

**INTERAGENCY AGREEMENT
BETWEEN
THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
AND
THE OHIO DEPARTMENT OF MENTAL HEALTH**

A-04-07-0003

I. PURPOSE

This Agreement is entered into by the Ohio Department of Job and Family Services (hereinafter "ODJFS") and the Ohio Department of Mental Health (hereinafter "ODMH") for the purpose of establishing a sub-recipient relationship between the departments with regard to providing access to behavioral health services for Medicaid eligible clients by: providing access to community mental health (CMH) programs and psychiatric hospital services; implementing a statewide surveillance and utilization control program that safeguards against unnecessary or inappropriate use of services and excess payments, assesses the quality and provides for the control of the utilization of those services; developing strategies for managing the Medicaid behavioral health services, including responsibility that may transfer to ODMH; and establishing and maintaining an eligibility verification system which will be part of a claims and encounter system for managing behavioral health care services. This Agreement is applicable to those services covered by the Medicaid program as set forth in Title XIX of the Social Security Act and includes the Medicaid expansion as set forth in Title XXI of the Social Security Act. Eligible Medicaid consumers include Healthy Families, Low Income Families, OWF-related, ABD and AFC placement populations as well as Healthy Start consumers including those uninsured children covered under the federal Children's Health Insurance Program (CHIP). This Agreement also authorizes the transfer of federal funds between ODJFS and ODMH for those Medicaid services.

II. DEFINITIONS

- ABD Aged, Blind and Disabled is one of the eligibility requirements for Medicaid.
- ADAMH/CMH Board Alcohol, Drug Addiction and Mental Health Services Board or Community Mental Health Board established pursuant to Chapter 340 of the Ohio Revised Code.
- AFC Foster care recipients placed in out-of-home placement arrangements.
- CHIP The Children's Health Insurance Program as set forth in Title XXI of the Social Security Act and administered by Ohio through CFDA grant number 93.767.
- CMS The Center for Medicare and Medicaid Services. Formerly the federal Health Care Financing Administration.
- Community Mental Health Agency A CMH agency is an organization which provides community mental health services certified Health Agency in accordance with Ohio Administrative Rules 5122-24 to 5122-29.
- Community Mental Health (CMH) Service Medical, psychotherapeutic or rehabilitative services recommended by a physician or other licensed practitioner of the healing arts which raise the level of personal, social, or emotional efficiency of a person with a mental illness or emotional disturbance to enable that person to acquire and maintain skills necessary to cope more effectively with his/her environment and to achieve his/her best possible functional level. Services included are those which are federally approved, identified in Chapter 5101:3-27 of the Ohio Administrative Code, and provided in accordance with Ohio Administrative Chapters 5122-24 through 5122-29.

DSH

Disproportionate Share Hospital as defined in 42 CFR 412.106.

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FFP	Federal Financial Participation for a state expenditure as defined in 42 CFR 433.10.
FFS	This refers to those physical health care providers in the ODJFS Medicaid fee-for-service system.
FY	Fiscal Year. The State Fiscal Year runs from July 1 through June 30.
HHS	The federal Department of Health and Human Services.
Healthy Start	One of the ADC-related federal categories used to identify Medicaid eligibility.
HIC	Health Insurance Corporation.
HMOs	These are the health maintenance organizations currently providing health care to Ohio's OWF-related and Healthy Start recipient in mandatory and voluntary managed care counties.
IMD	Institution for Mental Disease as defined in 42 CFR 435.1009.
Inpatient	Refers to psychiatric services provided in freestanding psychiatric hospitals where the patient is admitted and generally stays at least one night.
ISTV	Intrastate Transfer Voucher
MACSIS	The Multi-Agency Community Services Information System that will serve as the electronic claims and encounter reporting system.
Medicaid	The health insurance program as set forth in Title XIX of the Social Security Act administered by Ohio through CFDA grant number 93.778.
MMIS	Medicaid Management Information System.
OAC	Ohio Administrative Code.
ODJFS	Ohio Department of Job and Family Services.
ODMH	Ohio Department of Mental Health.
OPAM	Ohio Public Assistance Manual.
ORC	Ohio Revised Code.
OWF	Ohio Works First program.
Physician Services	Those services covered in accordance with Chapter 5101:3-4 of the OAC provided to Medicaid recipients receiving inpatient psychiatric hospital services covered in accordance with OAC 5101:3-2.
PRO	Peer Review Organization as determined by CMS.

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III. RESPONSIBILITIES OF ODJFS**A. Program Management****1. General**

- a. Determine the eligibility of Medicaid applicants on a timely basis according to appropriate provisions of state and federal law, regulations and rules, the OPAM, and the Medicaid state plan.
- b. Work with ODMH to provide necessary information and technical assistance when appropriate in order for ODMH to properly discharge its responsibilities under this Agreement.
- c. Monitor ODMH performance under this Agreement and ODMH compliance with applicable state and federal laws, rules and regulations.
- d. Review the State Auditor's A-133 audit of ODMH to ensure that ODMH is properly performing sub-recipient monitoring and conducting corrective action follow-up.
- e. Act as the single state agency for Ohio's Medicaid program.
- f. Be responsible for receiving, replying to and arranging compliance with any audit by the appropriate state or federal auditor directly related to the provisions of this Agreement.
- g. Promulgate administrative rules and Medicaid state plan amendments related to services provided under this Agreement, including CMH services provided by CMH agencies and inpatient psychiatric hospital services rendered by eligible hospitals as defined in this Agreement.
- h. The ODJFS rules will incorporate a reference to ODMH rules governing the licensing and operation of hospitals that provide inpatient psychiatric services.
- i. ODJFS will consult with ODMH in the development and revision of these rules, however, as the single state agency authorized to administer the Medicaid program, ODJFS will have final approval of administrative rules governing Medicaid services.
- j. ODJFS shall work with HMO's and FFS providers to ensure that behavioral health and physical health care is coordinated with ODMH, ODADAS, and Alcohol and Drug Addiction Services Boards and other stakeholders.

