

JOINT POWERS AGREEMENT
Between
The New Mexico Human Services Department
AND
The New Mexico Department of Health

JPA No. 11-630-8000-0008

THIS AGREEMENT is entered into this 1st day of July, 2010, or as soon thereafter as approved by the Department of Finance and Administration, by and between the New Mexico Human Services Department (HSD) and the New Mexico Department of Health (DOH).

I. RECITALS

WHEREAS, HSD and DOH are empowered to enter into cooperative agreements between themselves pursuant to the Joint Powers Agreement Act, NMSA 1978 §§ 11-1-1 *et seq.*; and

WHEREAS, HSD is the single state agency under the Title XIX Medicaid program, with authority to receive federal financial participation for expenditures authorized under the Medicaid program; and

WHEREAS, DOH, through state general funds, provides services at its facilities and clinics and through the programs and services it provides that may constitute health care services payable under the Medicaid program; and

WHEREAS, pursuant to the Joint Powers Agreement Act NMSA 1978 §§ 11-1-1 *et seq.*, HSD and DOH desire to enter into this Joint Powers Agreement (JPA) to exercise their common power for the purpose of maximizing state general funds for services provided in DOH facilities, clinics, and programs by leveraging those funds through the Medicaid program; and

WHEREAS, entry into this JPA is both necessary and desirable and in the best interests of the State of New Mexico.

II. PURPOSE OF AGREEMENT

The purpose of this Agreement is to continue the formalized framework for coordination of efforts between DOH and HSD to maximize the availability of revenues to DOH and for DOH to receive Medicaid reimbursement for services currently provided by DOH at its facilities, clinics, public health offices and laboratories and provided with state general funds.

This Agreement will allow DOH to claim Title XIX funds for administrative costs incurred when DOH staff, at DOH facilities, clinics and public health offices, assist persons receiving Medicaid services or persons who may be eligible to receive Medicaid services, such assistance to include activities such as outreach, assistance in Medicaid application, assistance

with access to Medicaid services, program planning and interagency coordination of medical services, and referral and monitoring of medical services.

This Agreement will allow the transfer of funds between DOH and HSD to accomplish these efforts.

III. RESPONSIBILITIES OF THE PARTIES

A. DOH shall:

1. Submit quarterly claims to HSD for Title XIX funds for administrative costs incurred by DOH for staff providing administrative services to persons receiving Medicaid services or persons who may be eligible to receive Medicaid services that are payable as administrative costs under the Medicaid program and/or through Title XIX funds (“Medicaid compensable activities”), such claims to include or be based upon, without limitation, the following:
 - a. Documentation of time and expense of all DOH staff involved in providing Medicaid compensable activities;
 - b. Cost allocation methodology that documents DOH staff time and allocation of that time to Medicaid compensable activities;
 - c. A process by which DOH public health offices determine Medicaid eligibility for persons served in DOH public health offices;
 - d. Collection and compilation of all expense information necessary to support a quarterly administrative claim for Medicaid compensable activities;
 - e. Additional documents that may be necessary to allow for the payment of such administrative claims as may be required by HSD;
 - f. Verification that all Medicaid-allowable services provided by DOH at its facilities, clinics and public health offices are billed, including, without limitation, pharmacy services provided at public health offices.
 - g. Retain records for five (5) years from date of submission of a final expenditure report; Retain records beyond the 5-year period if audit findings have not been resolved; and Retain records for nonexpendable property acquired under a Federal grant for five (5) years from the date of final disposition of that property - per records retention regulations - 42 CFR 431.17 and 42 CFR 433.32.
 - h. Certify DOH expended the share of non-federal funds needed to match the federal share of claims billed to the HSD Medicaid Agency.

- i. Bill HSD within 60 (sixty) days after the end of the quarter, except at the end of the state fiscal year which will be billed within 30 (thirty) days after the end of the quarter.
- B. HSD shall:
1. Review invoices and reimburse DOH for the federal share of administrative costs for approved quarterly invoices within 30 (thirty) days of approval of such claims.

IV. ADMINISTERING AGENCY

HSD, as the single state agency under the Title XIX Medicaid program, shall be the administering agency for the activities to be performed under this Agreement.

