

AGREEMENT NAME: DOH Medicaid ISA

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

INTERAGENCY AGREEMENT

Between

EXECUTIVE OFFICE OF HEALTH & HUMAN SERVICES

And

DEPARTMENT OF HEALTH

for PARTICIPATION in THE RHODE ISLAND MEDICAID PROGRAM

This Agreement, by and between the STATE OF RHODE ISLAND, EXECUTIVE OFFICE OF HEALTH & HUMAN SERVICES, hereinafter known as EOHHS and the DEPARTMENT OF HEALTH, hereinafter known as RIDOH, governs participation by RIDOH in the Rhode Island Medicaid Program, and the ability of RIDOH to access federal funding pursuant to Titles XIX and XXI (where appropriate) of the Social Security Act hereinafter known as “Medicaid” for the purposes of this agreement.

In accordance with 42 CFR §431.10 (e) (3), the parties agree mutually that as a State agency performing services for the Medicaid agency, RIDOH does not have the authority to change or disapprove of any administrative decision or otherwise substitute its judgment for that of the Medicaid agency with respect to the application of policies, rules, and regulations issued by EOHHS.

Regular scheduled meetings between EOHHS and RIDOH will be conducted in order to communicate on the administration of the Rhode Island Medicaid Program.

Paragraph 1 – Single State Agency

EOHHS affirms that it is the single state agency duly authorized by the Centers for Medicare and Medicaid Services (“CMS”) to administer the Medicaid program in and for the State of Rhode Island, and that it is further authorized to delegate specific elements of its authority and responsibility to RIDOH, as set forth in this agreement.

Paragraph 2 – Effective Date

Effective September 1, 2016, this agreement shall continue in force unless terminated or amended by both parties and supersedes all previous agreements for these purposes.

AGREEMENT NAME: DOH Medicaid ISA

Paragraph 3 – General Terms and Conditions

As defined herein, as well as any Attachments or subsequent Amendments, RIDOH shall be authorized to claim federal matching funds for specified administrative and program support of services authorized under the Rhode Island Medicaid State Plan or the Rhode Island Section 1115 Demonstration Waiver, including Costs Not Otherwise Matchable (CNOM), to individuals determined by EOHHS, or for CNOM by RIDOH, to be eligible recipients of those services. Claiming for CNOM shall not include administrative support, except as expressly approved by the U.S. Centers for Medicare and Medicaid (CMS). Execution of this Agreement and any Amendments constitutes an acknowledgement by EOHHS that the services and activities described herein support the overall administration of the Rhode Island Medicaid Program and qualify for federal claiming. In the conduct of these services and activities, RIDOH agrees to be subject to: Title 40 Chapter 8 and Title 42 Chapter 12.3 of the Rhode Island General Laws; Titles XIX and XXI of the Social Security Act as well as all other applicable provisions of state and federal statute and regulation applicable to the Medicaid and/or CHIP Programs; the Medicaid or CHIP States Plan; and/or EOHHS in its capacity as the Single State Agency. Therefore, by entering into this Agreement, the parties mutually agree that, as the Single State Agency, the EOHHS is accountable to CMS and the Governor, General Assembly and the people of the State for any such actions the RIDOH takes in providing the administrative services, duties or benefits for which RIDOH seeks federal financial participation as set forth herein. In the event of any conflict between these provisions and any other provision of law or regulation as may affect the operation of RIDOH's responsibilities, these provisions shall govern for services and activities authorized by this agreement. Further, RIDOH understands and acknowledges the exclusive right of EOHHS to determine federal policy defining all aspects of the Rhode Island Medicaid Program.

Paragraph 4 – General Construction

This Agreement is comprised of a basic Agreement and five (5) Attachments:

- Attachment A Special Terms and Conditions
- Attachment B Administration and Program Support Areas Qualifying for Medicaid Funding
- Attachment C Contracts and Subcontracts Qualifying for Medicaid Funding
- Attachment D Confidentiality and Privacy Rule Requirements
- Attachment E Costs Not Otherwise Matchable (CNOM)

AGREEMENT NAME: DOH Medicaid ISA

Paragraph 5 – Scope of Services

The Administrative Costs and Program/Services authorized by this agreement are defined in Attachments B and C, as well as any subsequent Amendments. No other services or activities for which reimbursement or payment will be sought pursuant to this agreement are permitted. All Amendments shall be considered to be prospective in application, except as expressly specified to the contrary.

EOHHS and RIDOH agree to make changes to this Agreement to reflect changes in federal law, regulation or policy or to reflect material changes in state law, organization and policy as required by 42CFR430.12(c).

