

**Intergovernmental agreement
between the
Illinois Department of Public Aid
and the
Board of Trustees of the University of Illinois
Regarding the Division of Specialized Care for Children**

This Agreement is made and entered into as of the date of execution by and between the Illinois Department of Public Aid (DPA) and the Board of Trustees of the University of Illinois on behalf of the University of Illinois at Chicago (UIC) Office of the Vice Chancellor of Health Affairs Division of Specialized Care for Children (OVCHA/DSCC), each party to this Agreement being a governmental entity in the State of Illinois. This agreement shall be effective July 1, 2004 and the prior agreements between the parties regarding the waiver for home- and community-based services to medically fragile and technology dependent children shall then be terminated and replaced with this agreement, except to the extent necessary to process claims for services rendered prior to July 1, 2004.

Whereas, DPA is the single State agency designated to administer the Medical assistance (Medicaid) program, as authorized under Title XIX of the federal *Social Security Act*, for Illinois; and

Whereas, DPA has received from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) a waiver to pay for otherwise uncovered home- and community-based services to medically fragile and technology dependent children (the waiver); and

Whereas, OVCHA/DSCC is the single State agency designated to implement the Children with Special Health Care Needs (CSHCN) program, as authorized under Title V of the federal *Social Security Act*, for Illinois; and

Whereas, the parties wish to provide for effective and efficient administration of their respective programs by coordinating certain duties;

Now therefore, pursuant to Article 7 Section 10(a) of the *Constitution of the State of Illinois* and the *Illinois Intergovernmental Cooperation Act* (5 ILCS 220/1 et seq.), in consideration of the foregoing recitals and the mutual covenants and promises herein, the parties agree as follows:

I. Mutual responsibilities

- A. DPA and OVCHA/DSCC shall each assign responsibilities to staff relating to the operation and evaluation of this Agreement.
- B. DPA and OVCHA/DSCC shall coordinate internal and intergovernmental procedures to facilitate the necessary implementation of this Agreement.
- C. Personally identifiable information maintained by both agencies is subject to the confidentiality provisions of federal and State statute, rules and regulations, including, but not limited to, the *Social Security Act* (42 USC 1396a et seq.). When personally identifiable information is exchanged or shared by OVCHA/DSCC and DPA, the following rules shall apply: (a) the confidential nature of the information must be preserved; (b) the information furnished must be used only for the purposes for which it was made available; (c) assurance must be given that the proper steps shall be taken to safeguard the information; and (d) access to such information shall be limited to personnel who require the information to perform their duties or for whom access is permitted by statute or regulation. The release of personally identifiable information, data or records by either agency and/or their respective staff to any unauthorized person may subject DPA or OVCHA/DSCC and their respective staff to criminal and/or civil penalties as imposed by law.

II. Fiscal authorization

- A. From the appropriation described below, OVCHA/DSCC shall submit to the Comptroller of the State of Illinois claims for nursing care provided to children participating in the waiver program.
- B. DPA shall designate OVCHA/DSCC as DPA's fiscal agent for said purpose and specifically grants to OVCHA/DSCC's designees the authority described below for purposes of paying claims for nursing services provided to children participating in the waiver. Said designation shall pertain only to funds appropriated to DPA and identified by the Comptroller of the State of Illinois under appropriation number 001-47865-4900-62-00, or such other appropriation designated by DPA, for State fiscal year 2005 and such authority shall not exceed \$62 million.
- C. OVCHA/DSCC shall provide DPA, on a medium and in a format specified by DPA, records of all payments made from the appropriation described above. DPA shall process said records into its Medicaid Management Information System.
- D. OVCHA/DSCC shall designate no more than three persons to be given authority to sign the name of the Director of DPA (the Director) upon documents for the Comptroller of the State of Illinois to disburse monies from this appropriation. DPA reserves the right to challenge and reject or refuse any OVCHA/DSCC designee. At no time shall more than three employees of OVCHA/DSCC be authorized to sign documents on behalf of DPA. The employees designated with the execution of this agreement are:
 - 1. Linda Foster
 - 2. Peggy Kastner
 - 3. Kelley Balster
- E. The parties shall execute separate signature cards (form SCO-095) for each OVCHA/DSCC employee so authorized.
- F. At such time as a OVCHA/DSCC employee previously authorized to sign documents under this agreement shall no longer be so authorized, OVCHA/DSCC shall notify DPA in writing of the revocation of said employee's designation and, subject to DPA's right of refusal described above, may request that another employee be so authorized.
- G. At any time that the Director shall leave his position and a successor is named, DPA shall provide OVCHA/DSCC with new signature cards for execution.

