Human Services Administrative Probation Policy for Non-Compliance with Contract and Fee-for-Service Requirement, Payor Of Last Resort Policy For Community Based Residential Facility (CBRF) Contracts And Other Fee-For-Service Agreements and Provider's current application are incorporated herein by reference and made a part of this Agreement as if physically attached hereto and Provider shall comply herewith. Referenced policies are available at: <http://www.county.milwaukee.gov>.
- B. **"Alternate Care Site"** - a building or facility to which Residents/Service Recipients from the evacuated facility/residential provider can be taken to for continued care and treatment and shelter.
- C. **"Behavioral Health Division"** - A division of County administering programs to enhance the quality of life for individuals with mental health and substance abuse problems, assisting in their recovery and providing individualized opportunities to participate in the community.
- D. **"Care Coordination Agency"** or **"Care Management/Support and Service Coordination Agency"** or **"Case Management Agency"** or **"Recovery Support Coordinator"** – mental health, substance abuse or social service agency which has entered into an Agreement with Purchaser to provide or arrange for the provision of Covered Services to Participants by Care Coordinators in the Wraparound Milwaukee Program, Care Management/support and Service Coordination for Disabilities Services Division Programs, Case Managers in the Family Intervention Support and Services (FISS) Program, Recovery Support Coordinators in the Wlser Choice Program, or Case Management/Care Coordinators in the Community Service Branch [CSB] of the Behavioral Health Division.
- E. **"Care Coordinator"** or **"Care Management/Support and Service Coordinator (CM/SSC)"** or **"Case Manager"** or **"Recovery Support Coordinator"** or **"Human Service Worker/Juvenile Justice Worker"** - person responsible for providing, coordinating and managing the provision of services in the Wraparound Milwaukee Program, Disabilities Services Division Programs, FISS Program, Wlser Choice Program, or *Children's Court Services Network*, respectively.
- F. **"Case Notes"** – logs and/or sign-in sheets, progress notes, monthly reports, summary notes and/or any other written or electronic documentation completed by the DSP to support that the covered service was provided to the Service Recipient. Case Notes must include the following minimum elements: service code or name; name(s) of the DSP(s); client and service recipient name; the date, actual start time, actual end time, duration, location of the service; intervention; summary of the activity engaged in; Service Recipient's response to the Covered Service; DSPs signature and signature date and any other elements as required by Purchaser Policy or Procedure. System and other requirements for electronic Case Notes and other electronic service documentation are listed in Section Two of this Agreement.
- G. **"Children's Court Services Network"** (CCSN) - program of the Delinquency and Court Services Division that coordinates the delivery of comprehensive AODA (Alcohol and Other Drug Abuse), mental health, and social services to youth who are adjudicated and/or under the jurisdiction of Children's Court, and are in need of supportive services in order to avoid committing additional offenses.
- H. **"CMHC"** – information management system operated by the Behavioral Health Division used for client registration, contract management, service authorizations, payments for Covered Services,

and management of other client related information. Information maintained in CMHC is considered "Protected Health Information," and as such is confidential.

- I. **"Complaint/Grievance"** - written and/or verbal statement of dissatisfaction with Purchaser's procedure, service, benefit, system of care representative or Provider.
- J. **"Conditional Status"** - period of time for up to one year when a Provider will be more closely monitored by Purchaser and reviewed for compliance with the provisions of this Agreement.
- K. **"County"** – Milwaukee County (hereinafter called County) a Wisconsin municipal body corporation represented by the Milwaukee County Department of Health and Human Services (DHHS) and its respective divisions, the Milwaukee Department of Audit, the Milwaukee County Behavioral Health Division, and any other applicable departments or offices of County and its designees.
- L. **"Covered Services"** - services identified in this Agreement that are rendered by the Provider and are subject to the terms and conditions of this Agreement, for which the provider may request payment.
- M. **"Direct Service Provider"** DSP – Provider employee, volunteer, paid or unpaid intern, or Independent Service Provider, who provides direct care and/or Covered Services to a Participant/Service Recipient on behalf of a Provider, for which the Provider receives compensation from the Purchaser under this Agreement.
- N. **"Disabilities Services Division"** – A division of County administering programs to enhance the quality of life for individuals with physical, sensory and developmental disabilities and their support networks living in Milwaukee County by addressing the participant's identified needs and meeting her/his desired individual outcomes and providing individualized opportunities to participate in the community.
- O. **"Emergency Management Plan"** (Disaster Plan) - the procedures, developed by the Provider organization, to manage an internal or external hazard that threatens Residents/Service Recipients, staff, and/or visitor life and safety.
- P. **"Family Intervention Support and Services"** (FISS) – program under contract with the Bureau of Milwaukee Child Welfare to coordinate the delivery of services to intact families exhibiting a need for resources/services for their adolescent, ages twelve (12) to seventeen (17) in Milwaukee County.
- Q. **"Fraud"** – involves an intentional deception and representation that an individual either knows is false or does not believe to be true and is related to a material fact. Examples of Fraud include, but are not limited to: embezzlement; misappropriation, misapplication, destruction, removal, or concealment of property; alteration or falsification of documents, including pre-signing logs or falsification of signatures; authorizing or receiving compensation for services not performed, authorizing or receiving compensation for hours not worked.
- R. **"Independent Service Provider"**: is an individual independent contractor with a contractual relationship with provider, who is not an employee of the provider.
- S. **"Indirect Staff"**-is an employee or individual independent contractor who is not a DSP, but is associated with Covered Services as a supervisor, billing staff, case records and/or quality assurance worker, and/or is someone who has access to clients, client property, and/or client information of Service Recipients. Agency owner, President, CEO, Executive Director, and/or Senior Staff are considered Indirect Staff if reporting to work at a site where Covered Services are provided.
- T. **"Milwaukee County Department of Health and Human Services"** (DHHS) – A governmental subunit of Milwaukee County created by action of the Milwaukee County Board of Supervisors as

authorized by state statute to provide or purchase care or treatment services for residents of Milwaukee County. The Department of Health and Human Services consists of the following six divisions: Economic Support, Delinquency and Court Services, Disabilities Services, Management Services, Behavioral Health and County Health Programs. **The mission of DHHS is to secure human services for individuals and families who need assistance in living a healthy, independent life in our community.**

- U. **"Participant"** - individual who is enrolled in the Purchaser's Program.
- V. **"Policies and Procedures"** – Purchaser policies and procedures, service descriptions, Provider Bulletins, memos, this Agreement, and/or other program specific written (including email) requirements and all applicable federal, state and county statutes and regulations which are in effect at the time of the delivery of Covered Services.
- W. **"Provider"** - agency or individual with whom this Agreement has been executed.
- X. **"Provider Network"** – All Providers with whom an Agreement has been executed with Purchaser.
- Y. **"Quality Assurance/Utilization Management"** - a system that provides ongoing monitoring activities related to the quality, appropriateness, effectiveness, cost and utilization of Covered Services including implementation of corrective actions determined and authorized by the Purchaser or County to be appropriate, including recoupment of monies if deemed necessary.
- Z. **"Service Access to Independent Living" (SAIL)** - refers to the Community Services Branch of the Behavioral Health Division that offers a central access point for Milwaukee County residents seeking mental health or alcohol or other drug abuse services.
- AA. **"Service Documentation"** – Consents, assessments, service plans, reviews, Case Notes, monthly reports, ledgers, budgets, and all other written or electronic program and/or fiscal records relating to Covered Services.
- BB. **"Service Plan"** - written document that describes the type, frequency and/or duration of the Covered Services that are to be provided to enrolled Participant and/or Participant's family. For Wlser Choice, Service Plan refers to a Single Coordinated Care Plan. For Wraparound Milwaukee, Service Plan refers to the Plan of Care. For SAIL, Service Plan refers to an Individualized Service Plan. For Children's Court Services Network, Service Plan refers to the Service Plan Authorization Form and/or the Service Plan Amendment. For Disabilities Services Division, Service Plan refers to an Individualized Service Plan.
- CC. **"Service Recipient"** - person or persons identified in a service authorization as the recipient of Covered Services provided by the DSP.
- DD. **"Site Review"** – Visual inspection of Provider's premise, employee records, service documentation, interview of appropriate persons or individuals including but not limited to: employees, participants, service recipients, parent/guardians, individuals with knowledge of the services recipient's receipt of the Covered Service. The above may be conducted by Purchaser representatives, the Milwaukee County Department of Audit and representatives of appropriate federal, state or local agencies.
- EE. **"State"** - The word State when used in this Agreement shall mean the State of Wisconsin.
- FF. **"Synthesis"** - information management system owned and operated by Wraparound Milwaukee used for client registration, contract management, service authorizations, payments for Covered Services and management of other client related information. Information maintained in Synthesis is considered "Protected Health Information," and as such is confidential.

- GG. **"Wiser Choice"** - continuum of services that support the recovery of persons with substance use and/or co-occurring mental health disorders. Services to be provided by the network include AODA clinical treatment as well as non-clinical services supporting recovery such as childcare, pre-employment education/training, parenting assistance, daily living skills training, and housing.
- HH. **"Wraparound Milwaukee"** - a program serving children with severe emotional or mental health needs at risk of institutional placement referred through the Bureau of Milwaukee Child Welfare, Probation, the public school system or self-referred.

## SECTION TWO

### General Obligations of Provider

#### Provider Level Obligations

- A. *Provider understands and agrees that all provisions of this Agreement are in effect at all times that Covered Services are provided.*
- B. *In the event that this Agreement establishes a different standard or obligation on a given matter than Federal, State, or Local laws, rules, or other regulations, the greater standard shall apply. In the event that there are any inconsistencies between this document and other Agreement items, the following order of precedence shall be followed:*
- 1) *This document*
  - 2) *Other Policies and Procedures*
  - 3) *Email or other written communication, unless it specifically is authorizing a waiver or exemption to 1 or 2, above*
- C. *Provider agrees to obtain, post, and submit upon request an Occupancy Permit, or equivalent, as required by municipality, which demonstrates that use of the location for Covered Services is permitted.*
- D. *Provider agrees to notify Purchaser in writing within 5 business days of any of the following changes or conditions:*
1. *Agency name;*
  2. *Agency ownership;*
  3. *Agency director/CEO;*
  4. *Any change in status of Executive Director, senior management, or any corporate officer;*
  5. *Agency business or billing address(es);*
  6. *Telephone or fax number;*
  7. *E-mail address;*
  8. *Federal Employers Tax ID (FEIN) number;*
  9. *Change of insurance carrier or insurance coverage*
  10. *Change in or restriction of Provider, DSP, and/or Indirect Staff license(s), including occurrence of negative findings such as license suspension, surrender, expiration, or revocation, or request of forfeiture, fines, plan(s) of correction due to licensing violations that occur (See also Sec 2, AA). This condition carries a notification requirement of TWO DAYS.*
  11. *Any arrests or convictions of DSP and/or Indirect Staff (See also Sec 2, F); This condition carries a notification requirement of TWO DAYS.*
  12. *Inability to accept referrals within the timelines defined in Purchaser Policies and Procedures, including if Provider has wait lists.*
  13. *Discontinuation of agreed upon service(s).*
- E. *Provider agrees to provide notification prior to making changes in ownership structure or location of any site where Covered Services are provided, to ensure that proposed organizational changes are consistent with Agreement. Changes in location and/or ownership structure may result in termination of this Agreement.*
- F. *Provider agrees that its own policies and procedures are enforceable under this Agreement, and*

*that those policies and procedures shall be submitted upon request of Purchaser.*

- G. *Provider shall fully cooperate with any and all program evaluation efforts as may be required by Purchaser during the term of this Agreement.*

**Provider Obligations for DSPs and Indirect Staff**

Provider understands and agrees that the employment status of individual DSPs or Indirect Staff with Provider is not dependent on approval, denial, or any other administrative action by Purchaser and is solely a matter of Provider discretion. Any administrative decision by Purchaser only affects eligibility of DSP and/or Indirect Staff to provide Covered Services, and does not affect employment eligibility of individual with Provider.

- H. Provider agrees to abide by the terms of the Milwaukee County Caregiver Resolution and the Wisconsin Caregiver Law requiring Background Checks on all caregivers as set forth in Section Three (Compliance with Caregiver Background Checks) of this Agreement.
- I. In addition to compliance with Caregiver Background Checks (Section 3) and the Milwaukee County Caregiver Resolution 99-233 *regarding barred convictions*, Provider will also consider conviction history of any candidate before requesting to add as a DSP and/or Indirect Staff to determine suitability based on a substantially related test as described in DHS 12.06 ([http://docs.legis.wisconsin.gov/code/admin\\_code/dhs/001/12](http://docs.legis.wisconsin.gov/code/admin_code/dhs/001/12)). In instances including, *but not limited to*, multiple (2 or more), recent (within five years), or felony convictions, or for any charges with open dispositions, Provider may be required to obtain a copy of the Criminal Complaint from the Clerk of Court's Office, to determine whether a conviction is substantially related to care of a client. County reserves the right to make a final determination regarding conviction records and whether a conviction is substantially related to the Covered Service in question.

*Purchaser will also consider status of probation/parole, extended supervision, deferred prosecution agreement, or participation in a Driver Safety Plan in evaluating eligibility to enter network.*

Provider shall conduct subsequent background checks at intervals no greater than those prescribed by the Wisconsin Caregiver Law and/or the Milwaukee County Caregiver Resolution 99-233, or as often as is necessary to ensure that Individual DSPs and/or Indirect Staff have suitable backgrounds and are free of any barred convictions at all times that services are delivered.

Provider shall have a written policy which is communicated to all DSPs upon hire and no greater than 12 months thereafter requiring immediate (within 24 hours of the event) notification to Provider of any new arrests or convictions. Communication of this policy shall be documented with the employee's signature, dated, and kept in the employee file. Upon notification from DSP to Provider as described above, Provider shall notify Purchaser within two business days.

