

**INTERGOVERNMENTAL AGREEMENT  
FOR AHCCCS INMATE HOSPITALIZATION  
YH16-0018-\_\_**

This Intergovernmental Agreement (“Agreement”) is entered into by and between       County      , a political subdivision of the State of Arizona (“**COUNTY**”), and the **Arizona Health Care Cost Containment System (“AHCCCS”)**, and shall be effective \_\_\_\_\_ and terminated pursuant to the terms set forth in this agreement.

**RECITALS**

**WHEREAS**, AHCCCS is duly authorized to execute and administer Agreements under A.R.S. §§ 36-2903 *et seq.*, 36-2932 *et seq.* and 11-952; and

**WHEREAS**, the COUNTY is duly authorized to enter into this Agreement under A.R.S. § 11-952; and

**WHEREAS**, the COUNTY and AHCCCS are authorized by A.R.S. § 11-951 *et seq.* to enter into Intergovernmental Agreements for cooperative action pertaining to reimbursement or advancements of funds for services performed; and

**WHEREAS**, the COUNTY and AHCCCS wish to enter into this Agreement in order to establish procedures to permit AHCCCS to pay for Medical services that qualify for Federal Financial Participation (FFP) provided to Inmates of the County jail detention facilities or other penal facilities.

**WHEREAS**, the COUNTY is responsible for the oversight, management and the provision of healthcare services to detainees in the custody of the Sheriff’s Department and utilizes outside healthcare vendors for the provision of healthcare services; and

**WHEREAS**, the medical services program in the       County       Jail is administered by the       County       Health Department and Behavioral Health Department, and       County       is a Covered Entity for purposes of compliance with the Health Insurance Portability and Accountability Act (HIPAA); and

**WHEREAS**, the       County       County Adult Detention Complex Medical Unit has been designated by the County as a health care component consistent with 45 CFR 164.105(a)(2)(iii)(D).

**NOW, THEREFORE**, the COUNTY and AHCCCS (collectively, the “Parties”), pursuant to the above and in consideration of the matters hereinafter set forth, do mutually agree as follows:

## AGREEMENT

1. **DEFINITIONS** Unless otherwise defined in this Agreement, all terms shall have the same meaning as set forth in Title 36 of the Arizona Revised Statutes.

- 1.1. **AAC:** Arizona Administrative Code
- 1.2. **ADES:** Arizona Department of Economic Security
- 1.3. **AGREEMENT:** This document, together with any and all attachments, appendices, exhibits, schedules and future amendments as agreed to by the Parties.
- 1.4. **AHCCCS:** Arizona Healthcare Cost Containment System
- 1.5. **AHCCCS PROVIDER MANUAL:** The Fee-for-Service Provider Manual promulgated by AHCCCS. The AHCCCS Provider Manual is available online at: <http://www.azahcccs.gov/commercial/ProviderBilling/manuals/FFSPProviderManual.aspx>
- 1.6. **APPLICANT:** A person who submits, or whose authorized representative submits a written, completed, signed, and dated eligibility application for AHCCCS benefits.
- 1.7. **ARS:** Arizona Revised Statutes
- 1.8. **CFR:** United States Code of Federal regulations, the official compilation of Federal rules and requirements.
- 1.9. **CLEAN CLAIM:** Clean claim means one that can be processed without obtaining additional information from the provider of the service.
- 1.10. **CORRECTIONAL HEALTH ELIGIBILITY COORDINATOR:** A person designated by the County to coordinate and initiate the eligibility process for hospitalized inmates.
- 1.11. **CMS:** Centers for Medicare and Medicaid Services, a Federal agency within the U.S. Department of Health and Human Services.
- 1.12. **CMS-37:** A report providing the State estimate of the quarterly award from the Federal government.
- 1.13. **DAY:** A calendar day, unless specified otherwise.
- 1.14. **DOCUMENTATION:** Copies of evidence that support an Applicant's eligibility determination. Documentation includes, but is not limited to, any of the following: birth certificates, death certificates, court orders, insurance policies, pay stubs, award letters, medical bills, expenses, letters and responses from collateral sources, Applicant's authorization to share the eligibility information and the COUNTY's or AHCCCS' entries in case records.