Paragraph 6 – Funding

In consideration of the services performed pursuant to this agreement, EOHHS agrees to present claims to CMS on behalf of RIDOH for federal reimbursement under Titles XIX and XXI, and RIDOH confirms that it has appropriated funds sufficient to act as the matching portions for these reimbursements.

Paragraph 7 – Approval of Contracts

Any contract or subcontract, including any purchase of goods, software or equipment, between RIDOH and any third party with a value of \$25,000 or more that is proposed to be funded, in whole or in part, by Title XIX or Title XXI must be approved in advance by EOHHS. Additionally, any contract between RIDOH and any third party that involves transfer or use of data concerning Medicaid expenditures or eligibility must be approved in advance by EOHHS.

Paragraph 8 – Rate Administration

EOHHS has sole authority to establish rates for payment for participating Medicaid providers. Any request for establishment of rates or changes in existing rates shall be forwarded in advance of the date of application to EOHHS in writing, accompanied by a description of the methodology used to develop the rate as well as the calculations and formulae employed to derive the rate.

Paragraph 9 – Appeals

Medicaid-eligible recipients have a final right of appeal for denials of service or other controversies concerning their benefits. Notwithstanding the prior determinations by RIDOH, any EOHHS resolution of such appeals shall take precedence provided, however, that EOHHS

AGREEMENT NAME: DOH Medicaid ISA

shall not direct RIDOH to take any action that is in conflict with or contradictory to any of the express duties or obligations RIDOH under any other governing statute or regulation.

Paragraph 10 – Reimbursement Denied

It is understood and agreed that, in the event that full federal funding is not received by EOHHS or is subsequently denied by CMS due to failure of RIDOH to comply with the terms of this agreement or other provision of federal statute or regulation, RIDOH shall be liable to pay or restore an amount equal to the federal disallowance, plus any interest and penalties, and that this amount is payable in full upon demand of EOHHS.

Paragraph 11 – Payment by the Rhode Island Executive Office of Health & Human Services

Except as described in Attachment A, RIDOH and any direct services under the control and direction of RIDOH shall present detailed claims for all direct services pursuant to this Agreement to the fiscal agent for EOHHS, in a format and frequency acceptable to EOHHS. In no event shall claims or other requests for payment be presented or paid prior to completion of the services or activities in question. The fiscal agent for EOHHS or the State Controller, as appropriate, shall render prompt payment following submission and adjudication of a properly prepared payment request.

RIDOH affirms, in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (formerly OMB-Circular A-87) and state plan requirements 45CFR95.507 (b) (6) that any billing by RIDOH will be based on the actual cost incurred. RIDOH agrees to comply with the requirements at 42CFR447.206, which limits the cost for providers operated by units of government.

Paragraph 12 – Records

RIDOH agrees to make accessible to State and/or Federal officials or their agents, at reasonable times and at such site(s) as may be designated by EOHHS, all fiscal and activity records pertaining to services purchased under this agreement for up to three (3) previous fiscal years.

Paragraph 13 – Representations of Compliance

RIDOH agrees to comply with the Requirements of Title VI of the Civil Rights Act of 1964 (U.S.C., 2000d et seq.), Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794), and EOHHS implementing regulations found in 45 CFR Parts 80 and 84, which prohibit discrimination on the basis of race, color, national origin, or handicap in acceptances for or provision of services, or employment services and activities.

DOH

AGREEMENT NAME: DOH Medicaid ISA

RIDOH agrees to comply with all other provisions of applicable law, including the Governor's Executive Order 96-14 which prohibits discrimination on the basis of race, color, religion, sex, age, national origin, handicap, sexual orientation or disability.

RIDOH also agrees to require similar representations and assurances in any contract or subcontract using Title XIX or Title XXI funding.

Failure to comply with these items may be the basis for termination of this Agreement.

Paragraph 14 – Confidentiality and Privacy Rule Requirements

RIDOH agrees to comply with the requirements of EOHHS for the safeguarding of client-specific information. Failure to comply with this item may be the basis for termination of this Agreement. EOHHS reserves the right to require RIDOH to implement procedures within thirty (30) days of receipt of notice from EOHHS to prevent reoccurrence.

Except as otherwise limited in this Agreement, RIDOH may use or disclose Protected health information in accordance with the provisions outlined in Attachment D on behalf of, or to provide services to, EOHHS for the purposes defined by this Agreement, if such use or disclosure of Protected Health Information would not violate the provisions of the Health Insurance Portability and Accountability Act Privacy Rule (45 CFR part 160 and part 164, subparts A and E) if done by EOHHS or the minimum necessary policies and procedures established by EOHHS.