2. Community Mental Health

- a. Recognize ODMH-certified mental health agencies as Medicaid providers.
- b. ODJFS shall serve as the final arbiter of Medicaid provider agreement disputes by conducting administrative hearings in connection with Chapter 119 of the Revised Code when CMH Medicaid agreements are denied or terminated by both ODMH and the ADAMH/CMH Board to which the community mental health agency has applied or entered into an agreement.
- c. Notify ODMH of providers who have been terminated as Medicaid providers for fraud and abuse.

3. Inpatient Psychiatric Hospitals

- a. Process provider enrollment applications for those hospitals which are determined to be eligible to participate in the Medicaid program in accordance with Chapter 5101:3-2 of the OAC. Refer to Article IV, Section A, Paragraph 3 regarding the enrollment of hospitals eligible to participate in the Medicaid program for the provision of inpatient psychiatric hospital services.
- b. Provide ODMH all material which is distributed by ODJFS to hospital providers who participate in the Medicaid program. Such material will be provided to ODMH and Medicaid providers at the same time.

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4. Utilization Review

- a. Require ODMH, or its designee, to perform a macro-level analysis of clinical and administrative data for services reimbursed through the ODMH Community Medicaid program.
- b. Share, as part of its utilization review activities, Medicaid information with ODMH for the purpose of identifying persons with mental health related problems and evaluating the treatment patterns of those persons who receive Medicaid services. Information shared concerning Medicaid consumers will be limited to the following:
 - (1) Medical Assistance identification numbers;
 - (2) Consumer names and addresses;
 - (3) Medical services provided;
 - (4) Medical data, including diagnoses and past history of disease and disability; and
 - (5) Agency evaluation of personal information.
- c. Shared Medicaid information, including claims data, with ODMH and/or its agent for the purpose of evaluating the treatment patterns of inpatient psychiatric hospital patients. Information shared concerning Medicaid recipients will include reports detailed in the current ODJFS contract with the utilization review contractor.
- d. In accordance with 42 CFR Section 456.3, ODJFS is responsible for implementing a statewide surveillance and utilization control program that safeguards against unnecessary or inappropriate use of Medicaid services and excess payments, assesses the quality and provides for the control of the utilization of those services. Pursuant to the provisions in this Agreement and in compliance with the federal regulation cited above, ODJFS delegates responsibility for implementing, managing, and paying for a statewide utilization control program for inpatient psychiatric services for the period of July 1, 2003 to September 30, 2003 to ODMH.
- e. Administer the state hearing process for recipients who wish to contest a pre-admission certification determination. Recipients have a right to a state hearing in accordance with OAC 5101:6-1 through 5101:6-9.

5. Managing Behavioral Health Services

- a. Work with ODMH to assist in its development of strategies for managing, promoting and assuring access to Medicaid behavioral health services throughout the state, including responsibility that ODJFS may transfer to ODMH upon CMS approval.
- b. Provide staff assistance and information to ODMH to assist in its establishment of an eligibility verification system which will be part of a claim and encounter reporting system (MACSIS) for managing these behavioral health care services.

B. Fiscal Related

1. Community Mental Health

- a. Operate the MMIS claims system to adjudicate CMH service claims submitted by ODMH.
- b. Transfer Medicaid FFP for appropriately adjudicated CMH service claims. The transfer of FFP under this provision is not subject to the interest provisions of the Ohio Revised Code Section 126.12.

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- c. ODJFS may suspend payment of claims upon thirty (30) days notice if it reasonable believes ODMH and/or the ADAMH/CMH Boards are not in material compliance with the requirements of this Agreement or with state or federal laws or rules which govern the Medicaid program.
- d. Recognize the costs of doing A-133 audits at the CMH agency level when the costs are allowable in the development of CMH program rates.
- e. Timely notification of ODMH of receipt of any notification from the federal government regarding deferral or disallowance of any claim made for Medicaid services. ODJFS shall coordinate the State's response with ODMH regarding any such notifications within the time limits prescribed by the notice.
- f. Upon receipt of any notice of a disallowance or deferral under 42 CFR 433.300 of a claim including any penalties assessed for Medicaid services furnished pursuant to this Agreement, ODJFS will reduce by an amount equal to the amount disallowed or deferred from payments made in response to ODMH monthly invoices until such time as the full amount is recovered.
- g. Cooperate with ODMH in preparing appeals of adverse federal audit exceptions, when ODJFS considers an appeal is warranted. If subsequently ODJFS' or ODMH's position is upheld on appeal, funds withheld from deferral or audit exceptions shall be restored to ODMH upon availability of FFP.