V. PAYMENT

In consideration of the performance of services by DOH under this Agreement and claimed pursuant to section III. A., HSD shall pay to DOH the federal share of administrative costs incurred by DOH as billed under section III. A.

VI. PROPERTY AND RETURN OF FUNDS

The parties understand and agree that no property shall be acquired as the result of the joint exercise of powers by HSD and DOH under this Agreement. The parties further understand and agree that, due to the nature of payments to be made hereunder by HSD to DOH, no surplus money shall be on hand or held by either HSD or DOH on completion or termination of this Agreement.

VII. FUNDS ACCOUNTABILITY

HSD and DOH shall maintain fiscal records, follow generally accepted accounting principles and account for all receipts and disbursements of funds transferred between the parties pursuant to this Agreement.

VIII. TERMINATION OF AGREEMENT

This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least 60 (sixty) days before the intended date of termination. By such termination, neither party may nullify obligations already incurred prior to the date of termination.

IX. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this

Agreement is subject to the immunities and limitations under law, including the New Mexico Tort Claims Act.

X. DEBARMENT & SUSPENSION

- A. Pursuant to 45 C.F.R., Part 76, DOH certifies by signing this Agreement that it and its principals, to the best of its knowledge and belief (1) are not debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal department or agency; (2) has not, within a three-year period preceding the effective date of this Agreement, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion or receiving stolen property; (3) has not been indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, state or local) with commission of any of the offenses enumerated above in this section X. A.; (4) has not, within a three-year period preceding the effective date of this Agreement, had one or more public agreements or transactions (Federal, state or local) terminated for cause or default; and (5) has not been excluded from participation from Medicare, Medicaid or other federal health care programs pursuant to Title XI of the Social Security Act, 42 U.S.C. § 1320a-7.
- B. DOH's certification in section X. A. is a material representation of the fact upon which HSD relied when this Agreement was entered into by the parties. DOH shall provide immediate written notice to HSD's Contract Administrator if, at any time during the term of this Agreement, DOH learns that its certification in section X. A. was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances. If it is later determined that DOH's certification in section X. A. was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances, in addition to other remedies available to HSD, HSD may terminate the Agreement.

XI. PERIOD OF AGREEMENT

This Agreement shall become effective on **July 1, 2010**, or as soon thereafter as approved by the respective Agency Heads as signatory parties, and by the Department of Finance and Administration, and shall terminate on **June 30, 2015**, unless terminated pursuant to section VII of this Agreement. Any and all amendments to this Agreement shall be made in writing and shall be agreed to and executed by the respective Agency Heads and the Department of Finance and Administration before becoming effective.

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**NEW MEXICO
HUMAN SERVICES DEPARTMENT**

By: Kathryn Falls
Kathryn Falls
Secretary

Date: 7/30/10

**NEW MEXICO
DEPARTMENT OF HEALTH**

By: Alfredo Vigil, MD
Alfredo Vigil, MD
Secretary

Date: 7-29-10

REVIEWED AND APPROVED FOR LEGAL SUFFICIENCY:

By: [Signature]
Asst. General Counsel
Human Services Department

Date: _____

By: [Signature]
Asst. General Counsel
Department of Health

Date: 7/29/10

**NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION**

By: [Signature]
Katherine B. Miller
Secretary

Date: 8/4/10

By: [Signature] 8/2/10
General Counsel
Department of Finance and Administration

JOINT POWERS AGREEMENT (JPA)

BETWEEN

THE NEW MEXICO HUMAN SERVICES DEPARTMENT

AND

THE NEW MEXICO DEPARTMENT OF HEALTH

AMENDMENT No. 1

THIS AMENDMENT #1 to JPA 11-630-8000-0008 is entered into by and between the **New Mexico Human Services Department**, hereinafter referred to as "HSD", and the **New Mexico Department of Health**, hereinafter referred to as "DOH".

IT IS MUTUALLY AGREED BETWEEN THE PARTIES THAT THE FOLLOWING PROVISIONS OF THE ABOVE REFERENCED JPA ARE AMENDED AS FOLLOWS:

Article XI, Period of Agreement, is amended and reads as follows:

XI. PERIOD OF AGREEMENT

This Agreement shall become effective July 1, 2010 and shall remain in effect until terminated pursuant to Article VIII of JPA 11-630-8000-0008. Any and all amendments to this Agreement shall be made in writing and shall be agreed to and executed by the respective Agency Heads and the Department of Finance and Administration (DFA) before becoming effective. The Agreement shall not be effective until approved in writing by the Department of Finance and Administration (DFA).