- J. Provider shall obtain a minimum of two work related references, to be documented in writing, for any candidate requested to be added as a DSP or Indirect Staff. This documentation shall be retained in the personnel file and submitted to Purchaser upon request. Purchaser reserves the right to consider education in lieu of work experience.
- K. Provider agrees to notify Purchaser if individual DSP or Indirect Staff are employed by any other Provider in addition to the one with whom this Agreement is executed.
- L. Where education or degree requirements exist for DSP or Indirect Staff positions, *Provider shall obtain and retain a copy of either a diploma or transcript demonstrating that staff meets requirements.* Further, Provider agrees that only coursework and degrees from accredited schools shall be recognized by Purchaser, as they may appear on the United States Department of Education, Office of Postsecondary Education (<http://www.ope.ed.gov/accreditation/>) or the Council of Higher Education Accreditation (<http://www.chea.org/search/>) databases.



- M. Provider is responsible for the supervision of DSPs and Indirect Staff and accountable for the accuracy and completeness of all required Service Documentation. Provider is responsible for preparing and maintaining written documentation that identifies the hierarchy for oversight of all DSPs and Indirect Staff, Provider procedure for communication of Purchaser's Policies and Procedures to DSPs and Indirect Staff, and Provider plan related to supervision of all DSPs and Indirect Staff, including the process for review and approval of Service Documentation. Provider is responsible for being the point of contact to mediate any and all matters between Purchaser and DSPs and/or Indirect Staff.
- N. Provider shall provide all personnel required to perform the Covered Services listed in Attachment A with a minimum of two (2) DSPs for each Covered Service. Replacement personnel shall be by persons of like qualification. Written notification of approval of new or replacement DSPs and Indirect Staff shall be made per Purchaser Policies and Procedures prior to the provision of Covered Services or having any other contact with Service Recipients. Written notification to include notice and approval of the Purchaser if Provider personnel are employees of or have any other contractual relationship with County. It is understood that final authority for determining eligibility to be a DSP or Indirect Staff rests with the Purchaser. If an individual employee (DSP or Indirect Staff) is removed or otherwise not approved, s/he cannot fill a different position connected with Covered Services (for example, a suspended or otherwise removed DSP may not become an Indirect Staff and vice versa).
- O. Provider shall determine the methods, procedures, and personnel policies to be used in initiating and furnishing Covered Services to the Service Recipient, except as provided herein, or as identified in Purchaser Policies and Procedures.
- P. A valid driver's license is required to be held by any DSP and/or Indirect Staff who uses a vehicle for any purpose related to the provision of Covered Services. Provider must obtain an initial driver's license abstract prior to requesting staff be added. A new driver's license abstract must be completed at intervals no greater than 12 months thereafter, or as often as is necessary to ensure that license remains valid at all times that services are delivered.

Provider shall have a written policy which is communicated to all DSPs upon hire and no greater than 12 months thereafter requiring immediate (within 24 hours of the event) notification to Provider of any change in validity (suspended, revoked, expired, surrendered, etc.) of driver's license. Communication of this policy shall be documented with the DSP's signature, dated, and kept in the employee file. Upon notification from DSP to Provider as described above, Provider shall immediately suspend the DSP from driving for any purpose related to Covered Services and shall notify Purchaser within two (2) business days. If a provider fails to report the suspension, revocation, or expiration of his/her license and services are billed during the non-valid period, that provider will be immediately terminated from providing Covered Services, and all services paid during the non-valid period will be subject to recovery.

- Q. Purchaser reserves the right to remove a DSP or Indirect Staff from the Provider Network at any time. If Provider is unable to provide authorized Covered Services, this must be reported to Purchaser. If DSP or Indirect Staff is terminated from Provider for any reason connected to Covered Services, Purchaser must be notified in writing within 2 business days.
- R. Provider agrees not to use DSPs in the provision of Covered Services or Indirect Staff who are suspended, debarred, or under investigation by Purchaser or other Federal, State, or Local entities, without prior notification to and approval from Purchaser.
- S. Provider shall have more than one employee or Independent Service Provider at their agency and at least two DSPs for each Covered Service unless prior written approval is obtained, or unless otherwise allowed per Purchaser Policy and Procedure. A request must include a plan which demonstrates formal arrangements for coverage arising from absences, illness, vacation, etc., and/or variations in program volume.
- T. *Provider shall comply with all applicable wage and payment laws dealing with compensation of DSPs and Indirect Staff, particularly as they relate to withholding pay, wage deductions, and/or*

*making payment of wages conditional upon payment for outcome based services. Payment of wages cannot be made conditional on payment from Purchaser unless such arrangement conforms with the parameters of Chapter 109 of Wisconsin Statutes.*

- U. *In accordance with Wisconsin Fair Employment Law and Department of Workforce Development/Equal Rights Division, an **anti-harassment policy** must be developed and adhered to by Providers. A strong and effective policy is required prohibiting workplace harassment, and procedures for addressing such matters when they arise. The policy must be communicated to all current DSP and Indirect Staff (DSP's) no later than March 30, 2014 and during orientation of new staff (no later than 30 days of hire). DSP's must receive a copy of the agency policies regarding harassment and the procedures for reporting it. Agency must provide and document training sessions related to harassment and retain documentation that all DSP's have received a copy of the agency harassment policies and procedures.*

*Guidance for creating an anti-harassment policy can be found at following link: [http://dwd.wisconsin.gov/er/discrimination\\_civil\\_rights/publication\\_erd\\_10449\\_p.htm](http://dwd.wisconsin.gov/er/discrimination_civil_rights/publication_erd_10449_p.htm)*

### **Provider Obligations for Service Recipients**

- V. *Provider agrees to provide Covered Services for Participants/Service Recipients in accordance with Purchaser's Policies and Procedures, referral form and Service Plan. Any deviations, exceptions, waivers, etc., must be in writing from Purchaser.*
- W. *Unless otherwise indicated by Purchaser Policy or Procedure, the following are not billable activities:*
- 1) *Travel time to and from Covered Services*
  - 2) *Non face-to-face activity, including collateral contacts and phone calls to or regarding client*
  - 3) *No shows*
  - 4) *Service Documentation*
- X. *Provider shall have a Critical Incident policy. Critical Incidents are defined as any events or situations that jeopardize the health or safety of Service Recipients or of staff. These situations include, but are not limited to, the following:*
1. *Death.*
  2. *Physical injury.*
  3. *Fire Setting.*
  4. *Commission of a serious offense to or by the service recipient, DSP, or Indirect Staff.*
  5. *Service Recipient attempts suicide or is actively suicidal.*
  6. *Any event that could result in media exposure.*
  7. *Physical or sexual assault on or by Service Recipient, DSP, or Indirect Staff*
  8. *Other - An incident of a critical nature that may not be identified above (i.e., death threat made to a Service Recipient, DSP, or Indirect Staff, etc.).*

*Critical Incidents must be reported in writing to Purchaser within 24 hours of becoming aware of the incident. In addition, Provider must immediately report Critical Incidents to the parent/guardian, Care Coordinator, Care Management/Support and Service Coordination Agency, Case Management Agency, Recovery Support Coordinator, or Human Service Worker/Juvenile Justice Worker.*

*Critical incident and notifications shall be documented in the Case Notes.*

### **Provider Obligations for Service Documentation**

- Y. *In the case of a minor, Service Documentation shall be retained until the Participant becomes 19 years of age or until seven (7) years after Covered Services have been completed, whichever is longer. In the case of an adult, records shall be retained for a minimum of seven (7) years after Covered Services have completed.*

Z. Provider agrees to maintain Service Documentation as required by this Agreement and Policies and Procedures including a service specific consent for services signed and dated by the Service Recipient or parent/guardian. If the Service Recipient is to be transported by a DSP, a transportation consent form must also be signed and dated by the child's parent/legal guardian or adult Service Recipient prior to providing transportation (unless otherwise indicated by policy and procedure). This documentation shall be retained in the case/client file and submitted to Purchaser upon request.

AA. Provider agrees to maintain and retain Service Documentation as required by all applicable Policies and Procedures. See definition of Case Notes for required elements. Purchaser reserves the right not to pay for units of Covered Services reported by Provider that are not supported by Service Documentation required under this Agreement.

Any correction, creation of, or addition to Service Documentation after billing must receive prior approval. Service Documentation otherwise created or obtained subsequent to billing or in response to site review findings will not be accepted as support for payment (including affidavits).

For Children's Court Services Network and Wlser Choice, all Covered Services require the Participant or Service Recipient signature on Service Documentation.

For Wraparound Milwaukee and SAIL, Service Documentation is required per Policy and Procedure.

BB. Provider agrees to ensure that DSPs complete and retain Case Notes prior to billing for Covered Services. In no case shall Case Notes be completed more than 30 days after the provision of Covered Service unless otherwise specified in Purchaser Policies and Procedures.

CC. Provider utilizing any electronic systems for Case Notes or other Service Documentation agrees to abide by Purchaser's Electronic Record Keeping Systems requirements as follows:

Provider may maintain case notes electronically if Provider has a written policy describing the record and the authentication and security policy, in accordance with state and federal standards and laws related to electronic medical records/electronic health records or electronic case notes. This policy shall be submitted to Purchaser upon request.

Electronic Software Systems (ESS) must conform to HIPAA security rules requiring appropriate administrative physical and technical safeguards to ensure the confidentiality, integrity and security of electronic protected health information. ESS must include at a minimum; data integrity, password protection, a back-up system, client confidentiality, as well as safeguards to protect against modification of the record, or unauthorized access.

DSP's electronic signatures may only be used by the person who makes the entry. Provider must possess a statement signed and dated by the DSP, which certifies that only the DSP shall use the electronic representation via use of a personal password. This statement shall be kept in the DSP's personnel file and shall be submitted to Purchaser upon request.

### **Other Provider Obligations**

DD. *Except where noted in Policy and Procedure, all non-clinical Covered Services (where DSP is not licensed), Provider shall have a curriculum to include, at a minimum:*

- 1) *A summary description of the purpose of the service, a description of the general activities engaged in, and any evidence based support for the service model.*
- 2) *A description of activities by session, stage, or other interval.*
- 3) *The specific learning objectives or intended benefit of the service, as well as the intervals and methods for measuring benefit/objectives, and the intervals and methods used to determine whether continuation of services is warranted.*

4) *Any other protocols.*

*Provider shall ensure that DSPs are oriented/trained to the curriculum for all Covered Services they are authorized to provide initially within 30 days of hire. Documentation of orientation/training shall be retained by Provider.*

*For all clinical Covered Services (AODA and mental health services, where DSP is licensed), provider shall develop and maintain a written description of the therapeutic approach, service model, and/or evidence based support for the service model, as well as a description of the intervals and methods used to determine whether continuation of services is warranted.*

*Provider is responsible for providing **initial training** to all DSP's within 30 days from the date of hire unless otherwise indicated per Purchaser Policy and Procedure. For ongoing DSP's, Provider is responsible for providing **updated training** on an annual basis (not to exceed 365 days).*

*Per Purchaser Policy and Procedure, Initial and Updated Training must be fully documented (and retained in agency or personnel record) to include the following information: subject(s) of training, trainer(s) name, date(s) of training and duration of training(s). Provider training must cover but not limited to the following subjects: service description(s), as defined by Purchaser and/or state statute, Provider curriculum, documentation and billing requirements, agency and program applicable policies and procedures, FFSA (in full, or pertinent sections), as well as all other applicable county, state, federal rules and regulations.*

EE. Provider shall not utilize a home based business/site for any office based Covered Services without prior written approval.

FF. Provider agrees to obtain, retain, and monitor current credentials and licenses for Provider and all DSPs and Indirect Staff, including subcontractors, as required by federal, state, and county regulations and/or Purchaser Policies and Procedures throughout the term of this Agreement. Provider agrees to cooperate with any credentialing procedures, which Purchaser may elect to establish. All licensing and/or credentialing requirements are understood to be in effect at all times that Covered Services are provided.

GG. *Provider understands and agrees that this Agreement may create obligations that exceed those required under licensure and/or other Federal, State, or Local laws and regulation, and that maintaining a license in good standing does not discharge or waive any obligations under this Agreement. Where this Agreement creates obligations in addition to, or which exceed, those required under licensing, Provider shall meet the obligations of the Agreement in addition to those required by licensure.*

HH. Where a State of Wisconsin program, agency or DSP license (including a driver's license) or certification is required to provide a Covered Service, Provider agrees to notify Purchaser within 2 business days if there is an occurrence of negative findings such as license surrender, suspension, revocation, expiration, or request of forfeiture, fines, plan(s) of correction due to licensing violations that occur.

II. Provider acknowledges and agrees that it will perform its obligations hereunder in compliance with all applicable state, local or federal law, rules, regulations and orders. This Agreement shall be interpreted and enforced under the laws and jurisdiction of the State of Wisconsin.

JJ. Provider agrees to work collaboratively with Purchaser and its agents, and other Providers in the provision of Covered Services to Participants/Service Recipients.

KK. Provider agrees that in cases of a physical illness or injury of a Participant or Service Recipient, Provider shall notify the emergency contact as identified in the Referral Form. (Note: Purchaser is not responsible to pay for services related to a physical illness or injury of a Participant or Service Recipient.) In cases of a Participant/Service Recipient psychiatric emergency (situation involving significant risk and/or verbal threats to harm oneself or others), the Provider shall contact: the Mobile Urgent Treatment Team (257-7621) for Wraparound Milwaukee and

Children's Court Services Network, the Behavioral Health Division Mobile Crisis Team (257-7222) for Wiser Choice Participants/Service Recipients, unless otherwise specified in the Participant's Service Plan.