2. Inpatient Psychiatric Hospital

- a. Process claims (invoices) from eligible private psychiatric hospital providers for covered services, determine a per-discharge payment in accordance with Chapter 5101:3-2 of the OAC, and generate provider specific Remittance Advices on a weekly basis. ODJFS will designate ODMH as the "Pay To" address on each provider's ODJFS Provider Enrollment record. ODJFS will not make payments to private psychiatric hospital providers.
- b. Claims or services provided by public psychiatric hospitals will be processed for payment within ten (10) days of receipt of the claims from ODMH. ODJFS will designate ODMH as the "Pay To" address on each provider's ODJFS Provider Enrollment record. ODJFS will not make payments to public psychiatric hospital providers.
- c. Transfer the FFP for public and private psychiatric hospital inpatient services and for public and private psychiatric crossover payments for Medicare Part A-Inpatient and Part B-Ancillary claims to ODMH, through an intrastate transfer voucher (ISTV), pursuant to the State's guidelines for cash management and federal claiming. The transfer of FFP under this provision is not subject to the interest provision of the Ohio Revised Code (ORC) Section 126.12.
- d. Reimburse ODMH, upon proper invoicing and preparation of an ISTV, the current rate of FFP for services provided in accordance with Chapter 5101:3-2 of the Administrative Code. Such reimbursement shall occur after receipt of FFP from CMS by ODJFS.
- e. Reimburse ODMH, upon proper invoicing and preparation of an ISTV, the appropriate rate of FFP for administrative expenses. Such reimbursement shall occur after receipt of FFP from CMS by ODJFS.
- f. Provide assistance to ODMH regarding claim status inquiries.
- g. Decline to make payment for outstanding services if ODMH fails to provide information or access to audits as specified in Article IV, Section B, Paragraph 2, Subsections f, g and h.
- h. Process claims (invoices) for physician services provided to Medicaid recipients in public psychiatric hospitals and generate and transmit a Remittance Advice.
- i. Transfer funds to ODMH for the total IMD-DSH payment(s) that must be made to private psychiatric hospitals that qualify for IMD-DSH adjustments in accordance with Rule 5101:3-2-10 of the OAC.

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- j. Reimburse administrative costs allowed by CMS for the Utilization Review program at seventy-five percent (75%) of the FFP if ODMH enters into a contract with a Medicare PRO or an organization deemed PRO-like. ODJFS will reimburse such costs at fifty percent (50%) of the FFP if ODMH contracts with a non-Medicare PRO.

3. Managing Behavioral Health Services

- a. Administrative costs allowed by CMS for the implementation of MACSIS will be reimbursed at the prevailing FFP rate. The Office of Management and Budget Circular A-87 will be used for determining reasonable costs.
- b. Reimburse ODMH, upon proper invoicing and preparation of an ISTV, the administrative rate of FFP for services provided including reimbursement for the implementation and operation of MACSIS. Such reimbursement shall occur after receipt of FFP from CMS by ODJFS.

- C. The ODJFS Agreement Manager is the Deputy Director, Ohio Health Plans, or her designee.

IV. RESPONSIBILITIES OF ODMH

A. Program Related

1. General

- a. Take any action necessary which is not expressly prohibited by state or federal law or regulations to assure compliance with the requirements of this Interagency Agreement with Medicaid, the Medicaid state plan, the ODJFS administrative rules, and the federal Medicaid regulations.
- b. Perform monitoring of its sub-recipients and conduct corrective follow-up action as necessary.
- c. Carry out its responsibilities specified in this Interagency Agreement as a sub-recipient.
- d. Assure the maintenance of records in accordance with federal regulations. ODMH shall also assume the maintenance of records necessary to fully disclose the extent and nature of CMH services provided by all participating CMH agencies for a period of six years after reimbursement for services. If an audit has been started, the records shall be retained until the audit is completed and all exceptions are resolved. ODMH shall assure that all records are available upon request from ODJFS, the State Auditor, CMS, and/or any duly authorized representative for audit purposes. Such records shall include, but not be limited to:
 - (1) Client information;
 - (2) Description of discrete components for each service contact
 - (a) Date and time of services;
 - (b) Duration of services;
 - (c) Site of services, if other than site certified;
 - (d) A narrative description of the mental health interventions and activities of the service;
 - (e) Other progress note requirements contained in Section 5122-27-04(i) of the OAC; and
 - (f) Signature and discipline of direct care staff providing the services.
 - (3) The duration must be exact when noted in the Individualized Client Record.

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- e. Establish requirements for ADAMH/CMH Boards and CMH agencies which provide CMH services covered under this Agreement to ensure compliance with the provisions of this Agreement and all the requirements of federal or state law or rules governing the Medicaid program. Such requirements may be implemented through Medicaid agreements between ODMH and ADAMH/CMH Boards and between ADAMH/CMH Boards and CMH agencies.
- f. Assure that CMH services provided under this Agreement are certified by ODMH in accordance with Ohio Administrative Code Chapter 5101:3-27 and Chapters 5122-29. Certification and documentation activity shall be performed in accordance with 42 CFR 440.130(d) and 42 CFR 431.610(f).
- g. Assure that private psychiatric hospitals meet licensure requirements to provide inpatient psychiatric care in Ohio and thus are eligible to receive federal Medicaid funding.
- h. Assist ODJFS in the development of administrative rules and state plan amendments.
- i. Work with the ODJFS, ODADAS and ADAM/CMH/ADAS Boards to ensure that behavioral health and physical health care services are coordinated with HMO's, HMO and FFS physical health providers and other stakeholders.
- j. Inform providers eligible for Medicaid participation pursuant to rule 5101:3-27-01 of the OAC, to cooperate with Health Insurance Corporations (HICs) or similar entities which enter into contracts with ODJFS to provide medical care on a risk basis to eligible consumers participating in Ohio's Medical Assistance programs as set forth in Chapters 5101:3-26 and 5101:3-36 of the OAC. The scope of that cooperation shall include, but not be limited to, those matters pertaining to:
 - (1) Service delivery protocols;
 - (2) Quality assurance;
 - (3) Utilization review;
 - (4) Record keeping and reporting;
 - (5) Other activities including, but not limited to those identified in 42 CFR 434, Chapter 5101:3-26 of the OAC, and the Rick Contract between ODJFS and the HIC or similar entity as set forth in the OAC 5101:3-26. ODMH shall notify providers contracting with local Boards to participate in evaluations and audits authorized by ODJFS, CMS, the Comptroller General of the United States, the State Auditor or their duly authorized representatives relative to evaluating the quality, appropriateness, and timeliness of services provided to eligible consumers receiving services pursuant to this Agreement and the agreement between ODJFS and its risk based contractors.

