

Att. 4-16-0

Amendment

### INTERAGENCY AGREEMENT AMENDMENT

Amendment No. 1  
A-02-07-0466

1. Amendment No.1 to Interagency Agreement between the Ohio Department of Job and Family Services (hereinafter referred to as "ODJFS"), and the Ohio Department of Mental Retardation and Developmental Disabilities (hereinafter referred to as "ODMR/DD"), dated November 21, 2001.

2. ARTICLE I., Section C. of the Agreement, entitled "Definitions", is hereby changed to ARTICLE I., Section D. entitled "Definitions" and the following definitions are added:

CHIP            The Children's Health Insurance Program as set forth in Title XXI of the Social Security Act, administered in Ohio through CFDA grant number 93.767.

MEDICAID       The health insurance program as set forth in Title XIX of the Social Security Act, administered in Ohio through CFDA grant number 93.778.

3. ARTICLE I, Section C. of the Agreement is hereby added and will read as follows:

C. Create a framework for both departments to continue to enhance Ohio's commitment to provide and further expand community-based options and services for persons with MR/DD conditions. These services are implemented consistent with the principles of self-determination and provided in the least restrictive alternative appropriate for the person.

4. ARTICLE III., Section A. 10 of the Agreement is hereby amended to read as follows:

10. ODMR/DD shall ensure that any Medicaid due process policies or proposed rules for any approval, denial, reduction or termination of CAFS, HCBS waiver or TCM services experienced by a Medicaid consumer that results from a recommendation made or by an action taken either by ODMR/DD or a CB/MRDD are consistent with the requirements of Chapter 5101:6 of the OAC.

5. ARTICLE IV., Section A. 1 (a) of the Agreement is hereby amended to read as follows:

(a) ODJFS agrees to reimburse the ODMR/DD the appropriate FFP for services identified in this Agreement and provided by the ODMR/DD and for related allowable administrative and general costs. ODJFS shall specify procedures by which the reimbursement and any interagency funds transfers shall be made to the ODMR/DD. The maximum amount which may be compensated under this Agreement is \$584,842,056.00 (five hundred eighty-four million, eight hundred forty-two thousand, fifty-six dollars and no cents) for SFY 02 and \$479,178,357.00 (four hundred, seventy-nine million, one hundred, seventy-eight thousand, three hundred, fifty-seven dollars and no cents) for SFY 03. The amounts identified are subject to change based upon approval by the state Controlling Board to increase ODMR/DD appropriations for services identified in this Agreement. Any such changes will require an amendment to this Agreement.

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6. ARTICLE IV., Section B.1. (f) of the Agreement is hereby amended to read as follows:

(f) ODMR/DD shall charge each CB/MRDD an annual fee pursuant to the provisions of ORC 5123.0412. ODMR/DD shall provide to ODJFS no less than 30% (thirty percent) of the 1% (one percent) annual fee collected under ORC 5123.0412. For FY02, ODMR/DD will transfer these fees to ODJFS in three installments as follows: an estimated one-third of these funds by October 1, 2001; an estimated one third of these funds by February 1, 2002; and, the remaining actual balance for FY02 no later than June 30, 2002. For FY 03, ODMR/DD shall transfer these funds to ODJFS in installments on a schedule agreed upon between ODMR/DD and ODJFS.

7. ARTICLE V., Section A. of the Agreement is hereby amended to read as follows:

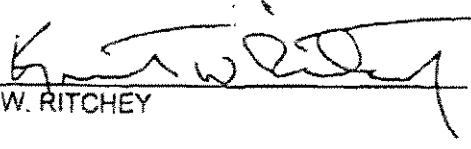
A. This Agreement shall become effective upon execution and will remain in effect until June 30, 2003, subject to the cancellation provisions contained in this Agreement. This Agreement replaces the current Agreement which took effect on July 1, 2001 and is identified as Interagency Agreement No. A-00-07-276, which has been amended to bear a correct document control number of A-02-07-0904. Interagency Agreement No. A-00-07-276, amended as A-02-07-0904, is hereby terminated effective upon the date this Agreement (A-02-07-0466) is executed.

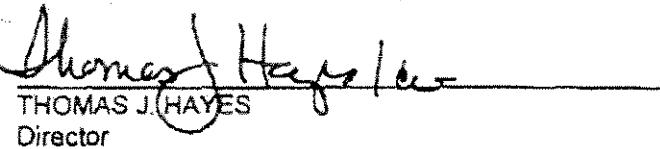
8. All other terms of the Interagency Agreement are hereby affirmed.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to Interagency Agreement number A-02-07-0466 as of the date of the signature of the Director of the Ohio Department of Job and Family Services.