- LL. Provider assures that adequate steps have been taken to safeguard sensitive client and administrative information contained in Purchaser's automated systems. Provider also assures that only authorized personnel, employees, ISP or subcontractors are accessing the Purchaser's automated systems for purposes required under this agreement and not for any other purpose. Further, Provider also assure that the providers and User of the Purchaser's automated systems are aware of Purchaser's Use of technology and limitation of use policies and have adequate network security while accessing the Purchaser's automated systems.
- MM. Provider agrees to identify by position/job title and name all Indirect Staff at Provider by completing, signing, and returning with this Agreement the attached Form 21 Agency Indirect Staff Detail (Attachment E). This form is to be completed electronically - available at: ([http://county.milwaukee.gov/DHHS\\_bids](http://county.milwaukee.gov/DHHS_bids)) with a hard copy attached to this agreement.
- NN. In order for Provider and Participant/Service Recipients that Provider serves to be prepared for a natural or man-made disaster, or any other internal or external hazard that threatens Participant/Service Recipients, staff, and/or visitor life and safety, and in order to comply with federal and state requirements, Provider shall have a written Emergency Management Plan (EMP), to be retained by the Provider and made available to DHHS upon request. All employees shall be oriented to the proposed plan and trained to perform assigned tasks. Said EMP must identify the steps Provider has taken or will be taking to prepare for an emergency and address, at a minimum, the following areas and issues:
1. Provider's order of succession and emergency communications plan, including who at the facility/organization will be in authority to make the decision to execute the plan to evacuate or shelter in place and what will be the chain of command;
  2. Develop a continuity of operations business plan using an all-hazards approach (e.g., floods, tornadoes, blizzards, fire, electrical blackout, bioterrorism, pandemic influenza or other natural or man-made disasters) that could potentially affect current operations or site directly and indirectly within a particular area or location;
  3. Identify Covered Services deemed "essential", and any other Covered Services that will remain operational during an emergency (Providers who offer case management, residential, or personal care for individuals with medical, cognitive, emotional or mental health needs, or to individuals with physical or developmental disabilities are deemed to be Providers of essential services);
  4. Identify and communicate procedures for orderly evacuation or other response approved by local emergency management agency during a fire emergency;
  5. Plan a response to serious illness, including pandemic, or accidents;
  6. Prepare for and respond to severe weather including tornado and flooding;
  7. Plan a route to dry land when a facility or site is located in a flood plain;
  8. For any facility licensed for out of home care, identify the location of an Alternate Care Site for Participants/Service Recipients (Note, this should include a minimum of two alternate facilities, with the second being at least 50 miles from the current facility);
  9. Identify a means, other than public transportation, of transporting Participants/Service Recipients to the Alternate Care location (Note, for Alternate Care Sites and transportation, a surge capability assessment and Memorandum of Understanding (MOU) with Alternate Care Site and alternative transportation provider should be included in the development of the emergency plan);

10. Identify the role(s) of staff during an emergency, including critical personnel, key functions and staffing schedules (In the case of Personal Care Workers, staff should be prepared to accompany the Service Recipient to the Alternate Care Site, or local emergency management identified Emergency Shelter);
11. Identify how meals will be provided to Participant/Service Recipients at an Alternate Care Site. In addition, a surge capacity assessment should include whether the Provider, as part of its emergency planning, anticipates the need to make housing and sustenance provisions for the staff and/or the family of staff;
12. Identify how Providers who offer case management, residential care, or personal care for individuals with substantial cognitive, medical, or physical needs shall assist Service Recipients to individually prepare for an emergency and obtain essential services during an emergency, including developing a Care Plan that includes an emergency plan on an individual level.
13. Ensure that current assessment and treatment plan for each Participant/Service Recipient with specific information about the characteristics and needs of the individuals for whom care is provided is available in an emergency and accompanies the Participant/Service Recipient to the Alternate Care Site. This should include: Participant/Service Recipient identification, diagnosis, acuity level, current drugs/prescriptions, special medical equipment, diet regimens and name and contact of next of Kin/responsible person/POA (Power of Attorney).
14. Identify staff responsible for ensuring availability of prescriptions/medical equipment and Service Recipient information at Alternate Care Site;
15. Communicate and Collaborate with local emergency management agencies to ensure the development of an effective emergency plan (typically the fire chief, or his/her designee); and
16. Collaborate with Suppliers and Personal Services Providers.

Providers shall have agreements or MOUs with other agencies or operators of Alternate Care Sites and assess the availability of volunteer staff for such emergencies.

Providers can find resources for EMPs including sample plans, Mutual Aid Agreement and templates at the following websites:

[http://dhs.wi.gov/rl\\_dsl/Providers/SampEmergPlans.htm](http://dhs.wi.gov/rl_dsl/Providers/SampEmergPlans.htm)

[http://dhs.wisconsin.gov/rl\\_DSL/Providers/EvacSheltTemplate.pdf](http://dhs.wisconsin.gov/rl_DSL/Providers/EvacSheltTemplate.pdf)

<http://www.dhs.wisconsin.gov/preparedness/>

If Provider organization serves persons with special needs receiving in-home care, or care in a supportive apartment, it should have the Service Recipient, the caregiver or someone upon whom the Service Recipient relies for personal assistance or safety complete the below referenced "DISASTER PREPAREDNESS CHECKLIST FOR INDIVIDUALS WITH SPECIAL NEEDS".

<http://dhs.wisconsin.gov/preparedness/pdfs/IndPrepChecklist.pdf>

### **SECTION THREE**

#### **Compliance with Caregiver Background Checks**

Purchaser and Provider agree that the protection of Participants/Service Recipients served under this Agreement is paramount to the intent of this Agreement. Provider certifies that it will comply with the provisions of DHS 12, Wis. Admin. Code *State of Wisconsin Caregiver Law* (online at <http://docs.legis.wisconsin.gov>). Provider further certifies that it will comply with the provisions of the Milwaukee County Caregiver Resolution requiring Background Checks as set forth in Attachment B of this

Agreement. Purchaser may also request from provider or obtain conviction records through the Wisconsin Circuit Court Access (WCCA) system, formerly known as CCAP, online at: <http://wcca.wicourts.gov>, and may consider convictions found through WCCA which may or may not appear through the Wisconsin Criminal History Records Request process (the DOJ report).

Prior to the provision of Covered Services, and dated no more than 90 days prior to requesting to add a particular staff as a DSP or Indirect Staff, Provider shall conduct background checks at its own expense on all DSPs, Indirect Staff, contract staff, Independent Service Provider or volunteers who have regular, direct contact with Service Recipients or the personal property of the Service Recipients. Background checks obtained from other entities are not transferable. Provider shall **submit and retain** in its personnel files copies of: 1) a *Background Information Disclosure* (BID) Form (F-82064A); 2) a *Wisconsin Criminal History Records Request* (Form DJ-LE 250) from the Department of Justice Crime Information Bureau (CIB) indicating a "no record found" response or a criminal record transcript, 3) a Department of Health Services (DHS) letter that reports the status of a person's administrative findings or license restrictions; and 4) a search of out-of-state records, tribal court proceedings and military records if indicated based on the Wisconsin Caregiver Program Manual guidelines. This includes obtaining a background check from any other state in which the individual has resided during the previous three (3) years, either by obtaining the record from the other state, or by obtaining an FBI fingerprint check. Details for obtaining an FBI fingerprint check can be found at: [http://www.doj.state.wi.us/dles/cib/volunteers\\_children\\_act.asp](http://www.doj.state.wi.us/dles/cib/volunteers_children_act.asp).

In addition, Provider agrees to the following:

- A. After the initial background check, Provider is required to conduct a new background check every four (4) years (on or before the four year anniversary of the prior DOJ/CIB report), or at any time within that period when Provider has reason to believe a new check should be obtained. Provider shall submit the results of all subsequent background checks which show arrest or conviction events which occurred since the initial request.
- B. Provider shall maintain background check documentation for the most recent five year period for every employee and Independent Service Provider who meets the definition of Caregiver under DHS12.
- C. Provider shall maintain the results of background checks on its own premises for a period of at least four (4) years following the termination of this Fee-for-Service Agreement. Purchaser may audit Provider's personnel files to assure compliance with the *Wisconsin Caregiver Program Manual*. (online at <http://dhs.wisconsin.gov/caregiver/publications/CgvrProgMan.htm>).
- D. Provider must notify Purchaser within two (2) business days if an existing employee, Independent Service Provider, DSP or caregiver has been charged with or convicted of any crime.
- E. Provider shall read, sign, and return Attachments B and C with this Agreement.

## SECTION FOUR

### Confidentiality

Provider shall not use or disclose any information concerning eligible Participants who receive Covered Services from the Provider for any purpose not connected with the administration of the Provider's responsibilities under this Agreement, or those of Purchaser, except with the informed written consent of the Participant and/or the Participant's legal guardian as described in *Chapter DHS 92-Confidentiality of Treatment Records* and other such confidentiality provisions of the State of Wisconsin Administrative Code and any applicable Purchaser's Policy(s). Providers who are providing services to Alcohol and Drug Abuse participants will comply with the *Code of Federal Regulations Title 42, Chapter One, Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records*.

## SECTION FIVE

### Client Rights

Provider must honor the right of every Participant/Service Recipient as stated in the Mental Health Act Wisconsin Statute, *Chapter 51 State Alcohol, Drug Abuse, Developmental Disabilities and Mental Health Act, 51.30 Records and 51.61 Patient Rights*; The Wisconsin Administrative Code – *Chapter DHS 94 – Patient Rights and Resolution of Patient Grievances*, Milwaukee County General Ordinances and Resolutions, and any other applicable federal, state, local laws, or Purchaser Policies and Procedures.

*At a minimum, client rights shall include a policy of non-retaliation and the option of filing complaints anonymously.*

## SECTION SIX

### Protecting Privacy of Patient Health Information

The Health Insurance Portability and Accountability Act of 1996 (known as HIPAA) was enacted by the U.S. Congress as part of Title II – Administrative Simplification.

Provider may be subject to compliance with the HIPAA regulations as “covered entities.” To the extent that the HIPAA regulations apply to Provider, Provider agrees to comply with the HIPAA regulations and shall have required documents available for inspection upon request. Covered entities that fail to comply with the applicable standards may be subject to a written complaint filed with the Secretary of Health and Human Services. This provision shall survive the termination of this Agreement regardless of the reason.

Generally, Providers or vendors are not business associates of payers. Therefore, unless specifically identified by Purchaser via a separate business associate agreement, Providers are not considered business associates of Purchaser.

## SECTION SEVEN

### Independent Capacity and Relationship

Nothing contained in this Agreement shall constitute or be construed to create a partnership, joint venture or employee-employer relationship between Purchaser or its successors or assigns and Provider or its successors or assigns. In entering into this Agreement and in acting in compliance herewith, Provider is at all times acting and performing as an independent contractor, duly authorized to perform the acts required of it hereunder. Parties hereto agree that the Provider, its officers, agents and employees, in the performance of this contract shall act in the capacity of an independent contractor and not as an officer, employee or agent of the purchaser or county. Further Provider agrees to take such steps as may be necessary to ensure that each Independent Service Provider and/or subcontractor of the Provider will be deemed to be an independent contractor and will not be considered or permitted to be an agent, officer, employee, servant, joint venture, or partner of the Purchaser or County.

When signing this contract, the Provider certifies that no relationship exists between Provider and the Purchaser that interferes with fair competition or is a conflict of interest, and no relationship exists between the Provider and another person or organization that constitute a conflict of interest with respect to this agreement. If there is a conflict of interest, the Provider must notify the Purchaser's Contract Manager. Based on such notice Purchaser's Contract manager may waive such provision in writing, if the activities of the Provider will not be adverse to the interest of the Purchaser or County.

## SECTION EIGHT

### Assignment and Subcontract Limitation

This Agreement shall be binding upon and accrue to the benefit of the parties and their successors and assigns provided, however, that neither party shall assign its obligations hereunder without the prior written consent of the other. Provider shall neither assign nor transfer any interest or obligation in this Agreement without the prior written consent of Purchaser, unless otherwise provided herein.



Provider may not subcontract this agreement in part or in whole, including agreements with Independent Service Providers, without prior written consent of Purchaser. Any such subcontract or Independent Service Provider agreement must be in writing and must include: for Independent Service Provider (ISP), the standard ISP Agreement language developed by purchaser; for subcontractors, pre-approved subcontract agreements with all the provisions of this Agreement and prior approval of the Purchaser, before the provision of any Covered Service under this Agreement. Billing may be disallowed for Covered Services provide by unauthorized Independent Service Providers or subcontractors. Provider is responsible for supervision and fulfillment of the terms and conditions of this Agreement when entering into agreements with approved ISP or approved subcontractors.

## **SECTION NINE**

### **Required Disclosures and Prohibited Practices**

- A. The Provider agrees to comply with the disclosure requirements of 42 CFR Part 455, Subpart B, as now in effect or as may be amended. To meet those requirements, and address real or potential conflict of interest that may influence service provision, the provider shall furnish, upon request, to the Milwaukee County DHHS and upon request, to the Wisconsin DHS in writing:
- (a) The names and addresses of all vendors of drugs, medical supplies or transportation, or other providers in which it has a controlling interest or ownership;
  - (b) The names and addresses of all persons who own or have a controlling interest in the provider;
  - (c) Whether any of the persons named in compliance with (a) and (b) above are related to any owner or to a person with a controlling interest as spouse, parent, child or sibling;
  - (d) The names and addresses of any subcontractors who have had business transactions with the Provider;
  - (e) The identity of any person, named in compliance with (a) and (b) above, who has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid or Title XIX services, or any other federally funded healthcare program since the inception of those programs.
- B. During the period of this Agreement, Provider shall not hire, retain, or utilize for compensation any member, officer, or employee of the Milwaukee County Department of Health and Human Services representing County or any person who, to the knowledge of Provider, has a conflict of interest, unless approved in writing by the Director of the Department of Health and Human Services. No employee of the Milwaukee County Department of Health and Human Services representing County shall be an officer, member of the Board of Directors, or have a proprietary interest in Provider's business unless approved in writing by the Director of the Department of Health and Human Services.
- C. Pursuant to Milwaukee County's Code of Ethics, Chapter 9 of Milwaukee County Ordinances which states in part, "No person may offer to give to any County officer or employee or his immediate family, or no County officer or employee or his immediate family may solicit or receive anything of value pursuant to an understanding that such officer's or employee's vote, official action, or judgment would be influenced thereby."
- Said Chapter further states, "No person(s) with a personal financial interest in the approval or denial of a contract being considered by a County department or with an agency funded and regulated by a County department, may make a campaign contribution to any candidate for an elected County office that has final authority during its consideration. Contract considerations shall begin when a contract is submitted directly to a County department or to an agency until the contract has reached its final disposition, including adoption, county executive action, proceedings on veto (if necessary) or departmental approval."
- D. Provider shall furnish Purchaser with written disclosure of any financial interest, purchase or lease agreements, employment relationship, or professional services/consultant relationship which any of Provider's employees, officers, board members, stockholders, or members of their immediate family may have with respect to any supplier to Provider of goods and services under

this Agreement. The relationship extends to partnerships, trusts, corporations or any proprietary interest which could appear to or would allow one party to influence the other party in a related party transaction.

