

Pharmacy Provider Agreement

STATE OF WYOMING
DEPARTMENT OF HEALTH, WYOMING MEDICAID
Revised 11/2016



1. **Parties.** The parties to this Provider Agreement [Agreement] are the [Provider], whose name and address are delineated on page five (5) of this Agreement, and the Wyoming Department of Health, Medicaid, whose address is 6101 Yellowstone Road, Suite 210, Cheyenne, WY 82002.
2. **Purpose of Provider Agreement.** The purpose of this Agreement is to ensure that the Provider who furnishes services to clients of Medicaid and Medicaid related programs bills and receives payment for such services in accordance with applicable law. This Agreement seeks to satisfy the requirements for the protection of individually identifiable health information found in the Standards for Electronic Transactions, the Security Standards, and the Standards for Privacy of Individually Identifiable Health Information issued by the U.S. Department of Health and Human Services under the Health Insurance Portability And Accountability Act of 1996 (HIPAA), and the Health Information Technology for Economic and Clinical Health (HITECH) Act. HIPAA regulations are published at 45 CFR Parts 160, 162 and 164. General regulations specific to Security are found at 45 CFR § 164.302. Appropriate Wyoming State Law includes Wyo. Stat. Ann. § 35-2-605 et seq., Wyo. Stat. Ann. § 9-2-125 et seq., and appropriate rules and regulations. These regulations shall be collectively referred to as the “Privacy and Security Rules.”
3. **Term of Provider Agreement and Required Approvals.** This Agreement is effective when all parties have executed it and shall remain in effect until such time as the Agreement is terminated by a party to the Agreement. Termination of this Agreement shall be pursuant to Section 7. P. of this Agreement.
4. **Payment.** Medicaid agrees to pay the Provider for services provided to Medicaid clients in accordance with Wyoming Medicaid Rules and applicable federal and state statutes and regulations. No payment shall be made before the last required signature is affixed to this Agreement.
5. **Responsibilities of the Provider.** The Provider shall:
 - A. Comply with applicable state and federal law, including: the Social Security Act (42 U.S.C. § 1396 et seq.); the Wyoming Medical Assistance and Service Act (Wyo. Stat. § 42-4-101 et seq.); the regulations of the Centers for Medicare & Medicaid Services (CMS); the United States Department of Health and Human Services (HHS) (42 CFR Subchapter C); section 6032 of the Deficit Reduction Act of 2005 (Employee Education About False Claims Recovery); and the Wyoming Department of Health (WDH) Wyoming Medicaid Rules and policies.
 - B. Comply with applicable licensing and certification standards as contained in Wyoming statutes, regulations and rules or applicable licensing and certification in the state where a service is provided.
 - C. Ensure that the charges for services or items provided to Medicaid clients shall not exceed the charges for comparable services or items provided to persons not eligible for Medicaid.
 - D. Not submit claims for payment prior to provision of services.
 - E. Bill all third party payers as defined in Wyoming Medicaid Rules and policies before submitting claims to Wyoming Medicaid or its fiscal agent.
 - F. Accept as payment in full the amounts paid in accordance with Wyoming statutes and Wyoming Medicaid Rules and policies, and the Provider shall not seek additional payment from any source prohibited by law, including the client or any member of his or her family.
 - G. Not require prepayment by clients who present proper proof of Medicaid eligibility, with the exception of services requiring co-payment as defined in Wyoming Medicaid Rules or policy. This provision shall not apply to any service or item not covered by Medicaid, if the client agrees in writing in advance to pay for such service or item.

- H. File all claims in accordance with applicable federal and state laws and regulations and in accordance with the Wyoming Medicaid Rules, policies and procedures.
- I. Cooperate with Medicaid to recover any payment made under this Agreement which is later determined by Wyoming Medicaid to have been in excess of that permitted by federal or state laws, regardless of whether the Provider or Medicaid caused the excess payment. The Provider further agrees to notify Medicaid in writing within thirty (30) days after learning of any excess payment.
- J. Retain all records necessary to fully disclose the extent of services or items provided to clients and all records necessary to document the claims submitted for Medicaid reimbursement for such services or items. All such medical and financial records shall be retained by the Provider for six (6) years beyond the end of the fiscal year in which payment for services was rendered, except that if any litigation, claim, audit or other action involving the records initiated before the expiration of the sixth year, the records shall be retained until the completion of the action. Failure to maintain records for claims will be considered under the False Claims Act and are subject to prosecution.

Upon request, the Provider shall make on-site access to and/or copies of Medicaid client records and information available to Wyoming Medicaid or its authorized representatives, including HHS, the Comptroller General of the United States, the Attorney General of the State of Wyoming, the Wyoming Medicaid Fraud Control Unit (MFCU), or any of their duly authorized representatives.