Paragraph 15 – Personnel Resources to be Delivered

Where reimbursement is sought to underwrite activities of state personnel, contract employees, or contractors employed or engaged by RIDOH other than in provision of direct services, RIDOH certifies in performing activities and providing services identified in Attachments B, C, and E that all payment claims reflect the actual cost incurred by RIDOH for activities performed and services actually provided.

Paragraph 16 – Reporting Procedures

RIDOH will produce reports describing activity pursuant to this agreement as requested by EOHHS during the term of this Agreement. Reports shall be delivered in hard copy and in an electronic format acceptable to EOHHS, unless otherwise specified. RIDOH will complete the EOHHS Fiscal Report, Medical Assistance Quarterly Summary, and submit to EOHHS within forty-five (45) calendar days following the end of each quarter or at another mutually agreed upon time frame.

DOH

AGREEMENT NAME: DOH Medicaid ISA

ATTACHMENT A

SPECIAL TERMS and CONDITIONS

The parties mutually agree that the following will occur yearly by RIDOH and be submitted to EOHHS for approval no later than ninety (90) days after the close of the federal fiscal year:

1. Conduct of a Benefit Claiming Review to assure that all Medicaid benefit claiming complies with the terms of this Agreement, the Rhode Island State Plan, and applicable federal rules.
2. Conduct of an Administrative Claiming Review to assure that all administrative claiming complies with the terms of this Agreement and the approved Cost Allocation Plan (Indirect Cost Rate) for RIDOH.
3. Provide certification that Medicaid claims are in compliance with the terms of this Agreement, all applicable federal laws and state laws, the Rhode Island Medicaid State Plan and/or the Section 1115 Demonstration Waiver. See attached: FORM 2.

EOHHS agrees to present, on behalf of RIDOH, a request to CMS that RIDOH administrative costs associated with program administration and support for CNOM claims under the Section 1115 Demonstration Waiver should receive federal matching funds pursuant to this Agreement.

RIDOH agrees to develop a common administrative claiming methodology for all RIDOH program areas for which administrative costs are claimed under the Agreement, for EOHHS's review and approval.

The claiming methodology consists of recording the work effort of staff over 7 random days within each quarter to be used to extrapolate the allocation percentages of the various staff effort over the entire quarter. The sample period cannot include time periods that will lend to trends and fluctuations in work functions of the subject staff. If the job functions of staff change as a result of changing work functions the use of a time study will be re-evaluated and a more appropriate claiming methodology will be established.

The time effort percentage is established for the quarter for the defined, specific activities. The activities are developed and updated based on the staff job functions and are subject to change if staff job functions change. The activity effort percentages are applied against claimable costs and are further reduced by the Medicaid population percentage and the federal financial participation (FFP) percentage.

ATTACHMENT B

**ADMINISTRATION AND PROGRAM SUPPORT AREAS QUALIFYING FOR
MEDICAID FUNDING**

RIDOH is authorized to claim federal Medicaid match for administrative and program support. Administration of the Medicaid program is outlined per Section 1903(a)(7) of the Social Security Act and 42 CFR 433.15(a)(7). As stated in the guidance, for administrative costs to be reimbursed, they must be “necessary for the proper and efficient administration of the State plan”. In the CMS May 2003 Medicaid Administrative School-Based Claiming Guide, the following examples of categories of allowable Medicaid administrative activities are provided: Medicaid outreach; facilitating Medicaid eligibility determination; translation related to Medicaid services; program planning, policy development, and interagency coordination related to medical services; referral, coordination, and monitoring of Medicaid services. The following are administrative activities or programs/services that qualify for Medicaid-funding:

RIDOH Administration

- Tuberculosis (TB) ~~Direct Observed Therapy Activities Program~~
- ~~Human Immunodeficiency Virus (HIV) and Sexually Transmitted Disease (STD) Programs~~
- ~~Services for People Who Inject Drugs~~
- _____
- Primary Care and Rural Health Program
- Special Health Care Needs Family Assistance
- Maternal and Child Health Staff
- Licensing of Health Care Facilities
- Nurse Aides Registry Program
- Analytic Services
- Health Information Technology (HIT) (Implementation Advanced Planning Document, IAPD) Survey

RIDOH Programs/Services

- Lead Inspection – per State Plan Attachment 3.1 A, supplement to page 5
- Lead Window Replacement – per Waiver Budget Service
- CNOM Women’s Breast and Cervical Cancer Screening

The following pages provide specific detail, by program, regarding claims eligible for Medicaid funding.