- E. Provider is prohibited from offering other Providers reciprocal compensation for referrals for services.
- F. Provider shall notify Purchaser, in writing, within 30 days of the date payment was due of any past due liabilities to the federal government, state government, or their agents for income tax withholding, FICA, Worker's Compensation, garnishments or other employee related liabilities, sales tax, income tax of Provider, or other monies owed. The written notice shall include the amount (s) owed, the reason the monies are owed, the due date, the amount of any penalties or interest, known or estimated, the unit of government to which the monies are owed, the expected payment date and other related information.
- G. Provider shall notify Purchaser, in writing, within 30 days of the date payment was due of any past due liabilities to any government entity in excess of \$5000, or when total past due liabilities exceed \$10,000, related to the operation of this Agreement for which Purchaser has or will reimburse Provider. The written notice shall include the amount (s) owed, the reason the monies are owed, the due date, the amount of any penalties or interest, known or estimated, the creditor to which the monies are owed, the expected payment date and other related information. If the liability is in dispute, the written notice shall contain a discussion of facts related to the dispute and information on steps being taken by Provider to resolve the dispute.

## **SECTION TEN**

### **Equal Rights and Civil Rights Compliance**

- A. Non-Discrimination, Equal Employment Opportunity and Affirmative Action:
  - 1. No eligible Participant/family or patient shall be unlawfully denied services or be subjected to discrimination because of age, race, religion, color, national origin, sex, sexual orientation, location, physical disability, or developmental disability as defined in s. 51.01(5) Wisconsin Statutes.
  - 2. Provider agrees not to unlawfully discriminate against any employee or applicant for employment because of age, race, religion, color, national origin, sex, sexual orientation, physical disability, or developmental disability as defined in s. 51.01(5) Wisconsin Statutes.
  - 3. Provider agrees to comply with the provisions of Section 56.17 County General Ordinances regarding non-discriminatory contracts, which is attached hereto by reference and incorporated herein as though fully set forth herein. (Referenced Section of County General Ordinances is available upon request).
- B. Civil Rights Compliance:

Provider certifies that it will comply with the provisions of the *CRCP for Profit and Non-Profit Entities* (online at [http://dcf.wisconsin.gov/civil\\_rights/plans\\_instructions.htm](http://dcf.wisconsin.gov/civil_rights/plans_instructions.htm)).

Consistent with the requirements of the U.S. Department of Health and Human Services, the State of Wisconsin Department of Workforce Development (DWD) and the Department of Health Services (DHS), Providers with 25 Employees AND any combination of funding in the amount of \$25,000 or more from Purchaser and/or the State are required to complete a Civil Rights Compliance Plan (CRCP) to include Affirmative Action, Equal Opportunity, and Limited English Proficiency (LEP) Plans prior to execution of this Agreement

Providers with direct State contracts with DWD or DHS with fewer than 25 employees, or Providers receiving less than \$25,000 in direct State funding are required to file a Letter of Assurance with DWD or the DHS. Providers with fewer than 25 employees or Providers receiving less than \$25,000 in funding or payment from Milwaukee County are required to file a Letter of Assurance.

Completion forms, instructions, sample policies and plans are posted on the State website listed above.

Purchaser will take constructive steps to ensure compliance of the Provider with the provisions of this subsection. Provider agrees to comply with Civil Rights monitoring reviews performed by Purchaser, including the examination of records and relevant files maintained by Provider. Provider further agrees to cooperate with Purchaser in developing, implementing, and monitoring corrective action plans that result from any reviews.

## **SECTION ELEVEN**

### **Performance Measurement**

- A. Purchaser may consider Provider performance history in consideration of Service Recipient referrals and in termination or non-renewal decisions about this Agreement. Provider Performance Measures may be developed which reflect Service Recipient satisfaction, complaints against providers, service volume, compliance with Agreement and/or Policies and Procedures, Service Recipient outcomes, *conformance with evidence based practices or required service protocols, status of Corrective Action Plan(s), or other performance domains. Purchaser reserves the right of non-renewal or early termination of Agreement for low referral or service activity.*
- B. Purchaser reserves the right to publish and distribute Provider Performance scores to Service Recipients, families/guardians, Care Coordinators/Care Management/Support and Service Coordinators/Case Managers/Recovery Support Coordinators, and other attentive and affected audiences, and will encourage the consideration of Performance history in the selection of Providers.

## **SECTION TWELVE**

### **Compensation**

Provider agrees to provide, within the scope of certification or competencies, Covered Services listed in Attachment A at the rate therein and specified in accordance with Purchaser Policies and Procedures. Provider may not bill Participants for Covered Services unless allowed as identified in a Purchaser Policy and Procedure or other addendum to this Agreement. This condition to remain in effect in the event the Purchaser is unable to provide compensation for Covered Service

It is understood and agreed by all parties that Purchaser assumes no obligation to purchase from Provider any minimum amount of services and Purchaser is unable to guarantee the volume of referrals funded under this Agreement. *Under no circumstances shall Provider provide, nor shall Purchaser compensate for, services provided to Service Recipients which have not been pre-authorized by Purchaser. Pre Authorization shall follow Purchaser Policies and Procedures, and shall consist, minimally, of electronic or written documentation indicating the name of the Service Recipient, the quantity and type of services being authorized, and the period for which the authorization is valid.* The number of pre-authorized units of service may be modified by Purchaser as necessary.

*Provider understands and accepts that any outcome based payment methodologies include a risk of non payment for non-performance. Outcome based payment methodologies do not discharge Provider obligation for payment of wages to DSPs and/or Indirect Staff unless agreed to within the parameters of Chapter 109 of Wisconsin State Statutes.*

- A. Purchaser will not compensate Provider for Covered Service rendered by a DSP prior to having obtained a statewide criminal background check for the DSP as covered in Section Three (Compliance with Caregiver Background Checks) of this Agreement. Purchaser will not compensate Provider for Covered Services rendered by a DSP whose credentials are not in conformity with the requirements Purchaser service descriptions and Policies and Procedures.
- B. Failure of Provider to comply with Agreement requirements may result in withholding or forfeiture

of any payments otherwise due Provider from County by virtue of any County obligation to Provider until such time as the Agreement requirements are met. Purchaser reserves the right to withhold payment or adjust Provider's invoice where Provider fails to deliver the contracted services in accordance with the terms of this Agreement, or any other relevant Milwaukee County Department of Health and Human Services' Policies and Procedures. Provider shall cooperate fully in all utilization review, quality assurance, and complaint/grievance procedures, and submit in a timely manner (if required) annual audit reports, corrective action plans, or any other requests for additional information by County. Purchaser may withhold payment entirely until requested or required information is received or, if applicable, until a written corrective action plan for improvement in services, compliance, or internal accounting control is received and approved by County.

- C. Provider shall follow the principles related to **Allowable Costs**. In addition to allowability as determined according to the Wisconsin Department of Health Services (DHS) *Allowable Cost Policy Manual*, or *Wisconsin Department of Children and Families Allowable Cost Policy Manual*, most recent revisions, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs. Thus, allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A-122, *Cost Principles for Non-Profit Organizations*. The allowability of costs incurred by commercial organizations and those non-profit organizations listed in Attachment C to Circular A-122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31, *Contract Cost Principles and Procedures*.
- D. This is a cost reimbursement agreement. **Payments for Covered Services** shall be made on a unit-times-unit-rate basis with limited profit or reserve. Payments in excess of Allowable Cost (see item E) plus allowable profit (For Profit Providers only – see item H) or allowable addition to reserve (Non-Profits only – see item G) will be remitted to Milwaukee County. Final settlement of this Agreement will be based on audit. (See Section Seventeen (Audit Requirements) of this Agreement.) If the County has waived the audit requirement under Wisconsin Statute s.46.036 for this Agreement, Provider shall submit an un-audited schedule of program revenue and expenses, compiled by a CPA licensed to practice by the State of Wisconsin, as a final accounting to determine final settlement under this Agreement.

Purchaser shall recover from Provider, money paid in excess of the conditions of this Agreement. Repayment shall be made in full within thirty (30) days after Purchaser has made written demand to Provider for repayment. Purchaser may recover repayments due to the Purchaser from any subsequent payments due to the Provider now or from future Agreements, or from any other service agreement with the County. Purchaser reserves the right to charge interest on outstanding repayments due Purchaser from Provider as set forth in s. 46.09(4)(h) of the County General Ordinances.

Allowable costs, profits and reserves are defined in the Wisconsin Department of Health Services *Allowable Cost Policy manual online at:*

(<http://dhs.wisconsin.gov/grants/Administration/AllowableCost/ACPM.htm>), and *Wisconsin Department of Children and Families Allowable Cost Policy (online at [dcf.wisconsin.gov/contractsgrants/pdf/allowable\\_cost\\_manual.pdf](http://dcf.wisconsin.gov/contractsgrants/pdf/allowable_cost_manual.pdf)).*

- E. **Reserve (Non-Profit Providers Only).** Pursuant to s.46.036(5m) and s.49.34(5m) of Wisconsin Statutes, as affected by 1993 Wisconsin Act 380, and subject to the limitations and conditions set forth therein, under certain circumstances, Providers can maintain a reserve funded by state programs, Department of Health Services (DHS), Department of Children and Families, Department of Work Force Development (DWD) and Department of Corrections (DOC) when revenue exceeds allowable expenses. The statutes allow reserves when the Provider is a non-profit, non-stock corporation organized under Wisconsin Statute 181 and the Provider provides Covered Services to Participant on the basis of a unit rate per unit of Participant service (units-times-rate agreements). Retained and accumulated reserves shall not be considered an allowable cost for purposes of calculating the amount of such a surplus. Purchaser reserves the right to require the Provider to repay to the Purchaser the full amount of any such surplus.

- F. **Profit (For Profit Providers Only).** Pursuant to Wisconsin Statute 46.036(3c), Agreements for proprietary (For-Profit) agencies may include a percentage add-on for-profit according to the rules promulgated by the department. The profit is limited by expenditures on allowable costs that the Provider incurs in performing the Covered Services purchased under this Agreement. The maximum allowable profit is 10%. A Provider is not allowed to retain both a reserve and a profit on the same contract/Agreement for the same period.
- G. **Prompt Payment Law.** The parties agree that Section 66.0135, Wisconsin Statutes, Interest on Late Payments, shall not apply to payment for Covered Services provided hereunder.
- H. Purchaser is intended to be the "**payor of last resort**" (Milwaukee County DHHS Payor of Last Resort Policy is incorporated here and by reference) after all other public and private funds restricted to the Covered Services being purchased, including medical insurance and restricted contributions, have been exhausted. Payments for Covered Services shall be made in accordance with the "order of payment" requirements for the funding agency, funding program, and other collections made by the Provider for Covered Services. Under no circumstances shall the Provider bill, charge, seek remuneration or compensation from or have recourse against the Participant, or any person acting on his/her behalf, for Covered Services provided under this Agreement. Any surplus restricted program revenues (temporarily restricted net assets) are to be returned to Purchaser as unspent funds. If the Provider recovers payment from third-party insurance, the Provider agrees to re-pay the recovered amount to Purchaser.
- I. No funds within this Agreement may be used to supplant Health Insurance, other Health Maintenance Organizations, Care Management Organization, IRIS, Family Care, Birth to Three, or Preferred Provider Organization funded services.
- J. **Availability of Funds.** Should Purchaser reimbursement from state, federal, or local sources not be obtained or continued at a level sufficient to allow for payment for the Covered Services, the obligations of each party may be terminated.
- Any changes that impact on availability of funding shall be sufficient cause for Purchaser to immediately reduce the amount of payment or unit rate paid to the Provider with or without advance notice.

## SECTION THIRTEEN

### Indemnity & Insurance

- A. Provider agrees to the fullest extent permitted by law, to indemnify, defend and hold harmless, the County, its officers and employees, from and against all loss or expense including costs and attorney's fees by reason of liability for damages including suits at law or in equity, caused by any wrongful, intentional, or negligent act or omission of the Provider, or its (their) agents or sub contractor(s) or Independent Service Providers, which may arise out of or are connected with the activities covered by this Agreement.
- B. Provider agrees to evidence and maintain proof of financial responsibility to cover costs as may arise from claims of tort, malpractice, errors and omissions, statutes and benefits under Workers' Compensation laws and/or vicarious liability arising from employees, DSPs, board members, volunteers, and Provider's Independent Service Provider(s). Such evidence shall include insurances covering Workers' Compensation claims as required by the State of Wisconsin, Commercial General Liability and/or Business Owner's Liability, Automobile Liability and Professional Liability (where applicable) in the minimum amounts listed below. Provider must obtain all required coverage or confirm that applicable coverage has been obtained by Purchaser approved Independent Service Provider(s) or approved subcontractor(s).

- C. Automobile insurance that meets the Minimum Limits as described in this Agreement is required for all agency vehicles (owned, non-owned, and/or hired). In addition, the Provider shall have Automobile Liability Insurance, and/or Auto and Umbrella Liability that meets the Minimum Limits for non-owned and/or hired autos.
- D. Provider hereby certifies that Provider's DSPs who use personal vehicles for any purpose related to the provision of Covered Services have in effect insurance policies in companies licensed to do business in the State of Wisconsin providing protection against all liability, including public liability and property damage, arising out of the use of their automobiles during the course of their employment. Provider further certifies that said DSPs have a Driver's License valid in the state of Wisconsin.
- E. If the services provided under the contract constitute professional services, Contractor shall maintain Professional Liability coverage as listed below. Treatment providers (including psychiatrists, psychologists, social workers) who provide treatment off premises must obtain General Liability coverage (on premises liability and off-premise liability), to which Milwaukee County is added as an additional insured, unless not otherwise obtainable.
- F. It being further understood that failure to comply with insurance requirements may result in suspension:

**TYPE OF COVERAGE**

**MINIMUM LIMITS**

**Wisconsin Workers' Compensation**

Statutory Limits\*

\* Workers' Compensation is required for all Providers, regardless of organizational structure or size (includes one-employee providers, sole proprietorships, partnerships as well as Providers composed solely of independent contractors).