III. OVCHA/DSCC responsibilities

- A. OVCHA/DSCC shall accept referrals for development of an application for waiver services from families, DPA, OVCHA/DSCC field staff, other agencies, hospitals and other referrals.
- B. OVCHA/DSCC shall provide an appropriate professional case administrator (registered nurse, social worker, or other health professional) for every referral accepted to prepare a comprehensive individual waiver application and medical plan of care (MPC).
- C. OVCHA/DSCC shall gather all reports, findings, prescriptions, price quotations and consents necessary to prepare a comprehensive individual waiver application and MPC, including cost comparison with the appropriate institutional care which demonstrates the cost benefits of home care.
- D. OVCHA/DSCC shall develop an individual service plan for home care with the family that meets the child's medical needs based upon the attending physician's prescription for medically necessary services, as agreed to by the child's community physician. OVCHA/DSCC shall ascertain that the family agrees to the plan and has been informed of alternative options to care for their child.
- E. OVCHA/DSCC, on behalf of the child and family, shall submit to DPA the completed application and MPC.

- F. OVCHA/DSCC shall clarify and renegotiate, if requested, any components of the application or MPC questioned by DPA, including charges for equipment or home modification, and the amount, level and cost of shift nursing services. OVCHA/DSCC shall act as the sole intermediary between DPA, the family and participating service providers in all matters pertaining to the content of the application and the MPC.
- G. Following notice from DPA of approval of the waiver application and MPC, OVCHA/DSCC shall implement and case administer the prescribed individual service plan for home care, assuring use of approved providers selected by the family. All providers shall meet the criteria for Medicaid certification for the service provided, if available. When Medicaid certification criteria do not exist, OVCHA/DSCC shall utilize a process for approving or credentialing providers of service approved by DPA. OVCHA/DSCC shall certify that the participating providers of nursing services are eligible for Medicaid participation.
- H. OVCHA/DSCC shall notify DPA of any change in the status of the child, family, home or service provider, which OVCHA/DSCC believes will negatively affect the safety, appropriateness or cost benefit of an individual home care plan.
- I. OVCHA/DSCC shall follow all State and federal rules and requirements pertaining to the agreed upon waiver activities.
- J. OVCHA/DSCC shall advise DPA prior to implementing any change in OVCHA/DSCC policy or procedure that would affect the waiver program.
- K. OVCHA/DSCC shall notify DPA and all waiver participants six months in advance of OVCHA/DSCC's intent to discontinue participation in the waiver program to allow for the orderly transition of case administration and program responsibilities to another agency or organization, unless reasons beyond the control of OVCHA/DSCC and DPA do not allow for such notice.
- L. OVCHA/DSCC shall forward to the Comptroller of the State of Illinois all necessary documentation to process payments to all nursing agencies providing services to participants in the waiver. This documentation shall be provided in the form and pursuant to an agreed time schedule. OVCHA/DSCC shall provide DPA, on a medium and in a format specified by DPA, records of all payments made for waiver services through the Comptroller. DPA and OVCHA/DSCC shall reconcile all payment information on a regular and agreed timeframe.
- M. OVCHA/DSCC shall provide to DPA all information and documentation necessary to allow DPA to claim federal financial participation (FFP) for those services for which payment was authorized by OVCHA/DSCC provided under the waiver.
- N. OVCHA/DSCC shall update each approved MPC and submit the revised information to DPA for consideration for continuation of the MPC at least 30 days prior to the end of the current prior approval period.
- O. OVCHA/DSCC may withdraw from case administration of any individual home care plan that OVCHA/DSCC believes endangers the health or safety of the child. Prior to withdrawal, OVCHA/DSCC shall notify DPA, the client's family or legal guardian and the managing physician of the intent to withdraw in sufficient time to allow for the orderly transfer of services.
- P. On a schedule as approved by DPA, OVCHA/DSCC may submit to DPA an electronic file in a mutually agreed upon format of all participants of the CSHCN program.

IV. DPA responsibilities

- A. DPA shall provide consultation and technical assistance to OVCHA/DSCC to assure that policies and procedures for the waiver are in conformance with State and federal requirements.