AGREEMENT NAME: DOH Medicaid ISA

Administration

TB-TB Program Direct Observed Therapy Activities

Within the HIV/AIDS, Viral Hepatitis, Sexually Transmitted Disease (STD), and Tuberculosis (TB) Office Direct Observed Therapy TB program staff support those living with TB and those at high risk for acquiring TB by performing Medicaid administrative activities. The administrative activities include counseling, testing, referral, and intensive case management/care coordination with staff supporting TB clients for up to a year from diagnosis via the Directly Observed Therapy (DOT) program. The DOT Program includes field visits to patients' homes and observing patients ingest their medications. To appropriately claim for Medicaid administrative activities, the staff that are actually performing the claimable activities through client interaction may be claimed according to the agreed upon claiming methodology.

HIV and STD Programs

HIV and STD program staff support those living with HIV and STDs and those at high risk for these diseases by performing Medicaid administrative activities. The administrative activities counseling, testing, referral, and case management/coordination. Staff ensure those living with linked to care and remain in care to ensure viral suppression. To appropriately claim for administrative activities, the staff that are actually performing the claimable activities through interaction may be claimed according to the agreed upon claiming methodology.

DOH's Center for HIV, Hepatitis, STD, and TB Epidemiology oversees community based activities associated with active drug users. These activities include referrals to medical, behavioral health, and substance abuse services; HIV and HCV screening; To appropriately claim for Medicaid administrative activities, the staff that are actually performing the claimable activities through client interaction may be claimed according to the agreed upon claiming methodology.

RIDOH contracts with a vendor/subcontractor to operate, an outreach, insurance counseling, education, referral, screening support program performing the following Medicaid administrative activities. Contract between RIDOH and [AIDS Care Ocean State] to provide HIV and Hepatitis C rapid testing, distribute condoms, and provide Narcan, behavioral health support, medical services, referrals to health/human services agencies, and overdose counseling. Focus for this Medicaid Administrative Claims area and strategy would be to match general revenue expenses that the RIDOH coordinates with a subcontractor that offers the aforementioned services.

Refugee Health Program

The Refugee Health Program, consisting of a Coordinator, links refugees to health services upon arrival in Rhode Island. Most or all refugees, upon arrival, are placed on Medicaid and staff assist them to apply for and access the Medicaid program. To capture the activities, staff effort

AGREEMENT NAME: DOH Medicaid ISA

must be claimed according to the agreed upon claiming methodology because the staff also perform activities that are not allowable as Medicaid administration.

Primary Care and Rural Health Program

The Primary Care and Rural Health Program, consisting of a Program Manager, Coordinator and two Health Promotion Specialists, facilitates the delivery of primary care services to underserved, predominately rural and Medicaid eligible populations. To capture Medicaid administrative activities, staff effort must be claimed according to the agreed upon claiming methodology because the staff also perform activities that are not allowable as Medicaid administration.

Special Health Care Needs Family Assistance

The staff that support the Office of Special Needs provide assistance to families with special health care needs. The Pediatric specialty services program, Family & Consumer empowerment program, and the Contract for family to family health information center are included as part of this assistance. The staff effort towards these activities must be claimed according to the agreed upon claiming methodology to capture the Medicaid administrative activities.

Maternal and Child Health Staff

[The staff that support maternal and child health assure improved availability, accessibility and quality of health care services for the state's maternal and child health Medicaid population.](#)

~~[Select staff in Maternal and Child Health perform Medicaid administrative activities as part of their job functions. This includes:](#)~~

Licensing of Health Care Facilities

Division of Health Systems Quality (DHSQ) performs work to fulfill the State of Rhode Island General Laws, Chapter 23-17 with regard to the Licensing of Health Care Facilities. The law establishes that a license is required for the operation of a health care facility in the State of Rhode Island. There are currently 27 provider types that require a license and approximately 40 DHSQ staff that perform licensure work. As a result of this work, DOH, and by extension DHSQ, is the designated single survey agency on behalf of EOHHS and CMS to license health care facilities, hospitals, and nursing facilities. The staff that perform this type of licensure are in the Medicare/Medicaid Certification Unit within DHSQ and the Office of Facilities Regulation. The staff effort towards these Medicaid administrative activities must be claimed according to the agreed upon claiming methodology.

Nurse Aides Registry Program

The Nursing Assistant Advisory Board is responsible for establishing and maintaining a registry of nurse aides. The registry must be kept in accordance with the requirements set forth in 42CFR483.156 and claiming for Medicaid match is limited to the functions listed therein. The

AGREEMENT NAME: DOH Medicaid ISA

staff effort towards these Medicaid administrative activities must be claimed according to the agreed upon claiming methodology.

Analytic Services

EOHHS is authorized to claim federal Medicaid match for administrative costs and programs/services for the qualifying Medicaid costs provided to Medicaid-eligible beneficiaries.