OHIO DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

  
KENNETH W. RITCHEY  
Director

  
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3/29/02  
Date

3.29.02  
Date

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**INTERAGENCY AGREEMENT  
BETWEEN  
OHIO DEPARTMENT OF JOB AND FAMILY SERVICES  
AND  
THE OHIO DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL  
DISABILITIES**

A-02-07-0466

I.  
PURPOSE

This Agreement is entered into by the Ohio Department of Job and Family Services (hereinafter "ODJFS") and the Ohio Department of Mental Retardation and Developmental Disabilities (hereinafter "ODMR/DD") in order to:

A. Establish a sub-recipient relationship between ODJFS and ODMR/DD with regard to providing, or assisting to provide with ODJFS, statewide access for eligible individuals with Medicaid or Children's Health Insurance Program (CHIP) coverage for the following services:

- \* CAFS services;
- \* TCM services;
- \* HCBS waiver services;
- \* ICF-MR (Intermediate Care Facility for the Mentally Retarded) services including ICF-MR services delivered in developmental centers; and
- \* PASRR screening services for individuals with mental retardation or other developmental disabilities seeking Nursing Facility (NF) services.

B. Provide statewide access to medically necessary covered services comparable in amount, scope and duration, with the exception of PASRR, in accordance with federal compliance requirements including:

- \* **Statewideness** - The Medicaid state plan services must be in effect everywhere in the state. If certain roles are delegated to political subdivisions [e.g. County Boards of MR/DD (CBMR/DD)] the statewideness requirement must be made mandatory upon such subdivisions;
- \* **Recipient free choice of provider** - Any individual eligible for Medicaid may obtain Medicaid state plan services from any institution, agency, pharmacy, person or organization that is qualified to furnish the service or services, is willing to furnish the services and holds a valid Medicaid provider agreement;
- \* **Comparability of services** - The services made available to some individuals with Medicaid coverage shall not be less in amount, duration or scope than the services made available to other individuals with Medicaid coverage. The amount, duration and scope of each service must be sufficient in that it is reasonable to believe that the purpose of the service will be achieved; and
- \* **Reasonable promptness** - The single state Medicaid agency being ODJFS, must determine eligibility for Medicaid within specified time periods and must furnish Medicaid services promptly to recipients without any delay caused by the state agency's administrative procedures.

This Agreement does not include medical services available under the general assistance medical program. This Agreement is entered into in order to implement the provisions of 42 CFR 431 Subpart M.

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## C. Definitions

ACTIVE TREATMENT	As described in 42 CFR 483.440.
CAFS	Community Alternative Funding System means the habilitation center program as defined at Ohio Revised Code (ORC) 5123.01.
CDJFS	County Department of Job and Family Services.
CB/MRDD	County Board of Mental Retardation and Developmental Disabilities.
CFR	Code of Federal Regulations.
CMS	Centers for Medicare and Medicaid Services (formerly Health Care Financing Administration).
CRIS-E	Client Registry Information System - Enhanced.
DEVELOPMENTAL CENTER	A tax supported state institution under the jurisdiction of ODMR/DD which is maintained, operated, managed and governed by ODMR/DD pursuant to ORC 5123.03 and is licensed or certified by the appropriate governmental entity in accordance with Ohio Administrative Code (OAC) 5123:9-1-01.
FFP	Federal Financial Participation.
HABILITATION CENTER	As described in ORC 5123.041, a non-profit, public or proprietary free standing organization certified by ODMR/DD, which provides habilitative services to individuals with developmental disabilities either directly or through contractual arrangements and receives payment through CAFS. *
HCBS WAIVER	Home and Community Based Services Waiver: Any Medicaid home and community-based services waiver program available to individuals with MR/DD granted to ODJFS by CMS as permitted in Section 1915(c) of the Social Security Act, with day to day administration performed by ODMR/DD.
ICF-MR	Intermediate Care Facility for Mentally Retarded certified to provide services to individuals with mental retardation or a related condition in accordance with 42 CFR 483, Subpart I, and administered in accordance with OAC Chapter 5101:3-3.
ICF-MR LOC	A determination that an applicant for institutional or community-based long term care services needs the level of services provided in an ICF-MR as defined in OAC Rule 5101:3-3-07.
IDEA	The federal Individuals with Disabilities Education Act Amendments of 1997.
IO	Individual Options, a home and community based service waiver with day-to-day administration performed by ODMR/DD.
ISTV	Intra-State Transfer Voucher.
LOC	Level of Care.