- K. Safeguard the use and disclosure of information concerning applications for or clients of Medicaid services in accordance with applicable federal and state statutes and regulations.
- L. Submit, within thirty-five (35) days after the date of request by Medicaid, MFCU, and/or HHS, full and complete information as to ownership, business transactions and criminal activity in accordance with 42 CFR 455 Subpart B.
- M. Provide Medicaid with advance notice in accordance with Wyoming Medicaid Rules, of any change or proposed change in: business &/or contact name; ownership; licensure; certification, or registration status; type of service or area of specialty; additions, deletions or replacement in group membership; mailing addresses; any changes in information provided on the Wyoming Medicaid Pharmacy Provider Enrollment Application and participation in Wyoming Medicaid. Written disclosure of contact information of the entity legally responsible for debt at the time of sale or transfer of a pharmacy is required at least thirty (30) days in advance of the sale or transfer. Ensuring this information is updated with Wyoming Medicaid shall be the responsibility of the entity legally responsible for said debt. Legal documentation of the provisions of the sale must be included with the written disclosure. A change in the Provider's ownership or organization shall not relieve the Provider of its obligations under this Agreement, and all terms and conditions of this Agreement shall apply to the new ownership or organization.
- N. Comply with the advance directives requirements for hospitals, nursing facilities, providers of home health care and personal care services, hospices and HMOs specified in 42 CFR 489, Subpart I, and in 42 CFR 417.436(d).
- O. Provider agrees that the Provider Enrollment Certification signed by the Provider is incorporated herein and made a part of this Provider Agreement as though fully set forth herein.

6. **Special Provisions.** The Provider explicitly understands that:

- A. Medicaid reimbursement is from state and federal funds and that any falsification of claims, statements or documents, or any concealment of material fact is a violation of state and federal laws, and any person who falsifies or conceals a material fact may be subject to criminal prosecution.
- B. The Provider is responsible for all Medicaid claims submitted to Medicaid seeking reimbursement for services provided to a client, regardless of whether the claim is submitted by the provider's employee, sub-contractor, vendor or business agent.

- C. The Provider's participation in Medicaid may be sanctioned or terminated pursuant to the Wyoming Medicaid Rules, and the exclusive remedy for any dispute arising between Provider and Medicaid shall be pursuant to Wyoming Medicaid Rules.
- D. Should Provider commence a proceeding in bankruptcy that any pending claims for payments prior to commencing the bankruptcy proceeding will be subject to suspension, offset and recoupment actions.
- E. Should either federal or state law require Provider re-enrollment, Provider understands and agrees that additional information may be requested and must be provided in order to process any re-enrollment application. Failure by Provider to give any and all requested information shall result in denial of re-enrollment and suspension of any future payments.

7. **General Provisions.**

- A. **Applicable Law/Venue.** The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties, and venue shall be in the First Judicial District, Laramie County, Wyoming.
- B. **Assignment/Provider Agreement Not Used as Collateral.** Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set forth in the agreement without the prior written consent of the other party. The Provider shall not use this Agreement, or any portion thereof, for collateral for any financial obligation.
- C. **Assumption of Risk.** The Provider shall be responsible for any Wyoming Medicaid claim submitted by the Provider and denied because of the Provider's failure to comply with State or Federal requirements. Wyoming Medicaid shall notify the Provider of any State or Federal determination of noncompliance.
- D. **Audit/Access to Records.** Medicaid, the MFCU, HHS, and any of their representatives shall have access to any books, documents, papers, and records of the Provider which are pertinent to this Agreement. The Provider shall, immediately upon receiving written instruction from Wyoming Medicaid, provide to independent auditor, accountant, or accounting firm, all books, documents, papers and records of the Provider which are pertinent to this Agreement. The Provider shall cooperate fully with any such independent auditor, accountant, or accounting firm, during the entire course of any audit authorized by Wyoming Medicaid, the MFCU, or HHS.
- E. **Availability of Funds.** Each payment obligation of Wyoming Medicaid is conditioned upon the availability of funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services performed by the Provider, the Agreement may be terminated by Medicaid at the end of the period for which the funds are available, or Medicaid may suspend payments to the Provider. Medicaid shall notify the Provider at the earliest possible time of the services which will or may be affected by a shortage of funds. At the earliest possible time means at least sixty (60) days in advance. No penalty shall accrue to Medicaid in the event this provision is exercised, and Wyoming Medicaid shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.
- F. **Compliance with Laws.** The Provider shall keep informed of and comply with all applicable Federal, State and local laws and regulations in the performance of this Agreement.
- G. **Entirety of Provider Agreement.** This Agreement consisting of five (5) pages represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral between the parties.
- H. **Indemnification.** The Provider shall release, indemnify and hold harmless the State, the Agency, and their officers, agents, employees, successors, and assignees from any and all claims, lawsuits, losses, and liability arising out of Provider's failure to perform any of Provider's duties and obligations hereunder or in connection with the negligent performance of Provider's duties or obligations, including but not limited to any claims, lawsuits, losses, or liability arising out of Provider's malpractice or malfeasance.

