JOINT POWERS AGREEMENT
BETWEEN
NEW MEXICO HUMAN SERVICES DEPARTMENT
AND
NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT

This Joint Powers Agreement (JPA) is entered into by and between the New Mexico Human Services Department (HSD) and the New Mexico Children, Youth and Families Department (CYFD).

I. Recitals

A. HSD and CYFD are empowered to enter cooperative agreements between themselves pursuant to the Joint Powers Agreement Act (NMSA 1978, Section 11-1-1 et seq.).

B. HSD is the single state agency designated to administer the Medicaid program pursuant to 42 USC Section 1396a (a)(5) and 42 CFR Section 431.10.

C. CYFD is responsible for implementing state wide programs promoting comprehensive, coordinated services for children and youth (NMSA 1978, Section 9-2A-7 (Repl. Pamp. 1992)).

D. HSD, Medical Assistance Division (MAD) currently administers certain aspects of childrens' mental health services. Certain functions related to this administration shall be transferred to CYFD.

E. Functions relating to children's mental health services transferred to CYFD from HSD-MAD are subject to the general guidelines and fiscal restraints established by federal and state laws and regulations for administration of the Medicaid Program under Title XIX of the Social Security Act.

II. Purpose of Agreement

The purpose of this agreement is to set forth the terms and conditions of the transfer of certain program functions for children from HSD-MAD to CYFD. It is also the purpose of this JPA to designate specific administrative and programmatic responsibilities for services following the transfer between the two agencies in accordance with the

Medical Assistance Division State Plan, as amended to reflect this JPA.

The further purpose of this JPA is to maximize cost containment and to develop an infrastructure for the initiation of a comprehensive managed care approach to the provision of services to children with serious emotional or behavioral disorders.

III. Term of Agreement

The term of this agreement shall be from _____, 1994 and shall remain in effect until terminated by either party pursuant to Article VIII, Termination of the Agreement, however, the parties shall review terms annually and amend as necessary. This agreement shall not be effective until approved in writing by DFA.

IV. Responsibilities of the Parties

A. Responsibilities for Medicaid Eligibility Determinations:

1. CYFD shall:

a. determine and update Medicaid eligibility for all children or adolescents who are the full or partial financial responsibility of Child Protective Services at CYFD, designated, pursuant to the Medical Assistance Manual and the State Plan as 1) Category 066 (Title IV-E of the Social Security Act) and Category 006 (Non-Tile IV-E of the Social Security Act); 2) Juvenile Justice children designated, pursuant to the Medical Assistance Program Manual and the State Plan as Category 061 (Title IV-E of the Social Security Act), and Category 060 (Non-Title IV-E of the Social Security Act); and 3) children in substitute care, designated, pursuant to the Medical Assistance Manual and the State Plan as Category 046 (Title IV-E of the Social Security Act in the custody of New Mexico but placed out-of-state), Category 086 (Title IV-E of the Social Security Act in the custody of another state but placed in New Mexico), Category 037 (Title IV-E of the Social Security Act who receive adoption subsidy), and Category 047 (Title IV-E of the Social

Security Act who receive adoption subsidies but are placed out-of-state);

b. be responsible for the computer system maintaining eligibility information for the above-described children, and shall oversee application on the interface of current eligibility information to the HSD-MAD fiscal agent for purposes of claims payment.

c. be responsible for the training of CYFD staff involved in the eligibility determination process, computer systems and interface;

d. collect, document and transfer all required Third Party Liability (TPL) information to HSD-MAD and perform all required TPL-related functions. CYFD shall explain to applicants the ramifications of the assignment of rights to medical support and payment. CYFD shall advise clients of the correct utilization of third party resources, including insurance and managed care plans.

2. HSD shall have only the subsequently described audit/administrative responsibilities with regard to these eligibility determinations. See IVC.2.a.