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LTCF	Long - Term Care Facility.
MR/DD	Mental Retardation or other Developmental Disability.
MUI	Major Unusual Incident means the alleged, suspected or actual occurrences set forth in OAC 5123:1-17-02.
NF	Nursing Facility as described in 42 CFR 483, Subpart B, and OAC Rule 5101:3-3-01.
OAC	Ohio Administrative Code.
OBM	Office of Budget and Management.
ORC	Ohio Revised Code.
OBRA '87	Omnibus Budget Reconciliation Act of 1987.
OPAM	Ohio Public Assistance Manual.
PASRR	Pre-Admission Screening and Resident Review of provisions of OBRA '87, as amended, and as prescribed in OAC 5101:3-3-151, 5101:3-3-152 and 5123:2-14-01.
PASSPORT	Pre- Admission Screening System Providing Options and Resources Today, a home and community based service waiver with day-to-day administration performed by the Ohio Department of Aging.
PROGRAM AUDIT	A review conducted to measure the process or performance of a program against the rules, standards, or outcomes established for service delivery; studies internal procedures, staffing and management. A program review includes a review for compliance with a plan of correction, when necessary.
QUALITY ASSURANCE REVIEW	A review conducted to measure and analyze consumer outcomes and the quality of a specific program in order to assure that the program rules and standards are met and the consumer receives the highest quality service needed. A quality assurance review includes a review for compliance with a plan of correction, when necessary.
RFW	Residential Facility Waiver, a home and community based service waiver with day-to-day administration performed by ODMR/DD.
TCM	Targeted Case Management, a Medicaid state plan service that provides case management, including service coordination, services to eligible individuals with MR/DD in accordance with OAC Chapter 5123.
TCN	Transaction Control Number.
UTILIZATION REVIEW	A review conducted to measure and analyze consumption of services to safeguard against unnecessary and/or inappropriate Medicaid utilization.

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## II.

## RESPONSIBILITIES OF THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

A. General Program Responsibilities

1. ODJFS shall act as the single state agency responsible for the administration of the Medicaid program and has the full legal authority to administer or supervise the administration of the program. Certain discrete functions may be delegated to ODMR/DD, however nothing in this Agreement can modify, impair or hinder the authority of ODJFS to manage the Medicaid program.
2. ODJFS shall assign to ODMR/DD the authority to manage the Medicaid programs directly relating to the provisions of this Agreement in accordance with federal program compliance requirements which include statewideness, recipient free choice of provider, comparability of services, reasonable promptness, and which result in the provision of a Medicaid provider agreement by ODJFS to each qualified provider and the execution of a contract between the appropriate CB/MRDD or ODMR/DD and the provider.
3. ODJFS, through the County Departments of Job and Family Services (herein "CDJFS") shall determine recipient eligibility for Medicaid.
4. ODJFS shall recognize, as approved providers of services identified in this Agreement, those qualified individuals or organizations certified by ODMR/DD that comport with federal and state statutes and regulations.
5. ODJFS, in consultation with ODMR/DD, shall promulgate OAC rules governing the Medicaid programs administered by ODMR/DD pursuant to this Agreement. These rules shall correlate with the rules promulgated by ODMR/DD in accordance with Article III., paragraph A.4. of this Agreement.
6. ODJFS shall monitor ODMR/DD's performance and compliance with applicable state and federal laws, rules, regulations, and approved federal filings, including approved waivers directly pertaining to the provisions of this Agreement.
7. ODJFS shall communicate with ODMR/DD on relevant Medicaid issues so that ODMR/DD may properly carry out its role as a sub-recipient of federal Medicaid funds.
8. ODJFS shall notify ODMR/DD of any program-related training sessions and may permit staff from ODMR/DD to attend without charge. ODJFS shall likewise provide to ODMR/DD all appropriate material distributed to other Medicaid providers.
9. ODJFS will work with ODMR/DD to address access issues within the state and to ensure that individuals with MR/DD conditions who are approved for Medicaid payment for services delivered out-of-state are individuals for whom in-state services are not available.
10. ODJFS shall notify, inform and collaborate with ODMR/DD upon receipt of requests for payment for out-of-state services.
11. ODJFS shall review the ODMR/DD proposed Medicaid due process protection policy and rules concerning the approval, denial, reduction or termination of CAFS, TCM or waiver services experienced by a Medicaid consumer that results from a recommendation made by or action taken by either ODMR/DD or by a CB/MRDD. ODJFS shall decide whether the rules and policy provide sufficient safeguards to people with MR/DD conditions and Medicaid coverage.
12. ODJFS shall provide computer access and training materials to GRIS-E (for input and informational purposes) for ODJFS authorized ODMR/DD users and shall explore through a collaborative effort

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with ODMR/DD the provision of "read access" for ODJFS authorized ODMR/DD sub-recipient users either through ODJFS or ODMR/DD.

13. ODJFS will perform review and monitoring activity of ODMR/DD and CB/MRDD regarding Medicaid activities including, but not limited to, program and fiscal activities i.e., rate setting, auditing, settlements and participation relevant to 119 hearings.
14. ODJFS may, as part of its Utilization Review (herein "UR") activities, share Medicaid information with ODMR/DD for the purpose of evaluating the treatment patterns of persons with MR/DD who receive Medicaid services. Information shared concerning Medicaid recipients shall include (i) Medical assistance ID numbers, (ii) Names and addresses, (iii) Medicaid services provided, and (iv) Medical/social/emotional data, including diagnosis and past history of disease and disability.
15. If an OMB A-133 Audit is performed regarding the Medicaid program or the A-133 audit includes Medicaid activities as part of the audit, ODJFS shall review the results of the A-133 audit of ODMR/DD or a CB/MRDD to assure that ODMR/DD or the CB/MRDD is properly managing the Medicaid program and conducting corrective action follow-up. ODJFS will enhance oversight of ODMR/DD management of the Medicaid program including those mechanisms set forth in item 17 of this section.
16. ODJFS may perform program and/or fiscal audits of ODMR/DD and/or CB/MRDD and each provider to determine compliance with the terms and conditions of the programs and services enumerated in this Agreement.
17. ODJFS with ODMR/DD shall review the following:
  - (a) ODMR/DD's Major Unusual Incident alerts and trend reports and specified consumer cases and related outcomes;
  - (b) Both agencies' quality assurance findings and ODMR/DD's Accreditation and Licensure findings and outcomes;
  - (c) ODMR/DD's waiting list reports and waiting list management outcomes; and
  - (d) ODMR/DD's Behavior Support plan sampling findings and outcomes.
18. ODJFS and OBM shall consult with ODMR/DD with respect to each plan ODMR/DD receives from a CB/MRDD under ORC 5123.046 prior to approval of such plan by ODMR/DD pursuant to ORC 5123.046.