RIDOH will use its analytic resources, including personnel and statewide data sets that identify and compare Medicaid individuals, to support Medicaid policy and program development, evaluation, and improvement.

Ongoing Analytic Services to Support Medicaid Program Development

- Geographical Information System (GIS) Mapping to identify hot spots for: disease prevalence, admissions, readmissions, ER visits, high utilizers; patients with a poor connection to primary care providers relative to the location of existing primary care providers; high utilizers not connected to a care management program;
- Epidemiological evaluations on disease prevalence and health disparity issues (for instance, stage of cancer at time of diagnosis and effectiveness of follow-up care; prevalence and effects of chronic comorbidities for those with and without SPMI, comparison of end of life expenditures, utilization and experience for those in institutional versus home and community based services etc.)
- Evaluation of the public health impact of Medicaid policies and programs

Products and Deliverables

The following items are not considered mutually exclusive. They may be combined into several different reports or analyses as needed.

- 3-4 annual analyses of Medicaid data using GIS mapping technology
- Analyses of statewide surveys, such as the Behavioral Risk Factor Surveillance Survey (BRFSS) and the Pregnancy Risk Assessment and Monitoring Survey (PRAMS) by insurance status, comparing Medicaid trends in health outcomes, behaviors and characteristics to other insurance types, including the uninsured
- 1-3 evaluations each year of Medicaid policy or program effectiveness, outcomes analysis or disease prevalence and burden
- Quarterly analysis of Hospital Discharge Database (HDD) Inpatients and Emergency Department trends by insured status and type
- Annual analysis of hospital quality indicators and their interaction with Medicaid inpatient hospital trends

Quarterly analysis of the public health trends indicated in HealthFacts RI data, split by insurance type.

DOH

AGREEMENT NAME: DOH Medicaid ISA

RIDOH is to claim costs quarterly based on an agreed upon price for each deliverable item listed above, set on an annual basis. The agreed upon price per item is arrived at as a result of the agreed upon claiming methodology applied to the staff involved.

Health Information Technology (HIT) Survey

As part of EOHHS's Medicaid electronic health record (EHR) incentive program, EOHHS is partnering with RIDOH's Center for Health Data Analysis (CHDA) to assist with the following tasks:

- 1) The administration and analysis of a bi-~~annual~~ bi-ennial Health Information Technology (HIT) provider survey to monitor health care providers' adoption and use of HIT in the state. The HIT Survey measures certified EHR and Health Information Exchange (HIE) adoption and use. RIDOH is responsible for administering, revising, and analyzing the state's HIT survey. RIDOH will provide EOHHS with at a number of specific reports based on HIT survey data that will help EOHHS monitor the EHR incentive program's outcomes related to adoption and use of EHRs and HIE.
- 2) The coordination of RIDOH efforts to support providers in meeting the Public Health Meaningful Use Measures of the Medicaid EHR Incentive Program. One quarter of a staff position is needed to coordinate across RIDOH programs and to educate and support Medicaid providers in meeting the program's public health meaningful use measures. RIDOH administers the public health programs that providers are asked to electronically connect with as part of the Medicaid EHR incentive program such as KIDSNET's immunization registry, National Electronic Disease Surveillance System (NEDSS) reportable lab registry, and Real-time Outbreak, and Disease Surveillance (RODs) syndromic surveillance registry. RIDOH also maintains the state's Cancer Registry and Birth Defects Registry, among others, which will need support in order to become EHR Incentive Program eligible public health registries. Lastly, RIDOH oversees and regulates the state designated HIE entity, and through this authority encourages HIE adoption and use throughout the state. The RIDOH staff person will verify to EOHHS for each provider's EHR incentive program's attestation that they are submitting data to RIDOH as required by the meaningful use program.

Funding:

EOHHS and CHDA are implementing a two-year Memorandum of Understanding (MOU) to fund the activities referred to above, and for which EOHHS has received approval for under its Medicaid EHR Incentive program's IAPD (at a 90/10 match rate).

- HIT Survey - \$50,000 per year - Funding will support data analysis of the 2015 HIT survey and planning for the 2017 survey. Future funding will support the design and

DOH

AGREEMENT NAME: DOH Medicaid ISA

administration of the 2017 survey. Each year EOHHS will assume 90% of the cost (\$45,000) with federal funds and RIDOH will assume the remaining 10% of the cost (\$5,000) with state funds.