B. Program Responsibilities:

1. CYFD shall:

a. develop and implement, in coordination with HSD-MAD, a single point of entry and control data system for residential and non-residential mental health treatment services for children and adolescents with serious emotional disorders. The single point of entry system shall include: a uniform assessment process; a requirement for an early and periodic screening, diagnosis, and treatment (EPSDT) procedure or the verification that a current screen is on record for each child in the program; a decentralized assessment process; and a triage mechanism for processing placement requests. These systems will conform to the State Plan that HSD shall submit to HCFA;

b. design and operate a tracking system for all children accessing services, maintaining records of services provided, recording

client progress, results, and service costs, capturing demographic data on children referred for services and children receiving services, and tracking trends in utilization of services provided to children in residential or community settings.

c. establish and provide necessary staff support for a residential and non-residential treatment panel which will have the responsibility of reviewing case records of children or adolescents referred for residential or non-residential placement; review, modify, approve/disapprove the individual treatment plans; determine needed level of care; perform on-going review of all children or adolescents placed in a residential or non-residential program and prioritize placement requests.

d. prepare referrals for children or adolescents in need of residential treatment. The referral includes consultation with JPPO, review of the referral packet, consultation with the child or adolescent and his or her family, as needed. The referral packet shall be forwarded to the placement panel. Upon approval of placement, CYFD shall verify placement of the child or adolescent in the designated residential program.

e. implement a utilization Review and referral process for services delivered to children and adolescents with serious emotional disorders and at high risk for out of home placements, based on each child's needs and in accordance with an Assessment and a Treatment Plan. These services include, but are not limited to, inpatient psychiatric services, partial hospitalization, Non JCAHO accredited Residential Treatment Centers, Group Homes, JCAHO accredited Residential Treatment Centers, Treatment Foster Care, Behavior Management, and Day Treatment.

f. certify for Medicaid participation those providers who furnish non-JCAHO accredited residential and non-residential rehabilitation services, treatment foster care, behavior management, day treatment services, and additional mutually agreed upon

provider certifications, in accordance with promulgated regulations and standards.

g. assist HSD/MAD in the establishment of reimbursement rates for services covered under the Medicaid program.

h. submit proposed policies, procedures, standards, criteria and regulations pertaining to duties set forth in this Agreement to HSD-MAD for approval prior to publication.

2. HSD-MAD shall:

a. retain all final fiscal management for those Title XIX services transferred from HSD-MAD to CYFD. Fiscal management includes claims processing, reimbursement, fiscal agent services, provider enrollment and relations, issuance of regulations, utilization review standards or criteria, development and submission of State Plan Amendments and waiver requests;

b. establish reimbursement rates in conjunction with CYFD for services covered under this JPA upon receipt of all required information from CYFD;

c. provide on-going technical assistance to designated CYFD staff on Medicaid program and policy issues. HSD will keep designated CYFD staff apprised of any regulatory changes having impact on the activities contained in this JPA;

d. serve as primary contact with HCFA, promoting the cooperative involvement of CYFD in said communications.

C. Administrative Responsibilities:

1. CYFD shall:

a. arrange, in conjunction with HSD-MAD, to have utilization review functions performed by the HSD-MAD Utilization Review Contractor or perform utilization review functions for children's inpatient psychiatric services and non-residential psychosocial rehabilitation

services (including admission review and concurrent review). CYFD shall be responsible for payment for reviews performed, including those performed by the MAD-HSD utilization review contractor. These reviews, including all on-site inspection of care reviews and other utilization reviews, shall be performed in accordance with federal, state, and HSD-MAD regulations and procedures;

b. provide on-site monitoring of all group homes, non-JCAHO accredited residential treatment centers, treatment foster care, behavior management and additional mutually agreed upon providers to ensure compliance with specified certification standards; ensure the regularity of the monitoring and immediately notify HSD-MAD of any irregularities or instances of noncompliance;

c. provide to HSD-MAD such reports as are agreed upon in writing by the parties and/or those required by state or federal law or regulation, including those requested by the legislature or its committees.

d. provide state general funds for program services agreed upon in writing by the parties, presently including case management for specified target populations, Early and Periodic Screening, Diagnostic and Treatment (EPSDT) partial screens for the mental health assessments performed by CYFD, and day treatment services.

e. provide state general funds for the administrative costs of certain functions, including but not limited to utilization review, and the HSD-MAD claims processing contractor.

g. assume fiscal and legal responsibility for actions and responsibilities as defined within this agreement and cooperate with HSD-MAD in its administration of the Medicaid program to ensure receipt of all appropriate federal financial participation and State Medical Assistance Plan compliance.