2. Community Mental Health

- a. Promulgate rules regarding standards of participation of CMH agencies.
- b. Assure that ODMH-certified CMH agencies have the right to appeal adverse decisions and that ODMH makes timely review determinations regarding appeals by CMH agencies within forty-five (45) days of receiving an appeal request. If ODMH determines that an agreement should be awarded or not terminated, ODMH will require the Board to award or continue the agreement. If ODMH affirms the denial or termination, it will forward the appeal to ODJFS to hold an administrative hearing on the matter. ODMH shall assure that CMH agencies do not experience unnecessary delays in receiving decisions on Medicaid agreements from ADAMH/CMH Boards.

A CMH agency which has submitted all information to make a decision on a Medicaid agreement may appeal a delay as it would an adverse determination.

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- c. Assure that fundamental Medicaid requirements including but not limited to those enumerated below are stipulated and adhered to in Medicaid agreements between ODMH and ADAMH/CMH Boards and between ADAMH/CMH Boards and CMH agencies.
- (1) ODMH and ADAMH/CMH Boards must adhere to the provisions of 42 CFR 431.51 "Free Choice of Providers". This means that a CMH agency certified by ODMH that meets the information system reporting and financial documentation requirements established by ODMH must be awarded an agreement by the ADAMH/CMH Board. Additionally, an ADAMH/CMH Board is not permitted to deny an agreement to a CMH agency on the basis of the county in which the program is located. Additionally, a Medicaid consumer cannot be denied access to mental health services from any CMH agency providing services under this Agreement. ODMH shall establish methods to ensure that an ADAMH/CMH Board makes timely payments to any eligible provider which serves residents of the Board's service district, irrespective of the county in which the provider is located. The ADAMH/CMH Board Agreement with ODMH shall establish the Board's authority to make such payments. Residency determinations shall have been made pursuant to guidelines established by ODMH.
- (2) Neither ODMH nor any ADAMH/CMH Board is permitted to take any action to limit the amount, duration, or scope of services provided under this Agreement except to the extent such limits are established in the Medicaid state plan or in administrative rules promulgated by ODJFS.
- d. Provide for disclosure of survey information as required in 42 CFR 431.115.
- e. Permit CMH agencies to subcontract for the provision of services herein. Those subcontractors/contractors who are not currently Medicaid providers must not have been terminated from the Medicaid program for proven abuse or fraud.
- f. All subcontractors are subject to the terms of this Agreement and the CMH agency shall be fully responsible for the performance of any subcontractor. An ADAMH/CMH Board may not require a qualified CMH agency who seeks a direct Medicaid agreement with the ADAMH/CMH Board to subcontract in lieu of a direct Medicaid agreement.
- g. Assure that the ODMH Medicaid standard form contract and ODJFS Provider Agreement attached herein are used by ADAMH/CMH Boards and are not subject to alteration or amendment in any way.

3. Inpatient Psychiatric Hospitals

- a. Advise and assist ODJFS in verifying that applicants meet requirements for participation in the Medicaid program and forward completed application to ODJFS for assignment of a Medicaid provider number.
- b. Advise and assist ODJFS in determining if out-of-state hospitals are qualified psychiatric hospitals; if services they provide are available in Ohio; and if the patient's needs are of an emergency nature.

4. Utilization Review

- a. Establish statewide standards and guidelines for performing utilization analysis for CMH services. Cases selected for retrospective review will be based on paid claims data where the annual reimbursement for an individual recipient exceeds established thresholds.
- b. Review, upon written request by ODJFS or its designee, Medicaid information and advise ODJFS or its designee regarding treatment patterns of persons with mental health related problems and the cost and/or expenditures for such treatment plans. The confidentiality requirements set forth in Article VII, Section D of the Agreement must be followed.

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- c. As part of its utilization review activities, ODMH will share Medicaid information with ODJFS for the purpose of evaluating the treatment patterns of inpatient psychiatric hospital patients. Information shared concerning Medicaid recipients will include reports detailed in an ODMH contract with a utilization review contractor.
- d. Perform utilization review (retrospective/post-payment review) functions for providers of inpatient psychiatric hospital services according to the terms of this Agreement. Reviews may include services rendered in general hospital psychiatric units and psychiatric hospitals.
- e. Perform pre-admission certification functions for psychiatric admissions as described in this Agreement.
- f. Administer the provider appeals process for pre-admission certification and post-payment review in accordance with ODJFS rules.
- g. At the request of ODJFS, ODMH's (or its contractual designee's) physician reviewers and other staff will provide assistance by telephone or in writing for hearing and pre-hearing activities. ODMH will make all reasonable attempts to provide ODJFS staff with the information necessary to conduct a hearing and provide for the appropriate presentation of the information which resulted in the denial of services or payment. In addition, ODMH physician reviewers or other staff may be available by telephone or in person when considered appropriate by ODJFS.
- h. ODMH, or its contractual designee will provide ODJFS assistance by telephone or in writing for any client appeals.