**Employer's Liability**

\$100,000/\$500,000/\$100,000

**Commercial General and/or Business Owner's Liability**

Bodily Injury & Property Damage  
(Incl. Personal Injury, Fire, Legal Contractual & Products/Completed Operations)

\$1,000,000 - Per Occurrence  
\$1,000,000 - General Aggregate

**Automobile Liability**

Bodily Injury & Property Damage  
All Autos - Owned, Non-Owned and/or Hired  
And/or,

\$1,000,000 Per Accident

**Umbrella/Excess Liability**

Uninsured Motorists

\$1,000,000 Per Occurrence  
\$1,000,000 Aggregate  
Per Wisconsin Requirements



**Professional Liability \*\***

To include Certified/Licensed Mental Health and AODA Clinics and Providers  
and  
Hospital, Licensed Physician or any other qualified healthcare provider under Sect 655 Wisconsin Patient Compensation Fund Statute

\$1,000,000 Per Occurrence  
\$3,000,000 Annual Aggregate  
  
As required by State Statute

Any non-qualified Provider under Sec 655 Wisconsin Patient Compensation Fund Statute State of Wisconsin (indicate if Claims Made or Occurrence)

\$1,000,000 Per Occurrence/Claim  
\$3,000,000 Annual Aggregate

Other Licensed Professionals	\$1,000,000 Per Occurrence \$1,000,000 Annual aggregate or Statutory limits whichever is higher
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\*\* Please check (enter an X) in the box next to Professional Liability, if Professional Liability Insurance is required for this agreement.

Should the statutory minimum limits change, it is agreed the minimum limits stated herein shall automatically change as well.

- G. Milwaukee County, as its interests may appear, shall be named as, and receive copies of, an "additional insured" endorsement, for general liability, automobile insurance, and umbrella/excess insurance. A Waiver of Subrogation for Workers' Compensation by endorsement in favor of Milwaukee County is also required. A copy of the endorsement shall be provided. Milwaukee County must be afforded a thirty day (30) written notice of cancellation, or a non-renewal disclosure must be made of any non-standard or restrictive additional insured endorsement, and any use of non-standard or restrictive additional insured endorsement will not be acceptable.

Exceptions of compliance with "additional insured" endorsement are:

1. Transport companies insured through the State "Assigned Risk Business" (ARB).
2. Professional Liability where additional insured is not allowed.

- H. Provider shall furnish Purchaser annually on or before the date of renewal, evidence of a Certificate indicating the above coverages (with the Milwaukee County Department of Health and Human Services named as the "Certificate Holder") shall be submitted for review and approval by Purchaser throughout the duration of this Agreement. If said Certificate of Insurance is issued by the insurance agent, it is Provider's responsibility to ensure that a copy is sent to the insurance company to ensure that the County is notified in the event of a lapse or cancellation of coverage.

CERTIFICATE HOLDER

Milwaukee County Department of Health and Human Services  
Contract Administrator  
1220 W. Vliet Street, Suite 300  
Milwaukee, WI 53205

- I. If Provider's insurance is underwritten on a Claims-Made basis, the Retroactive date shall be prior to or coincide with the date of this Agreement, the Certificate of Insurance shall state that *professional malpractice or errors and omissions coverage, if the services being provided are professional services coverage* is Claims-Made and indicate the Retroactive Date, Provider shall maintain coverage for the duration of this Agreement and for six (6) years following the completion of this Agreement.

It is also agreed that on Claims-Made policies, either Provider or County may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by Provider.

- J. Binders are acceptable preliminarily during the provider application process to evidence compliance with the insurance requirements.
- K. All coverages shall be placed with an insurance company approved by the State of Wisconsin and rated "A" per Best's Key Rating Guide. Additional information as to policy form, retroactive date, discovery provisions and applicable retentions, shall be submitted to Purchaser, if requested, to obtain approval of insurance requirements.
- L. Any deviations, including use of purchasing groups, risk retention groups, etc., or requests for waiver from the above requirements shall be submitted in writing to the Milwaukee County Risk Manager for approval prior to the commencement of activities under this Agreement:

Milwaukee County Risk Manager  
Milwaukee County Courthouse – Room 301  
901 north Ninth Street  
Milwaukee, WI 53233

- M. The insurance requirements contained in this Agreement are subject to periodic review and adjustment by the County Risk Manager.

## **SECTION FOURTEEN**

### **Obligations of Purchaser**

Purchaser agrees to provide the following to the Provider:

- A. Participant/Service Recipient written referral information.
- B. Information to Participants/Service Recipients and Providers related to the Complaint and Grievance process.
- C. Notification of the number of pre-authorized service units per Purchaser Policy and Procedures.
- D. Purchaser Policies and Procedures.

## **SECTION FIFTEEN**

### **Purchaser Site and Service Documentation Review**

- A. Provider shall allow visual inspection of Provider's premises to Milwaukee County representatives and to representatives of any other local, state, or federal government unit. Site Review shall be permitted without formal notice at any time that care and Covered Services are being provided.
- B. Provider shall upon request, furnish to Purchaser, at no cost to Purchaser, any and all information requested by Purchaser relating to the quality, quantity, and cost of services covered by this Agreement and shall allow authorized representatives of Purchaser, the Milwaukee County Department of Audit, and Purchaser's funding sources to have access to all records necessary to confirm Provider's compliance with law and the specifications of this Agreement and any current relevant Policies and Procedures. Purchaser may require submission of requested documentation prior to payment for Covered Services. This provision shall survive the termination of this Agreement regardless of the reason.
- C. It is agreed that Purchaser representatives, the Milwaukee County Department of Audit and representatives of appropriate federal, state or local agencies, not inconsistent with the applicable provisions of state and federal laws and regulations relating to the confidentiality of case records, shall have the right to inspect at all reasonable times case records, medical records, program and financial records and such other records of Provider as may be requested to evaluate or confirm Provider's program objectives, client case files, costs, rates and charges for the Covered Services or as may be necessary to evaluate or confirm Provider's delivery of the Covered Services. This provision shall survive the termination of this Agreement regardless of the reason.
- D. In accordance with 42 CFR § 431.107 of the federal Medicaid regulations, the Provider agrees to keep any records necessary to document the extent of services provided to recipients for a period of 7 years and upon request, to furnish to Milwaukee County DHHS, the Wisconsin DHS, the federal Department of Health and Human Services, or the state Medicaid Fraud Control Unit, any information regarding services provided and payments claimed by the provider for furnishing services under any Milwaukee County DHHS program, Wisconsin Medicaid, or Wisconsin Medicaid Waiver program. For state policy related to record retention see DHS 106.02, Wis. Administrative Code or the DCFS numbered memo addressing record retention available at [http://dhs.wisconsin.gov/dsl\\_info/NumberedMemos/DSL/CY\\_2001/NMemo2001-07.htm](http://dhs.wisconsin.gov/dsl_info/NumberedMemos/DSL/CY_2001/NMemo2001-07.htm) . This provision shall survive the termination of this Agreement regardless of the reason.



- E. Such reviews may be conducted for a period of at least seven (7) years following the latter of Agreement termination, or receipt of audit report, if required. Records shall be retained beyond the seven-year period if an audit is in progress or exceptions have not been resolved. This provision shall survive the termination of this Agreement regardless of the reason.
- F. Purchaser has authority to adjust pending billings and payments due to the Provider against any overpayment or any recovery resulting from site review, CPA reviews or other reviews by Milwaukee County representatives and/or representatives of any other local, state, or federal governmental unit. This provision shall survive the termination of this Agreement regardless of the reason.
- G. The Provider consents to the use of statistical sampling and extrapolation as the means to determine the amounts owed by the Provider to the DHHS or the Wisconsin Medicaid program as a result of an investigation or audit conducted by the DHHS or its agents, the Milwaukee County Department of Audit, the Wisconsin DHS, the Department of Justice Medicaid Fraud Control Unit, the federal Department of Health and Human Services, the Federal Bureau of Investigation, or an authorized agent of any of these. This provision shall survive the termination of this Agreement regardless of the reason.
- H. Purchaser reserves the right to submit findings resulting from quality or fiscal reviews to appropriate federal, state or local agencies and licensing/credentialing entities. This provision shall survive the termination of this Agreement regardless of the reason.

## **SECTION SIXTEEN**

### **Billing**

- A. Provider is responsible for the accuracy of billings for Covered Services and agrees to comply with all Purchaser Policies and Procedures related to billing for Covered Services, and shall provide Purchaser with billings for Covered Services provided no later than sixty (60) days following the last day of the month in which the service was rendered. Billing must reflect actual date of service and time spent providing Covered Service(s).
- B. Payment of the Provider's invoice does not absolve Provider from a final accounting and settlement upon submission and review of Provider's annual audit, or from audit recoveries arising from an on-site audit of Provider's Service Documentation in support of Covered Services billed.
- C. Payment for all Covered Services, is based on the unit rate identified in Attachment A, and will be in effect for the Agreement period or until amended and approved by Purchaser as of the date identified in written notification to the Providers regardless of preauthorization for the Covered Services.
- D. Purchaser reserves the right to withhold payment, modify Provider's invoice or otherwise pursue repayment when Provider fails to deliver the Covered Services in accordance with the terms of this Agreement, or any other relevant Purchaser Policies and Procedures.
- E. If a Participant has health insurance that includes coverage for a service that is both reimbursable under said insurance and that service is also covered under the Purchaser Program, Provider must bill the third-party insurance for Covered Services.

## **SECTION SEVENTEEN**

### **Audit Requirements**

Provider receiving a total amount in annual funding of \$25,000 or more from the County through this and any other contract is required to obtain an annual independent audit.

**AUDIT REQUIREMENTS:**

- A. Provider shall submit to County, on or before **June 30, 2015** or such later date that is mutually acceptable to Provider and County, **two (2) original copies** of an annual program audit, or a Provider agency-wide audit for Calendar Year 2014 if the total amount of annual funding provided by County through this and other contracts and agreements is \$25,000 or more, unless waived by County. The audit shall be performed by an independent certified public accountant (CPA) licensed to practice by the State of Wisconsin. CPA audit reports are required under Wisconsin Statutes, Section 46.036 (4)(c). This provision shall survive the termination of this Agreement regardless of the reason.

**Providers reporting on a fiscal year other than a calendar year** shall be considered in compliance with the audit requirements upon submittal of Contractor's fiscal year audit, meeting the audit requirements in Section Eleven, part A subparts (1),(2), and (3) below, within 180 days of the fiscal year closing, plus financial statements including required supplemental schedules covering the period from the start of the fiscal year beginning in 2014 through December 31, 2014, compiled by a CPA licensed to practice by the State of Wisconsin. Compiled supplemental schedules are due by June 30, 2015. This provision shall survive the termination of this Agreement regardless of the reason.

**Non-profit Providers who received aggregate federal financial assistance of \$500,000 or more, either directly or indirectly**, shall submit to County, on or before **June 30, 2015** or such later date that is mutually acceptable to Provider and County, **two (2) original copies** of a certified audit report for Calendar Year 2014 performed in accordance with the Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments and Non-Profit Organizations (on line at <http://www.whitehouse.gov/omb/circulars>) if the Provider meets the criteria of that Circular for needing an audit in accordance with that Circular. This provision shall survive the termination of this Agreement regardless of the reason.

All audits submitted by Provider per above requirements shall also be conducted in conformance with the following standards:

1. The Wisconsin Department of Health Services *Provider Agency Audit Guide*, 1999 revision issued by WI Department of Corrections and Workforce Development, or *Department of Health Service Audit guide DHSAG*) latest revision issued by Wisconsin Departments of Health Services. (on line at <http://dhs.wisconsin.gov/Grants/>)
2. Standards applicable to financial audits contained in *Government Auditing Standards (GAS)* most recent revision published by the Comptroller General of the United States; and
3. Generally accepted auditing standards (GAAS) adopted by the American Institute of Certified Public Accountants (AICPA).

Requests for waiver, and/or extension must be in writing and submitted before the original due date of the audit. Audit reports and requests for waiver and/or extension must be sent to the following address no later than five months after the end of the Provider's fiscal year, or such later date mutually agreed to by Provider and County. Extensions of the deadline for submission of the audit are at the sole discretion of Purchaser. If Provider determines an extension is necessary, Purchaser must receive a request for an extension not later than thirty (30) days prior to the due date for the audit. A request for an extension must include:

- (1) an explanation as to why an extension is necessary;
- (2) the date upon which the Purchaser will receive the audit;
- (3) the unaudited financial statements of the Provider; and,

- (4) any additional information Provider deems relevant to Purchaser's determination.

No extension will be granted for a period greater than ninety (90) days beyond the original date that the audit was due. Audit Reports and requests for extension of audit due date must be submitted to:

Milwaukee County Department of Health and Human Services  
Contract Administrator  
1220 W. Vliet Street, Suite 300  
Milwaukee, WI 53205

CPA audits and reports referenced above shall contain the following Financial Statements, Schedules and Auditors' Reports:

(1) **Financial Statements and Supplemental Schedules:**

- (a) **Comparative Statements of Financial Position.** For Provider agency-wide audits only.
- (b) **Statement of Activities.** For Provider agency-wide audits only.
- (c) **Statement of Cash Flows.** For Provider agency-wide audits only.
- (d) **Program Revenue and Expense Schedule** for each program identified as a Fee-for-Service Agreement with County, or for each facility or rate-based service provided under a Community Based Residential Facility (CBRF) or Adult Family Home (AFH) Services Contract with the County. If more than one program or rate-based service is provided under this Agreement, Purchase of Service Contract with this or other divisions of County, Community Based Residential Facility (CBRF) or Adult Family Home (AFH) Services Contract, a separate Program Revenue and Expense Schedule must be prepared for each program, facility or rate-based service.
- (e) **Schedule of Revenue and Expense by Funding Source** (Provider agency-wide) is required of all Providers. This schedule must follow the format and content of the sample schedule contained in Exhibit One (1). Do not combine multiple line items into a single line item or separate a single line item into multiple line items.
- (f) **Allowable administrative and other allocated overhead (collectively, indirect costs )** will be limited to 10% of net allowable direct program costs (excluding such allocated costs) for agencies/Providers electing to provide a program audit in lieu of an agency-wide audit.
- (g) **Reserve Supplemental Schedule** is required for all non-profit Providers that provide Participant Covered Services on the basis of a unit rate per unit of Participant service (units-times-price agreements). A separate schedule must be completed for each contract/facility, or for each rate-based program (service) within a facility.

