

EXHIBIT A

February 27, 2019



State of California—Health and Human Services Agency
Department of Health Care Services
Local Educational Agency Medi-Cal Billing Option
Provider Participation Agreement



EDMUND G. BROWN JR.
GOVERNOR

National Provider Identification Number

Effective Agreement Start Date: **July 1, 2018**

Official LEA Provider Name: _____

ARTICLE I – STATEMENT OF INTENT

The purpose of this Provider Participation Agreement (PPA) is to permit qualified Local Educational Agencies (LEA) - Provider Type 55 to participate as providers (LEA Provider) of services under California's Medicaid program (Medi-Cal). The mutual objective of the California Department of Health Care Services (DHCS) and the LEA is to improve access to needed services for children. This PPA sets out responsibilities relative to the LEA Provider's participation in the LEA Medi-Cal Billing Option Program.

ARTICLE II – LEA PROVIDER RESPONSIBILITIES

By entering into this PPA, the LEA Provider shall:

1. Comply with Welfare and Institutions Code (W&I Code), Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200); California Code of Regulations (CCR), Title 22, Division 3 (commencing with Section 50000) and Title 5, Division 1, Sections 3065, 3029 and 3051.12; the Medi-Cal Provider Manual; and Education Code, Division 1, Part 6, Chapter 5, Articles 1, 2, 3 and 4 and Sections 8800 and 49400; all as periodically amended.
2. Retain necessary records for a minimum of three years from the date of submission of the LEA Cost and Reimbursement Reconciliation Schedule (CRCS) as set forth in the Medi-Cal Provider Manual, Inpatient/Outpatient LEA section (LEA Program Provider Manual).
3. Ensure that all Medi-Cal covered services are furnished by qualified practitioners acting within their scope of practice, in accordance with CCR Title 22; Business and Professions Code, Division 2, Sections 500 through 4998; and Education Code Section 44000.
4. Ensure that all Medi-Cal beneficiaries are aware of and understand the freedom of choice options outlined in Section 1902(a)(23) of the Social Security Act (SSA) as specified in 42 Code of Federal Regulations (CFR) Sections 431.51(a)(1) and 441.18(a)(1).
5. Ensure services billed using the National Provider Identification (NPI) number will not be separately billed by the rendering practitioners.

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6. Annually put forth and certify the public portion of federal claiming dollars for unique LEA bundled services only as specified in 22 CCR 51270. (Attachment 1: Certification of the Public Portion of Federal Claiming Dollars for current fiscal year)
7. Accept as payment the approved LEA service rates minus the following LEA Medi-Cal Billing Option Program related costs as set forth in the Provider's Guide section of the LEA Program Provider Manual.
8. Reinvest federal funds received for LEA services into services for school children and their families. These funds shall be used to supplement, not supplant, existing services. LEA Medi-Cal Billing Option Program reimbursement may be reinvested in allowable LEA services as set forth in Education Code Section 8804(g).
9. Ensure administrative costs are necessary and reasonable for the proper and efficient administration of the program. The cost of professional and consultant services are allowable when reasonable in relation to the services rendered and when not contingent upon recovery of costs from the federal government, as provided in OMB Circular A-87 § 32(a); and 45 CFR 74.45.
10. Establish or designate an existing collaborative interagency human services group (local collaborative) at the county level or sub-county level to make decisions about the reinvestment of funds made available through the LEA Medi-Cal Billing Option Program as set forth in Education Code Section 8806. The LEA collaborative is required to meet a minimum of twice per year. The process needs to promote full participation in policy development and decision making.

In conjunction with making decisions on reinvestment, the local collaborative should work toward assuming the following major functions:

- a. To identify needs and develop and coordinate community-wide strategies in response to identified and documented problems confronting children and families;
 - b. To promote innovative community services in order to ensure early, accessible, and responsive service delivery to families;
 - c. To coordinate fiscal strategies to assure more comprehensive services (e.g., receipt and allocation of funds; "pooling" of current agency funding for jointly developed services; leveraging of public and private resources, etc.); and
 - d. To assess and monitor outcomes for children and families.
11. Attest in writing that the local collaborative body (specified in Section 10 above) will make the reinvestment decisions (specified in Section 8 above) regarding the use of funds made available through LEA Medi-Cal Billing Option Program reimbursements. The Statement of Commitment to Reinvest (Attachment 2A) shall be signed by the authorized representatives for all members of the collaborative.
 12. Submit an Annual Report (AR) by the mandated due date of each fiscal year, as outlined in 22 CCR 51270 and as set forth in the LEA Program Provider Manual.

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13. Submit a CRCS report by November 30th of each fiscal year, as set forth in the Provider's Guide section of the LEA Program Provider Manual, to certify that the public funds expended for services provided have been expended as necessary for federal financial participation (FFP) pursuant to the requirements of SSA, Section 1903, Subdivision (w) and 42 CFR Section 433.50, et seq. for allowable medical costs.
14. Adhere to and comply with all federal and State third-party liability requirements prior to billing Medi-Cal, including, but not limited to, any policy directives issued by Federal Health and Human Services (HHS) and Centers for Medicare and Medicaid Services (CMS) and the standards found in 42 United States Code (USC) Section 1396a, Subdivision (a), paragraph (25); 42 CFR Section 433.139; W&I Code Sections 14005, 14023.7, 14124.90; and 22 CCR 51005 and 50761 et. seq.
15. Conform any claims for LEA Services rendered by LEA Providers to the standards set forth in W&I Code Section 14115.
16. Not discriminate against any beneficiary on the basis of race, color, national or ethnic origin, sex, age, religion, political beliefs, or mental or physical disability.
17. Comply with the Family Educational Rights and Privacy Act (FERPA) by requiring that schools obtain written consent from the parent or guardian of the student prior to releasing any medical information from the student's education record. Pursuant to 34 CFR, Section 99.30, the written consent must specify the records that may be disclosed, state the purpose of the disclosure, and identify the party to whom the disclosure may be made.

Pursuant to the requirements found in 34 CFR 300.154, the LEA shall obtain written consent from the parent or guardian of the student to access the student's or parent's public benefits or insurance to pay for related services. The LEA shall seek written parental consent, subject to the requirements found in 34 CFR 300.154, for the release and exchange of personally identifiable information that may be disclosed (e.g. records or information about the services provided), which specifies that the purpose of the consent is for Medi-Cal billing purposes, and which specifies the Medi-Cal agency to which disclosure may be made. Prior to accessing the student's or parent's public benefits or insurance for the first time, and annually thereafter, the LEA shall provide written notification, consistent with 34 CFR 300.503(c), to the student's parents, that includes the provisions found in 34 CFR 300.154(d)(2)(v)(A-D).