**B. HCBS Waivers: Program Responsibilities**

1. ODJFS shall submit to CMS any initial waiver requests as well as amendment, extension or renewal requests.
2. ODJFS shall ensure that the terms and conditions of CMS approved HCBS waivers are met.
3. ODJFS shall provide all required reports and assurances to CMS in order to comply with federal regulations governing HCBS waivers.
4. ODJFS shall assure that nursing and therapy services (physical therapy, occupational therapy and speech-language pathology) reimbursed under the Ohio Home Care program and received by consumers enrolled on HCBS waivers are appropriate and medically necessary.
5. ODJFS shall retain authority for final approval of each waiver service plan and for reviewing service

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plans developed by ODMR/DD or its designee, including initial, ongoing and closed cases. ODJFS shall conduct reviews of HCBS waiver programs to assure that individuals being served are eligible for such services and that services are being delivered and claimed by providers as specified in care plans.

6. ODJFS shall provide or delegate level of care determinations for waiver applicants. ODJFS shall delegate to ODMR/DD responsibility for conducting LOC reviews in accordance with OAC Rule 5101:3-3-15.5 for all HCBS waiver administered by ODMR/DD.
7. ODJFS shall consult with ODMR/DD, develop and promulgate OAC rules regarding HCBS waiver services and general oversight of such waivers, as well as HCBS waiver hearing rights and ICF-MR LOC determinations.
8. ODJFS shall review all ODMR/DD Quality Assurance, Accreditation and Licensure plans and protocols which relate specifically to HCBS waivers.
9. ODJFS shall perform Quality Assurance reviews of ODMR/DD HCBS waivers.

C. ICF-MR Services Including ICF-MR Services Delivered in Developmental Centers: Program Responsibilities

1. ODJFS shall operate an ICF-MR program in accordance with federal program compliance requirements, which include statewideness, recipient free choice of provider, comparability of services and reasonable promptness.
2. ODJFS recognizes ODMR/DD authority to establish ICF-MR bed capacity.
3. In accordance with applicable federal and state statutes and regulations, ODJFS shall perform, or designate another approved entity, to perform, pre-admission reviews in order to determine appropriate LOC for all Medicaid eligible residents who are placed in certified sections of Developmental Centers.

D. PASRR: Program Responsibilities

1. ODJFS shall be responsible for implementation of the applicable PASRR provisions of OBRA '87, as amended.
2. ODJFS shall conduct program reviews of ODMR/DD's performance of PASRR Level II determinations.
3. ODJFS shall allow ODMR/DD access to records and exchange information in order to implement PASRR and shall participate in joint planning with all agencies involved in implementing PASRR.
4. ODJFS or its designee shall conduct assessments of individuals with indications of MR or another DD who are applying for admission to a NF or for enrollment onto the PASSPORT waiver to determine whether the level of services provided by a NF are needed.

III.

RESPONSIBILITIES OF OHIO DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

A. General Program Responsibilities

1. ODMR/DD, as a sub-recipient of federal Medicaid funds for the administration and management of CAFS, TCM, HCBS waivers, Developmental Centers and PASRR, shall determine provider certification and licensure status for eligible providers of Medicaid services administered by