The schedule must identify revenue from each Purchaser separately, and include total units of service provided to all Purchasers for each contract/facility or rate-based service within a facility, and total units of service provided under the Contract with County, as well as the items required by the *Provider Agency Audit Guide* 1999 revision issued by WI Department of Corrections and Workforce Development (Section 7.1.6), or *Department of Health Service Audit guide (DHSAG)* latest revision issued by Wisconsin Departments of Health Services for the most recently completed fiscal year. The schedule and allowable additions to reserves shall be by contract/facility or by program category.

- (h) **Schedule of Profit for For-Profit Providers Which Provide Participant Care.** For-profit Providers shall include a schedule in their audit reports showing the total allowable costs and the calculation of the allowable profit by contract/facility, or for each rate-based program (service) within a facility. Wis. Stat. 46.036 (3) (c) indicates that contracts for proprietary agencies may include a percentage add-on for profit according to the rules

promulgated by the Department of Health Services. These requirements are in the DHS *Allowable Cost Policy Manual* or DCF Allowable Cost Policy Manual, which indicates that allowable profit is determined by applying a percentage equal to 7 1/2% of net allowable operating costs plus 15% applied to the net equity, the sum of which may not exceed 10% of net allowable operating costs. **For agencies/Providers electing to provide a program audit in lieu of an agency-wide audit**, allowable profit will be restricted to 7 1/2% of net allowable operating costs of the program only, without regard to any net assets of the program.

- (i) **Units of service provided under the Agreement**, if not disclosed on the face of the financial statements, are required for Providers that provide Participant Covered Services on the basis of a unit rate per unit of Participant service (units-times-price agreements). Provider's auditors shall review and report on the extent of support for the number of units for each type of service billed to Purchaser, and compare units billed to Provider's accounting/billing records that summarize units provided per Participant. Provider's auditors shall reconcile billing records to supporting underlying documents in Participant case files on a test basis, and report on any undocumented units billed to Purchaser that exceed the materiality threshold of the DHS *Provider Agency Audit Guide*, 1999 revision issued by WI Department of Corrections and Workforce Development or *Department of Health Service Audit guide (DHSAG) latest revision* issued by Wisconsin Departments of Health Services. The disclosure must include total units of service provided to all Participants for each facility, or rate-based program within a facility; and total units of service provided under the Contract or Service Agreement with Purchaser for the most recently completed fiscal year.
- (j) **Notes to financial statements including disclosure of related-party transactions, if any.** Rental cost under less-than-arms-length leases are allowable only up to the amount that would be allowed had title to the property vested with the Provider. Rental cost under sale and leaseback arrangements are allowable only up to the amount that would be allowed had the Provider continued to own the property.

Provider's auditors must disclose the actual costs of ownership, by property, for the property(ies) in question, as well as the amount of such costs to be allocated to Purchaser's program(s), the amount of rent originally charged, and the amount of such rent that is an unallowable cost.

- (k) **Schedule of Federal and State Awards broken down by contract year.** The schedule shall identify the contract number and the program name and number from Attachment A of the Agreement.

(2) **Independent Auditors Reports and Comments:**

- (a) "Opinion on Financial Statements and Supplementary Schedule of Expenditures of Federal and State Award" including comparative statements of financial position, and related statements of activities and cash flow of entire Provider agency.

Or, for Program Audits

"Opinion on the Financial Statement of a Program in Accordance with the Program Audit."

- (b) Report on Compliance and Internal Control over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards (GAS), and the *Provider Agency Audit Guide*, 1999 revision issued by WI Department of Corrections and Workforce Development or *Department of Health Service Audit guide (DHSAG) latest revision* issued by Wisconsin Departments of Health Services.

Or, for Program Audits

"Report on Compliance with Requirements Applicable to the Program and on Internal Control over Compliance Performed in Accordance with the Program Audit."

- (c) "Report on Compliance with Requirements Applicable to Each Major Program and

Internal Control over Compliance in Accordance with OMB Circular A-133" (applicable only if the audit is also in accordance with OMB Circular A-133).

- (d) Schedule of findings and questioned costs to include:
- Summary of auditor's results on financial statements, internal control over financial statements and compliance, and if applicable; the type of report the auditor issued on Compliance for Major Federal Programs
  - Findings related to the financial statements of the Provider or of the program which are required to be reported in accordance with Generally Accepted Government Auditing Standards (GAGAS);
  - Findings and Questioned Costs for Federal Awards which shall include audit findings as defined in Section .510(a) of OMB Circular A-133, if applicable;
  - Doubt on the part of the auditors as to the auditee's ability to continue as a going concern;
  - Other audit issues related to grants/contracts with funding agencies that require audits to be performed in accordance with the Provider Agency Audit Guide, 1999 revision issued by WI Department of Corrections and Workforce Development, or Department of Health Service Audit guide (DHSAG) latest revision issued by Wisconsin Departments of Health Services.;
  - Whether a Management Letter or other document conveying audit comments was issued as a result of the audit.
- (e) A copy of the Management Letter or other document issued in conjunction with the audit shall be provided to County. If no Management Letter was issued, the schedule of findings and questioned costs shall state that no Management Letter was issued.

**(3) Provider Prepared Schedules and Responses:**

- (a) Schedule of prior-year audit findings indicating the status of prior-year findings related to County funded programs. The schedule shall include the items required by the *Provider Agency Audit Guide*, 1999 revision issued by WI Department of Corrections and Workforce Development, or *Department of Health Service Audit guide (DHSAG) Latest revision* issued by Wisconsin Departments of Health Services. If no prior year findings were reported, the schedule must state that no prior year findings were reported.
- (b) Corrective action plan for all current-year audit findings related to County funded programs and/or financial statements of the Provider. The corrective action plan shall be prepared by Provider, and must include the following: name of the contact person responsible for the preparation and implementation of the corrective action plan; the planned corrective action; and, the dates of implementation and anticipated completion.
- (c) Management's responses to each audit comment and item identified in the auditor's Management Letter.

**(4) General:**

The following is a summary of the general laws, rules and regulations with which the auditor should be familiar in order to satisfactorily complete the audit,

- (a) Government Auditing Standards, (Standards for Audit of Governmental Organizations, Programs, Activities, and Functions), Latest Revision.
- (b) OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, including revisions published in *Federal Register* 06/27/03.
- (c) OMB Circular A-133, - Appendix B: latest Compliance Supplement.
- (d) OMB Circular A-122, Cost Principles for Non-Profit Organizations.
- (e) OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments.
- (f) OMB Circular A-21, Cost Principles for Educational Institutions.

- (g) The allowability of costs incurred by commercial organizations and those non-profit organizations listed in Attachment C to OMB Circular A-122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31 - Contract Cost Principles and Procedures.
  - (h) OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments.
  - (i) OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.
  - (j) Wisconsin State Statutes, Sections 46.036, 49.34, Purchase of Care and Services.
  - (k) State of Wisconsin, Department of Administration Single Audit Guidelines - Current Revision.
  - (l) State of Wisconsin Department of Health and Family Services, Provider Agency Audit Guide - 1999 Revision issued by WI Department of Corrections and Workforce Development, or Department of Health Service Audit Guide (DHSAG) latest revision issued by Wisconsin Departments of Health Services.
  - (m) State of Wisconsin Department of Health and Family Services, Allowable Cost Policy Manual - Current Revision.
  - (n) State of Wisconsin Department of Children and Families Allowable Cost Policy Manual – Current Revision.
  - (o) AICPA Generally Accepted Auditing Standards.
- B. Provider hereby authorizes and directs its Certified Public Accountant, if requested, to share all workpapers, reports, and other materials generated during the audit with Purchaser or Purchaser representative(s) including the County Department of Health and Human Services and the County Department of Audit as well as state and federal officials. Such direct access shall include the right to obtain copies of the workpapers and computer disks, or other electronic media, which document the audit work. Provider shall require its CPA to retain workpapers for a period of at least seven (7) years following the latter of Contract termination, or receipt of audit report. This provision shall survive the termination of this Agreement regardless of the reason.
- C. Provider and Purchaser mutually agree that Purchaser or Purchaser's representative(s), including the County Department of Health and Human Services and the County Department of Audit, as well as state and federal officials, reserve the right to review certified audit reports, supporting workpapers, or financial statements, and perform additional audit work as deemed necessary and appropriate, it being understood that additional overpayment refund claims or adjustments to prior claims may result from such reviews. Such reviews may be conducted for a period of at least four (4) years following the latter of contract termination, or receipt of audit report, if required.
- D. Provider shall maintain records for audit purposes for a period of at least seven (7) years following the latter of contract termination or receipt of audit report. This provision shall survive the termination of this Agreement regardless of the reason.
- E. Provider who subcontracts with other providers for the provision of care and Covered Services is required by federal and state regulations to monitor its subcontractors.

Provider shall have on file, and available for review by County and its representatives, copies of subcontractor's CPA audit reports and financial statements. These reports and financial statements shall be retained for a period of at least seven (7) years following the latter of contract termination, or receipt of audit report, if required. This provision shall survive the termination of this Agreement regardless of the reason.

Subcontractor shall maintain and, upon request, furnish to County, at no cost to County, any and all information requested by County relating to the quality, quantity, or cost of services covered by

the subcontract and shall allow authorized representatives of County, the Milwaukee County Department of Audit and County's funding sources to have access to all records necessary to confirm subcontractor's compliance with law and the specifications of this Contract and the subcontract. This provision shall survive the termination of this Agreement regardless of the reason.

It is agreed that County representatives, the Milwaukee County Department of Audit and representatives of appropriate state or federal agencies shall have the right of access to Service Documentation as may be requested to evaluate or confirm subcontractor's program objectives, Participant case files, costs, rates and charges for the care and service, or as may be necessary to evaluate or confirm subcontractor's delivery of the care and service. It is further understood that files, records and correspondence for subcontracted engagement must be retained by subcontractor for a period of at least seven (7) years following the latter of contract termination, or receipt of subcontractor's audit report, if required. This provision shall survive the termination of this Agreement regardless of the reason.

Subcontractor shall allow visual inspection of subcontractor's premises to County representatives and to representatives of any other local, state, or federal government unit. Inspection shall be permitted without formal notice at any time that care and Covered Services are being furnished.

F. Failure to Comply with Audit Requirements:

If Provider fails to have an appropriate audit performed or fails to provide a complete audit-reporting package to the County within the specified timeframe, Purchaser may, at its sole discretion:

1. Conduct an audit or arrange for an independent audit of Provider and charge the cost of completing the audit to Provider;
2. Charge Provider for all loss of federal or state aid or for penalties assessed to County because Provider did not submit a complete audit report within the required time frame;
3. Disallow the cost of the audit that did not meet the applicable standards; and/or
4. Withhold or suspend any or all payments due the Provider from Purchaser,
5. Suspend, reduce or terminate the contract/Agreement, or take other actions deemed by Purchaser to be necessary to protect the Purchaser's interests.
6. In the event of selection by Purchaser of an organization or individual to complete an audit of Provider's financial statements, Purchaser shall withhold from future payments due to the Provider from Purchaser an amount equal to any additional costs incurred by the Purchaser for the completion of an audit of Provider's records by an auditor selected by Purchaser.
7. Purchaser may withhold or recover a sum of \$1,500.00 from payments due to the Provider from Purchaser as liquidated damages.
8. These provisions shall survive the termination of this Agreement regardless of the reason.

G. Upon receipt of the audit report, Purchaser will complete preliminary review of all audits received to determine whether additional information is required and notify Provider of any additional information required to complete review. Once the complete audit is received, Purchaser will complete a compliance review and notify Provider of Purchaser's actions on the audit report.

H. Contractor agrees to submit to DHHS plans for correcting weaknesses identified in audit reviews. Failure on the part of the Provider to comply with these requirements shall result in withholding of any payments otherwise due the Provider from DHHS and ineligibility for future agreements/contracts with DHHS until six months after such time as these requirements are met.

I. County Waiver of Audit Requirements under this Section:

If County has waived the audit requirement for this Agreement under Wisconsin Statute s.46.036,

this waiver does not absolve Provider from meeting any federal audit requirements that may be applicable or any audit requirements of other contracts or agreements. Waiver of the audit, or failure of Provider to receive Purchaser funding under this Agreement and other County Agreements at a level that would require an audit does not absolve Provider from submitting an un-audited schedule of program revenue and expenses as a final accounting to determine final settlement under this Agreement. This provision shall survive the termination of this Agreement regardless of the reason.

- J. Provider agrees that the DHHS is entitled to repayment of amounts identified as a result of the audit required under this section and acknowledges that failure to repay such amounts may result in legal action as determined by Milwaukee County Corporation Counsel. Interest and any legal expenses incurred by DHHS in collection of these amounts shall be charged the Provider on outstanding repayments as set forth in s46.09 (4) (h) Milwaukee County General Ordinances. This provision shall survive the termination of this Agreement regardless of the reason.
- K. Provider and County mutually agree that the Milwaukee County DHHS or its agents, the Milwaukee County Director of Audits, as well as state and federal officials, reserve the right to review certified audit reports or financial statements and perform additional audit work as deemed necessary and appropriate. It is understood that additional overpayment refund claims or adjustments to prior claims may result from such reviews. This provision shall survive the termination of this Agreement regardless of the reason.
- L. The Provider consents to the use of statistical sampling and extrapolation as the means to determine the amounts owed by the Provider for any DHHS programs, or Fee-for-Service Provider Networks as a result of an investigation or audit conducted by DHHS or its agents, the Milwaukee County Department of Audit, the Wisconsin Department of Health Services, the Department of Justice Medicaid Fraud Control Unit, the federal Department of Health and Human Services, the Federal Bureau of Investigation, or an authorized agent of any of these. This provision shall survive the termination of this Agreement regardless of the reason.

## SECTION EIGHTEEN

### **Corrective Action, Conditional Status, Suspension, Termination, & Milwaukee County Debarment**

*Provider understands and agrees that Purchaser can request or impose a condition of Corrective Action based on a review of Service Documentation, Complaint/Grievance, violation of Policy and Procedure, and/or any other fiscal, quality, or client safety related matter. Notwithstanding appeal procedures defined by Chapter 110 of Milwaukee County Code of General Ordinances, or other applicable Federal or State laws, Purchaser has final authority for determination of substantiation of findings which may lead to a condition of Corrective Action. Provider shall be required to implement and comply with provisions of Corrective Action as a condition of this Agreement.*

*Provider understands and agrees that Purchaser has final authority for the approval, denial, modification of, and determination of adherence to, a Corrective Action Plan. A Corrective Action may or may not be associated with Conditional Status or Suspension as defined below.*

Conditional Status, Suspension, Termination, and Debarment applies to agency Providers, as well as individual DSPs, and Indirect Staff.