Notwithstanding the above, the LEA shall comply with confidentiality requirements as specified in 42 USC Section 1320c-9; 20 USC Section 1232g; 42 CFR Section 431.300; 34 CFR Sections 99.30, 99.31 and 300.154; W&I Code Section 14100.2; 22 CCR Section 51009; and Education Code Sections 49060, and 49073 through 49079.

18. Comply with FERPA (20 U.S.C. § 1232g; 34 CFR Part 99) by requiring that schools obtain written consent from the parent or guardian of the student for the release and exchange of all relevant medical student information, when overall care is coordinated between the school and another entity that is providing medically necessary services to the student, including Medi-Cal managed care health plans (MCPs). LEAs shall also coordinate care to minimize any duplication in services. LEAs may contract with MCPs or their delegated entities to render

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health care services separate and distinct from LEA services if mutually agreeable terms can be reached between the LEA and MCP.

19. Ensure all applicable state and federal requirements are met in rendering services under this PPA. It is understood and agreed that failure by the LEA Provider to ensure all applicable state and federal requirements are met in rendering services under this PPA shall be sufficient cause for DHCS to deny or recoup payments to the LEA Provider and/or to terminate this PPA. In the event of a federal audit disallowance, the LEA Provider shall cooperate with DHCS in replying to and complying with any federal audit exception related to the LEA Medi-Cal Billing Option Program. The LEA Provider shall assume sole financial responsibility for any and all federal audit disallowances related to the rendering of services under this PPA. The LEA Provider shall assume sole financial responsibility for any and all penalties and interest charged as a result of a federal audit disallowance related to the rendering of services under this PPA. The amount of the federal audit disallowance, plus interest and penalties shall be payable on demand from DHCS.

If the LEA Provider fails to remit payment for a federal audit disallowance, and/or for any interest or penalties due for an audit disallowance, following a demand for such payment from DHCS, DHCS may, at its option: terminate this PPA, withhold future payments to the LEA Provider for services rendered, or recoup payments made to the LEA Provider for services rendered under the LEA Medi-Cal Billing Option Program.

20. Utilize current safety net and traditional health care providers when those providers are accessible to specific school sites identified by the LEA Provider to participate in this program, rather than adding duplicate capacity.
21. Adhere to and comply with all HHS and CMS requirements with respect to billing for services provided by other health care professionals under contract with the LEA Provider and avoid duplication of services and billing with other programs.
22. Abide by the Business Associate Addendum (BAA) (Exhibit A), as incorporated herein and made part of this Agreement by this reference. Data released to the LEA is to be used solely for the purpose of verifying Medi-Cal eligibility of the beneficiaries. The data elements released to the LEA are listed in Exhibit B.
23. Ensure that providers and their subcontractors are considered contractors solely for the purposes of U.S. Office of Management and Budget Uniform Guidance (Title 2 of the Code of Federal Regulations, Part 200, and, specifically, 2 CFR 200.330). Consequently, as a contractor, as distinguished from subrecipient, a Dun and Bradstreet Universal Numbering System (DUNS) number is not required.

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ARTICLE III – DHCS RESPONSIBILITIES

By entering into this PPA, DHCS shall:

1. Remit payment to the LEA Provider for services rendered to eligible beneficiaries in accordance with applicable medical necessity and utilization review requirements, and billed in accordance with applicable claims submission requirements.
2. Make training available in proper documentation and billing procedures to LEA Providers.
3. Collect and review the LEA Annual Report.
4. Chair the LEA Advisory Workgroup meetings and perform the services as authorized by the legislature in W&I Code Section 14115.8.

ARTICLE IV – BUDGET CONTIGENCY CLAUSE

1. It is mutually agreed that if the State Budget Act of the current year and/or any subsequent years covered under this PPA does not appropriate sufficient funds for the LEA Medi-Cal Billing Option Program, this PPA shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the LEA Provider or to furnish any other considerations under the PPA and the LEA Provider shall not be obligated to perform any provisions of this PPA.
2. If funding for any state fiscal year is reduced or deleted by the State Budget Act for purposes of this LEA Medi-Cal Billing Option Program, the State shall have the option to either cancel this PPA, with no liability occurring to the State, or offer an agreement amendment to the LEA Provider to reflect the reduced amount.

ARTICLE V – GENERAL PROVISIONS

1. This PPA constitutes the entire agreement between the parties regarding the LEA Program. No condition, provision, agreement, or understanding not stated in the PPA shall affect any rights, duties, or privileges in connection with this agreement.
2. This PPA shall not be altered except by an amendment in writing signed by all parties. No person is authorized to alter or vary the terms or make any representation or inducement relative to it, unless the alteration appears by way of a written amendment to this PPA, signed by the duly authorized representatives of DHCS and the LEA Provider.

Activation of Agreement

3. This PPA will be considered in effect, upon all the following occurring:
 - a. This PPA is signed by authorized representatives of the LEA Provider and DHCS;
 - b. Submission of the LEA Medi-Cal Provider Enrollment Information Sheet;
 - c. Submission of Certification of State Matching Funds for LEA Services (Attachment 1);
 - d. Submission of Annual Report Financial Statement Data (Attachment 1A);
 - e. Submission of Statement of Commitment to Reinvest (Attachments 2 and 2A).

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Agreement Termination

4. This PPA will remain in effect until terminated by either party pursuant to this section subject to the requirements and conditions set forth in this PPA. The LEA Provider may terminate this PPA by the termination of its Medi-Cal Certification. The LEA Provider must submit a cover letter explaining the action requested, as well as a Medi-Cal Supplemental Change Form (DHCS 6209) to DHCS Provider Enrollment Division (PED). A copy of the termination request must be emailed by the LEA Provider to the DHCS LEA Medi-Cal Billing Option Program at LEA@dhcs.ca.gov.
5. DHCS may terminate this PPA without cause, and terminate the participation of the LEA Provider in the LEA Medi-Cal Billing Option Program by giving at least a 30-day prior written notification of the termination. In cases where the DHCS Director determines that the health and welfare of beneficiaries or of the public is jeopardized by continuation of this PPA, this PPA shall be immediately terminated. In addition, DHCS may terminate this PPA for cause, which includes failure to comply with any of the terms of this PPA, suspension or termination of the LEA Provider's certification from the California Department of Education (CDE), or if it is determined that the LEA Provider does not meet the requirements for participation in the LEA Medi-Cal Billing Option Program, the LEA Provider has not submitted a reimbursement claim to the Medi-Cal Program within the last twelve (12) months, or that the LEA Provider has failed to certify that the match of state funds has been made. DHCS may terminate this PPA in the event that it is determined that the LEA Provider, or any employee or contract practitioner has violated the laws, regulations or rules governing the LEA Medi-Cal Billing Option Program.