All other Articles of JPA 11-630-8000-0008, as amended, remain the same.

IN WITNESS WHEREOF, parties have executed this JPA:

Human Services Department:

By: 
HSD Cabinet Secretary

5/15/15
Date

By: 
HSD Chief Financial Officer

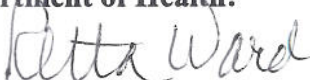
5/15/15
Date

Approved to form and legal sufficiency:

By: 
HSD General Council

5/17/15
Date

Department of Health:

By: 
DOH Cabinet Secretary

4/23/15
Date

By: 
DOH Chief Financial Officer

4-24-15
Date

Approved to form and legal sufficiency:

By: 
DOH General Council

04/22/2015
Date

Department of Finance and Administration

By: 
DFA Cabinet Secretary

5/22/15
Date

JOINT POWERS AGREEMENT
Between
The New Mexico Human Services Department
AND
The New Mexico Department of Health

Amendment No. 2

THIS Amendment No. 2 to JOINT POWERS AGREEMENT (JPA) 11-630-000-0008 is made and entered into by and between the State of New Mexico **Human Services Department**, hereinafter referred to as “HSD”, and the State of New Mexico **Department of Health (DOH)**, hereinafter referred to as the “Contractor”.

The purpose of this Amendment is to revise the Responsibilities of the Parties for the Contractor and HSD and add Dispute Resolution section.

UNLESS OTHERWISE SET OUT BELOW, ALL OTHER PROVISIONS OF THE ABOVE REFERENCED AGREEMENT REMAIN IN FULL EFFECT AND IT IS MUTUALLY AGREED BETWEEN THE PARTIES THAT THE FOLLOWING PROVISIONS OF THAT AGREEMENT ARE AMENDED AS FOLLOWS:

I. RECITALS

WHEREAS, HSD and the Contractor are empowered to enter into cooperative agreements between themselves pursuant to the Joint Powers Agreement Act, NMSA 1978 §§ 11-1-1 *et seq.*; and

WHEREAS, HSD is the single state agency under the Title XIX Medicaid program, with authority to receive federal financial participation for expenditures authorized under the Medicaid program; and

WHEREAS, the Contractor, through state general funds, provides services at its facilities and clinics and through the programs and services it provides that may constitute health care services payable under the Medicaid program; and

WHEREAS, pursuant to the Joint Powers Agreement Act NMSA 1978 §§ 11-1-1 *et seq.*, HSD and the Contractor desire to enter into this Joint Powers Agreement (JPA) to exercise their common power for the purpose of maximizing state general funds for services provided in the Contractors facilities, clinics, and programs by leveraging those funds through the Medicaid program; and

WHEREAS, entry into this JPA is both necessary and desirable and in the best interests of the State of New Mexico.

II. PURPOSE OF AGREEMENT

The purpose of this Agreement is to continue the formalized framework for coordination of efforts between HSD and the Contractor to maximize the availability of revenues to the Contractor and for the Contractor to receive Medicaid reimbursement for services currently provided by the Contractor at its facilities, clinics, public health offices and laboratories and provided with state general funds.

This Agreement will allow the Contractor to claim Title XIX funds for administrative costs incurred when the Contractor staff, at the Contractor facilities, clinics and public health offices, assist persons receiving Medicaid services or persons who may be eligible to receive Medicaid services, such assistance to include activities such as outreach, assistance with Medicaid applications, assistance with access to Medicaid services, program planning and interagency coordination of medical services, and referral and monitoring of medical services.

This Agreement will allow the transfer of funds between the Contractor and HSD to accomplish these efforts.