- Public Health Meaningful Use Coordinator – approximately \$34,000 - Funding will support 25% of the salary and fringe costs of the RIDOH Public Health Informatics and Meaningful Use Coordinator ~~(to be hired)~~. This individual will facilitate expanding the number of Medicaid providers participating in the EHR Incentive Program who are in the process of connecting to or connected with public health registries. This individual will also support the RIDOH activities promoting development and use of the state Health Information Exchange (HIE) for care coordination. EOHHS will assume 90% of the cost with federal funds, and RIDOH will assume the remaining 10% of the cost with state funds.

Programs/Services

Lead Inspection - per State Plan Attachment 3.1 A, supplement to page 5

The Health Homes & Environment Team works to prevent lead poisoning through statewide efforts that include inspection services per the Medicaid State Plan. Administrative activities in support of the direct service are allowable as part of the service.

Lead Window Replacement – per Waiver Budget Service

The Health Homes & Environment Team works to prevent lead poisoning through statewide efforts that include lead window replacement services per the Medicaid State Plan. Administrative activities in support of the direct service are allowable as part of the service.

CNOM Women’s Breast and Cervical Cancer Screening

The Chronic Care and Disease Management Team provides women’s breast and cervical cancer screening to women under 250% of the federal poverty level through federally qualified health centers. The team and associated staff perform this work on behalf of EOHHS as CNOM through the Global Waiver. This function is referenced as Medicaid funded on page 16 of the Global Waiver as “Women screened for breast or cervical cancer under CDC’s National Breast and Cervical Cancer Early Detection Program.” as part of Budget Population 14.

| AGREEMENT NAME: DOH Medicaid ISA

ATTACHMENT C

CONTRACTS AND SUBCONTRACTS QUALIFYING FOR MEDICAID FUNDING

RIDOH is authorized to claim federal Medicaid match for administrative and program support for the following contracts for the pro-rated share of qualified Medicaid treatment costs provided to Medicaid-eligible beneficiaries, as set forth in the approved federal cost allocation for EOHHS:

- Public Consulting Group, Inc.: Assisting with the development of the Department Indirect Cost Rate.

DRAFT

ATTACHMENT D

CONFIDENTIALITY AND PRIVACY RULE REQUIREMENTS

STATEMENT OF AGREEMENT

§ 1. Definitions

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule.

Examples of specific definitions:

- (a) Business Associate. "Business Associate" shall mean RIDOH.
- (b) Covered Entity. "Covered Entity" shall mean EOHHS.
- (c) Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- (d) Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- (e) Protected Health Information. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR 164.501, limited to the information created or received by Business Associate from or on behalf of a Covered Entity.
- (f) Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR 164.501.
- (g) Secretary. "Secretary" shall mean the Secretary of the Office of Health and Human Services or his designee.

§ 2. Obligations and Activities of the Business Associate

- (a) Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law.
- (b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- (d) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
- (e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information.
- (f) Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner, to Protected Health Information in a Designated Record Set, to

AGREEMENT NAME: DOH Medicaid ISA

Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.

(g) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual, and in the time and manner specified by the Covered Entity.

(h) Business Associate agrees to make its internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of the Covered Entity, available to the Secretary, in a time and manner specified by the Covered Entity or designated by the Secretary, for purposes of the Secretary determining the Covered Entity's compliance with the Privacy Rule.

(i) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

(j) Business Associate agrees to provide to the Covered Entity or an Individual, in a time and manner specified by the Covered Entity, information collected in accordance with § 2(i) of this Agreement, to permit the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

(k) Business Associate agrees to maintain the security of Protected Health Information it receives by establishing, at a minimum, the following security measures:

(1) Limit authorized access to Protected Health Information to persons having a "need to know" that information; additional employees or agents may have access to that information which does not contain information from which an individual can be identified.

(2) At the sole discretion of the Business Associate, provide a written statement to each employee or agent as to the necessity of maintaining the security and confidentiality of Protected Health Information, and of the penalties provided for the unauthorized release, use, or disclosure of this information. Receipt of the statement is to be acknowledged by the employee or agent, who is to sign and return the statement to his or her employer or principal, who then is to retain the signed original. The employee or agent is also to be furnished with a copy of the signed statement.

(3) Take no disciplinary or punitive action against any employee or agent solely for bringing evidence of violation of the referenced security requirements to the attention of the Covered Entity.

(l) In accordance with generally accepted 'best practices' and at the sole discretion of the Business Associate, it is recommended that the Business Associate train all the members of its workforce on the various elements and procedures with respect to PHI required by this Agreement, as necessary and appropriate for the members of its workforce to carry out their functions within the Business Associate organization. The Business Associate may wish to provide such training as follows:

(1) To each appropriate member of the Business Associate workforce within a reasonable time after the effective date of this Agreement.

AGREEMENT NAME: DOH Medicaid ISA

(2) Thereafter, to each appropriate new member of the Business Associate workforce within a reasonable period of time after the person joins the Business Associate's workforce.