Program Compliance

6. PPA and AR are required for each LEA Provider participating in the LEA Medi-Cal Billing Option Program, identified in 22 CCR 51270.

DHCS may place the LEA Provider on withhold from claims reimbursement in the LEA Medi-Cal Billing Option Program, in accordance with W&I Code Section 14123 and with the regulations contained in 22 CCR 51452.

LEA Providers that do not comply with the participation provisions or do not timely submit all required compliance documents may be placed on a 100 percent withhold from claim reimbursements. LEA Providers will be notified and given the opportunity to submit the required documents prior to the time the withhold is instituted. The withhold will remain in effect until the required documents are accepted and filed by DHCS. In the event the LEA Provider refuses to submit the required compliance documents or if the LEA Provider elects to no longer participate in the LEA Program, the LEA Provider may be required to return all LEA Medi-Cal reimbursement funds received, and all future LEA Medi-Cal reimbursements may be suspended.

7. It is agreed that the LEA Provider shall defend, hold harmless, and indemnify DHCS and CDE, their officers, employees, and agents from any and all claims liability, loss or expense (including reasonable attorney fees) for injuries or damage to any person and/or any property which arise out of the terms and conditions of this PPA and the negligent and intentional acts or omissions of the LEA Provider, its officers, employees, or agents.

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8. None of the provisions of this PPA are or shall be construed as for the benefit of, or enforceable by, any person not a party to this PPA.
9. If any term, condition, or provision of this PPA is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions, will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in anyway. Notwithstanding the previous sentence, if a decision by court of competent jurisdiction invalidates, voids, or renders unenforceable a term, condition, or provision in this PPA that is included in the purpose of this PPA then the parties to this PPA shall either amend this PPA or it shall be terminated.
10. The validity of this PPA and its terms and provisions, as well as the rights and duties of the parties hereunder, the interpretation and performance of this PPA shall be governed by the State of California. Venue shall lie only in counties in which the California Attorney General maintains an office.
11. This PPA and any exhibits attached hereto shall constitute the entire agreement among the parties to it and supersedes any prior or contemporaneous understanding or agreement with respect to the services contemplated and may be amended only by a written amendment executed by both parties to this PPA.
12. The LEA Provider shall avoid any conflict of interest on the part of its subcontractors, its employees, its officers, and its directors. Thus, the State reserves the right to determine at its sole discretion, whether any information, assertion, or claim received from any source indicates the existence of a real or apparent conflict of interest, and, if a conflict of interest is found to exist, to require the LEA Provider to submit additional information or a plan for resolving the conflict, subject to the State's review and prior approval.

Conflicts of interest include, but are not limited to:

- a. An instance where the LEA Provider or any of its subcontractors, its employees, its officers, or its directors has an interest, financial or otherwise, whereby the use or disclosure of information obtained while performing services under the contract would allow for private or personal benefit or for any purpose that is contrary to goals and objectives to the contract.
- b. An instance where the LEA Provider or any subcontractors, employees, officers, or directors use their positions for purposes that are or give the appearance of being, motivated for a desire for private gain for themselves or others, such as those with whom they have family, business or other ties.

If the State is or becomes aware of a known or suspected conflict, the LEA Provider will be given an opportunity to submit additional information, or to take action to resolve the conflict. The LEA Provider will have five (5) working days from the date of notification of the conflict by the State to provide complete information regarding the suspected conflict. If a conflict of interest is determined to exist by the State and cannot be resolved to the satisfaction of the State, the conflict will be grounds for terminating the contract. The State may, at its discretion, upon receipt of a written request, authorize an extension of the timeline herein.

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ARTICLE VI – EXECUTION

The signatories to this PPA warrant that they have full and binding authority to the commitments contained herein on behalf of their respective entities.

Official LEA Provider Name: National School District

Chris Carson
Name of First Authorized Representative
(Person legally authorized to bind contracts for the LEA: Superintendent, Assistant Superintendent, Business/Fiscal Officer)

Assist. Superintendent - Business Services
Title of First Authorized Representative

Signature of First Authorized Representative

Date

Meghann O'Connor
Name of Second Authorized Representative
(If necessary)

Director, Student Support Services
Title of Second Authorized Representative

Signature of Second Authorized Representative

Date

STATE OF CALIFORNIA – DEPARTMENT OF HEALTH CARE SERVICES

Signature of the DHCS Authorized Representative

Typed or Printed Name of the DHCS Authorized Representative

Typed or Printed Title of the DHCS Authorized Representative

Date

Exhibit A
HIPAA Business Associate Addendum

I. Recitals

- A. This Contract (Agreement) has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), 42 U.S.C. section 17921 et seq., and their implementing privacy and security regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations").
- B. The Department of Health Care Services ("DHCS") wishes to disclose to Business Associate certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information ("PHI"), including protected health information in electronic media ("ePHI"), under federal law, and personal information ("PI") under state law.
- C. As set forth in this Agreement, Contractor, here and after, is the Business Associate of DHCS acting on DHCS' behalf and provides services, arranges, performs or assists in the performance of functions or activities on behalf of DHCS and creates, receives, maintains, transmits, uses or discloses PHI and PI. DHCS and Business Associate are each a party to this Agreement and are collectively referred to as the "parties."
- D. The purpose of this Addendum is to protect the privacy and security of the PHI and PI that may be created, received, maintained, transmitted, used or disclosed pursuant to this Agreement, and to comply with certain standards and requirements of HIPAA, the HITECH Act and the HIPAA regulations, including, but not limited to, the requirement that DHCS must enter into a contract containing specific requirements with Contractor prior to the disclosure of PHI to Contractor, as set forth in 45 CFR Parts 160 and 164 and the HITECH Act, and the Final Omnibus Rule as well as the Alcohol and Drug Abuse patient records confidentiality law 42 CFR Part 2, and any other applicable state or federal law or regulation. 42 CFR section 2.1(b)(2)(B) allows for the disclosure of such records to qualified personnel for the purpose of conducting management or financial audits, or program evaluation. 42 CFR Section 2.53(d) provides that patient identifying information disclosed under this section may be disclosed only back to the program from which it was obtained and used only to carry out an audit or evaluation purpose or to investigate or prosecute criminal or other activities, as authorized by an appropriate court order.
- E. The terms used in this Addendum, but not otherwise defined, shall have the same meanings as those terms have in the HIPAA regulations. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

II. Definitions

- A. Breach shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations, and the Final Omnibus Rule.
- B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations, and the final Omnibus Rule.
- C. Covered Entity shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations, and Final Omnibus Rule.
- D. Electronic Health Record shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C Section 17921 and implementing regulations.