- 1.15. **EMERGENCY MEDICAL SERVICES:** Services provided to treat a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain that the absence of immediate medical attention could reasonably be expected to result in any of the following:
- 1.15.1. labor and delivery;
  - 1.15.2. placing the patient's health in serious jeopardy
  - 1.15.3. serious impairment to bodily functions; or
  - 1.15.4. serious dysfunction of any bodily organ or part.
- 1.16. **EXPARTE INMATE ELIGIBILITY DETERMINATION:** A determination of Inmate eligibility made by AHCCCS after the person is released from a jail, detention facility or other penal facility and is no longer an Inmate at the time of the eligibility determination.
- 1.17. **FEDERAL EMERGENCY SERVICES PROGRAM (FESP):** A Federal emergency services program covered under AAC R9-22-217, to treat an emergency medical condition for an Applicant who is determined eligible under A.R.S § 36-2903.03(D).
- 1.18. **FFP:** Federal Financial Participation refers to the Federal matching rate that the Federal government makes to the Title XIX program portion of AHCCCS, which are the monies that AHCCCS can claim from CMS for the Federal share of AHCCCS Program service and administration costs.
- 1.19. **IBNR:** Incurred But Not Reported claims refers to claims with dates of service within the effective dates of this Agreement but which have not been invoiced or recorded in the AHCCCS claims system.
- 1.20. **IMD:** Institution for Mental Disease as defined in 42 CFR 435.1010.
- 1.21. **INMATE:** A person, either adult or juvenile, who is living in a County jail, detention facility, or other penal facility, or in a Medical Institution where but for an illness or an injury, the person would be living in a County jail or detention facility or other penal facility, and who may be eligible for FFP payment as determined by AHCCCS.
- 1.22. **INPATIENT:** As it relates to an inmate, is a patient who has been admitted to a Medical Institution as an inpatient as defined in 42 CFR 435.1010. An Inpatient is a patient who has been admitted to a Medical Institution as an inpatient in a non-secure ward on recommendation of a physician or dentist and who:
- 1.22.1. Receives room, board and professional services in the institution for a 24 hour period or longer; or
  - 1.22.2. Is expected by the institution to receive room, board and professional services in the institution for a twenty-four (24) hour period or longer even though it later develops that the patient dies, is discharged or is transferred to another facility and does not actually stay in the institution for twenty-four (24) hours.

- 1.23. **MEDICAL INSTITUTION:** Any facility, including IMDs providing FFP qualifying services, that is engaged in the delivery of health care services and is authorized to do so by the state in which those services are delivered. Medical Institution means an institution that:
- 1.23.1. Is organized to provide medical care, including medical, surgical, psychiatric, nursing and convalescent care;
  - 1.23.2. Has the necessary professional personnel, equipment, and facilities to manage the medical, nursing, and other health needs of patients on a continuing basis in accordance with accepted standards;
  - 1.23.3. Is authorized under State law to provide medical care;
  - 1.23.4. Is staffed by professional personnel who are responsible to the institution for professional medical and nursing services. The services must include adequate and continual medical care and supervision by a physician; registered nurse or licensed practical nurse supervision and services and nurses' aid services, sufficient to meet nursing care needs; and a physician's guidance on the professional aspects of operating the institution; and
  - 1.23.5. Services are rendered on a non-secure ward.
- 1.24. **MEDICAL SERVICES:** Services provided by a medical provider in the community, including Medical Institution. Medical Services includes, but is not limited to, medical, surgical, psychiatric, diagnostic, and specialty physician services.
- 1.25. **MEMBER:** An Inmate who qualifies for Title XIX coverage.
- 1.26. **PROVIDER:** Any individual or entity that is engaged in the delivery of health care services and that is authorized to do so by the state in which those services are delivered.
- 1.27. **RECIPIENT:** A person who has been determined eligible to receive AHCCCS benefits.
- 1.28. **REVIEW:** An analysis of all factors affecting a family's or person's eligibility.
- 1.29. **STATE:** The State of Arizona.
- 1.30. **STATE MATCH:** The percentage of payment for health services usually paid by the State; but under this contract paid to the State by County to qualify for FFP.
- 1.31. **SUBCONTRACT:** Any contract or agreement between the COUNTY and a third party to provide, or be accountable for providing a service.
- 1.32. **TITLE XIX:** That section of the Social Security Act that authorizes the Medicaid Program.

## 2. PURPOSE OF THIS AGREEMENT

The purpose of this Agreement is for the COUNTY and AHCCCS to jointly develop, and mutually agree upon, an eligibility application and determination process that complies with both Federal and State laws, regulations, rules and appropriate CMS approval and to adjudicate and pay claims for covered services provided to Members in accordance with Federal and State laws, regulations, and rules. This Agreement is entered into pursuant to A.R.S. § 36-2903 to provide AHCCCS with the appropriate State Match in order to pay for Medical Services that qualify for FFP provided to Inmates who qualify for Title XIX while they are an inpatient in a non-secure ward of a Medical Institution. It also provides AHCCCS with the funds to pay for administrative costs associated with this Agreement.

## 3. TERM

3.1. This Agreement is effective \_\_\_\_\_ and shall remain in effect for an initial term of five (5) years, with the possibility of additional extensions of five years each or any portion thereof through an amendment executed by the parties, unless terminated pursuant to the terms and conditions of this Agreement. Any material change to this Agreement shall be through an amendment and shall become effective on the date executed by the parties.

## 4. SCOPE

### 4.1. Eligibility Requirements and Application Process:

When required to determine a non-citizen's eligibility for the FES only, the disability determination will be made by ADES, Disability Determination Services Administration (DDSA), pursuant to an agreement between AHCCCS and ADES, for an additional cost to the COUNTY as set forth in **Attachment A** to this Agreement.

### 4.2. Claims Processing And Payment:

4.2.1. AHCCCS Administration and the COUNTY will jointly develop and mutually agree to a claims processing and payment process that complies with both Federal and State laws, regulations, and rules; and is not in conflict with the provisions of this contract.