- B. DPA shall process all applications for the waiver and, when the application is denied, provide OVCHA/DSCC and the applicant the basis for the denial to permit modification and resubmission of the application.
- C. Upon submission of an updated MPC, DPA shall notify OVCHA/DSCC and the child's family or legal guardian of its decision regarding continuation of the MPC at least ten days prior to the end of the current prior approval period.
- D. DPA will withdraw approval for participation of any client in the waiver program when notified by OVCHA/DSCC in writing that case administration has been withdrawn for any of the reasons set forth in this agreement.
- E. DPA shall provide access to fair hearings for any waiver participant wishing to contest any denial of eligibility for the waiver, any disagreement with the frequency, scope and duration of services under the waiver and any termination from the waiver.
- F. DPA shall provide OVCHA/DSCC all necessary administrative rules and regulations, provider bulletins and other information for OVCHA/DSCC to efficiently and accurately provide program and case administrative services for the waiver.
- G. DPA shall provide OVCHA/DSCC with necessary computer access to efficiently and accurately provide program and case administrative services for the waiver.
- H. DPA shall assist OVCHA/DSCC in preparing and modifying the cost allocation plan necessary to submit expenditures for administrative activities for federal financial participation as set forth in Section IX of this agreement.
- I. Upon receipt of adequate documentation of administrative expenditures under this agreement, DPA shall submit such expenditures for federal financial participation and deposit the resulting federal reimbursement into the General Revenue Fund. DPA shall determine the amount to be credited to OVCHA/DSCC for its administrative expenditures as the percentage of federal financial participation, as specified in the interagency agreement between the two parties executed January 10, 2003, earned on other administrative expenditures. Notification of said amount shall be provided to the UIC and the next subsequent intergovernmental transfer from the UIC to the DPA, pursuant to the interagency agreement between the two parties, executed October 22, 1993, shall be reduced by said amount. Additionally, DPA shall directly reimburse DSCC the cost of administrative case management provided to children in the waiver.
- J. DPA shall submit to the Comptroller of the State of Illinois all necessary documentation in order that claims for nursing services submitted to the Comptroller by OVCHA/DSCC will be paid as timely as OVCHA/DSCC was previously reimbursed for these services.
- K. Upon receipt of the electronic file of all participants of the CSHCN program, DPA shall match that file against its records of participants in the DPA Medical Programs. DPA shall return to OVCHA/DSCC a record of all matches, including the medical program in which the participant is enrolled and the dates of enrollment.
- L. Upon completion of the data match, DPA shall return the electronic file of participants in the CSHCN program to OVCHA/DSCC or, upon request of OVCHA/DSCC, destroy said file.

V. General provisions and additional covenants

- A. This Agreement is effective July 1, 2004, and shall remain in effect until June 30, 2005, unless otherwise terminated as provided herein.
- B. Either party may terminate this agreement with 120 days written notice.

- C. This Agreement may be reviewed periodically and, if necessary, amended upon mutual agreement of the parties. Any amendments shall be in writing and signed by the authorized representative of each party.
- D. Upon mutual agreement of the parties, this Agreement may be renewed upon the same terms and conditions for a period of one (1) year.
- E. Nothing contained herein serves to limit, alter or amend either party's duties, rights or responsibilities as set out in applicable federal and State statutes, rules or regulations. Nothing contained herein shall be construed as an agreement to perform any illegal act or to perform any act not permitted by DPA or OVCHA/DSCC. The invalidity of any provisions of this Agreement shall not render invalid any other provisions herein. If for any reason any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, that provision shall be deemed severed and this Agreement shall remain in full force and effect with that provision severed or modified by court order.
- F. The failure of any party to this Agreement to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions contained herein, or any of them, upon any other party imposed, shall not constitute, or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect. The waiver by either party of a breach of any term, covenant or condition herein shall not be deemed a waiver of such term, covenant or condition on any subsequent breach of the same or any other term, covenant or condition herein.
- G. Nothing in this Agreement is intended to diminish or otherwise affect the authority of either OVCHA/DSCC or DPA to implement its respective statutory functions.
- H. The parties shall consult with one another on or before January 2, 2005 to begin preparation of subsequent agreement to address the needs of their respective programs.
- I. The parties shall comply with the terms of the HIPAA compliance obligations set forth in Attachment A of this Agreement.

VI. Notices

All written notices, requests and communications, except for any notices given pursuant to section V.B. above, may be made by regular mail. Notice given pursuant to section V.B. above may be: (1) delivered in person, obtaining a signature indicating successful delivery; (2) sent by a recognized overnight delivery service, obtaining a signature indicating successful delivery; or (3) sent by certified mail, obtaining a signature indicating successful delivery, to the address set forth below. All telephonic communications between the parties shall be made to the telephone number(s) set forth below. Either party may at any time give notice in writing to the other party of a change of name, address, or telephone number.