Exhibit A
HIPAA Business Associate Addendum

- E. Electronic Protected Health Information (ePHI) means individually identifiable health information transmitted by electronic media or maintained in electronic media, including but not limited to electronic media as set forth under 45 CFR section 160.103.
- F. Individually Identifiable Health Information means health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer or health care clearinghouse, and relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 CFR section 160.103.
- G. Privacy Rule shall mean the HIPAA Regulation that is found at 45 CFR Parts 160 and 164.
- H. Personal Information shall have the meaning given to such term in California Civil Code section 1798.29.
- I. Protected Health Information means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 CFR section 160.103.
- J. Required by law, as set forth under 45 CFR section 164.103, means a mandate contained in law that compels an entity to make a use or disclosure of PHI that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.
- K. Secretary means the Secretary of the U.S. Department of Health and Human Services ("HHS") or the Secretary's designee.
- L. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or PI, or confidential data that is essential to the ongoing operation of the Business Associate's organization and intended for internal use; or interference with system operations in an information system.
- M. Security Rule shall mean the HIPAA regulation that is found at 45 CFR Parts 160 and 164.
- N. Unsecured PHI shall have the meaning given to such term under the HITECH Act, 42 U.S.C. section 17932(h), any guidance issued pursuant to such Act, and the HIPAA regulations.

III. Terms of Agreement

A. Permitted Uses and Disclosures of PHI by Business Associate

Permitted Uses and Disclosures. Except as otherwise indicated in this Addendum, Business Associate may use or disclose PHI only to perform functions, activities or services specified in this Agreement, for, or on behalf of DHCS, provided that such use or disclosure would not violate the HIPAA regulations, if done by DHCS. Any such use or disclosure must, to the extent practicable, be limited to the limited data set, as defined in 45 CFR section 164.514(e)(2), or, if needed, to the

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HIPAA Business Associate Addendum

minimum necessary to accomplish the intended purpose of such use or disclosure, in compliance with the HITECH Act and any guidance issued pursuant to such Act, the HIPAA regulations, the Final Omnibus Rule and 42 CFR Part 2.

1. **Specific Use and Disclosure Provisions.** Except as otherwise indicated in this Addendum, Business Associate may:
 - a. **Use and disclose for management and administration.** Use and disclose PHI for the proper management and administration of the Business Associate provided that such disclosures are required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.
 - b. **Provision of Data Aggregation Services.** Use PHI to provide data aggregation services to DHCS. Data aggregation means the combining of PHI created or received by the Business Associate on behalf of DHCS with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of DHCS.

B. Prohibited Uses and Disclosures

1. Business Associate shall not disclose PHI about an individual to a health plan for payment or health care operations purposes if the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 U.S.C. section 17935(a) and 45 CFR section 164.522(a).
2. Business Associate shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of DHCS and as permitted by 42 U.S.C. section 17935(d)(2).

C. Responsibilities of Business Associate

Business Associate agrees:

1. **Nondisclosure.** Not to use or disclose Protected Health Information (PHI) other than as permitted or required by this Agreement or as required by law.
2. **Safeguards.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of DHCS, in compliance with 45 CFR sections 164.308, 164.310 and 164.312, and to prevent use or disclosure of PHI other than as provided for by this Agreement. Business Associate shall implement reasonable and appropriate policies and procedures to comply with the standards, implementation specifications and other requirements of 45 CFR section 164, subpart C, in compliance with 45 CFR section 164.316. Business Associate shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities, and which incorporates the requirements of section 3, Security, below. Business Associate will provide DHCS with its current and updated policies.

Instructions for Completing the Local Educational Agency (LEA) Medi-Cal Billing Option Program Provider Participation Agreement (PPA)

These instructions were developed to assist Local Educational Agencies (LEAs) in completing the LEA Medi-Cal Billing Option Program Provider Participation Agreement (PPA) and Annual Report (AR).

The PPA is an 8-page agreement signed by authorized representatives of the LEA and Department of Health Care Services (DHCS). The PPA contains two exhibits: Exhibit A – HIPAA Business Associate Addendum (BAA), and Exhibit B – Data File Description. In addition to complying with the terms listed in the PPA, all LEAs must abide by the terms listed in the BAA. The purpose of the BAA is to guard the privacy and security of protected health information and personal information that may be created, received, maintained, transmitted, used or disclosed pursuant to the PPA, and to comply with certain standards and requirements of HIPAA regulations. Exhibit B is a description of the data provided to the LEA via data tape match. **LEAs do not need to sign or return Exhibits A and B to DHCS.**

LEAs must include the AR when submitting the PPA to DHCS. Please see the AR Instructions posted on the LEA Medi-Cal Billing Option website for more information.

- DO NOT revise the forms as they are considered a legally binding contract.
- This is a fillable document; all information must be typed, except where specifically noted.

PAGE 1 - PROVIDER PARTICIPATION AGREEMENT

National Provider Identification Number: Enter you LEA's unique 10-digit NPI number. This number will auto populate throughout the document.

Official LEA Provider Name: Enter the official name of your LEA as registered with California's Department of Education. This field will auto populate throughout the document.

PAGE 8 - ARTICLE VI – EXECUTION

Name of the Authorized Representative(s): Enter the name of the person who is authorized to bind contracts for the LEA.

Title of the Authorized Representative(s): Enter the title of the person who is authorized to bind contracts for the LEA.

Signature of the First Authorized Representative: The person who has the primary authority to contractually bind the LEA to the statements in the LEA PPA and whose signature certifies that the information provided is true, accurate, and complete must sign this form. By signing the LEA PPA, the First Authorized Representative, on behalf of the LEA, agrees to comply with all LEA Medi-Cal Billing Option Program requirements, restrictions, and procedures; including, but not limited to: following Medi-Cal procedures, submitting required reports, and reinvesting Medi-Cal reimbursements as specified in the PPA. This may be the Superintendent or Assistant Superintendent.