4.2.2. AHCCCS will process and pay clean claims in accordance with AHCCCS policies and procedures.

### 4.3. Mutual Data Exchange:

Subject to the confidentiality rules specified in AAC R9-22-512, 42 CFR Part 431, Subpart F, and 45 CFR, Parts 160 and 164, AHCCCS and COUNTY will timely provide to each other any information that may be required for program administration. Upon the request of either party, AHCCCS and the COUNTY will meet to address any issues regarding the transmission of information, identify corrective actions required, and monitor the effectiveness of the corrective actions. The COUNTY and AHCCCS will cooperate with all parties in the corrective actions. The COUNTY and AHCCCS will cooperate with all parties in the determination of an Applicant's eligibility for the Program, including supplying any needed information. AHCCCS and the COUNTY shall provide the information to each other in a timely manner.

4.4. **AHCCCS Rights and Obligations:**

4.4.1. **Eligibility Decision:**

- 4.4.1.1. AHCCCS / ADES shall determine the eligibility of Inmates who apply for Title XIX while an Inpatient in an acute hospital and not in a separate county or contracted hospital unit that houses only county/state inmates. An eligibility determination for non-citizens who do not qualify for full Medical Services will be completed when the services qualify under A.R.S § 36-2903.03 (D) as an emergency service and when required, the COUNTY agrees to pay the cost of any DDSA determination in the amount set forth in **Attachment A** this Agreement. The eligibility determination may also include an Ex Parte Inmate Eligibility Determination when appropriate. The COUNTY is not financially liable for an Ex Parte Eligibility Determination.
- 4.4.1.2. AHCCCS/ADES shall contact the COUNTY, as appropriate and consistent with applicable privacy laws, to obtain additional information required to complete an Applicant's application and to determine the person's ongoing eligibility.
- 4.4.1.3. AHCCCS/ADES shall issue a decision notice to the Applicant and a copy to the COUNTY in accordance with the confidentiality rules of Title XIX.

4.4.2. **Payment for Services in Agreement:**

Payments made to AHCCCS by the COUNTY pursuant to this Agreement are conditioned upon the availability of the COUNTY funds authorized for expenditure in the manner and for the purpose(s) stated herein. AHCCCS is not liable for any purchases of subcontracts entered into by the COUNTY in anticipation of such funding. **AHCCCS is not responsible for any payments to a Medical Institution or Provider for claims submitted under this Agreement if the COUNTY has not provided the State Match for such payments.**

Notwithstanding the provisions of the terms and conditions "Amendments" section of this Agreement (2.0), AHCCCS and the COUNTY agree that changes in the claims processing and payment procedures that do not have a monetary effect may be made from time to time by mutual written agreement of the Assistant Director of AHCCCS and the COUNTY. Such changes shall become effective and binding without execution of an amendment to this Agreement.

4.4.3. **AHCCCS Payment Recoupment from Medical Institutions and Providers:**

- 4.4.3.1. AHCCCS shall require Medical Institutions and Providers submitting claims to reimburse AHCCCS upon demand or AHCCCS shall deduct from future payments to the Medical Institutions or Providers any amount:
  - 4.4.3.1.1. Received by a Medical Institution or Provider from AHCCCS for Agreement services that have been inaccurately reported or paid or are found to be for an excluded service; or

4.4.3.1.2. Paid by AHCCCS for which a Medical Institution's or Provider's books, records, and other documents are not sufficient to clearly confirm that those amounts were used by the Medical Institution or Provider to perform billed services; or

4.4.3.1.3. Identified as a questioned cost as the result of a financial management review or audit.

4.4.3.2. For purposes of this Agreement only, the COUNTY is responsible to reimburse AHCCCS for payments for services rendered that are not eligible for Federal Financial Participation (FFP) if AHCCCS is unable to recoup payments from the Medical Institutions or Providers. The COUNTY is not responsible for services where AHCCCS failure to recoup payments from Medical Institutions and Providers is due to AHCCCS' negligence or inattention.

4.4.3.3. If an Inmate is not AHCCCS eligible, and if the COUNTY is legally required to pay the medical expenses for the Inmate, the COUNTY shall pay Medical Institutions or Providers for services rendered if AHCCCS has recouped funds. This section does not obligate the COUNTY to pay a Medical Institution or Provider in excess of the terms of a contract between the COUNTY and a Medical Institution or Provider, or, where there is no contract, the actual cost of care.

4.4.4. Monitoring:

AHCCCS shall monitor services covered by this Agreement that are provided by any Medical Institution, Provider, or any Provider subcontractor to ensure compliance with the AHCCCS Provider Manual.

4.4.5. Visitation, Inspection and Copying:

After the date of this Agreement, all related COUNTY contracts with Medical Institutions, Providers and Providers' subcontractors shall require that the Medical Institution's, Provider's or a subcontractor's facilities, services, books, accounts, reports, files, and other records directly related to this Agreement shall be subject at all reasonable times to visitation, inspection, and copying by AHCCCS and any other appropriate agent of State or Federal government for five (5) years after completion of this Agreement. Such records shall be available at the Medical Institution's, Provider's, or a subcontractor's offices or shall be produced at the AHCCCS main office or any other office designated by AHCCCS.