2. HSD shall:

a. develop an audit process using appropriate clinical personnel which includes a quarterly field review of eligibility determinations, utilization review decisions, panel placement, service delivery and provider certification functions performed by CYFD. See e.g. 42 USC 1396a, 42 CFR 430.10 and 42 CFR 447.202. HSD-MAD will give CYFD formal notice and specific time frames for compliance if deficiencies are identified during the monitoring or auditing process;

b. perform quality control functions as required by federal or state laws and regulations, as specified at 42 CFR 431.804;

c. submit proposed policies, procedures, standards, criteria and regulations pertaining to duties set forth in this Agreement to CYFD for review prior to publication;

d. claim federal matching funds for Medicaid approved functions related to children's mental health services provided by CYFD at the approved New Mexico Medicaid Federal Financial Participation rate for delivery of services to children who are Medicaid eligible;

e. claim federal matching funds for administrative functions transferred to CYFD.

f. reimburse the federal share of costs to CYFD for the performance of certain administrative functions, including but not limited to certification of residential and non-residential facilities, residential and non-residential treatment panel operations, and managed care unit operations in a format mutually agreed upon by the parties.

D. HSD, or its representative may periodically review actual revenues, expenditures and program data generated by the CYFD tracking system to ensure full accountability to the Governor, the Legislature, and HCFA. Findings or issues will be reviewed and discussed with appropriate CYFD personnel prior to other disclosure.

E. A Steering Committee of not more than five persons (two from each agency and one from DOH, approved by the Secretary of DOH) shall be established upon approval of this agreement to address further development of the transfer of services and the Managed Care System and resolve any issues between the Departments as they arise.

V. Administering Agency

HSD retains all authority and responsibility as specified in this JPA and the Medical Assistance State Plan as the single state Medicaid agency. CYFD has authority and responsibility as set forth in this agreement.

VI. Payment

A. CYFD shall:

1. bill HSD within 30 days of the quarter-end for the federal share of administrative costs, as detailed in Attachment # 1. CYFD will provide a report upon which such reimbursement can be made. The format may be adjusted as necessary for audit purposes;

2. provide HSD the state share of identified program costs within 30 days of billing, including case management, day treatment and other services developed for children's services as set forth in this Agreement. In providing these funds, CYFD shall ensure that no federal funds from other sources are utilized;

3. provide HSD the state share of certain administrative costs related to utilization review and claims processing. In providing these funds, CYFD shall ensure that no federal funds from other sources are utilized;

4. assume financial responsibility for disallowed costs incurred for services provided, eligibility determinations and administrative costs, pursuant to this JPA for activities conducted by CYFD. CYFD shall reimburse disallowed costs to the federal government through HSD-MAD and HSD will provide an accounting of payment of any funds submitted on behalf of CYFD for a disallowance. CYFD is responsible for providing evidence to

refute any such disallowance, if such evidence exists;

5. bill HSD within 30 days of quarter-end for the Medicaid portion of CYFD administrative costs covered by this JPA;

6. CYFD will be held harmless for any HCFA disallowance if this disallowance is based upon a failure of HSD-MAD to attempt to obtain State Plan approval (after an inter-agency agreement to seek approval) or to notify CYFD of changes in Medicaid policy.

B. HSD-MAD shall:

1. transfer within 30 days of billing the federal share of allowable administrative costs for functions performed by CYFD;

2. bill CYFD within 30 days of quarter-end for the state share of certain program costs, including case management, day treatment and other services developed for this group of children.

3. bill CYFD within 30 days of quarter-end for the state share of certain administrative functions including utilization review and claims processing.