Instructions for Completing the Local Educational Agency (LEA) Medi-Cal Billing Option Program Provider Participation Agreement (PPA)

Signature of the Second Authorized Representative: The person who has secondary authority to contractually bind the LEA to the statements in the LEA PPA and whose signature certifies that the information provided is true, accurate, and complete must sign this form. By signing the LEA PPA, the Second Authorized Representative, on behalf of the LEA, agrees to comply with all LEA Medi-Cal Billing Option Program requirements, restrictions, and procedures; including, but not limited to: following Medi-Cal procedures, submitting required reports, and reinvesting Medi-Cal reimbursements as specified in the PPA. This may be the Business Services/Fiscal Officer.

Date: Enter the signature date.

Signature of the DHCS Authorized Representative: (DO NOT complete this portion of the agreement. This portion is for California Department of Health Care Services use only).

- By signing the LEA PPA, the DHCS Authorized Representative, on behalf of the DHCS, confirms the LEAs agreement to comply with all LEA Medi-Cal Billing Option Program requirements, restrictions, and procedures; including, but not limited to following Medi-Cal procedures, submitting required reports, and reinvesting Medi-Cal reimbursements as specified in the PPA.

SUBMISSION INSTRUCTIONS

Submit the PPA to DHCS by one of three ways:

(1) Complete the PPA online using electronic signatures and email as a PDF file.

(2) Complete the PPA online and print, hand sign, scan and email as a PDF file.

- For options (1) and (2), save the file using the following naming convention on the document and in the subject line: *2018.PPA.LEAName.NPINumber.pdf*
- Example: *2018.PPA.NewHaven.1987654321.pdf*
- For options (1) and (2), e-mail the documents to LEA.AnnualReport@dhcs.ca.gov

(3) Complete the PPA online and print, sign (**blue ink**) and mail a hard copy, including a signed copy of the AR to:

Department of Health Care Services
Safety Net Financing Division
LEA Program Unit
1501 Capitol Avenue, MS 4603
Sacramento, CA 95899-7436

Instructions for Completing the Local Educational Agency (LEA) Medi-Cal Billing Option Program Provider Participation Agreement (PPA)

FINAL CHECKLIST

Please ensure:

- You are submitting the correct version of the PPA: DHCS 12/1/18
- You DO NOT revise the PPA or the AR. The PPA is considered a legally binding contract. Any altered documents will be considered invalid, and the entire submission packet will be denied.
- A complete LEA Medi-Cal Billing Option Program enrollment packet includes:
 - Completed (8 pages) and signed **Provider Participation Agreement**
 - Completed (7 pages) and signed **Annual Report:**
 - Medi-Cal Provider Enrollment Information Sheet
 - Consortium Billing (if applicable)
 - Attachment 1: Certification of State Matching Funds
 - Attachment 1A: Annual Report
 - Attachment 2: Statement of Commitment to Reinvest
 - Attachment 2A: LEA Interagency Collaborative Partners
 - Completed (7 pages) and signed **Data Use Agreement** (if applicable)
- All pages are single sided.
- All required signatures on the documents are original and are in **blue ink**.
- All information is printed or typed, except where specifically noted.
- Attachments 1 and 1A include dollar amounts, where applicable.
- You make a copy of the entire Enrollment Package to keep on file with your LEA. These forms describe your program responsibilities as a Medi-Cal provider.
- You send the enrollment package, with original signatures, to the e-mail address or mailing address listed above.

For the complete enrollment process, please see the LEA Medi-Cal Billing Option Program Onboarding Handbook, available on the LEA website under the 'Getting Started' heading.

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3. **Security.** To take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:
- a. Complying with all of the data system security precautions listed in Attachment A, the Business Associate Data Security Requirements;
 - b. Achieving and maintaining compliance with the HIPAA Security Rule (45 CFR Parts 160 and 164), as necessary in conducting operations on behalf of DHCS under this Agreement;
 - c. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III - Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies; and
 - d. In case of a conflict between any of the security standards contained in any of these enumerated sources of security standards, the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI from unauthorized disclosure. Further, Business Associate must comply with changes to these standards that occur after the effective date of this Agreement.

Business Associate shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with DHCS.

- D. **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or its subcontractors in violation of the requirements of this Addendum.

E. Business Associate's Agents and Subcontractors.

1. To enter into written agreements with any agents, including subcontractors and vendors, to whom Business Associate provides PHI or PI received from or created or received by Business Associate on behalf of DHCS, that impose the same restrictions and conditions on such agents, subcontractors and vendors that apply to Business Associate with respect to such PHI and PI under this Addendum, and that comply with all applicable provisions of HIPAA, the HITECH Act the HIPAA regulations, and the Final Omnibus Rule, including the requirement that any agents, subcontractors or vendors implement reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI and PI. Business associates are directly liable under the HIPAA Rules and subject to civil and, in some cases, criminal penalties for making uses and disclosures of protected health information that are not authorized by its contract or required by law. A business associate also is directly liable and subject to civil penalties for failing to safeguard electronic protected health information in accordance with the HIPAA Security Rule. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of another business associate. Business Associate shall incorporate, when applicable, the relevant provisions of this Addendum into each subcontract or subaward to such agents, subcontractors and vendors, including the requirement that any security incidents or breaches of unsecured PHI or PI be reported to Business Associate.
2. In accordance with 45 CFR section 164.504(e)(1)(ii), upon Business Associate's knowledge of a material breach or violation by its subcontractor of the agreement between Business Associate and the subcontractor, Business Associate shall:

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- a. Provide an opportunity for the subcontractor to cure the breach or end the violation and terminate the agreement if the subcontractor does not cure the breach or end the violation within the time specified by DHCS; or
- b. Immediately terminate the agreement if the subcontractor has breached a material term of the agreement and cure is not possible.

F. Availability of Information to DHCS and Individuals. To provide access and information:

1. To provide access as DHCS may require, and in the time and manner designated by DHCS (upon reasonable notice and during Business Associate's normal business hours) to PHI in a Designated Record Set, to DHCS (or, as directed by DHCS), to an Individual, in accordance with 45 CFR section 164.524. Designated Record Set means the group of records maintained for DHCS that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for DHCS health plans; or those records used to make decisions about individuals on behalf of DHCS. Business Associate shall use the forms and processes developed by DHCS for this purpose and shall respond to requests for access to records transmitted by DHCS within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.
2. If Business Associate maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, Business Associate shall provide such information in an electronic format to enable DHCS to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.C. section 17935(e).
3. If Business Associate receives data from DHCS that was provided to DHCS by the Social Security Administration, upon request by DHCS, Business Associate shall provide DHCS with a list of all employees, contractors and agents who have access to the Social Security data, including employees, contractors and agents of its subcontractors and agents.