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- ODMR/DD; have its performance measured on meeting federal program objectives; and adhere to applicable federal program compliance requirements including statewideness, recipient free choice of provider, comparability of services and reasonable promptness.
2. ODMR/DD shall directly manage the Developmental Centers. ODMR/DD shall administer CAFS, TCM, HCBS waivers and PASRR programs.
  3. ODMR/DD shall determine, within reasonable time frames, provider eligibility to receive Medicaid payments in accordance with federal program compliance requirements. These requirements include statewideness, recipient free choice of provider, comparability of services, and reasonable promptness.
  4. ODMR/DD, in consultation with ODJFS, shall promulgate OAC rules governing the Medicaid programs administered by ODMR/DD pursuant to this Agreement. These rules shall correlate with the rules promulgated by ODJFS in accordance with Article II., paragraph A.5. of this Agreement.
  5. ODMR/DD shall ensure that all programs identified in this Agreement are implemented in accordance with the approved Medicaid state plan and applicable approved waivers and that all appropriate Medicaid eligible recipients are provided access to such services in accordance with the OAC and ORC provisions.
  6. ODMR/DD shall assure the provision of technical assistance to providers in order for them to properly discharge their responsibilities under this Agreement.
  7. ODMR/DD will work with ODJFS to address access issues within the state and to ensure that individuals with MR/DD conditions that are approved for Medicaid payment for services delivered out-of-state are individuals for whom in-state Medicaid services are not available.
  8. ODMR/DD shall notify, inform and collaborate with ODJFS upon receipt of requests for payment for out-of-state services.
  9. ODMR/DD shall collaborate with ODJFS to develop service capacity to meet the needs of individuals either through in-state services or through specialized out-of-state services.
  10. ODMR/DD shall, within 6 months of the date of this Agreement, submit to ODJFS a Medicaid due process policy and proposed rules for any approval, denial, reduction or termination of CAFS or TCM services experienced by a Medicaid consumer that results from a recommendation made by or an action taken either by ODMR/DD or by a CB/MRDD.
  11. ODMR/DD shall assure that Medicaid eligible individuals seeking or utilizing MR/DD administered Medicaid services are afforded due process protections when services are approved, reduced, terminated or denied.
  12. ODMR/DD shall complete an ODJFS CRIS-E security agreement for each authorized user in order to receive authorization to access CRIS-E for input and informational purposes only.
  13. ODMR/DD shall, upon written request by ODJFS, review Medicaid information and advise ODJFS or its designee regarding the treatment patterns or services provided to individuals with MR/DD. The confidentiality requirements set forth in this Agreement must be followed.
  14. ODMR/DD shall provide for the exchange of information, upon request, by ODJFS on problems and needs of individuals with MR/DD, and about services provided to individuals with MR/DD. ODMR/DD shall facilitate access to utilization data.
  15. Consumer-specific information may only be shared with the provider of services.

16. ODMR/DD shall perform monitoring of CB/MRDD, those with whom it has Medicaid-related vendor relationships, and other entities, if applicable. ODMR/DD shall make known to ODJFS all Medicaid-related vendor relationships with entities other than county boards of MR/DD
17. ODMR/DD shall assure the maintenance of records in accordance with federal requirements governing the OMB A-133 audit and generally accepted auditing principles. ODMR/DD shall cooperate with ODJFS in responding to any audit or program reviews.
18. ODMR/DD shall license specified residential facilities, including applicable ICFs/MR, in accordance with applicable state statutes and OAC rules.
19. ODMR/DD, with ODJFS, shall review the following:
  - (a) ODMR/DD's Major Unusual Incident alerts and trend reports and specified consumer cases and related outcomes;
  - (b) Both agencies' quality assurance findings and ODMR/DD's Accreditation and Licensure findings and outcomes;
  - (c) ODMR/DD's waiting list reports and waiting list management outcomes; and
  - (d) ODMR/DD's Behavior Support plan sampling, findings and outcomes.
20. ODMR/DD shall review each county board plan it receives under ORC section 5123.046 and, in consultation with ODJFS and the Office of Budget and Management, shall approve or disapprove plans.
21. ODMR/DD shall assure that each CB/MRDD shall execute service contracts with providers of MR/DD administered Medicaid services pursuant to the provisions of ORC 5126.035.
22. ODMR/DD shall assure the provision of dispute resolution mediation and arbitration as specified in ORC 5125.036 for disputes related to the provision of Medicaid covered services to Medicaid eligible consumers.
23. ODMR/DD shall assure that the health and welfare of consumers of Medicaid services administered by ODMR/DD are protected, including assurances that all instances where Medicaid eligible consumers are alleged to be subject to major unusual incidents be thoroughly investigated, and if the allegation involves staff directly employed or under contract with the organization conducting the investigation, that ODJFS approved safeguards for potential conflict of interest allegations are utilized.
24. ODMR/DD may, as part of its UR activities, share Medicaid information with ODJFS for the purpose of evaluating the Medicaid service and support utilization of persons with MR/DD. When consumer UR conducted by or on behalf of ODMR/DD results in a finding of inappropriate service utilization, ODMR/DD shall authorize and request a correction of the service plan from the CB/MRDD and shall provide the consumers with notification of the right to a Medicaid due process procedure.

#### B. CAFS: Program Responsibilities

1. ODMR/DD will work collaboratively with ODJFS and the Ohio Department of Education (ODE), to redesign the CAFS program regarding the provision of IDEA health related services through the CAFS program for children. Effective with the transfer of administrative responsibility, including claims processing for the CAFS program as delivered by local education authorities from ODMR/DD to ODJFS, administrative fees or other monies collected from local education authority providers shall be collected by ODJFS.

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2. ODMR/DD shall be responsible for certification of habilitation centers, to determine compliance with ODMR/DD standards for participation as a CAFS provider in the Ohio Medicaid Program, and monitor compliance with program standards to determine continued certification as a habilitation center and a CAFS provider.