5. Managing Behavioral Health Services

- a. ODMH shall develop strategies for managing, promoting and assuring access to Medicaid behavioral health services throughout the state, including responsibility that ODJFS may transfer to ODMH. Strategies may include, inter alia, the implementation of an RFP vendor selection process or the development of alternative payment structures.
- b. ODMH, in conjunction with ODADAS, shall maintain MACSIS, a claims and encounter reporting system including Medicaid eligibility verification which supports the management of the service responsibility transferred to both departments.

B. Fiscal Related

1. Community Mental Health

- a. Process claims submitted by participating CMH agencies in accordance with federal regulations and MMIS requirements. CMH agencies will be required to submit claims using the electronic CMS 1500 format (formerly HCFA 1500) or ASC X12N 837 Professional claim format.
- b. Submit a machine readable tape to ODJFS in a data-processable format and submit this tape at the same time any other tape is submitted by ODMH to ODJFS for Title XIX processing.
- c. Submit all claims within three hundred sixty-five (365) days from the date of service to be considered an allowable claim. Any claim submitted with a service date of 365 days or older will be rejected as a non-reimbursable service, unless the provisions of OAC rule 5101:3-1-193, paragraph G apply. Claims submitted under this Agreement are not subject to the interest provisions of ORC Section 126.12.
- d. Assure that ADAMH/CMH Boards may payment in full for claims submitted prior to claiming FFP. The sole exception is when a government entity is a provider.
- e. Assure cost reconciliation of reimbursed service costs is performed in accordance with OAC 5101:3-27-05. Maintain sufficient detail at each CMH agency to document payments and justify an audit trail to the discrete unit of service and its unit price. ODMH and each CMH agency must maintain necessary records to substantiate any claims made.

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- f. Establish a prospective rate for each type of Medicaid covered service and bill the rate per person per date of service. Reimbursable covered services must be filed in the OAC and be approved by CMS through the Medicaid state plan.
- g. Accept any reduction pursuant to 42 CFR 433.300. Funds will be withheld as outlined in Article VI, Section J of this Agreement.
- h. Make payments for Medicare co-insurance and deductible claims processes by ODJFS and determined to be payable to a CMH agency paid for CMH services under this Agreement. It is understood that for these services ODMH assumes no responsibility for assuring compliance with Medicare or Medicaid requirements.
- i. Ensure that audit exceptions are responded to in the manner enumerated below:
- (1) ODMH shall provide to ODJFS any information which is necessary to respond to any audit exception.
 - (2) ODMH shall pay to ODJFS the full amount of any liability against Title XIX from the federal government resulting from such adverse audit exceptions generated by provisions of this Agreement, except when it has been established that the loss of the FFP was caused by ODJFS.
- j. Submit invoice via ISTV, or a form specified by ODJFS, for administrative costs incurred in the administration of this program, if the following conditions are met:
- (1) Only direct costs can be claimed for full-time employees or contract employees one hundred percent (100%) of whose contract time is spent on Medicaid activities.
 - (2) Prior federal approval is obtained for indirect costs claimed under this Agreement including data processing expenses associated with the processing of claims submitted for participating CMH agencies in accordance with federal regulations and MMIS requirements.
 - (3) Sufficient documentation must be submitted with the billing to justify the amount.
 - (4) Administrative costs will be reimbursed at the prevailing FFP rate.
 - (5) The Office of Management and Budget Circular A-87 will be used for determining reasonable costs.
- k. Assure that no fee is charged by ODMH or the ADAMH/CMH Boards to the CMH agencies for any cost associated with transferring of funds, contracting, or administrative fees.
- l. Assure that no capitation-like payment arrangement between ADAMH/CMH Boards and providers is applied to Medicaid funds. Additionally, assure that no payment arrangements between ADAMH/CMH Boards and providers applicable to non-Medicaid services function in any manner, directly or indirectly, to put Medicaid expenses or revenues at risk or to otherwise limit consumers' access to or use of Medicaid services or to limit payments to CMH agencies for such services.
- m. Review current Medicaid rate reconciliation methods with ODJFS to ensure that Medicaid pays no more than the actual cost of services provided to Medicaid consumers and also to ensure that such methods are uniformly applied in each Board area. Additionally, ensure that the reconciliation methods for non-Medicaid services do not limit, directly or indirectly, payments to CMH agencies for Medicaid services.

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- n. Jointly, with ODJFS, establish a procedure for identifying duplicate service delivery between CMH agencies and HICs and between CMH agencies and providers paid directly by ODJFS. Additionally, CMH agencies shall not bill both ODMH and ODJFS for a single service event.
- o. Assure that services claimed for reimbursement under any other federal program cannot be charged to Title XIX. This exclusion does not apply to persons eligible for Medicaid crossover. A CMH agency or subcontractor cannot be reimbursed by ODJFS for services reimbursed by ODMH under provisions of this Agreement.
- p. Submit, on a quarterly basis, a two-year estimate of ODMH anticipated expenditures. Sixty (60) days prior to the start of a quarter, ODMH must give ODJFS a monthly estimate for that quarter and a quarterly estimate for the next seven (7) quarters. Failure to submit the two-year projection on a quarterly basis will result in reimbursement being withheld for that quarter until the projection is received. The report must be sent to ODJFS, Office of the Budget, 30 East Broad Street, 30th Floor, Columbus, Ohio 43215.