G. Amendment of PHI. To make any amendment(s) to PHI that DHCS directs or agrees to pursuant to 45 CFR section 164.526, in the time and manner designated by DHCS.

H. Internal Practices. To make Business Associate's internal practices, books and records relating to the use and disclosure of PHI received from DHCS, or created or received by Business Associate on behalf of DHCS, available to DHCS or to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by DHCS or by the Secretary, for purposes of determining DHCS' compliance with the HIPAA regulations. If any information needed for this purpose is in the exclusive possession of any other entity or person and the other entity or person fails or refuses to furnish the information to Business Associate, Business Associate shall so certify to DHCS and shall set forth the efforts it made to obtain the information.

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- I. **Documentation of Disclosures.** To document and make available to DHCS or (at the direction of DHCS) to an Individual such disclosures of PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of PHI, in accordance with the HITECH Act and its implementing regulations, including but not limited to 45 CFR section 164.528 and 42 U.S.C. section 17935(c). If Business Associate maintains electronic health records for DHCS as of January 1, 2009, Business Associate must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after January 1, 2014. If Business Associate acquires electronic health records for DHCS after January 1, 2009, Business Associate must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after the date the electronic health record is acquired, or on or after January 1, 2011, whichever date is later. The electronic accounting of disclosures shall be for disclosures during the three years prior to the request for an accounting.
- J. **Breaches and Security Incidents.** During the term of this Agreement, Business Associate agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:
1. **Notice to DHCS.** (1) To notify DHCS **immediately** upon the discovery of a suspected security incident that involves data provided to DHCS by the Social Security Administration. This notification will be **by telephone call plus email or fax** upon the discovery of the breach. (2) To notify DHCS **within 24 hours by email or fax** of the discovery of unsecured PHI or PI in electronic media or in any other media if the PHI or PI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, any suspected security incident, intrusion or unauthorized access, use or disclosure of PHI or PI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by Business Associate as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Business Associate.

Notice shall be provided to the DHCS Program Contract Manager, the DHCS Privacy Officer and the DHCS Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves data provided to DHCS by the Social Security Administration, notice shall be provided by calling the DHCS EITS Service Desk. Notice shall be made using the "DHCS Privacy Incident Report" form, including all information known at the time. Business Associate shall use the most current version of this form, which is posted on the DHCS Privacy Office website (www.dhcs.ca.gov, then select "Privacy" in the left column and then "Business Use" near the middle of the page) or use this link:

<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx>

Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of PHI or PI, Business Associate shall take:

- a. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and
- b. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.

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2. **Investigation and Investigation Report.** To immediately investigate such security incident, breach, or unauthorized access, use or disclosure of PHI or PI. If the initial report did not include all of the requested information marked with an asterisk, then within 72 hours of the discovery, Business Associate shall submit an updated "DHCS Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer:
3. **Complete Report.** To provide a complete report of the investigation to the DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. If all of the required information was not included in either the initial report, or the Investigation Report, then a separate Complete Report must be submitted. The report shall be submitted on the "DHCS Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred under applicable provisions of HIPAA, the HITECH Act, the HIPAA regulations and/or state law. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If DHCS requests information in addition to that listed on the "DHCS Privacy Incident Report" form, Business Associate shall make reasonable efforts to provide DHCS with such information. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "DHCS Privacy Incident Report" form. DHCS will review and approve or disapprove the determination of whether a breach occurred, is reportable to the appropriate entities, if individual notifications are required, and the corrective action plan.
4. **Notification of Individuals.** If the cause of a breach of PHI or PI is attributable to Business Associate or its subcontractors, agents or vendors, Business Associate shall notify individuals of the breach or unauthorized use or disclosure when notification is required under state or federal law and shall pay any costs of such notifications, as well as any costs associated with the breach. The notifications shall comply with the requirements set forth in 42 U.S.C. section 17932 and its implementing regulations, including, but not limited to, the requirement that the notifications be made without unreasonable delay and in no event later than 60 calendar days. The DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made.
5. **Responsibility for Reporting of Breaches.** If the cause of a breach of PHI or PI is attributable to Business Associate or its agents, subcontractors or vendors, Business Associate is responsible for all required reporting of the breach as specified in 42 U.S.C. section 17932 and its implementing regulations, including notification to media outlets and to the Secretary. If a breach of unsecured PHI involves more than 500 residents of the State of California or its jurisdiction, Business Associate shall notify the Secretary of the breach immediately upon discovery of the breach. If Business Associate has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to DHCS in addition to Business Associate, Business Associate shall notify DHCS, and DHCS and Business Associate may take appropriate action to prevent duplicate reporting. The breach reporting requirements of this paragraph are in addition to the reporting requirements set forth in subsection 1, above.

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6. **DHCS Contact Information.** To direct communications to the above referenced DHCS staff, the Contractor shall initiate contact as indicated herein. DHCS reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

DHCS Program Contract Manager	DHCS Privacy Officer	DHCS Information Security Officer
See the Scope of Work exhibit for Program Contract Manager information	Privacy Officer c/o: Office of HIPAA Compliance Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413 Email: privacyofficer@dhcs.ca.gov Telephone: (916) 445-4646 Fax: (916) 440-7680	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413 Email: iso@dhcs.ca.gov Fax: (916) 440-5537 Telephone: EITS Service Desk (916) 440-7000 or (800) 579-0874

- K. **Termination of Agreement.** In accordance with Section 13404(b) of the HITECH Act and to the extent required by the HIPAA regulations, if Business Associate knows of a material breach or violation by DHCS of this Addendum, it shall take the following steps:
1. Provide an opportunity for DHCS to cure the breach or end the violation and terminate the Agreement if DHCS does not cure the breach or end the violation within the time specified by Business Associate; or
 2. Immediately terminate the Agreement if DHCS has breached a material term of the Addendum and cure is not possible.
- L. **Due Diligence.** Business Associate shall exercise due diligence and shall take reasonable steps to ensure that it remains in compliance with this Addendum and is in compliance with applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, and that its agents, subcontractors and vendors are in compliance with their obligations as required by this Addendum.
- M. **Sanctions and/or Penalties.** Business Associate understands that a failure to comply with the provisions of HIPAA, the HITECH Act and the HIPAA regulations that are applicable to Business Associate may result in the imposition of sanctions and/or penalties on Business Associate under HIPAA, the HITECH Act and the HIPAA regulations.