C. TCM, Including Service Coordination And Administrative Claiming Program: Responsibilities

1. ODMR/DD will manage the provision of these Targeted Case Management (TCM) services as set forth in ORC and OAC rules. ODMR/DD will work collaboratively with ODJFS and ODE to redesign the TCM program, including service coordination, for children receiving IDEA health related services.
2. ODMR/DD shall perform certification of habilitation centers to determine compliance with ODMR/DD standards for participation as a TCM, including Service Coordination providers in the Ohio Medical Program. Thereafter, ODMR/DD shall monitor compliance with its program standards to determine continued certification as a TCM provider, including Service Coordination.

D. HCBS Waivers: Program Responsibilities

1. ODMR/DD shall enter into formal relationships with local Medicaid administrative entities.
2. ODMR/DD shall manage the waiver programs in accordance with waivers granted and the following assurances made to CMS:
  - (a) The health and safety of individuals receiving services under these waivers are protected;
  - (b) Levels of care are evaluated initially and the need for the same levels of care annually and only individuals who would reside in ICFs/MR in the absence of the waivers are enrolled;
  - (c) All individuals determined to have an ICF-MR level of care are informed of feasible alternatives under the waiver and given the choice of institutional or home and community based services;
  - (d) All individuals denied services of choice, providers of choice, or those not given the choice of HCBS as an alternative to placement in an ICF-MR receive notice of fair hearing rights (42 CFR Part 431, subpart E);
  - (e) The average per capita expenditure under the HCBS waivers will not exceed 100% of the average per capita expenditures for ICF-MR institutionalization;
  - (f) The total expenditure for HCBS and other Medicaid services under the HCBS waivers will not exceed 100% of the amount that would be incurred by the State's Medicaid program for these individuals in ICFs-MR; and
  - (g) In lieu of the HCBS waiver, individuals would be eligible to receive institutional care in ICFs-MR.
3. ODMR/DD shall provide ODJFS with information/data related to part d of the CMS 372 in the format as requested by ODJFS.
4. ODMR/DD shall, through its relationships with County Boards of MRDD, assist ODJFS in authorizing medically necessary and appropriate nursing and therapy services (physical therapy, occupational therapy and speech-language pathology) covered under the Ohio Home Care Program for consumers enrolled on the IO and RFW HCBS waivers.
5. ODMR/DD, through its relationships with County Boards of MRDD, shall assure that individuals

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enrolled on HCBS waivers only receive services which are necessary to assure health and safety and prevent institutionalization and are described on an approved, written service plan which describes the medical and other services to be furnished, their frequency, and the type of provider who will furnish each.

6. ODMR/DD shall submit to ODJFS any assessments or plans of care as requested by ODJFS and furnish to ODJFS on a monthly basis a census of HCBS waiver enrollees and list of disenrollees, including reasons for disenrollment.
7. ODMR/DD shall conduct LOC reviews of waiver applicants to determine ICF-MR LOC eligibility.
8. ODMR/DD, through its relationships with County Boards of MRDD, shall submit any waiver amendment or waiver renewal requests to ODJFS and will include a description of the process used for constituent input. Constituent input may be obtained, but is not required in connection with requests for technical amendments of a HCBS waiver. A technical amendment means any amendment in which the change has no impact on cost or utilization services (directly or indirectly).
9. ODMR/DD shall arrange for the provision of HCBS waiver services in accordance with all applicable OAC rules and ORC provisions.
10. ODMR/DD shall provide representation at hearings requested by applicants, enrollees and disenrollees of any HCBS waiver administered by ODMR/DD when the adverse action is initiated by the administrative agency.
11. ODMR/DD shall implement a quality assurance program for individuals enrolled in HCBS waivers which includes the following attributes:
  - (a) A statistically valid statewide sampling methodology,
  - (b) An outcome based protocol; and
  - (c) Compliance plan requirements which measure progress towards resolving individual and system issues.

**E. ICF-MR Services Including ICF-MR Services Delivered in Developmental Centers: Program Responsibilities**

1. ODMR/DD shall assure that active treatment provided to individuals both within ICFs-MR and habilitation centers is coordinated by each ICF-MR.
2. ODMR/DD shall assure that each Developmental Center complies with all applicable requirements of the CFR, ORC and OAC, and shall assist the CDJFS in determining eligibility of all residents. ODMR/DD shall report to the CDJFS in a timely manner all admissions, discharges, transfers, deaths, regular income, resources, and days out of each Developmental Center for Medicaid eligible residents. ODMR/DD shall make available to ODJFS, information and access to Medicaid eligible residents of each Developmental Center and their records as required for utilization review purposes. ODMR/DD shall accept LOC determinations made by ODJFS, or its designee, in arranging placement from each Developmental Center to or from a Medicare certified long-term care facility.