4.5. **COUNTY's Rights and Obligations**

4.5.1. Application for Title XIX:

4.5.1.1. The COUNTY shall appoint a Correctional Health Eligibility Coordinator to assist Inmates who potentially qualify for Title XIX coverage while an Inpatient in an acute hospital, with the AHCCCS application process. Before assisting an

individual with the application process, COUNTY shall obtain the Inmates' authorization to apply for AHCCCS in accordance with AAC R9-22-1406.

- 4.5.1.2. The Correctional Health Eligibility Coordinator shall obtain the Applicant's authorization for AHCCCS to release eligibility information to the COUNTY and the COUNTY shall maintain the confidentiality of the Applicant's records in accordance with AAC R9-22-512.
- 4.5.1.3. The Correctional Health Eligibility Coordinator shall attempt to obtain the required Documentation to establish eligibility for the budget month and to assist the AHCCCS Administration or the ADES in obtaining any information required for the Inmate's ongoing eligibility.
- 4.5.1.4. When authorized by an Inmate to assist with the application, the Correctional Health Eligibility Coordinator shall take the application and obtain the Applicant's signature in the month of the hospital stay. The completed application, all verification and Documentation will be submitted to AHCCCS during the first week of the month following the month of application. For cases in which additional time is needed to collect appropriate verification and/or Documentation, the Correctional Health Eligibility Coordinator will submit the application as soon as the Documentation is complete, but no later than the 15<sup>th</sup> of the month following the month of application. The month of application is the month in which the inpatient service is received and the appropriate party signs the application.
- 4.5.1.5. The Correctional Health Eligibility Coordinator will not submit an application on inmates that are treated in the secure ward of the hospital. If the inmates were treated in both the secure and non-secure ward of the hospital the Correctional Health Eligibility Coordinator will identify those secure days on the application to ensure the eligibility segment identifies them as non-eligible.

4.5.2. Advance payment for Medical Services and Administrative Costs by the COUNTY:

- 4.5.2.1. Quarterly estimates of the State Match payments for program services will be determined based on the prior year's dollar value of claims and any additional information provided by the COUNTY. For the initial year of the Agreement, the COUNTY must provide an estimate of the number of paper claims, electronic claims and applications to be processed as well as an estimate of the dollar value of claims to be paid. The quarterly estimates will be documented on **Attachment B** of this Agreement. Based on these estimates, the COUNTY shall make an advance payment to AHCCCS of the estimated amount on or before the last business day of the first month of each quarter. AHCCCS may request additional State Match funds for program services to be advanced more frequently than quarterly to address an increase in the volume of claims or dollar value of claims to be processed.



- 4.5.2.2. The State Match for the administrative costs of this Agreement per application or claim is estimated to be as shown in **Attachment A**. Any changes to the estimated State Match for the administrative costs may only be assessed by written agreement of the Parties.
- 4.5.2.3. AHCCCS will calculate a quarterly invoice for the State Match of the administrative fees of this Agreement based on the actual costs, number of electronic claims, paper claims and applications processed for the quarter. The quarterly invoice will be emailed to the COUNTY by the last business day of the month following the end of the quarter. The quarterly administrative fees owed to AHCCCS will be deducted from the amount the COUNTY has on deposit. If sufficient funds are not on deposit, the COUNTY will pay AHCCCS for the remainder of the administrative fees so that AHCCCS will receive the monies due within thirty (30) days of the invoice date.
- 4.5.2.4. AHCCCS shall deposit the quarterly advance payments made by the COUNTY into a separate account (the State Match Fund). All funds in the State Match Fund are the property of the COUNTY until withdrawn by AHCCCS to pay the State Match on a claim or administrative fees. AHCCCS will inform the COUNTY of the State Match Fund balance as of the end of each quarter in a report received with the quarterly administrative fees invoice. This report will be emailed by the last business day of the month following the end of the quarter. Notwithstanding the previous sentence, AHCCCS will immediately inform the COUNTY if, at any time, the State Match Fund contains less than twenty five percent (25%) of the quarterly estimate of the State Match advance payments for program services documented on **Attachment B** of this Agreement. **In the event the State Match Fund falls below twenty five percent (25%) of the quarter estimate of the State Match advance payments for program services documented on Attachment B of this Agreement, COUNTY shall pay into the State Match Fund sufficient money to increase the Fund to the quarterly estimate of the State Match documented in Attachment B.** Any amount in the State Match Fund that is not expended at the end of a quarter shall be applied to the advance payment for the subsequent quarter, and AHCCCS shall reduce the estimate for the subsequent quarter by such amount. If at any time this Agreement is terminated by either party, any money remaining in the State Match Fund shall be returned to the COUNTY after the claim submission deadline, as of the date of termination.
- 4.5.2.5. The COUNTY shall bear the administrative cost of any appeal process requested by the COUNTY of deferred or disallowed claims.
- 4.5.3. **AHCCCS Recoupment from the COUNTY:** In the event CMS modifies its methodology for allocating FFP, the COUNTY shall be responsible for the Federal portion of deferred or disallowed claims and any interest charged thereon pursuant to 42 CFR 433.38, subject to the payment limitations in listed in this agreement in Section 4.4.3.2.

## 5. GENERAL FINANCIAL RESPONSIBILITIES

### 5.1. Quarterly Program Expenditure estimates:

The COUNTY shall submit to AHCCCS a quarterly estimate of expenditures to be used for the development of the CMS-37. The estimates shall be submitted to AHCCCS thirty (30) days after the end of each quarter unless otherwise determined by Federal requirements.