2. Inpatient Psychiatric Hospitals

- a. Remit to the private psychiatric hospital provider one hundred percent (100%) of the Medicaid payment per discharge as determined in accordance with Article III, Section B, Paragraph 2, Subsection a.
- b. Submit to ODJFS Claim Processing Section with 365 days of the date of service, claims for inpatient psychiatric services provided by public psychiatric hospitals.
- c. Assume responsibility for one hundred percent (100%) of the Medicaid payment for Medicare Part A (Inpatient) and Part B (Ancillary) crossover claims for services rendered to Medicare/Medicaid-eligible individuals by private psychiatric hospitals, in accordance with Article III, Section B, Paragraph 2, Subsection c.
- d. Certify as Medicaid reimbursable the expenditures for public and private psychiatric hospital services. In order to meet the state's requirements for claiming federal funds, payments for public psychiatric hospital services will be made from the ODMH Fund 4 x 5 ALI 333-607 for only the FFP share. No further payments will be made for the same services. ODMH will certify that state share, and will provide the required state match for inpatient psychiatric hospital services.
- e. Process inquiries regarding the status of claims in accordance with OAC rule 5101:3-1-99 and respond as appropriate to the provider.
- f. Ensure that all necessary financial and related records (which shall be available to ODJFS, HHS, and other state and federal agencies having authority to audit these records supporting the expenditures for services rendered to recipients are maintained for a period of six years from remittance of payment, or until an audit is completed and all exceptions resolved.
- g. Make records available upon request from ODJFS, HHS or their designees for audit purposes.
- h. Provide ODJFS with any data required for CMS reports related to Inpatient hospital services.
- i. Submit to ODJFS Claims Processing Section, within 365 days from the date of service, claims for physician services provided to Medicaid recipients in public psychiatric hospitals.
- j. Make IMD-DSH payments to private psychiatric hospitals that qualify for IMD-DSH adjustments in accordance with OAC Rule 5101:3-2-10.

3. Managing Behavioral Health Services

- a. ODMH may bill for administration costs incurred in the administration of this program if the following conditions are met:

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- (1) Only direct costs can be claimed for full-time employees and/or costs claimed under contract.
- (2) Prior federal approval is obtained for indirect costs claimed under the contract including data processing expenses associated with the processing of claims submitted for participating mental health and alcohol and other drug addition programs in accordance with federal regulations and MMIS requirements.
- (3) Sufficient documentation must be submitted to ODJFS with the billing to justify the amount.

C. The ODMH Agreement Manager is the Director of Mental Health or his designee.

V. TIME OF PERFORMANCE

A. Effective Dates

This Agreement will become effective July 1, 2003 and will remain in effect until September 30, 2003, subject to the cancellation provisions contained in this Agreement. This Agreement may be renewed upon satisfactory performance by both parties, upon appropriation of funds for such, and by mutual agreement of the parties.

B. Termination

1. This Agreement may be terminated at the convenience of either party without cause upon thirty (30) days written notice of termination to the other party. Notice of termination shall be sent or otherwise delivered to the persons signing this Agreement.
2. This Agreement may be terminated immediately in the event there is a loss of funding, disapproval by a federal administrative agency, or upon discovery of non-compliance with any federal or state laws, rules or regulations. In the event of termination pursuant to this paragraph B.2, a notice specifying the reasons for termination shall be sent as soon as possible after the termination to the non-terminating party.
3. Notwithstanding Paragraph B, 1 above, this Agreement may not be terminated at the convenience of either party if the performance under this Agreement is compelled by State or Federal Statute or Executive Order.

VI. COMPENSATION

- A. ODJFS agrees to reimburse ODMH, upon proper invoicing and preparation of an ISTV, the current FFP for services provided in accordance with Chapter 5101:3-27 of the OAC. The total amount of FFP reimbursement for July 1, 2003 through September 30, 2003 shall not exceed Fifty-Six Million, Six Hundred Forty-Nine Thousand, Six Hundred Forty-Two and 00/100 Dollars (\$56,649,642.00). Such reimbursement shall occur after receipt of FFP from CMS by ODJFS. No further reimbursement shall be sought hereunder.
- B. Payment for any and all services provided pursuant to this Agreement may be contingent upon the availability of state and federal funds. If the Ohio General Assembly or the federal government disapproves or ceases to continue funding ODJFS and/or ODMH for payments due hereunder, this Agreement is terminated as of the date funding expires without notice or further obligation of ODJFS. ODJFS will provide written notice to the party(ies) signing this Agreement as soon as possible.
- C. All obligations in this Agreement are subject to the requirements of Section 126.07 of the Ohio Revised Code.

VII. GENERAL PROVISIONS

A. Breach and Default

Upon breach or default of any of the provisions, obligations, or duties embodied in this Agreement, the parties may exercise any administrative, contractual, equitable, or legal remedies available, without limitation. The waiver of any occurrence of breach or default does not constitute waiver of subsequent occurrences, and the parties retain the right to exercise all remedies mentioned herein.

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B. Amendments

This Agreement may be modified or amended provided that any such modification or amendment is in writing and is signed by the directors of the agencies. It is agreed, however, that any amendments to laws, rules, or regulations cited herein will result in the correlative modification of this Agreement, without the necessity for executing written amendments.

C. Equal Employment Opportunity

In carrying out this Agreement, the parties shall not discriminate against any employee or applicant for employment because of race, religion, national origin, ancestry, color, gender, sexual orientation, age, disability, or veteran status. The parties shall ensure that applicants are hired, and that employees are treated during employment without regard to their race, religion, national origin, ancestry, color, gender, sexual orientation, age, disability, or veteran status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

The parties agree to post in conspicuous places, available to employees and applicants for employment, notices stating that the agencies comply with all applicable federal and state non-discrimination laws. The agencies shall, in all solicitations or advertisements for employees, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, gender, national origin, ancestry, sexual orientation, veteran status, disability or age. The parties agree that the foregoing requirements of this paragraph shall be incorporated in all of its contracts for any of the work prescribed herein.