III. RESPONSIBILITIES OF THE PARTIES

A. Contractor shall:

1. Submit quarterly claims to HSD for Title XIX funds for administrative costs incurred by the Contractor for staff providing administrative services to persons receiving Medicaid services or persons who may be eligible to receive Medicaid services that are payable as administrative costs under the Medicaid program and/or through Title XIX funds ("Medicaid compensable activities"), such claims to include or be based upon, without limitation, the following:
 - a. Coordinate and collaborate with HSD and their contracted vendor to administer Random Moment Time Study (RMTS) and complete Administrative Claiming activities within HSD specified time frames.
 - b. Prepare and submit claims to the HSD for all allowable administrative costs within forty five (45) days after the end of the billing quarter, with the exception of the quarter ending June 30, for which claims must be received no later than ten (10) days after the end of that quarter, in accordance with state and federal Medicaid regulations, policies and guidelines, the Centers for Medicare & Medicaid Services (CMS) approved the *New Mexico Department of Health, Public Health Division Outreach and Maternal Child Health Programs,, Time Study and Administrative Claiming Guide*, and any federal and state revisions thereto, and certify in writing that sufficient funds are available to pay the non-federal share of

the Medicaid administrative reimbursements paid to the Contractor for the preceding quarter.

- i. Utilize the online document storage capacity of the current RMTS and Administrative Claiming vendor to store all financial documentation that is utilized by the contracted vendor to complete the quarterly administrative claims. This documentation should be uploaded to the online site before HSD will consider the claims(s) completed and approve for payment.
- c. Ensure that a complete audit trail exists by retaining all supporting records and documents for at least six (6) years from the date of creation or until ongoing audit issues are settled, whichever is later.
- d. Refund to the HSD any payments made to the Contractor for administrative claims that are disallowed by CMS. Such refunds may be made by direct payment to the HSD or by offset against future direct and/or administrative claims submitted by the Contractor.
- e. Transfer to the HSD, within thirty (30) days of receipt of the invoice from the HSD, the administrative fee for the Administrative Claiming services. The fee is calculated by taking the total number of staff by Division for each participating state agency on October 1 of the current year and dividing by the total number of staff participating for the state; this equals the agency's percentage of total participants. The agency's percentage is then multiplied by the total cost of conducting random moment sampling and administrative claiming (\$162,500.00). The administrative fee will fluctuate annually based on the number of state agencies and staff participating in administrative claiming.
- f. A process by which the Contractor's public health offices determine Medicaid eligibility for persons served in DOH public health offices;
- g. Verification that all Medicaid-allowable services provided by the Contractor at its facilities, clinics and public health offices are billed, including, without limitation, pharmacy services provided at public health offices.

B. HSD shall:

1. Process all allowable administrative claims submitted by the Contractor in accordance with federal and state Medicaid regulations, policies and guidelines, in the form and manner set forth by the HSD.

2. Reimburse allowable administrative claims only if the Contractor has certified in writing that sufficient funds are available to pay the non-federal share of the Medicaid administrative reimbursements paid to the Contractor for the preceding quarter.
3. Reimburse the Contractor when it is determined that the HSD is responsible for an error in processing that result in underpayment of an administrative claim. Such determinations will be made by the HSD or, when appropriate, through the dispute resolution process set forth in Section XII below. Reimbursements may be made by direct payment to the Contractor, or by credit against monies owed to the HSD by the Contractor.
4. On an annual basis, invoice the Contractor an administrative fee for the Random Moment Sampling and Administrative Claiming costs as calculated by the HSD. The administrative fee amount for each state agency by Division will be based on their percentage of the total number of staff participating in the time study.

IV. ADMINISTERING AGENCY

HSD, as the single state agency under the Title XIX Medicaid program, shall be the administering agency for the activities to be performed under this Agreement.

V. PAYMENT

In consideration of the performance of services by the Contractor under this Agreement and claimed pursuant to section III. A., HSD shall pay to the Contractor the federal share of administrative costs incurred by the Contractor as billed under section III. A.

VI. PROPERTY AND RETURN OF FUNDS

The parties understand and agree that no property shall be acquired as the result of the joint exercise of powers by HSD and the Contractor under this Agreement. The parties further understand and agree that, due to the nature of payments to be made hereunder by HSD to the Contractor, no surplus money shall be on hand or held by either HSD or the Contractor on completion or termination of this Agreement.