### 5.2. AHCCCS Reporting:

5.2.1. Quarterly Expenditures Report. AHCCCS will submit to the COUNTY reports that show actual quarterly program expenditures made pursuant to this Agreement. Each report shall detail the amount expended of State Match funds provided by the COUNTY and the matching FFP funds, and the administrative fees AHCCCS charged to the COUNTY. The expenditure reports shall be submitted by the last business day of the month following the end of each quarter.

5.2.2. Claims Paid Report. AHCCCS will provide a report to the COUNTY reporting the claims paid by AHCCCS. The report will be produced weekly, monthly or quarterly if necessary depending on the frequency of claims paid.

### 5.3. AHCCCS Annual Reconciliation with the COUNTY:

5.3.1. In the Quarterly Expenditure Report dated June 30<sup>th</sup> of each State fiscal year, AHCCCS will provide to the COUNTY the actual amounts claimed and paid on an annual basis under this Agreement. This report shall also show any and all amounts paid in advance using estimate reports.

5.3.2. AHCCCS will reconcile the actual amounts paid against the COUNTY's AHCCCS estimates and advanced payments for the twelve month period of the state fiscal year. This reconciliation shall be completed within ninety (90) days of the end of the state fiscal year.

5.3.3. If any monies are due the COUNTY, these will be applied to the next quarterly payment.

### 5.4. Insufficient Appropriation

If at any time during the term of the Agreement, the COUNTY determines that the money the COUNTY budgeted to meet its obligations under this Agreement is insufficient, the COUNTY shall notify AHCCCS in writing and shall include in the notice recommendations as to the resolution of the shortage.

### 5.5. Unused Funds

After the close of each State of Arizona fiscal year and the administrative adjustment period, upon request of the COUNTY, any funds remaining in the State Match Fund, shall be returned to the COUNTY. It is understood that if any valid IBNR claim appears after funds are returned to the COUNTY, the COUNTY is still responsible for payment within the terms of this Agreement.

5.6. COUNTY Annual Budget Submissions

The COUNTY shall provide AHCCCS with projected funding requirements for this Agreement by July 31 of each new fiscal year to allow AHCCCS to request the appropriate amount of Federal authority.

5.7. COUNTY Budget Revisions

Any revisions to expenditure projections shall be expeditiously forwarded to AHCCCS as soon as the need for revision becomes known to the COUNTY in order for AHCCCS to adjust the Federal cash projections to CMS.

**6. NOTICES**

Any notices or correspondence related to this Agreement shall be sent to the parties or their designees respectively as follows:

6.1. **AHCCCS**

Procurement and Contracts:  
Mark Held, Senior Procurement Specialist  
701 East Jefferson St., MD 5700  
Phoenix, AZ 85034  
Phone: (602) 417-4094  
Email: [Mark.Held@azahcccs.gov](mailto:Mark.Held@azahcccs.gov)

**Eligibility Determination:**

Penny Ellis, Assistant Director, Division of Member Services  
801 E. Jefferson St., MD2600  
Phoenix, AZ 85034  
Phone: (602) 417-4512  
E-Mail: [Penny.Ellis@azahcccs.gov](mailto:Penny.Ellis@azahcccs.gov)

**Claims Processing and Payment:**

Tricia Krotenberg, Third Party Accounts Manager-DFSM/Claims  
801 E. Jefferson St., MD8200  
Phoenix, AZ 85034  
Phone: (602) 417-4149  
E-Mail: [Patricia.Krotenberg@azahcccs.gov](mailto:Patricia.Krotenberg@azahcccs.gov)

6.2. **COUNTY:**

Questions, comments and concerns regarding the duties and responsibilities of the County shall be directed to:

Phone:  
Fax:  
E-Mail: @\_\_\_\_.gov

# TERMS AND CONDITIONS

## 1.0 ADA

The Parties must comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

## 2.0 Amendments

- 2.1 Any amendment to this Agreement must be in writing and signed by both parties.
- 2.2 Amendments signed by each of the parties and attached hereto are hereby adopted by reference as a part of this Agreement, from the effective date of the amendment, as if fully set out herein.
- 2.3 All requests for additional services shall be in writing and signed by both parties.
- 2.4 An amendment shall not be necessary when completing a change of contact person, change of key personnel, change of address, change of signatory or other non-material changes to this Agreement.

## 3.0 Arbitration and Disputes

In accordance with ARS § 12-1518, the parties agree to resolve all disputes arising out of or relating to this agreement through arbitration, after exhausting applicable administrative review except as may be required by other applicable statutes. The laws of the State shall govern any interpretation of this Agreement and the venue shall be in Maricopa County, Arizona.

## 4.0 Assignment and Delegation

This Agreement may not be assigned by any party without the prior written consent of the other parties. If consent to an assignment is obtained, this Agreement is binding on the successors and assigns of the parties to this Agreement.

## 5.0 Compliance with Laws, Rules and Regulations

AHCCCS, the COUNTY and their subcontractors must comply with all applicable Federal and State laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Agreement. The laws and regulations of the State of Arizona govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement. Any action relating to this Agreement must be brought by arbitration to the extent required by A.R.S. § 12-1518 or in an appropriate court. Any arbitration award will be enforced in an appropriate court.