**A. Conditional Status:**

Monitoring of agencies on Conditional Status may include but is not limited to site visits and requests for documentation/records review and/or interviews of the DSP, Participant or Service Recipient or their parent, guardian or caretaker.

For agencies on Conditional Status, the following conditions may apply solely or in combination:

1. Restriction in the number of new referrals the Provider may receive;
2. Restriction or reduction in the number of currently approved Covered Services the Provider is



allowed to provide;

3. Suspension of currently approved Covered Services the Provider is providing;
4. Suspension of current services, including removal of Service Recipients.
5. Withholding payment to Provider for Covered Services pending receipt and satisfactory review of requested information and/or documentation.

**Provider subject to Conditional Status includes:**

1. New Providers

New Providers will be subject to Conditional Status for one year from the effective date of the initial Fee-for-Service Agreement.

2. Current Providers (providers with Agreements in effect with Purchaser)

Current Providers may be placed on Conditional Status when one of the following conditions occurs:

- a. Previous or current suspension, which may or may not include compliance with a corrective action plan.
- b. Critical incident/complaint, which may or may not include compliance with a corrective action plan.
- c. Addition of new service(s), for the newly added service(s) only.
- d. Findings resulting from a Site Review/audit by Purchaser representatives, the Milwaukee County Department of Audit and/or representatives of appropriate federal, state or local agencies that document quality and/or fiscal concerns related to applicable Policies and Procedures.
- e. *Other breaches of this Agreement.*

Lack of compliance with a corrective action plan can lead to further sanctions as referenced in this Agreement or any further sanction as referenced in the Agreement elsewhere and/or "*The County Department of Health and Human Services Administrative Probation Policy for Non-Compliance with Contract and Fee-For-Service Requirements.*" (See <http://www.county.milwaukee.gov/contractadministrati9853.htm>.)

**B. Suspension:**

Purchaser shall have the right to suspend the Provider for a period to be determined by Purchaser for any or all of the following reasons:

1. Failure to maintain in good standing required licenses, permits, certifications and/or insurance required by this Agreement.
2. Failure to comply/cooperate with a Purchaser Milwaukee County Quality Assurance Site Review or audit.
3. Entity has failed to correct findings or other conditions identified in a Milwaukee County quality assurance Site Review, audit or annual independent audit.
4. Entity is under investigation as a result of a critical incident/complaint.
5. Entity is under investigation for fraudulent business practices.
6. Entity has failed to comply with a corrective action plan from a previous audit/critical incident/complaint finding.
7. Findings resulting from a Site Review/audit by Purchaser representatives, the Milwaukee County Department of Audit and/or representatives of appropriate federal, state or local agencies that document quality and/or fiscal concerns related to applicable Policies and Procedures.

8. Provider failure to respond to communication from Purchaser for a period of thirty (30) days or more.
9. Other breaches of this Agreement.

Providers that are suspended will be prohibited from receiving new referrals, may be prohibited from adding DSPs, and/or may be prohibited from providing any and all Covered Services to existing Participants/families. Suspension may apply to a single service or to all Covered Services within a program or to all programs/services under a contractual relationship with Milwaukee County. Additionally, if the safety or well being of Participants/families is deemed by Purchaser to be at risk, Purchaser has the right to immediately remove existing Participants from said Provider without notice.

Purchaser reserves the right to determine the scope and duration of the suspension, as well as the process/methodology of any investigation resulting from the circumstances leading to the suspension.

Provider will be notified in writing in accordance with Section Twenty-One (Notices) of this Agreement of the reason for the suspension and the decision regarding reinstatement or termination.

**Payments to Providers Under Suspension:**

Suspended Providers may be paid for authorized and substantiated Covered Services provided to Participants/Service Recipients before or during a suspension. If the suspension is for a specific service or specific service within a specific program, the Provider may be paid for other approved Covered Services provided during the suspension period. However, Purchaser reserves the right to withhold payment for all authorized and billed Covered Services if the nature of the suspension is for undocumented or otherwise unsubstantiated care provided by the Provider to a Purchaser Participant/Service Recipient or other actions by Provider which have harmed or threaten to harm the welfare of Participants/Service Recipients. Withholding such payments will remain in effect until a Purchaser review of the suspension is completed and a determination for reinstatement or termination of the Provider is made.

**C. Termination**

Provider may have any or all Agreements with Purchaser terminated for cause for commission of, but not limited to, the following offenses: Commission of Fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing under a contract or agreement with DHHS; violation of federal or state antitrust statutes; commission of embezzlement, theft, forgery or bribery; falsification or destruction of records including, but not limited to, case records, financial records, or billing records; making false statements; receiving stolen property; engaging in conduct or practices that endanger the health or safety of participants/families; failure to comply/cooperate with DHHS Quality Assurance Site Reviews or audits; failure to permit access to or provide documents and records requested by the DHHS; failure to correct findings or other conditions identified in a Quality Assurance Site Review, County audit or annual independent audit; any other breaches of this Agreement.

Any Provider that has had one or more agreements with Purchaser terminated for cause or default shall not be permitted to apply for, or engage in, providing Covered Services under any agreement with the DHHS for a minimum of two (2) years from commencement date of termination.

Provider understands and agrees that the **employment** status of individual DSPs or Indirect Staff with Provider is not dependent on approval, denial, or any other administrative action by County and is solely a matter of Provider discretion. Any administrative decision by County only affects eligibility of DSP and/or Indirect Staff to provide Covered Services, and does not affect employment eligibility of individual with Agency.

**D. Debarment:**

Provider may be debarred from future contracting opportunities with DHHS for commission of, but not limited to, the following offenses: Commission of Fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing under a contract or agreement with DHHS; violation of federal or state antitrust statutes; commission of embezzlement, theft, forgery or bribery; falsification or destruction of records including, but not limited to, case records, financial records, or billing records; making false statements; receiving stolen property; engaging in conduct or practices that endanger the health or safety of participants/families; failure to comply/cooperate with DHHS Quality Assurance Site Reviews or audits; failure to permit access to or provide documents and records requested by the DHHS; failure to correct findings or other conditions identified in a Quality Assurance Site Review, County audit or annual independent audit; any other breaches of this Agreement.

Action debarring Provider from future contractual relationships with the DHHS extends to all owners, partners, officers, board members, or stockholders of Provider and to all organizations, regardless of legal form of business, in which Provider or any of the above individuals have any interest, as an employee, partner, officer, board member, or stockholder, or any other proprietary interest in a partnership, trust, corporation, or any other business which would allow them to influence an organization that is in a contractual relationship with, or attempting to obtain a contract or agreement with the DHHS.

Any Provider that has been debarred from contracting opportunities with the DHHS for commission of any of the offenses enumerated above, shall not be permitted to apply for, or engage in, providing Covered Services under any agreement with the DHHS for a minimum of two (2) years from commencement date of debarment.

As provided for in section 1128 (c)(3)(B) of the Social Security Act, any Provider convicted of theft by fraud under Medicare, Medicaid, or any federal health care program as defined in section 1128B(f) of the Act shall be excluded from eligibility to participate in the Medicare, Medicaid, and **all** federal health care programs for a minimum of five (5) years. The Act defines a federal health care program as any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States government.

Provider, and/or its owners, partners, officers, board members, or stockholders of Provider and all organizations, regardless of legal form of business, in which Provider or any of the above individuals have any interest, as an employee, partner, officer, board member, or stockholder, or any other proprietary interest in a partnership, trust, corporation, or any other business, will not be allowed to provide Covered Services or enter into or sign a new agreement with Milwaukee County programs even after the suspension or termination period is over if an amount due from Provider remains outstanding and/or if an approved and current repayment plan (no overdue installments) has been in place for less than 2 years.

## **SECTION NINETEEN**

### **Certification Regarding Debarment**

Provider certifies to the best of its knowledge and belief, that it and its principals:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal, state, county or local governmental department or agency;
- B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of Fraud or a criminal offense in connection with obtaining or attempting to obtain, or performing a public (federal, state or local) transaction or Agreement under a public transaction; violation of federal or state antitrust statutes or

- commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in (B); and
  - D. Have not within a three (3) year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

## **SECTION TWENTY**

### **Provider Complaints/Appeals/Grievances**

The Provider may file a formal grievance or otherwise appeal decisions of Purchaser in accordance with Purchaser Policies and Procedures, Milwaukee County Ordinances. The complainant may choose to appeal to Purchaser and may use Purchaser's formal grievance process or may appeal directly to the Wisconsin Department of Health Services (DHS).

## **SECTION TWENTY-ONE**

### **Revision & Termination of Agreement**

- A. This Agreement may be terminated forty five (45) days following written notice by Purchaser or Provider for any reason, with or without cause, unless an earlier date is determined by Purchaser to be essential to the safety and well-being of the Participants/families covered by this Agreement with the exception of those facilities which must meet the notification requirements as applicable in Chapter 50 (Uniform Licensing) of the Wisconsin Statutes and Annotations.
- B. Termination shall not release the Provider of its obligation to complete treatment of Participants receiving treatment until transfer/transition of the Participant/Service Recipient can be accomplished with minimal disruption to the continuity of service or 180 days from the date of termination notice, whichever is earlier. Purchaser shall pay for Covered Services as provided in the Agreement. Provider should assist in orderly transfer/ transition of Participants/Service Recipients to new provider(s) as directed by Purchaser and provide to new Provider all required service documentation, case notes, medical files and personal records, which are required by the new Provider to provide proper services to the Participants/Service Recipients. Failure to comply with this requirement may result in liquidated damages/claims against the Provider and may bar the Provider from other contracting opportunities with County or may be a cause for termination of other contracts with County. This provision shall survive the termination of this Agreement regardless of the reason.
- C. Failure to maintain in good standing required licenses, permits, certifications and/or insurance as required by this Agreement, may, at the option of Purchaser, result in immediate termination of this Agreement.
- D. If circumstances exist which threaten imminent harm or safety and well being of Participants/Service Recipients or which results in Provider being legally unable to deliver covered services, Purchaser can justify or require immediate termination.
- E. Failure on the part of Provider to comply with this Agreement may be cause for early termination of the Agreement without the right to cure the breach of Agreement.
- F. In the event of termination, Purchaser will only be liable for reimbursement of Covered Services rendered through the date of termination.
- G. This Agreement may be renegotiated in the event of changes required by law, regulations, court action, or inability of either party to perform as required in this Agreement. Revision of this Agreement must be agreed to by both parties by an addendum signed by their authorized representative, except as such revision relates to the addition or discontinuance of Covered

- Services or change in rates as provided in Section Eleven (Compensation), Paragraph L (Availability of Funds).
- H. Provider shall notify Purchaser, in writing, whenever it is unable to provide the required quality, agreed upon Covered Service or Services or agreed upon volume of Covered Services. Upon such notification, Purchaser and Provider shall determine whether such inability to provide the required` quality or quantity of Covered Services will require a revision or early termination of this Agreement.
- I. Purchaser reserves the right to withdraw any qualified Participant/Service Recipient from the program, service, institution or facility of the Provider at any time, when in the judgment of Purchaser, it is in the best interest of Purchaser or the qualified Service Recipient to do so and may also proceed to terminate the Agreement.
- J. In the event of termination, the Provider will be notified in writing in accordance with Section Twenty-Two (Notices) of this Agreement.
- K. Should Purchaser reimbursement from state, federal or other sources not be obtained or continued at a level sufficient to allow for payment for the quantity of services in this Agreement, the obligations of each party shall be terminated. Reduction in reimbursement or payment from state, federal or other sources shall be sufficient basis for Purchaser to reduce the amount of payment to Provider notwithstanding that Provider may have provided the services.
- L. When agreement is terminated, the Provider shall not incur new obligations for the terminated agreement after the effective date, and shall be responsible for all outstanding obligations after the effective date of the termination. The Purchaser shall not allow credit to the Provider for the Purchaser's share of any obligations incurred by the Provider after termination except for the services provided under clause "B" above. This provision shall survive the termination of this Agreement regardless of the reason.
- M. The Provider shall, within 60 days, refund any unearned County funds advanced to the Provider. This provision shall survive the termination of this Agreement regardless of the reason.
- N. The Provider shall submit, within 60 days of the date of termination final invoice/billings and shall submit within 120 days all other financial, performance, and other reports required by the terms of the agreement. The Purchaser may extend the due date for any report upon receiving a justified request from the Provider and may waive any report which is not needed. This provision shall survive the termination of this Agreement regardless of the reason.
- O. If an Agreement is terminated without audit, the Purchaser retains the right up to five years to disallow and recover an appropriate amount, after fully considering any recommended disallowances resulting from an audit which may be conducted later. This provision shall survive the termination of this Agreement regardless of the reason.
- P. The termination of an Agreement does not affect the Provider's responsibilities with respect to return of/disposal of property purchased with Purchaser's funding or with respect to any program income or other recovery for which the Provider is still accountable. This provision shall survive the termination of this Agreement regardless of the reason.
- Q. Amounts payable to the Purchaser under any of the provisions of this agreement shall constitute a debt or debts owed by the Provider to the Purchaser, and shall be recovered from the Provider or its successor or assignees by setoff or other action as provided by law. This provision shall survive the termination of this Agreement regardless of the reason.

## **SECTION TWENTY-TWO**

### **Notices**

Notices to Purchaser provided for in this Agreement shall be sufficient if sent by mail (U.S. or other carrier) or email with acknowledgement by the recipient unless otherwise agreed to by both parties. Notices to Provider shall be sufficient if sent by mail (U.S. or other carrier) to the address stated in this Agreement or email with acknowledgement by the recipient (email address as identified on Agreement Cover Page), except as otherwise prescribed or prohibited by law, or as designated in Purchaser Policies and Procedures. Any party changes its address shall notify the other party in writing within five (5) business days.

## **SECTION TWENTY-THREE**

### **Agreement Content**

This Agreement supersedes all oral agreements and negotiations and all writings not herein referred to and incorporated. This Agreement may be executed in two or more counterparts each of which shall be deemed as original.