(3) To each appropriate member of the Business Associate workforce whose functions are affected by a material change in the elements or procedures with respect to PHI required by this Agreement, within a reasonable period of time after the material change becomes effective.

(4) Business Associate may elect to document that such training has been provided to its workforce members.

§ 3. Permitted Uses and Disclosures by the Business Associate

General Use and Disclosure Provisions:

Except as otherwise limited in this Agreement, RIDOH may use or disclose Protected Health Information in accordance with the provisions outlined in Attachment B on behalf of, or to provide services to, EOHHS for the purposes defined by this Agreement, if such use or disclosure of Protected Health Information would not violate the provisions of the Health Insurance Portability and Accountability Act Privacy Rule (45 CFR part 160 and part 164, subparts A and E) if done by EOHHS or the minimum necessary policies and procedures established by EOHHS.

Except as otherwise limited in this Agreement, the Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified in this Interagency Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by the Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

Specific Use and Disclosure Provisions:

(a) Except as otherwise limited in this Agreement, the 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.

(b) Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that 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 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 in which the confidentiality of the information has been breached.

(c) Except as otherwise limited in this Agreement, the Business Associate may use Protected Health Information to provide Data Aggregation services to the Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).

AGREEMENT NAME: DOH Medicaid ISA

(d) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j) (1) of the Privacy Rule.

§ 4. Obligations of the Covered Entity

Provisions for the Covered Entity to inform the Business Associate of privacy practices and restrictions:

(a) Covered Entity shall notify the Business Associate of any limitation(s) in its Notice of Privacy Practices of the Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information.

(b) Covered Entity shall notify the Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate's use or disclosure of Protected Health Information.

(c) Covered Entity shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected Health Information.

Permissible Requests by the Covered Entity

The Covered Entity shall not request that the Business Associate use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

Term and Termination

(a) Term. The Term of this Agreement shall be effective as of the date of signature below, and shall terminate when all of the Protected Health Information provided by the Covered Entity to the Business Associate, or created or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.

(b) Termination for Cause. Upon the Covered Entity's knowledge of a material breach by the Business Associate, the Covered Entity shall either:

(1) Provide an opportunity for the Business Associate to cure the breach or end the violation and terminate this Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity.

(2) Immediately terminate this Agreement if the Business Associate has breached a material term of this Agreement and cure is not possible; or

(3) If neither termination, nor cure, is feasible, the Covered Entity shall report the violation to the Secretary.

(c) Effect of Termination.

AGREEMENT NAME: DOH Medicaid ISA

(1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, the Business Associate shall return or destroy all Protected Health Information received from the Covered Entity, or created or received by the Business Associate on behalf of the Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the Business Associate. The Business Associate shall retain no copies of the Protected Health Information.

(2) In the event that the Business Associate determines that returning or destroying the Protected Health Information is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon satisfaction of specific terms decided by the Covered Entity, that return or destruction of Protected Health Information is infeasible, the Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such Protected Health Information.

§ 5. Miscellaneous

(a) Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.

(b) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

(c) Survival. The respective rights and obligations of the Business Associate under § 4 "Effects of Termination" of this Agreement shall survive the termination of this Agreement.

(d) Interpretation. Any ambiguity in this Agreement shall be resolved to permit the Covered Entity to comply with the Privacy Rule.

(e) Where permitted by the context, each pronoun used in this Agreement includes the same pronoun in other genders and numbers, and each noun used in this Agreement includes the same noun in other numbers. The headings of the various sections of this Agreement are not part of the context of this Agreement, but are merely labels to assist in locating such sections, and shall be ignored in construing this Agreement.

(f) This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter of this Agreement.

(g) This Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the Parties and their respective heirs, personal representatives, successors, and assigns. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be transferred or assigned by the Business Associate without the prior written consent of the Covered Entity.

(h) With respect to any provision of this Agreement finally determined by a court of competent jurisdiction to be unenforceable, such court shall have jurisdiction to reform such provision so that it is enforceable to the maximum extent permitted by applicable law,

| **AGREEMENT NAME: DOH Medicaid ISA**

and the Parties shall abide by such court's determination. In the event that any provision of this Agreement cannot be reformed, such provision shall be deemed severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Rhode Island.

(i) All representations, covenants, and agreements in or under this Agreement, or any other documents executed in connection with the transactions contemplated by this Agreement, shall survive the execution, delivery, and performance of this Agreement and such other documents.

(j) Each Party shall execute, acknowledge or verify, and deliver any and all documents that may, from time to time, be reasonably requested by the other Party to carry out the purpose and intent of this Agreement.