## 6.0 E-Verify Requirement

In accordance with ARS § 41-4401, all parties warrant compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. § 23-214, Subsection A.

## 7.0 Execution in Counterparts / Electronic Documents

- 7.1 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same document.
- 7.2 Facsimile signatures, electronic signatures and signatures transmitted by email after having been scanned shall be accepted as originals for the purposes of this Agreement.

---

## TERMS AND CONDITIONS

### **8.0 Federal Immigration and Nationality Act**

The parties shall ensure compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees to include but not limited to sub-contractors. All services under this Agreement shall be performed within the borders of the United States.

### **9.0 Fraud and Abuse**

- 9.1 It shall be the responsibility of AHCCCS and the COUNTY to report all cases of suspected fraud and abuse by subcontractors, members or employees. AHCCCS and the COUNTY shall provide written notification of all such incidents to the Contracting Officer.
- 9.2 As stated in A.R.S. § 13-2310, incorporated herein by reference, any person who knowingly obtains any benefit by means of false or fraudulent pretenses, representations, promises or material omissions is guilty of a class 2 felony.
- 9.3 AHCCCS and the COUNTY are required to research potential overpayments identified by a fraud and abuse investigation or audit conducted by AHCCCS or the COUNTY. After conducting a cost benefit analysis to determine if such action is warranted, the Parties should attempt to recover any overpayments identified due to erroneous, false or fraudulent billings.

### **10.0 Health Insurance Portability and Accountability Act (HIPAA) of 1996**

The parties certify that each is familiar with the requirements of HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act) of 2009, and accompanying regulations and will comply with all applicable HIPAA requirements in the course of this Agreement. The parties warrant that each will cooperate in the course of performance of the Agreement so that the parties will be in compliance with HIPAA, including cooperation and coordination with the Arizona Strategic Enterprise Technology (ASET), Statewide Information Security and Privacy Office (SISPO) Chief Privacy Officer and HIPAA Coordinator and other compliance officials required by HIPAA and its regulations. COUNTY will sign any documents that are reasonably necessary to keep AHCCCS in compliance with HIPAA, including, but not limited to, business associate agreements.

### **11.0 Insurance**

The parties acknowledge that they are self-insured pursuant to statutory authority. The parties agree that the general liability coverage afforded by the self-insurance programs is sufficient to meet the purposes of this Agreement.

### **12.0 Liability**

The parties shall each be responsible for any and all liability for their own negligence arising from the Agreement and each shall bear all costs for their own defense of any litigation to the extent allowed by law.

---

## TERMS AND CONDITIONS

### **13.0 Non-Conforming Performance**

Either party's failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

### **14.0 No Joint Venture**

Nothing in this Agreement is intended to create a joint venture between the Parties and it will not be so construed. Neither AHCCCS' nor COUNTY's employees will be considered officers, agents or employees of the other or be entitled to receive any employment-related fringe benefits from the other.

### **15.0 No Third Party Beneficiaries**

Nothing in the provisions of this IGA is intended to create duties or obligations to or rights in third parties not Parties to this IGA or effect the legal liability of either Party to the IGA.

### **16.0 Records and Audit**

Under A.R.S. § 35-214 and A.R.S. § 35-215, the parties agree to retain and shall contractually require each subcontractor to retain all data and other records ("records") relating to the acquisition and performance of the Agreement for a period of five (5) years after the completion of the Agreement. All records shall be subject to inspection and audit by the State and where applicable the Federal Government at reasonable times. Upon request, the parties will produce a legible copy of any or all such records.

### **17.0 Severability**

If any provision of this Agreement or the application thereof to any circumstance shall be invalid or unenforceable to any extent, it is the intention of the parties that the remainder of the Agreement and the application of such provision to other circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

### **18.0 Termination**

Either party may terminate this Agreement upon thirty (30) working days written notice to the other party. Termination will be without further obligation or penalty and will be effective upon receipt, unless specified otherwise.

### **19.0 Cancellation for Conflict of Interest.**

This IGA is subject to cancellation for conflict of interest pursuant to ARS § 38-511, the pertinent provisions of which are incorporated into this IGA by reference.

**SIGNATURE PAGE**

IN WITNESS THEREOF, the parties have executed this Agreement:

**COUNTY:**

**Arizona Health Care Cost Containment System (AHCCCS):**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name:

Printed Name: Meggan Harley, CPPO, MSW

Title: Chair, \_\_\_\_\_ County Board of Supervisors

Title: Procurement and Contracts Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

In accordance with A.R.S. § 11-952, this Agreement has been reviewed by the undersigned who has determined that this Agreement is in the appropriate form and is within the power and authority granted to COUNTY.

In accordance with A.R.S. § 11-952, this Agreement is in the proper form and is within the power and authority granted to AHCCCS under A.R.S. §§ 36-2903 et seq. and 36-2932 et seq.