D. Confidentiality of Information

The parties agree that they shall not use any information, systems, or records made available to either party for any purpose other than to fulfill the obligations specified herein. The parties specifically agree to be bound by the same standards of confidentiality that apply to the employees of both ODJFS and ODMH and the State of Ohio. The terms of this section shall be included in any subcontracts executed by either party for work under this Agreement. The parties specifically agree to comply with state and federal confidentiality laws and regulations applicable to the programs under which this agreement is funded. The parties are responsible for obtaining copies of all applicable rules governing confidentiality and for assuring compliance with the rules by employees and contractors of both ODJFS and ODMH. The parties agree to current and ongoing compliance with 42 U.S.C. Sections 1320d through 1320d-8 and the implementing regulations found at 45 C.F.R. Section 164.502 (e) and Section 164.504 (e) regarding disclosure of protected health information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

The parties agree and acknowledge that the information provided by one or both parties may be considered confidential or proprietary under the laws of the State of Ohio or under federal law. If either party to this Agreement, as public entities, receives a public records request for information related to this document, the party receiving the request (Party "A") will promptly notify the other party (Party "B") of the request. If Party "B" believes there is information that is confidential or proprietary and should not be released, Party "A" will provide a reasonable period of time for Party "B" to seek to have the confidential or proprietary information withheld from the document prior to releasing the document.

E. Compliance with Federal and State Laws, Rules and Regulations

ODJFS and ODMH agree to comply with all federal and state laws, rules, regulations, and auditing standards which are applicable to the performance of this Agreement.

F. Partial Invalidity

This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Ohio. Should any portion of this Agreement be unenforceable by operation of statute or by administrative or judicial decision, the operation of the balance of this Agreement is not affected thereby; provided, however, the absence of the illegal provision does not render the performance of the remainder of the Agreement impossible. Should the removal of such an unenforceable provision render the intended performance under this Agreement difficult or nonsensical, but not impossible, the parties shall negotiate in good faith replacement provision(s) in keeping with the objectives of the Agreement and the budgetary and statutory constraints of the parties.

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G. Records Retention

All records relating to costs, work performed and supporting documentation for invoices submitted to ODJFS by ODMH along with copies of all deliverables submitted to ODJFS pursuant to this Agreement shall be retained and made available by ODMH for audit by the State of Ohio (including, but not limited to ODJFS, the Auditor of State of Ohio, Inspector General or duly authorized law enforcement officials) and agencies of the United States government for a minimum of six (6) years after final payment under this Agreement. If an audit is initiated during this time period, ODMH shall retain such records until the audit is concluded and all issues resolved or six (6) years after final payment, whichever is longer. If appropriate, ODMH must meet the requirements of the federal Office of Management and Budget (OMB) Circular A-87, A-110, A-122 or A-133.

H. Audit Exceptions

1. ODJFS shall be responsible for receiving, replying to, and arranging compliance with any audit exception found by any state or federal audit of this Agreement as it pertains to federal or ODJFS funding of the Agreement. ODJFS shall promptly notify ODMH of any adverse findings which allegedly are the fault of ODMH. Upon receipt of notification by ODJFS, ODMH shall fully cooperate with ODJFS and timely prepare and send to ODJFS its written response to the audit exception.
2. ODMH shall be liable for any audit exception that results solely from its acts or omissions in the performance of this Agreement. ODJFS shall be liable for any audit exception that results solely from its acts or omissions in the performance of this Agreement. In the event that audit exceptions result from the acts or omissions of both ODJFS and ODMH, the financial liability for the audit exception shall be shared by the parties in proportion to their relative fault. In the event of a dispute concerning the allocation of financial liability for audit exceptions, the parties agree that the dispute shall be referred to the Office of the Governor for a final, binding determination which will allocate financial liability.
3. For the purpose of this section, the term "audit exception" shall include federal disallowance and deferrals.

I. Liability Requirements (other than audit)

To the extent allowable by law, ODMH agrees to be responsible for any liability, suits, losses, judgments, damages or other demands brought as a result of its actions or omissions in performance of this Agreement. ODJFS agrees to be responsible for any liability, suits, losses, judgments, damages or other demands brought as a result of its actions or omissions in performance of this Agreement.

K. Resolution of Disputes

The agencies agree that the directors of ODJFS and ODMH shall resolve any disputes between the agencies concerning responsibilities under or performance of any of the terms of this Agreement. In the event the directors cannot agree to an appropriate resolution to a dispute they shall be referred to the Office of the Governor for a final, binding determination resolving the dispute.

L. Child Support Enforcement

ODMH agrees to cooperate with any Ohio Child Support Enforcement Agency (CSEA) in ensuring employees of ODMH meet child support obligations established under state law. Further, by executing this Agreement, ODMH certifies present and continued compliance with any court or administrative order for the withholding of support which is issued pursuant to the applicable sections in Chapters 3119, 3121, 3123, and 3125 of the Ohio Revised Code.

M. Drug-Free Workplace

By executing this Agreement, the parties certify and affirm that, as applicable to the parties, any subcontractor and/or independent contractor, (including all field staff) associated with the project agree to comply with all applicable state and federal laws including, but not limited to, 29 Code of Federal Regulations (C.F.R.) Part 98 and 45 C.F.R. Part 76 regarding a drug-free workplace. The parties shall make a good faith effort to ensure that all employees will not purchase, transfer, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way while working or while on public property.