4. be held harmless in the event the federal government disallows any costs incurred for services or eligibility determinations provided by CYFD pursuant to this JPA or the administrative activities conducted by CYFD;

VII. Property

Property acquired for Medicaid programs shall be utilized and reside with said program. HSD must approve any proposed purchase of equipment and supplies with a purchase price greater than or equal to one-thousand dollars ($1000). HSD retains ownership of the property purchased but can authorize the equipment and supplies to remain with the agency administering the function for which the equipment and supplies was procured.

VIII. Termination of Agreement

This agreement may be terminated by either of the parties upon written notice of not less than ninety (90) days. Such notice of termination, however, shall not alter performance obligations incurred by either party prior to receipt of the notice. HSD may terminate immediately upon confirmation by the Secretary of HSD of fraud, negligence or abuse in services or claims by CYFD or a breach of the provisions of this JPA.

IX. Funds Accountability

CYFD and HSD-MAD shall maintain fiscal records, as required by applicable federal and state laws and regulations, follow generally accepted accounting principles and account quarterly for all receipts and disbursements of funds transferred between the parties, pursuant to this JPA.

X. Liability and Indemnification

Each Department shall indemnify the other from any fine, penalty or sanction incurred due to the other Department's act or omissions, including, but not limited to, those suffered by HSD as the single state Medicaid provider. Each Department is solely liable for any fines, sanctions or penalties incurred due to its acts or omissions in performing the functions specified in this JPA or federal and state law.

XI. State Plan Amendment Approval

Terms and conditions of this agreement are contingent upon final written approval of any Medical Assistance State Plan Amendments by HCFA. HSD and CYFD agree to cooperate in this process to secure HCFA approval in as expeditious a manner as possible. Upon receipt of HCFA approval, the parties, through the Steering Committee and others as necessary, will implement additional transfers of services as proposed and approved in the plan amendments.

Transfer of any additional functions or services shall be accomplished by amending this agreement.

XII. **Amendments**

Any and all amendments shall be made in writing and shall be agreed to and executed by the respective agency Secretaries and the Department of Finance and Administration before becoming effective.

XIII. **Entire Agreement**

This agreement incorporates the entire understanding between the parties and all prior negotiations and discussions whether verbal or written have been merged herein or waived. No other representations shall be binding upon the parties unless or until incorporated by amendment.

In witness whereof:

Wayne Powell, Secretary
Children, Youth and Families Department

Date: 8/12/94

Richard W. Heim, Secretary
Human Services Department

Date: 8-4-94

Approved as to form and legal sufficiency:

Donna L. Daynall

Date: 8/10/94

Children, Youth & Families, Office of General Counsel

Date: 8-1-94

Human Services, Office of General Counsel

Date: _____

Kay Marr, Secretary
Department of Finance & Administration

JPA 95-17-A

AMENDMENT TO
JOINT POWERS AGREEMENT
BETWEEN
NEW MEXICO HUMAN SERVICES DEPARTMENT
AND
NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT

Amendment number one is entered into between the New Mexico Human Services Department (HSD) and the New Mexico Children, Youth and Families Department (CYFD).

AMENDMENT

HSD and CYFD agree to amend the Joint Powers Agreement under the terms and condition identified below:

1. IV. Part C. - ADMINISTRATIVE RESPONSIBILITIES 1. CYFD shall: is amended to add:

   h. provide state general funds for program services agreed upon in writing by the parties, presently including case management for adults who have been abused, neglected, or exploited and children in protective services.

2. All other provisions of the agreement will continue in force and remain unchanged.

IN WITNESS WHEREOF, the parties hereto have set their hands.

Dorothy A. Danfelser, Secretary
HUMAN SERVICES DEPARTMENT

DATE: 5/28/96

Heather A. Wilson, Secretary
CHILDREN, YOUTH & FAMILIES DEPARTMENT

DATE: 5/20/96

DEPARTMENT OF FINANCE & ADMINISTRATION

DATE: 6/18/96