\_\_\_\_\_  
COUNTY Attorney

\_\_\_\_\_  
Legal Counsel for AHCCCS

**YH16-0018-\_\_  
ATTACHMENT A**

**EXAMPLE ONLY FROM ANOTHER COUNTY**

**AHCCCS  
Administrative Annual Cost Estimates for  
COUNTY Medicaid Eligible Inmates FFS Project IGA SFY00**

Claims	Electronic 70.00%	Paper 30.00%	Total Fund 100%	County Share 50%	Federal Share 50%
Estimated total number of claims: Physician & Emergency Transport/Hospital	1	35	15	50	
DFS Cost per Claim	\$ 0.93	\$ 1.56			
ISD Cost per Claim	\$ 2.06	\$ 2.12			
<b>10%</b>					
Concurrent Review	Est. Cost	Increase	Current Cost		
Estimated cost per case	2	\$111.40	\$10.13	\$101.27	
Estimated number of HSAG reviews	3	3			
<b>Claims Processing costs:</b>					
DFS	\$32.71	\$23.40	\$56.12	\$28.06	\$28.06
ISD	\$72.04	\$31.73	\$103.78	\$51.89	\$51.89
Total Claims Processing Costs	\$104.76	\$55.14	\$159.89	\$79.95	\$79.95
Direct DFS Labor for Coconino Co Claims Processing			\$0.00		
<b>Concurrent Review Estimated costs:</b>					
Cost for 3 reviews			\$334.19	\$167.10	\$167.10
<b>Administrative Costs (see detail)</b>					
DBF Paper Processing Personnel costs			\$7,519.71	\$3,759.86	\$3,759.86
Postage	4		\$3.00	\$1.50	\$1.50
Data Center Charges @ \$.76/claim	5		\$38.00	\$19.00	\$19.00
Indirect at 10%			\$751.97	\$375.99	\$375.99
Total DBF Administrative Costs			\$8,312.68	\$4,156.34	\$4,156.34
Total Claims Processing Costs			\$8,806.77	\$4,403.38	\$4,403.38
<b>DMS Eligibility Costs</b>					
Application Processing Costs - DMS	6		\$970.00	\$485.00	\$485.00



**YH16-0018-\_\_  
ATTACHMENT A**

DFSM = Division of Fee for Service Management; OIG = Office of Inspector General; ISD = Information Services Division; and DMS = Division of Member Services

<b>Estimated Total Annual Costs for Program</b>	<u>\$9,776.77</u>	<u>\$4,888.38</u>	<u>\$4,888.38</u>
<b>Cost per Claim</b> <sup>7</sup>	\$188.85	\$94.43	\$94.43

- <sup>1</sup> Actual number of claims may be higher. Number includes original, recoupment and adjustment claims.
- <sup>2</sup> Estimate based on expected 10% increase. Actual costs will be a strict pass-through based on price negotiated on new contract.
- <sup>3</sup> Actual number may be higher or lower depending on Coconino Co requirements.
- <sup>4</sup> Postage based on average cost per claim in FY07 times number of claims.
- <sup>5</sup> Data Center charges calculated at \$275/hour. Estimated 360/Claims per hour.
- <sup>6</sup> DMS Eligibility charges calculated at \$97/determination. Estimated 10 annual application/determinations.
- <sup>7</sup> Cost per claim does not include a cost for concurrent reviews

Note: Disability Determination fee, if required, is additional:

Disability Determination fee	\$354.00	\$177.00	\$177.00
------------------------------	----------	----------	----------

DRAFT

**YH16-0018-\_\_**  
**ATTACHMENT B**

<b>EXAMPLE ONLY FROM ANOTHER COUNTY</b>	
<b>AHCCCS</b>	
<b>Quarterly Estimate of State Match Advance Payments for Program Services County Medicaid Eligible FFS Project IGA SFY00</b>	
Prior Year Annual Dollar Value of Claims Paid	\$ 250,000.00
Average Federal Financial Participation Rate	75.43%
Estimate of State Match Payments for Program Services for Current Year	\$ 61,437.50
Quarterly Estimate of State Match Advance Payments for Program Services to AHCCCS	<u>\$ 15,359.38</u>

DRAFT

## **BUSINESS ASSOCIATE ADDENDUM**

Amended 2013

This Addendum is made part of this Contract between the Arizona Health Care Cost Containment System ("AHCCCS") and the Contractor, referred to as "Business Associate" in this Addendum.

AHCCCS and Business Associate agree that the underlying Contract shall comply with the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as set forth in Title 45, Parts 160 and 164 of the Code of Federal Regulations (the "CFR"), as amended. In the event of conflicting terms or conditions, this Addendum shall supersede the underlying Contract.