DRAFT

ATTACHMENT E

COSTS NOT OTHERWISE MATCHABLE (CNOM)

The Rhode Island Section 1115 Research and Demonstration Waiver sets forth waiver and expenditure authority for certain populations and services; these include authority to claim federal Medicaid matching payments under the waiver for costs not otherwise matchable (CNOM). This Attachment is established to assure compliance with the statutory and regulatory requirements, state and federal, applicable to the reimbursements for CNOM eligible participants and programs/services.

Paragraph 1. Single State Agencies

In accordance with Rhode Island General Laws, the Rhode Island Executive Office of Health & Human Services (EOHHS) is designated as the single state agency responsible for the administration of the Medicaid program and the lead agency in implementing and administering the Rhode Island Section 1115 Research and Demonstration Waiver.

In accordance with Rhode Island General Laws and authorization by EOHHS, RIDOH is the principal Department charged with managing State services to eligible Medicaid beneficiaries receiving Medicaid eligible program services including:

- Women's Breast and Cervical Cancer Screening.

Paragraph 2. General Terms and Conditions

(a) RIDOH will provide to EOHHS, on a quarterly basis, the following:

- Total amount of payment in the quarter for services to Medicaid eligible CNOM Budget populations receiving services listed above;
- Total amount that will be claimed as CNOM in that quarter for the same Budget populations receiving those services;
- The rationale and basis supporting the CNOM claim submitted for that quarter with regard to both the financial eligibility of the individuals served and the eligibility of the covered service to Medicaid eligible people.

(b)RIDOH will provide findings of an audit on a yearly basis, based on statistically valid sampling, of individuals served and the services received during the quarter claimed. The purpose of the audit is to validate that CNOM claiming is based on expenditures for CNOM covered services provided to persons who have been determined to be eligible for those services in order to recognize any deficiencies that might be found in the program records included in the audit.

| **AGREEMENT NAME: DOH Medicaid ISA**

(c) In the event of a CNOM cost disallowance based upon RIDOH submissions for CNOM reimbursement, including but not limited to findings emanating from the RIDOH audit described in (b) above, State or federal audits, limited cost studies, and any other financial reviews, whether this event occurs during the effective dates of an ISA between EOHHS and RIDOH, or during the effective dates of any amendment to the said ISA, or at any date in the future beyond those effective dates, RIDOH shall be solely responsible for repaying any and all amounts due owing as to any disallowed costs arising from RIDOH submissions for CNOM reimbursement.

(d) In addition, RIDOH shall provide to EOHHS a Certification, signed by the RIDOH representative designated to review and verify the data submitted for the quarterly CNOM reimbursements and has found it to be sound and that it meets all requirements, terms and conditions of CNOM reimbursements under the Rhode Island Section 1115 Demonstration Waiver as described in this Attachment. This Certification shall be presented using FORM 2, attached hereto and incorporated by reference herein. The Certification shall be attached to each quarterly submission as described in (a) above. The reporting requirements described herein are pursuant to the Special Terms and Conditions of the Rhode Island Section 1115 Demonstration Waiver.

AGREEMENT NAME: DOH Medicaid ISA

FORM 1
CNOM CERTIFICATION

I attest that I have reviewed all pertinent documentation submitted in the attached quarterly submission, which is a requirement of Attachment E of the Interagency Service Agreement between EOHHS and RIDOH related to CNOM, with regard to:

Women's Breast and Cervical Cancer Screening for Medicaid eligible women.

I attest that RIDOH has reviewed the pertinent documentation related to the requirements for claiming CNOM reimbursements as described above and in Attachment E of the Interagency Service Agreement. The attached quarterly submission certifies the eligibility of individuals for whom CNOM payments have been claimed and meets all the requirements, terms and conditions of CNOM reimbursements under the Rhode Island Section 1115 Waiver Demonstration.

Printed Name

Signature

Director

Department

Date

DOH

AGREEMENT NAME: DOH Medicaid ISA

FORM 2

MEDICAID CLAIMING CERTIFICATION

I certify that I am the executive officer of RIDOH or his/her formally recognized designee authorized to submit these claims. These claims only include approved expenditures that are allowable in accordance with all applicable federal and state statutes, regulations, policies and the Rhode Island Medicaid State Plan and/or the Rhode Island Section 1115 Research and Demonstration Waiver. These expenditures are based on accounting of actual recorded expenditures by RIDOH. The required amount of state funds were available and used to match allowable expenditures by the state and such state funds were in accordance with all applicable federal requirements for the nonfederal share of expenditures. I certify that the information above and in this submission is correct to the best of my knowledge and belief.

Printed Name

Signature

Director

Department

Date