VII. FUNDS ACCOUNTABILITY

HSD and the Contractor shall maintain fiscal records, follow generally accepted accounting principles and account for all receipts and disbursements of funds transferred between the parties pursuant to this Agreement.

VIII. TERMINATION OF AGREEMENT

This Agreement may be terminated by either of the parties hereto upon written notice

delivered to the other party at least 60 (sixty) days before the intended date of termination. By such termination, neither party may nullify obligations already incurred prior to the date of termination.

IX. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations under law, including the New Mexico Tort Claims Act.

X. DEBARMENT & SUSPENSION

- A. Pursuant to 45 C.F.R., Part 76, the Contractor certifies by signing this Agreement that it and its principals, to the best of its knowledge and belief (1) are not debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal department or agency; (2) has not, within a three-year period preceding the effective date of this Agreement, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion or receiving stolen property; (3) has not been indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, state or local) with commission of any of the offenses enumerated above in this section X. A.; (4) has not, within a three-year period preceding the effective date of this Agreement, had one or more public agreements or transactions (Federal, state or local) terminated for cause or default; and (5) has not been excluded from participation from Medicare, Medicaid or other federal health care programs pursuant to Title XI of the Social Security Act, 42 U.S.C. § 1320a-7.
- B. The Contractor's certification in section X. A. is a material representation of the fact upon which HSD relied when this Agreement was entered into by the parties. The Contractor shall provide immediate written notice to HSD's Contract Administrator if, at any time during the term of this Agreement, the Contractor learns that its certification in section X. A. was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances. If it is later determined that the Contractor's certification in section X. A. was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances, in addition to other remedies available to HSD, HSD may terminate the Agreement.

XI. PERIOD OF AGREEMENT

This Agreement shall become effective on **July 1, 2010** and shall remain in effect until terminated pursuant to section VII of JPA 11-630-8000-0008. Any and all amendments to this Agreement shall be made in writing and shall be agreed to and executed by the respective Agency Heads and the Department of Finance and Administration (DFA) before becoming effective. The Agreement shall not be effective until approved in writing by the Department of Finance and Administration (DFA).

XII. DISPUTE RESOLUTION

- A. Disagreements among the parties over any aspect of this Agreement should initially be addressed through informal discussions among the parties. Such disputes are best resolved informally at the lowest possible organizational level.
- B. Any disputed issues remaining after reasonable, good-faith efforts at informal resolution, may be addressed through one or more of the following channels:
 - 1. An agency-designated representative may submit a written request for action or reconsideration to the responsible Division Director, who will have thirty (30) days from the date of the request to issue a written decision. The decision of the Division Director may be appealed by written notice to that Director within thirty (30) days from the date of the decision. The appeal will be decided jointly by the Secretaries of the agencies involved in the disputed matter, or their designees, who will issue a joint, written decision within sixty (60) days from the date of the notice of appeal.
 - 2. The agencies engaged in the dispute may pursue mediation or dispute resolution with a neutral mediator selected jointly by the agencies involved, the costs to be shared equally by the agencies participating in the mediation or dispute resolution.

All other Articles of JPA 11-630-8000-0008, as amended, remain the same.

IN WITNESS WHEREOF, parties have executed this JPA:

Human Services Department:

DocuSigned by:
 By: David R. Scrase, M.D. 9DBE7D7D1B53422... 9/13/2021
 HSD Cabinet Secretary Date

DocuSigned by:
 By: Danny Sandoval B66DFEE7DE10413... 8/20/2021
 HSD Chief Financial Officer Date

Approved to form and legal sufficiency:

DocuSigned by:
 By: [Signature] 5709D277B0FC4AA... 8/27/2021
 HSD General Council Date

Department of Health:

DocuSigned by:
 By: [Signature] DE4AB8E9F82646C... 8/20/2021
 DOH Cabinet Secretary Date

DocuSigned by:
 By: [Signature] 43965CBAB911407... 8/20/2021
 DOH Chief Financial Officer Date

Approved to form and legal sufficiency:

DocuSigned by:
 By: Joey Wright 7693383540894D9... 8/20/2021
 DOH General Council Date

Department of Finance and Administration

DocuSigned by:
 By: Deborah K Romero DCA2D2A1284C454... 9/27/2021
 DFA Cabinet Secretary Date