**F. PASRR: Program Responsibilities**

1. ODMR/DD, through its relationships with CB/MRDD, shall assure the provision of services including by comprehensive evaluation, habilitation services, relocation management, and ongoing monitoring of Medicaid recipients who are determined, pursuant to PASRR rules, to need specialized services, but are residing in a Medicaid-certified NF; are individuals with MR/DD and are determined by the resident review process to no longer need care in a NF; require LOC determination upon readmission

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or transfer to another NF and receive an ICF-MR LOC; are residing in a decertified facility; are enrolled in the PASSPORT HCBS waiver; are enrolled in the home care HCBS waiver; or are individuals in an ICF-MR that's altered certification results in the non-certification of ICF-MR care.

2. ODMR/DD, through its relationships with CB/MRDD, shall assist in the management of the PASRR programs.
3. ODMR/DD shall manage PASRR Level II assessments and make final determinations of individuals with indications of mental retardation or another developmental disability that have applied for admission to a NF or for enrollment onto the PASSPORT Waiver.
4. ODMR/DD shall allow access to records and exchange information to implement the PASRR provisions of OBRA '87, as amended, and shall participate in joint planning with all agencies involved in implementing PASRR.
5. ODMR/DD or its designee shall conduct assessments of individuals with indications of MR or another DD who are applying for admission to a NF or for enrollment onto the PASSPORT waiver to determine whether specialized services are required.
6. ODMR/DD or its designee shall review the need for NF and specialized services for individuals already residing in NFs or enrolled on the PASSPORT waiver who experience a significant change in the status of their conditions.
7. ODMR/DD shall assure that all PASRR assessments and determinations are made in accordance with the specifications and timelier found in OAC rules 5101:2-14-01, 3-3-151, and 3-3-152.
8. ODMR/DD, through its relationships with CB/MRDD, shall assure that individuals determined to need specialized services receive them.
9. ODMR/DD shall assure that all individuals assessed as part of PASRR have the right to appeal any determination they consider adverse by maintaining a statewide system for appeals.
10. ODMR/DD shall monitor the PASRR process by conducting periodic quality reviews.

#### IV. COMPENSATION

A. ODJFS agrees to reimburse the ODMR/DD in accordance with the following:

1. ODJFS General Fiscal Responsibilities

- (a) ODJFS agrees to reimburse the ODMR/DD the appropriate FFP for services identified in this Agreement and provided by the ODMR/DD and for related allowable administrative and general costs. ODJFS shall specify procedures by which the reimbursement and any interagency funds transfers shall be made to the ODMR/DD. The maximum amount which may be compensated under this Agreement is \$584,842,056.00 (five hundred eighty-four million, eight hundred forty-two thousand, fifty-six dollars and no cents).
- (b) ODJFS, shall, where applicable, validate the magnetic media claims submitted by ODMR/DD and provide a list to ODMR/DD of any claims not honored.
- (c) ODJFS shall decline to make payment for outstanding claims if ODMR/DD fails to provide information or access to fiscal audits as specified in the OAC, federal regulations, or the terms and conditions of this Agreement. ODMR/DD shall not submit any initial claims to

letter to request picture of the 50

waiver! Shows me with 50

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ODJFS, meaning prior to the assignment of a TCN, for payment any claim with a date of service older than 351 days.

- (d) ODJFS shall complete and submit FFP claims for services identified in this Agreement.
- (e) ODJFS may perform fiscal audits or reviews to determine accuracy and appropriateness of ISTVs and may make payment adjustments to ISTVs in accordance with any resulting audit findings. ODJFS shall specify any changes in cost reporting formats.

2. CAFS: Fiscal Responsibilities

- (a) ODJFS shall review provider cost reports, establish payment rates, perform interim and final cost report settlements, offer to providers 119 hearing rights, and defend settlement findings at 119 hearings. ODJFS shall perform these functions for CB/MRDD and other certified providers whose fiscal year begins January 1, for services provided prior to January 1, 2001; for certified providers with fiscal year beginning other than January 1, ODJFS shall perform these functions for services provided prior to July 1, 2000. Settlement amounts shall be collected from ODMR/DD for payment to CMS within the federal fiscal quarter reported. If a provider requests a 119 hearing, ODJFS shall consult with ODMR/DD prior to adjusting a settlement amount.
- (b) ODJFS shall, until other reporting capabilities are developed, accept and utilize CAFS claims adjustment transactions at a summary level and will receive supporting detail level information as requested.
- (c) ODJFS will process recipient-specific claims for CAFS service in accordance with the appropriately designated Medicaid adult or child program procedure code submitted by ODMR/DD.

3. TCM, Including Service Coordination: Fiscal Responsibilities

- (a) ODJFS shall review provider cost reports, establish payment rates, perform interim and final cost report settlements, offer to providers 119 hearing rights, and defend settlement findings at 119 hearings. ODJFS shall perform these functions for CB/MRDD and other certified providers whose fiscal year begins January 1, for services provided prior to January 1, 2001; for certified providers with fiscal year beginning other than January 1, ODJFS shall perform these functions for services provided prior to July 1, 2000. Settlement amounts shall be collected from ODMR/DD for payment to CMS within the federal fiscal quarter reported. If a provider requests a 119 hearing, ODJFS shall consult with ODMR/DD prior to adjusting a settlement amount.
- (b) ODJFS shall, until other reporting capabilities are developed, accept and utilize TCM and Service Coordination claims adjustment transactions at a summary level and will receive supporting detail level information as requested.