- I. **Independent Contractor.** The Provider shall function as an independent contractor for the purposes of this Agreement, and shall not be considered an employee of the State of Wyoming for any purpose. The Provider shall be free from direction or control in the performance of services in this Agreement, shall assume sole responsibility for any debts or liabilities that may be incurred by the Provider in fulfilling the terms of this Agreement, and shall be solely responsible for the payment of all Federal, State and local taxes which may accrue because of this Agreement. Nothing in this Agreement shall be interpreted as authorizing the Provider or its agents and/or employees to act as an agent or representative for or on behalf of the State of Wyoming or Medicaid, or to incur any obligation of any kind on the behalf of the State of Wyoming or Medicaid. The Provider agrees that no health/hospitalization benefits, workers' compensation, unemployment insurance and/or similar benefits available to State of Wyoming Employees will inure to the benefit of the Provider or the Provider's agents and/or employees as a result of this Agreement. If the Provider to this agreement is providing services pursuant to a waiver, the Provider understands and agrees that under no circumstances is the State of Wyoming a joint employer.
- J. **Kickbacks.**
- i. The Provider certifies and warrants that no gratuities, kickbacks or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts, or other considerations made contingent upon the signing of this Agreement.
- ii. No staff member of the Provider shall engage in any contract or activity which would constitute a conflict of interest as related to this Agreement.
- K. **Nondiscrimination and Americans with Disabilities Act.** The Provider shall not discriminate against any individual on the grounds of sex, race, color, religion, national origin, age or disability in connection with the Provider's performance under this Agreement. The Provider shall comply with the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Wyoming Fair Employment Practices Act (Wyo. Stat. § 27-9-105 et seq.), and the Americans with Disabilities Act (ADA), 42 USC § 12101 et seq.
- L. **Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail delivery in person or as specified in applicable rule.
- M. **Sovereign Immunity.** The State of Wyoming and Medicaid do not waive sovereign immunity by entering into this Agreement, and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. § 1-39-104(a) and all other state or federal law. Designations of venue, choice of law, enforcement actions, and similar provisions should not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Contract shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.
- N. **Suspension and Debarment, or Exclusion.** By signing this Agreement, the Provider certifies that he/she is not suspended, debarred, or voluntarily or otherwise excluded from Federal financial or non-financial assistance. Further, the Provider agrees to notify Medicaid by certified mail should the Provider or any of its employees, agents or contractors become debarred, suspended, or voluntarily or otherwise excluded during the term of this Agreement.
- O. **Taxes.** The Provider shall pay all taxes and other such amounts required by Federal, State and local law, including but not limited to, federal and social security taxes, workers' compensations, unemployment insurance and sales taxes.
- P. **Termination of Provider Agreement.** This Agreement may be terminated, without cause, by either party upon thirty (30) days written notice. This Agreement may be terminated immediately for cause by the Wyoming Department of Health, Medicaid if the Provider fails to perform in accordance with, or comply with, the terms of this Agreement. Provider understands and agrees that should Provider be excluded from participation in other States' Medicaid programs or be excluded or terminated by the federal government in Medicare, Medicaid or other federal health care programs, that the State of Wyoming is required to impose similar sanctions including but not limited to termination of this agreement. In addition, should re-enrollment be required for purposes of credentialing or otherwise, such re-enrollment will be denied if the aforementioned sanctions have been imposed.

Q. **Waiver.** The waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.

8. **Signatures.** In witness thereof, the parties to this Agreement either personally or through their duly authorized representatives, have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of all five (5) pages of this Agreement and that the information furnished is true, accurate, and complete. *Any alterations made to this document, or any additions or changes, handwritten or typed, to the text of this document shall void the document.*

Please use blue ink when signing form. Original signature is required to process agreement.

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| Street | City | State | Zip Code |
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| Signature of Legally Authorized Representative | | Title | Date |
| Department of Health, Division of HealthCare Financing | | | |
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| Teri Green, Wyoming State Medicaid Agent | | Date | |
| <hr/> | | <hr/> | |
| Wyoming Attorney General's Designee | | Date | |

**Return to:
Enrollment
Change Healthcare
P.O. Box 21719
Cheyenne, WY 82003**