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N. Public Assistance Work Program Participants

By executing this Agreement, ODMH agrees to cooperate with ODJFS and each County Department of Job and Family Services as required by law in providing employment and other work opportunities for recipients of assistance under in the Job Opportunity and Basic Skills (JOBS) program operated pursuant to Sections 5101.80 to 5101.81 of the Ohio Revised Code and recipients of food stamps who are required by law to obtain employment or participate in a work program activity.

O. Entirety of Agreement

All terms and conditions of this Agreement are embodied herein. No other terms and conditions will be considered a part of this Agreement unless expressly agreed upon in writing and signed by both parties.

VIII BUSINESS ASSOCIATE REQUIREMENTS UNDER HIPAA

A. Definitions. The definitions contained in this Section are derived from federal law. Should there be any conflict between the meanings assigned in this Contract and the meanings defined in applicable federal law (even in the event of future amendments to law that create such conflict), the definitions found in federal law shall prevail.

- 1. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996.
- 2. "Covered Entity" means a health plan, a health care clearinghouse, or health care provider. (45 C.F.R. 160.103)
- 3. "Business Associate" means a person or entity that, on behalf of the Covered Entity, performs or assists in the performance of a function or activity that involves the use or disclosure of "Protected Health Information." (45 C.F.R. 160.103)
- 4. "Protected Health Information" (hereinafter "PHI") means information received from or on behalf of a Covered Entity that meets the definition of PHI as defined by HIPAA and the regulations promulgated by the United States Department of Health and Human Services, specifically 45 C.F.R. 164.501 and any amendments thereto. (45 C.F.R. 164.501)

B. ODMH acknowledges that ODJFS through its Office of Ohio Health Plans is a Covered Entity under HIPAA. ODMH further acknowledges that ODMH is a Business Associate of ODJFS, and, in carrying out the work described in this Agreement, the ODMH agrees to comply with all of the following provisions:

- 1. Permitted Uses and Disclosures. The ODMH shall not use or disclose PHI except as provided in this Agreement or as otherwise required under HIPAA regulations or other applicable law.
- 2. Safeguards. ODMH shall use appropriate safeguards to protect against use or disclosure not provided for by this Agreement.
- 3. Reporting of Disclosures. The ODMH shall promptly report to ODJFS any knowledge of uses or disclosures of PHI that are not in accordance with this Agreement or applicable law. In addition, the ODMH shall mitigate any adverse effects of such a breach of confidentiality to the greatest extent possible.
- 4. Agents and Sub Contractors. ODMH shall ensure that all its agents and sub contractors that receive PHI from or on behalf of the ODMH and/or ODJFS agree to the same restrictions and conditions that apply to ODMH with respect to the use or disclosure of PHI.
- 5. Accessibility of Information. The ODMH shall make available to ODJFS such information as ODJFS may require to fulfill its obligations to provide access to, provide a copy of, and account for disclosures with respect to PHI pursuant to HIPAA and regulations promulgated by the United States Department of Health and Human Services, including, but not limited to, 45 C.F.R. 164.524 and 164.528 and any amendments thereto.
- 6. Amendment of Information. The ODMH shall make PHI available to ODJFS so that ODJFS may fulfill its obligations pursuant to HIPAA to amend the information. As directed by ODJFS, ODMH shall also

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incorporate any amendments into the information held by the ODMH and shall ensure incorporation of any such amendments into information held by ODMH's agents or subcontractors.

7. Disclosure. The ODMH shall make available to ODJFS and to the Secretary of the U.S. Department of Health and Human Services any and all internal practices, documentation, books, and records related to the use and disclosure of PHI received from ODJFS, or created or received by the ODMH on behalf of ODJFS. Such access is for the purpose of determining ODJFS's compliance with HIPAA, regulations promulgated by the United States Department of Health and Human Services, and any amendment thereto.
8. Material Breach. In the event of material breach of ODMH obligations under this ARTICLE, ODJFS may immediately terminate this Agreement as set forth in ARTICLE V, Section B. Termination of this Agreement shall not affect any provision of this Agreement which, by its wording or its nature, is intended to remain effective and to continue to operate after termination.
9. Return or Destruction of Information. Upon termination of this Agreement and at the request of ODJFS, the ODMH shall return to ODJFS or destroy all PHI in ODMH's possession stemming from this Agreement, and shall not keep copies of the PHI except as requested by ODJFS or required by law. If the ODMH, its agent(s), or subcontractor(s) destroy any PHI, then the ODMH will provide to ODJFS documentation evidencing such destruction. Any PHI retained by the ODMH shall continue to be extended the same protections set forth in this Section and HIPAA regulations for as long as it is maintained.

Signature Page Follows

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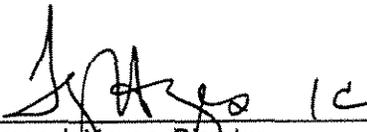
**INTERAGENCY AGREEMENT
SIGNATURE PAGE**

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT AS OF THE DATE OF THE SIGNATURE OF THE DIRECTOR OF THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES.

APPROVED BY:

OHIO DEPARTMENT OF MENTAL HEALTH

OHIO DEPARTMENT OF JOB AND FAMILY SERVICES



Michael F. Hogan, Director
Ohio Department of Mental Health
30 East Broad Street, 8th Floor
Columbus, Ohio 43215-3414

Thomas J. Hayes, Director
Ohio Department of Job and Family Services
30 East Broad Street, 32nd Floor
Columbus, Ohio 43215-3414

8/29/03

9/3/03

Date

Date

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