To DPA: Chief, Bureau of Interagency Coordination
 Illinois Department of Public Aid
 1320 South Second Street
 Springfield, Illinois 62704

Telephone-voice: 217.557.1868
 -facsimile: 217.557.8604

To OVCHA/DSCC: Associate Director, Division of Specialized Care for Children
 University of Illinois at Chicago
 2815 West Washington Street, Suite 300
 Springfield, Illinois 62794-9481

Telephone-voice: 217.793.2340
-facsimile: 217.793.0773

with a copy to: Associate Vice Chancellor for Health Affairs
Office of the Vice Chancellor for Health Affairs
University of Illinois at Chicago
914 South Wood Street (MC 973)
Chicago, IL 60612-7338

VII. Records

The parties agree to retain all records, supporting documents, statistical records and other records relating to this Agreement for a period of six years. If any litigation, claim, audit, or other action involving the records has been initiated prior to the expiration of the six-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it or until the end of the six-year period, whichever is later.

This Agreement, and all account books, records and supporting documents relating to each party's acquisition, administration and disbursement of monies, will be made available by each agency for review or audit by State and federal officials, including the Inspector General and designated audit staff of both OVCHA/DSCC and DPA, DPA financial monitoring staff, the Medicaid Fraud Control Unit of the Illinois State Police, DHHS(including CMS), the Illinois Auditor General, and federal auditors. DPA and OVCHA/DSCC agree to cooperate fully with any such review or audit, including monitoring the use of federal money through use of site visits, audits or other means. Upon reasonable notice by competent authority, and subject to the requirements of HIPAA, each agency will provide full and complete access to the relevant portions of its above-described account books, records and documents as they relate to this Agreement. If, as a result of an audit, the federal monitoring agency for the medical program requires reimbursement of funds previously paid or credited to the OVCHA/DSCC or the UIC, the parties agree that said reimbursement take the form of an adjustment to the intergovernmental transfer amount from the UIC to the DPA or, at the concurrence of the two parties, another form of payment. If either party conducts any audit in accordance with federal rules and regulations, the other party shall have the right to review such audit and insure prompt and appropriate corrective action is taken on instances of material noncompliance with the applicable laws and regulations with respect to federal financial assistance provided to any source under this Agreement.

VIII. Administrative costs

OVCHA/DSCC administrative costs applicable to the Medicaid program may be eligible for federal financial participation. OVCHA/DSCC shall maintain detailed records sufficient to meet the requirements of *OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments* or *OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations*, as applicable, and to document such compliance. Documents in support of an administrative claim include, but are not limited to, sampling procedures, identification of sample staff and allowable costs and expenses. All programmatic methodologies used to calculate the administrative claim must be incorporated into the aggregate UIC cost allocation plan and UIC must assure that claims for reimbursement of program costs are not duplicative of other UIC claims. UIC certifies that the funds used for expenditures were not federal funds, or if they were federal funds, their use was authorized by federal law to match other federal funds. UIC further certifies that the funds used for expenditures have not been used to match other federal funds.

Upon completion of a review or audit that results in a finding that federal reimbursement under this Agreement was obtained or paid incorrectly, OVCHA/DSCC shall be furnished with a written notice

containing the finding and necessary adjustment or requested repayment. In the event that OVCHA/DSCC objects or disagrees with the finding, it may request reconsideration, pursuant to 89 Ill. Adm. Code 140.855. In the event that the finding requires repayment to the federal government, OVCHA/DSCC shall make repayment to DPA. Upon mutual agreement, or if the parties cannot agree, at the discretion of DPA, such repayment may be made directly from OVCHA/DSCC to DPA or taken as an adjustment to current or future reimbursement.

IX. Guide to claiming federal funds

The *OVCHA/DSCC Guide to Claiming Federal Funds* shall, at a minimum, contain:

- A. A narrative that describes how the OVCHA/DSCC Program facilitates the DPA Medical programs, including, but not limited to, the process of identifying the eligible population served by OVCHA/DSCC.
- B. The claim methodology used by OVCHA/DSCC.
- C. The stipulation that the OVCHA/DSCC claim for federal financial participation is based on the actual cost incurred.

This Agreement is effective upon signature of both parties.