If any provision(s) of this Agreement is waived by Purchaser the remaining provisions of the Agreement shall remain in effect.

If any provision(s) of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of its jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

## **SECTION TWENTY-FOUR**

### **Whistleblower Policy**

Purchaser and Provider agree that ensuring that DSPs, Indirect Staff, contract staff, Independent Service Provider(s), and volunteer(s) are afforded protection under state and/or federal whistleblower protection laws is paramount to the intent of this Agreement. Provider certifies that it will comply with the provisions of the Sarbanes-Oxley Act of 2002 (SOX), which is applicable to all nonprofit organizations, as well as other state and/or federal whistleblower protection laws. The Milwaukee County Department of Health and Human Services (DHHS) requires all Providers contracting with the department under this Agreement, or any other agreement with DHHS, to adopt and implement a whistleblower policy. The policy must contain the following key elements:

- a. The Provider's board of directors must approve the adoption of a whistleblower policy and include it in the Employee Handbook or similar document.
- b. The whistleblower policy must be given to and acknowledged by all employees.
- c. The Chief Executive Officer, or his/her designee, will ensure that whistleblower protection notification is posted in conspicuous location(s) in the workplace(s) as required under state and/or federal law.
- d. If any DSP, Indirect Staff, contract staff, Independent Service Provider, or volunteer reasonably believes that some policy, practice, or activity of Provider is in violation of law, a written complaint may be filed by that person with the Chief Executive Officer.
- e. A DSPs, Indirect Staff, contract staff, Independent Service Provider(s), and volunteer is protected from retaliation if any of the persons named above bring the alleged unlawful activity, policy, or practice to the attention of Provider and provides Provider with a reasonable opportunity to investigate and correct the alleged unlawful activity.

f. Provider will not retaliate against a DSPs, Indirect Staff, contract staff, Independent Service Provider, or volunteer who, in good faith, has made a protest or raised a complaint against some practice of Provider, or of another individual or entity with whom Provider had a business relationship, on the basis of a reasonable belief that the practice is in violation of law or a clear mandate of public policy.

g. Provider will not retaliate against DSPs, Indirect Staff, contract staff, Independent Service Provider(s), or volunteer who discloses or threatens to disclose to a supervisor or a public body any activity, policy, or practice of Provider that the employee reasonably believes is in violation of a law, or a rule, or regulation mandated pursuant to law or is in violation of a clear mandate or public policy concerning health, safety, welfare, or protection of the environment.

h. Provider will obtain employee's signature to document employee's receipt and understanding of the Policy, and verify that employee has been provided with an opportunity to ask questions about the Policy. Notwithstanding any other remedies available to employee under law, retaliation by Provider against any employee, or any of the persons named in (d), (e), (f) and (g) above, who, in good faith, have made a protest or raised a complaint against some practice of Provider, may lead to further sanctions as referenced in this Agreement and the "Milwaukee County Department of Health and Human Services Administrative Probation Policy for Non-Compliance with Contract and Fee-For-Service Requirements" including, but not limited to, early termination of this Agreement.

IN WITNESS WHEREOF, the parties to this Agreement have caused this instrument to be executed by their respective proper officers:

## FOR PURCHASER

\_\_\_\_\_  
Bruce J. Kamradt  
Director, Wraparound Milwaukee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Wes Albinger  
Provider Network Coordinator

\_\_\_\_\_  
Date

## FOR PROVIDER

\_\_\_\_\_  
Signature of Provider

\_\_\_\_\_  
Date

\_\_\_\_\_  
Provider Name and Title (please print)

\_\_\_\_\_  
Agency Name (if applicable) (please print)

**ATTACHMENT A  
SCHEDULE OF SERVICES & RATES  
2014 FEE-FOR-SERVICE AGREEMENT**

***Agency Specific List of  
Services Covered by this Agreement  
Will Appear on This Page***

REFERENCE



**ATTACHMENT B****CERTIFICATION REGARDING FILE 99-233 REQUIRING BACKGROUND CHECKS  
FOR AGENCIES SERVING YOUTH**

**Applicant certifies that it will comply with the provisions of the Milwaukee County Resolution Requiring Background Checks, File No. 99-233. Agencies under contract shall conduct background checks at their own expense.**

RESOLUTION REQUIRING BACKGROUND CHECKS ON DEPARTMENT OF HEALTH AND HUMAN SERVICES CONTRACT AGENCY EMPLOYEES PROVIDING DIRECT CARE AND SERVICES TO CHILDREN AND YOUTH

Provisions of the Resolution requiring criminal background checks for current or prospective employees of DHHS contract agencies and agencies/organizations with which the DHHS has reimbursable agreements providing **direct care and services to Milwaukee County children and youth** were initially passed by the County Board in September, 1999.

In May 2000, the County Board adopted a modification of the resolution that separates individuals who have committed crimes under the Uniform Controlled Substances Act under Chapter 961 Wisconsin Statutes from the felony crimes referenced in the original Resolution and those referenced under Chapter 948 of the Statutes.

The Resolution shall apply only to those employees who provide direct care and services to Milwaukee County children and youth in the ordinary course of their employment, and is not intended to apply to other agency employees such as clerical, maintenance or custodial staff whose duties do not include direct care and services to children and youth.

1. DHHS contract agencies and agencies/organizations with which the DHHS has reimbursable agreements shall certify, by written statement to the DHHS, that they have a written screening process in place to ensure background checks, extending at least three (3) years back, for criminal and gang activity, for current and prospective employees providing direct care and services to children and youth. The background checks shall be made prior to hiring a prospective employee on all candidates for employment regardless of the person's place of residence.
2. DHHS contract agencies and agencies/organizations with which the DHHS has reimbursable agreements shall certify, by written statement to the DHHS, that they are in compliance with the provisions of the Resolution; that the statement shall be subject to random verification by the DHHS or its designee; and, that the DHHS or its designee shall be submitted, on request, at all reasonable times, copies of any or all background checks performed on its employees pursuant to this Resolution.
3. DHHS contract agencies and agencies/organizations with which the DHHS has reimbursable agreements which do not submit to the DHHS or its designee, copies of any or all background checks, on request, at all reasonable times, pursuant to this Resolution, shall be issued a letter of intent within 10 working days by the DHHS or its designee to file an official 30-day notice of termination of the contract, if appropriate action is not taken by the contract agency towards the production of said documents.
4. DHHS contract agencies and agencies/organizations with which the DHHS has reimbursable agreements shall perform criminal background checks on current employees who provide direct care and services to children and youth by January 31, 2001 and, after 48 months of employment have elapsed, criminal background checks shall be performed every four (4) years within the year thereafter.
5. DHHS contract agencies and agencies/organizations with which the DHHS has reimbursable agreements shall hire prospective employees after January 31, 2001 conditioned on the provisions

stated above for criminal background checks and, after four (4) years within the year thereafter, and for new employees hired after January 31, 2001.

6. DHHS contract agencies and agencies/organizations with which the DHHS has reimbursable agreements which determine that a current or prospective employee was convicted of one or more of the following offenses shall notify the DHHS or its designee immediately. Offenses include: homicide (all degrees); felony murder; mayhem; aggravated and substantial battery; 1<sup>st</sup> and 2<sup>nd</sup> degree sexual assault; armed robbery; administering dangerous or stupefying drugs; and, all crimes against children as identified in Chapter 948 of Wisconsin Statutes.
7. DHHS contract agencies and agencies/organizations with which the DHHS has reimbursable agreements which determine that a current or prospective employee was convicted of any other offense not listed in Number 6 shall notify the DHHS or its designee immediately. Offenses include but are not limited to: criminal gang member solicitations; simple possession; endangering public safety; robbery; theft; or, two (2) or more misdemeanors involving separate incidences within the last three (3) years.
8. DHHS contract agency employees and employees of agencies/organizations with which the DHHS has reimbursable agreements that provide direct care and services to children and youth, charged with any of the offenses referenced in Number 6 and Number 7, shall notify the DHHS or its designee within two (2) business days of the actual arrest.
9. Upon notification from a contract agency or from agencies with other reimbursable agreements that their screening process has identified a current or prospective employee with a conviction as stated in Number 6, or a conviction that occurred less than three (3) years from the date of employment as stated in Number 7, the DHHS or its designee shall issue a letter of intent within 10 working days to file an official 30-day notice of termination of the contract if appropriate action is not taken towards the exclusion of said individual from having any contact with children or youth in the direct provision of care and services to children and youth.
10. The DHHS or its designee, upon receipt of notification of potentially disqualifying past criminal misconduct or pending criminal charges as stated in Number 6 and Number 7 of this Resolution, shall terminate the contract or other agreement if, after 10 days' notice to the contract agency, the DHHS or its designee has not received written assurance from the agency that the agency has taken appropriate action towards the convicted current or prospective employee consistent with the policy expressed in this Resolution.
11. DHHS contract agencies and agencies/organizations with which the DHHS has reimbursable agreements which determine that a current or prospective employee was convicted of any crime under the Uniform Controlled Substances Act under Chapter 961 of Wisconsin Statutes, excluding simple possession, and the conviction occurred within the last five (5) years from the date of employment or time of application, shall notify the DHHS or its designee immediately.
12. Upon notification from a contract agency or from agencies with other reimbursable agreements that their screening process has identified a current or prospective employee with a conviction under the Uniform Controlled Substances Act under Chapter 961 of Wisconsin Statutes, excluding simple possession, the DHHS or its designee shall issue a letter of intent, within 10 working days, to file an official 30-day notice of termination of the contract if appropriate action is not taken towards the exclusion of said individual from having any contact with children or youth in the direct provision of care and services to children and youth. Current or prospective employees of DHHS contract agencies or other reimbursable agreements who have not had a conviction within the last five (5) years under the Uniform Controlled Substances Act under Chapter 961 of Wisconsin Statutes, excluding simple possession, shall not be subject to the provisions of this Resolution.

**MILWAUKEE COUNTY  
DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS)**

**Certification Statement – Resolution Regarding Background Checks on  
Employees of DHHS Contract Agencies and Agencies/Organizations having Reimbursable  
Agreements Providing Direct Services to Children and Youth**

**CERTIFICATION REGARDING FILE 99-233 REQUIRING BACKGROUND CHECKS  
FOR AGENCIES SERVING YOUTH**

This is to certify that \_\_\_\_\_  
(Enter Name of Agency/Organization)

- (1) has received and read the enclosed, "PROVISIONS OF RESOLUTION REQUIRING BACKGROUND CHECKS ON DEPARTMENT OF HUMAN SERVICES CONTRACT AGENCY EMPLOYEES PROVIDING DIRECT CARE AND SERVICES TO MILWAUKEE COUNTY CHILDREN AND YOUTH;"
- (2) has a written screening process in place to ensure background checks on criminal and gang activity for current and prospective employees providing direct care and services to children and youth; and,
- (3) is in compliance with the provisions of File No. 99-233, the Resolution requiring background checks.

\_\_\_\_\_  
Authorized Signature Date

\_\_\_\_\_  
Authorized Party Name and Title *(please print)*

\_\_\_\_\_  
Agency Name *(please print)*

**RETURN SIGNED FORM WITH 2014 FEE-FOR-SERVICE AGREEMENT**

**CERTIFICATION STATEMENT**

**ATTACHMENT C**

**RESOLUTION REGARDING CAREGIVER AND CRIMINAL BACKGROUND CHECKS**

(Applies to all agencies with employees who meet the definition of "caregiver", per definition below)

Contract agencies and agencies with which the DHHS has reimbursable agreements shall certify, by written statement, that they will comply with the provisions of ss.50.065 and ss.146.40 Wis. Stats. and DHS 12 and DHS 13, Wis. Admin. Code *State of Wisconsin Caregiver Program* (all are online at <http://www.legis.state.wi.us/rsb/code.htm>). **Agencies under contract shall conduct background checks at their own expense.**

**DEFINITION: EMPLOYEES AS CAREGIVERS (Wisconsin Caregiver Program Manual, <http://dhs.wisconsin.gov/caregiver/pdffiles/Chap2-CaregiverBC.pdf>)**

A caregiver is a person who meets all of the following:

- is employed by or under contract with an entity;
- has regular, direct contact with the entity's clients or the personal property of the clients; and
- is under the entity's control.

This includes employees who provide direct care and may also include housekeeping, maintenance, dietary and administrative staff, if those persons are under the entity's control and have regular, direct contact with clients served by the entity.

This is to certify that

\_\_\_\_\_ (Enter Name of Agency/Organization)

is in compliance with the provisions of ss.50.065 and ss.146.40 Wis. Stats. and DHS 12 and DHS 13, Wis. Admin. Code *State of Wisconsin Caregiver Program*

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Party Name and Title *(please print)*

\_\_\_\_\_  
Agency Name *(please print)*

**ATTACHMENT D****SERVICE-SPECIFIC REQUIREMENTS FOR  
RESIDENTIAL, GROUP HOME, INDEPENDENT LIVING  
AND DAY TREATMENT PROVIDERS**

To improve the referral process and ensure the best quality of care for Participants/Service Recipients, all Providers of Residential, Group Home, Independent Living and Day Treatment Covered Services must also comply with the following requirements:

**Use of Synthesis for Invoicing / Reporting**

Providers of the Covered Services identified above are required to use Wraparound Milwaukee's Synthesis software for the following:

1. Invoicing of Covered Services
2. Submission of Monthly Progress Reports and/or Requests for Discharge
3. Notification of Current and Upcoming Bed Availability (Group Homes Only)

**Release of Payment**

Payment for Residential, Group Home, Independent Living and Day Treatment Covered Services will be released only upon receipt of a completed, approved Enrollee specific Progress Report by the Vendor for each service month invoiced by the Vendor. Exceptions for Independent Living, Group Home and Residential Care will be made for invoicing associated with Enrollees who have received care for less than 15 days in a calendar month. For day treatment services, exceptions will be made for Enrollees who received care for less than 10 days in a calendar month.

**Notification of Bed Availability (Group Homes Only)**

Each Group Home Provider is required to update Synthesis **at least weekly** to indicate the facility's current and upcoming bed availability. Additionally, Synthesis bed availability should be updated every time a youth is admitted to or discharged from the Group Home.

REFERENCE



2014 Fee-for-Service Agreement

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