### **1. DEFINITIONS**

The following terms used in this Addendum shall have the same meaning as those terms in the HIPAA rules set forth in Title 45, Parts 160 and 164 of the CFR: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

### **2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE**

Business Associate agrees to:

- 2.1. Not use or disclose protected health information ("PHI") other than as permitted or required by this Addendum or as required by law;
- 2.2. Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI, to prevent use or disclosure of protected health information other than as provided for by this Addendum;
- 2.3. Report to AHCCCS any use or disclosure of PHI not provided for by this Addendum of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR §164.410, and any security incident of which it becomes aware in the following manner:
  - 2.3.1. Reporting. Business Associate shall report to AHCCCS any use or disclosure of PHI not authorized by the Contract, by law, or in writing by AHCCCS. Business Associate shall make the report to AHCCCS's Privacy Official not less than twenty-four (24) hours after Business Associate learns of such unauthorized use or disclosure. Business Associate's report shall at least:
    - A. Identify the nature of the unauthorized use or disclosure;
    - B. Identify the PHI used or disclosed;

- C. Identify who made the unauthorized use or received the unauthorized disclosure;
  - D. Identify what Business Associate has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure;
  - E. Identify what corrective action Business Associate has taken or shall take to prevent future similar unauthorized use or disclosure; and
  - F. Provide such other information, including a written report, as reasonably requested by AHCCCS's Privacy Official.
- 2.3.2. Mitigation. Business Associate agrees 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 in violation of the requirements of the Contract.
- 2.3.3. Sanctions. Business Associate shall have and apply appropriate sanctions against any employee, subcontractor or agent who uses or discloses AHCCCS PHI in violation of this Addendum or applicable law.
- 2.4. In accordance with 45 CFR §164.502(e)(1)(ii) and §164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such information;
- 2.5. Make available PHI in a designated record set to AHCCCS as necessary to satisfy AHCCCS' obligations under 45 CFR §164.524;
- 2.6. Make any amendment(s) to PHI in a designated record set as directed or agreed to by AHCCCS pursuant to 45 CFR §164.526, or take other measures as necessary to satisfy AHCCCS' obligations under 45 CFR §164.526;
- 2.7. Maintain and make available the information required to provide an Accounting of Disclosures to AHCCCS as necessary to satisfy AHCCCS' obligations under 45 CFR §164.528;
- 2.8. To the extent Business Associate is to carry out one of more of AHCCCS' obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to AHCCCS in the performance of such obligation(s); and
- 2.9. Make its internal practices, books and records available to AHCCCS and the Secretary for purposes of determining compliance with the HIPAA rules.

### **3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE**

- 3.1. Business Associate may only use or disclosure PHI as necessary to perform the services and obligations set forth in the underlying Contract;
- 3.2. Business Associate may use or disclose protected health information as required by law;

- 3.3. Business Associate agrees to make uses and disclosures and requests for protected health information consistent with AHCCCS' Minimum Necessary Policy, located at [www.azahcccs.gov](http://www.azahcccs.gov) ;
- 3.4. Business Associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by AHCCCS, except for the specific uses and disclosures set forth below in (3.5 and 3.6);
- 3.5. Business Associate may use protected health information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate; and
- 3.6. Business Associate may provide data aggregation services relating to the health care operations of AHCCCS.

#### **4. PROVISIONS FOR AHCCCS TO INFORM BUSINESS ASSOCIATE OF PRIVACY PRACTICES AND RESTRICTIONS**

- 4.1. AHCCCS shall notify Business Associate of any limitation(s) in the AHCCCS Notice of Privacy Practices (found at [www.azahcccs.gov](http://www.azahcccs.gov)) under 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI;
- 4.2. AHCCCS shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and
- 4.3. AHCCCS shall notify Business Associate of any restriction on the use or disclosure of PHI that AHCCCS has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

#### **5. TERM AND TERMINATION**

- 5.1. Term: This Addendum is effective upon the effective date of the underlying Contract and shall terminate on the date AHCCCS terminates the contract for cause as authorized in paragraph (b) of this Section, or for any other reason permitted under the contract, whichever is sooner.
- 5.2. Termination for Cause: Business Associate authorizes termination of the Contract by AHCCCS if AHCCCS determines that Business Associate has breached a material term of this Addendum and Business Associate has not cured the breach or ended the violation within the time specified by AHCCCS.
- 5.3. Obligations of Business Associate Upon Termination: Upon termination, cancellation, expiration or other conclusion of the Contract, Business Associate, with respect to PHI

received from AHCCCS, or created, maintained, or received by Business Associate on behalf of AHCCCS, shall:

- 5.3.1. Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
  - 5.3.2. Destroy or return to AHCCCS all remaining PHI that the Business Associate still maintains in any form;
  - 5.3.3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI;
  - 5.3.4. Not use or disclose the PHI retained by Business Associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out in this Addendum that applied prior to termination; and
  - 5.3.5. Destroy or return to AHCCCS the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal and contractual responsibilities.
- 5.4. Survival: The obligations of Business Associate under this Section shall survive the termination of the Contract.

## **6. INDEMNIFICATION AND MISCELLANEOUS**

- 6.1. Indemnification: Business Associate shall indemnify, hold harmless and defend AHCCCS from and against any and all claims, losses, liabilities, costs, civil and criminal penalties, and other expenses resulting from, or relating to, the acts or omissions of Business Associate, its employees, agents, and sub-contractors in connection with the representations, duties and obligations of Business Associate under this Addendum. The parties' respective rights and obligations under this Section shall survive termination of the Contract.
- 6.2. Regulatory References: A reference in this Addendum to a section in the HIPAA rules means the section as in effect or as amended.
- 6.3. Amendment: The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for compliance with the requirements of the HIPAA rules or any other applicable law.
- 6.4. Interpretation: Any ambiguity in this Addendum shall be interpreted to permit compliance with the HIPAA rules.