In witness whereof, the parties sign their names as evidence of their approval of this Interagency Agreement. This agreement may be executed in multiple counterparts to facilitate obtaining the signatures of all parties.

For the
**Board of Trustees of the University of Illinois
on behalf of the University of Illinois at Chicago**

Stephen K. Rugg
Stephen K. Rugg, Comptroller

6/25/04
Date

Michelle M. Thompson
Michelle Thompson
Secretary, Board of Trustees

6/25/04
Date

For the
**University of Illinois at Chicago
Office of the Vice Chancellor for Health Affairs**

Charles L. Rice
Charles L. Rice, M.D., Vice Chancellor for Health Affairs

Date: 6/25/2004

For the
Illinois Department of Public Aid

Barry S. Maram
Barry S. Maram, Director

6/30/04
Date

For the
**University of Illinois at Chicago
Division of Specialized Care for Children**

Charles N. Onufer
Charles N. Onufer, M.D., Director

Date: June 25, 2004

Attachment A

HIPAA Compliance Obligations

A. Definitions.

- (1) The terms defined in 45 *CFR* 164.501 and used herein shall have the meanings as set forth in 45 *CFR* 164.501.
- (2) "HIPAA" means the federal *Health Insurance Portability and Accountability Act, Public Law 104-191*.
- (3) "Privacy rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 *CFR* Part 160 and 45 *CFR* Part 164 subparts A and E.

B. Permitted Uses and Disclosures.

- (1) Except as otherwise limited by this Agreement, the parties may use or disclose protected health information (PHI) to perform functions, activities, or services as specified in this Agreement, provided that such use or disclosure would not violate the privacy rule if done by the other party.
- (2) Except as otherwise limited by this Agreement, the parties may use PHI for the proper management and administration of the waiver or to carry out the legal responsibilities of the parties.
- (3) Except as otherwise limited by this Agreement, the parties may disclose PHI for the proper management and administration of the waiver, provided that the disclosures are allowed by law. Each party shall require the person to whom the PHI was disclosed to notify it of any instances of which the person is aware in which the confidentiality of the PHI has been breached.
- (4) Except as otherwise limited by this Agreement, the parties may use PHI to provide data aggregation services to the Department as permitted by 45 *CFR* 164.504(c)(2)(i)(B).
- (5) The parties may use PHI to report violations of law to appropriate federal and state authorities, consistent with 45 *CFR* 164.502(j)(1).

C. Limitations on Uses and Disclosures. The parties shall:

- (1) Not use or further disclose PHI other than as permitted or required by the Agreement or as allowed by law.
- (2) Use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement.
- (3) Mitigate, to the extent practicable, any harmful effect that is known of a use or disclosure of PHI in violation of the requirements of this Agreement.
- (4) Ensure that any agents, including a subcontractor, to whom the party provides PHI received or created pursuant to this agreement, agree to the same restrictions and conditions that apply through this Agreement with respect to such information.
- (5) Provide access to PHI in a designated record set in order to meet the requirements of 45 *CFR* 164.524 and in the time and manner specified.
- (6) Make available PHI in a designated record set for amendment and to incorporate any amendments to PHI in a designated record set pursuant to 45 *CFR* 164.526 and in a time and manner mutually agreed upon.
- (7) Make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received or created under this agreement available to the DPA.

and to the Secretary of Health and Human Services for purposes of determining the DPA's compliance with the privacy rule.

- (8) Document disclosures of PHI and information related to disclosures of PHI as would be required under this agreement to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 *CFR* 164.528.
 - (9) Provide information collected in accordance with the terms of this Agreement to permit the other party to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 *CFR* 164.528.
 - (10) Return or destroy all PHI received or created pursuant to this agreement upon termination of this Agreement for any reason. If such return or destruction is not feasible, each party shall provide the other party with notice of such purposes that make return or destruction infeasible, and upon the parties' written agreement that return or destruction is infeasible, shall extend the protections of the Agreement to the PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible.
 - (11) Provide the other party with its notice of privacy practices and notify the other party of any changes to said notice.
 - (12) Notify the other party of any changes in or revocation of permission by an individual to use or disclose PHI, to the extent that such changes may affect this Agreement.
 - (13) Notify the other party of any restriction to the use or disclosure of PHI to which it has agreed in accordance with 45 *CFR* 164.522, to the extent that such restriction may affect this Agreement.
 - (14) Not request that the other party use or disclose PHI in any manner that would not be permissible under the privacy rule.
- D. Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the parties to comply with the privacy rule.