IV. Obligations of DHCS

DHCS agrees to:

- A. **Notice of Privacy Practices.** Provide Business Associate with the Notice of Privacy Practices that DHCS produces in accordance with 45 CFR section 164.520, as well as any changes to such notice. Visit the DHCS Privacy Office to view the most current Notice of Privacy Practices at: <http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/default.aspx> or the DHCS website at www.dhcs.ca.gov (select "Privacy in the left column and "Notice of Privacy Practices" on the right side of the page).
- B. **Permission by Individuals for Use and Disclosure of PHI.** Provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures.

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- C. *Notification of Restrictions.*** Notify the Business Associate of any restriction to the use or disclosure of PHI that DHCS has agreed to in accordance with 45 CFR section 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.
- D. *Requests Conflicting with HIPAA Rules.*** Not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA regulations if done by DHCS.

V. Audits, Inspection and Enforcement

- A.** From time to time, DHCS may inspect the facilities, systems, books and records of Business Associate to monitor compliance with this Agreement and this Addendum. Business Associate shall promptly remedy any violation of any provision of this Addendum and shall certify the same to the DHCS Privacy Officer in writing. The fact that DHCS inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems and procedures does not relieve Business Associate of its responsibility to comply with this Addendum, nor does DHCS':
1. Failure to detect or
 2. Detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices constitute acceptance of such practice or a waiver of DHCS' enforcement rights under this Agreement and this Addendum.
- B.** If Business Associate is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office of Civil Rights, U.S. Department of Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Addendum, Business Associate shall notify DHCS and provide DHCS with a copy of any PHI or PI that Business Associate provides to the Secretary or the Office of Civil Rights concurrently with providing such PHI or PI to the Secretary. Business Associate is responsible for any civil penalties assessed due to an audit or investigation of Business Associate, in accordance with 42 U.S.C. section 17934(c).

VI. Termination

- A. *Term.*** The Term of this Addendum shall commence as of the effective date of this Addendum and shall extend beyond the termination of the contract and shall terminate when all the PHI provided by DHCS to Business Associate, or created or received by Business Associate on behalf of DHCS, is destroyed or returned to DHCS, in accordance with 45 CFR 164.504(e)(2)(ii)(I).
- B. *Termination for Cause.*** In accordance with 45 CFR section 164.504(e)(1)(ii), upon DHCS' knowledge of a material breach or violation of this Addendum by Business Associate, DHCS shall:
1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by DHCS; or
 2. Immediately terminate this Agreement if Business Associate has breached a material term of this Addendum and cure is not possible.
- C. *Judicial or Administrative Proceedings.*** Business Associate will notify DHCS if it is named as a defendant in a criminal proceeding for a violation of HIPAA. DHCS may terminate this Agreement if Business Associate is found guilty of a criminal violation of HIPAA. DHCS may terminate this Agreement if a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Business Associate is a party or has been joined.

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D. *Effect of Termination.* Upon termination or expiration of this Agreement for any reason, Business Associate shall return or destroy all PHI received from DHCS (or created or received by Business Associate on behalf of DHCS) that Business Associate still maintains in any form, and shall retain no copies of such PHI. If return or destruction is not feasible, Business Associate shall notify DHCS of the conditions that make the return or destruction infeasible, and DHCS and Business Associate shall determine the terms and conditions under which Business Associate may retain the PHI. Business Associate shall continue to extend the protections of this Addendum to such PHI, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

VII. Miscellaneous Provisions

A. *Disclaimer.* DHCS makes no warranty or representation that compliance by Business Associate with this Addendum, HIPAA or the HIPAA regulations will be adequate or satisfactory for Business Associate's own purposes or that any information in Business Associate's possession or control, or transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

B. *Amendment.* The parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon DHCS' request, Business Associate agrees to promptly enter into negotiations with DHCS concerning an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. DHCS may terminate this Agreement upon thirty (30) days written notice in the event:

1. Business Associate does not promptly enter into negotiations to amend this Addendum when requested by DHCS pursuant to this Section; or
2. Business Associate does not enter into an amendment providing assurances regarding the safeguarding of PHI that DHCS in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA regulations.

C. *Assistance in Litigation or Administrative Proceedings.* Business Associate shall make itself and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under this Agreement, available to DHCS at no cost to DHCS to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against DHCS, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by the Business Associate, except where Business Associate or its subcontractor, employee or agent is a named adverse party.

D. *No Third-Party Beneficiaries.* Nothing express or implied in the terms and conditions of this Addendum is intended to confer, nor shall anything herein confer, upon any person other than DHCS or Business Associate and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

E. *Interpretation.* The terms and conditions in this Addendum shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the HIPAA regulations and applicable state laws. The parties agree that any ambiguity in the terms and conditions of this

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Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act and the HIPAA regulations.

- F. *Regulatory References.*** A reference in the terms and conditions of this Addendum to a section in the HIPAA regulations means the section as in effect or as amended.
- G. *Survival.*** The respective rights and obligations of Business Associate under Section VI.D of this Addendum shall survive the termination or expiration of this Agreement.
- H. *No Waiver of Obligations.*** No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

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Attachment A
Business Associate Data Security Requirements

I. Personnel Controls

- A. *Employee Training.*** All workforce members who assist in the performance of functions or activities on behalf of DHCS, or access or disclose DHCS PHI or PI must complete information privacy and security training, at least annually, at Business Associate's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following contract termination.
- B. *Employee Discipline.*** Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.
- C. *Confidentiality Statement.*** All persons that will be working with DHCS PHI or PI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to DHCS PHI or PI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for DHCS inspection for a period of six (6) years following contract termination.
- D. *Background Check.*** Before a member of the workforce may access DHCS PHI or PI, a thorough background check of that worker must be conducted, with evaluation of the results to assure that there is no indication that the worker may present a risk to the security or integrity of confidential data or a risk for theft or misuse of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.

II. Technical Security Controls

- A. *Workstation/Laptop encryption.*** All workstations and laptops that process and/or store DHCS PHI or PI must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the DHCS Information Security Office.
- B. *Server Security.*** Servers containing unencrypted DHCS PHI or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
- C. *Minimum Necessary.*** Only the minimum necessary amount of DHCS PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.
- D. *Removable media devices.*** All electronic files that contain DHCS PHI or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, smartphones, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.
- E. *Antivirus software.*** All workstations, laptops and other systems that process and/or store DHCS PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.

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- F. Patch Management.** All workstations, laptops and other systems that process and/or store DHCS PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.
- G. User IDs and Password Controls.** All users must be issued a unique user name for accessing DHCS PHI or PI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:
- Upper case letters (A-Z)
 - Lower case letters (a-z)
 - Arabic numerals (0-9)
 - Non-alphanumeric characters (punctuation symbols)
- H. Data Destruction.** When no longer needed, all DHCS PHI or PI must be cleared, purged, or destroyed consistent with NIST Special Publication 800-88, Guidelines for Media Sanitization such that the PHI or PI cannot be retrieved.
- I. System Timeout.** The system providing access to DHCS PHI or PI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.
- J. Warning Banners.** All systems providing access to DHCS PHI or PI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.
- K. System Logging.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for DHCS PHI or PI, or which alters DHCS PHI or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If DHCS PHI or PI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.
- L. Access Controls.** The system providing access to DHCS PHI or PI must use role based access controls for all user authentications, enforcing the principle of least privilege.

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- M. *Transmission encryption.*** All data transmissions of DHCS PHI or PI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI or PI in motion such as website access, file transfer, and E-Mail.
- N. *Intrusion Detection.*** All systems involved in accessing, holding, transporting, and protecting DHCS PHI or PI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

III. Audit Controls

- A. *System Security Review.*** All systems processing and/or storing DHCS PHI or PI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.
- B. *Log Reviews.*** All systems processing and/or storing DHCS PHI or PI must have a routine procedure in place to review system logs for unauthorized access.
- C. *Change Control.*** All systems processing and/or storing DHCS PHI or PI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

IV. Business Continuity / Disaster Recovery Controls

- A. *Emergency Mode Operation Plan.*** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic DHCS PHI or PI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Agreement for more than 24 hours.
- B. *Data Backup Plan.*** Contractor must have established documented procedures to backup DHCS PHI to maintain retrievable exact copies of DHCS PHI or PI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and an estimate of the amount of time needed to restore DHCS PHI or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of DHCS data.

V. Paper Document Controls

- A. *Supervision of Data.*** DHCS PHI or PI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. DHCS PHI or PI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
- B. *Escorting Visitors.*** Visitors to areas where DHCS PHI or PI is contained shall be escorted and DHCS PHI or PI shall be kept out of sight while visitors are in the area.
- C. *Confidential Destruction.*** DHCS PHI or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.

Exhibit A
HIPAA Business Associate Addendum

- D. *Removal of Data.*** DHCS PHI or PI must not be removed from the premises of the Contractor except with express written permission of DHCS.
- E. *Faxing.*** Faxes containing DHCS PHI or PI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
- F. *Mailing.*** Mailings of DHCS PHI or PI shall be sealed and secured from damage or inappropriate viewing of PHI or PI to the extent possible. Mailings which include 500 or more individually identifiable records of DHCS PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of DHCS to use another method is obtained.

DEPARTMENT OF HEALTH CARE SERVICES

**Local Educational Agency Medi-Cal Billing Option Program
Provider Participation Agreement (PPA)**

EXHIBIT B

LEA MATCH RECORD LAYOUT

The following table illustrates the LEA tape match record layout output. **Please note that the first 105 characters are the return record of the data the LEA provided as input.** Output fields include return of the input (positions 1-105) and output positions 106-263.

FIELD	SIZE	POSITION
Social Security Number	9	1-9
Last Name	20	10-29
First Name	15	30-44
Middle Initial	1	45
Date of Birth (CCYYMMDD)	8	46-53
Sex	1	54
Provider Id	9	55-63
School Name	20	64-83
User data	20	84-103
County Code	2	104-105
Beneficiary Identification Card Number	14	106-119
Beneficiary Identification Card Issue Date (CCYYMMDD)	8	120-127
Filler	6	128-133
Match Indicator	1	134
Record Eligibility Indicator	1	135
Filler	1	136
Current Month Data	9	137-145
Eligibility Indicator	1	137
Share of Cost Amount	5	138-142
Cert Day	2	143-144
OHC Indicator	1	145
History Data – January	9	146-154
Eligibility Indicator	1	146
Share of Cost Amount	5	147-151
Cert Day	2	152-153
OHC Indicator	1	154

User Initial: _____

History Data - February	9	155-163
Eligibility Indicator	1	155
Share of Cost Amount	5	156-160
Cert Day	2	161-162
OHC Indicator	1	163
History Data - March	9	164-172
Eligibility Indicator	1	164
Share of Cost Amount	5	165-169
Cert Day	2	170-171
OHC Indicator	1	172
History Data - April	9	173-181
Eligibility Indicator	1	173
Share of Cost Amount	5	174-178
Cert Day	2	179-180
OHC Indicator	1	181
History Data - May	9	182-190
Eligibility Indicator	1	182
Share of Cost Amount	5	183-187
Cert Day	2	188-189
OHC Indicator	1	190
History Data - June	9	191-199
Eligibility Indicator	1	191
Share of Cost Amount	5	192-196
Cert Day	2	197-198
OHC Indicator	1	199
History Data - July	9	200-208
Eligibility Indicator	1	200
Share of Cost Amount	5	201-205
Cert Day	2	206-207
OHC Indicator	1	208
History Data - August	9	209-217
Eligibility Indicator	1	209
Share of Cost Amount	5	210-214
Cert Day	2	215-216
OHC Indicator	1	217
History Data - September	9	218-226
Eligibility Indicator	1	218
Share of Cost Amount	5	219-223
Cert Day	2	224-225
OHC Indicator	1	226
History Data - October	9	227-235
Eligibility Indicator	1	227
Share of Cost Amount	5	228-232

User Initial: _____

Cert Day	2	233-234
OHC Indicator	1	235
History Data - November	9	236-244
Eligibility Indicator	1	236
Share of Cost Amount	5	237-241
Cert Day	2	242-243
OHC Indicator	1	244
History Data – December	9	245-253
Eligibility Indicator	1	245
Share of Cost Amount	5	246-250
Cert Day	2	251-252
OHC Indicator	1	253
Meds Current Date CCYYMMDD	8	254-261
Filler	2	262-263