4. HCBS Waivers: Fiscal Responsibilities

- (a) ODJFS, in consultation with ODMR/DD, shall develop and implement a waiver reimbursement fee schedule pursuant to the provisions of ORC 5111.873.
- (b) ODJFS shall, until other reporting capabilities are developed, accept and utilize HCBS waivers claims adjustment transactions at a summary level and will receive supporting detail level information as requested.

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5. ICF-MR Services, Including ICF-MR Services Delivered in Developmental Centers: Fiscal Responsibilities

- (a) ODJFS shall reimburse Developmental Centers that are Medicaid-certified ICFs-MR for covered services in accordance with OAC rule 5101:3-3-99, 42 CFR 413, and Subpart C of 42 CFR 447.
- (b) ODJFS shall work with ODMR/DD to review reimbursement methods for Medicaid covered services provided to Developmental Center residents for the purpose of improving the cost effectiveness of Medicaid payments and the efficiency of Medicaid service delivery.

6. PASRR: Fiscal Responsibilities

- (a) ODJFS shall invoice ODMR/DD at least quarterly, via ISTV, in an amount not to exceed \$200.00 (two-hundred dollars and no cents) for each face-to-face nursing evaluation for LOC assessments on individuals with MR/DD seeking NF placement or enrollment onto the PASSPORT waiver to determine whether the level of services provided by a NF are needed.

B. ODMR/DD: Fiscal Responsibilities

1. ODMR/DD General Fiscal Responsibilities

- (a) ODMR/DD shall assure and shall certify the availability of the required matching funds for the programs that ODMR/DD administers which may include county boards of MR/DD, local education agencies and children's service boards who are participating as indicated in program specific sections of this Agreement.
- (b) ODMR/DD shall, in accordance with procedures specified by ODJFS, invoice ODJFS the appropriate FFP for services identified in this Agreement and provided by ODMR/DD and for related allowable administrative and general costs.
- (c) ODMR/DD shall, provide ODJFS with service claims in the magnetic media format specified by ODJFS, and in accordance with applicable federal and state statutes and regulations.
- (d) ODMR/DD shall submit all initial claims, meaning prior to the assignment of a TCN, in accordance in federal and state statutes and regulations and Medical Management Information System (MMIS) requirements within 351 days from the date of service. Claims submitted with a service date one year or older will be rejected as a non-reimbursable service, as specified in federal regulations.
- (e) ODMR/DD shall complete and submit required cost reports in formats specified by ODJFS.
- (f) ODMR/DD shall charge each CB/MRDD an annual fee pursuant to the provisions of ORC 5123.0412. ODMR/DD shall provide to ODJFS no less than 30% (thirty percent) of the 1% (one percent) annual fee collected under ORC 5123.0412. ODMR/DD will transfer these fees in three installments. ODMR/DD shall transfer an estimated one-third of these funds to ODJFS by October 1, 2001. ODMR/DD shall transfer an estimated one third of these funds to ODJFS by February 1, 2002. ODMR/DD shall transfer the remaining actual balance to ODJFS no later than June 30, 2002.
- (g) Effective with the transfer of administrative responsibility for the CAFS program as delivered by local education authorities from ODMR/DD to ODJFS, ODMR/DD shall transfer all administrative fees or other monies collected from local education authority providers to ODJFS.

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**2. CAFS: Fiscal Responsibilities**

- (a) ODMR/DD shall assure the provision of matching funds for CAFS services.
- (b) ODMR/DD shall provide ODJFS with CAFS claims adjustment transactions at a summary level, and shall make supporting detail information available to ODJFS upon request.
- (c) ODMR/DD shall review provider cost reports, establish payment rates, perform interim and final cost report settlements, offer to providers 119 hearing rights, and defend the settlement findings at the 119 hearings. ODMR/DD shall perform these functions for CB/MRDD and other certified providers whose fiscal year begins January 1, for services provided on January 1, 2001 and after; for certified providers with fiscal years beginning other than January 1, ODMR/DD shall perform these functions for services provided on July 1, 2000 and after. Settlement amounts shall be paid to ODJFS for payment to CMS within the federal fiscal quarter. If a provider requests a 119 hearing, ODJFS shall consult with ODMR/DD prior to adjusting a settlement amount.

**3. TCM, Including Service Coordination and Administrative Claiming: Fiscal Responsibility**

- (a) ODMR/DD shall assure the provision of matching funds for TCM, including Service Coordination services and administrative claiming.
- (b) ODMR/DD shall provide ODJFS with TCM claims information, including Service Coordination claims adjustment transactions at a summary level, and shall make supporting detail level information available to ODJFS upon request.
- (c) ODMR/DD shall review provider cost reports, establish payment rates, perform interim and final cost report settlements, offer to providers 119 hearing rights, and defend the settlement findings at the 119 hearings. ODMR/DD shall perform these functions for CB/MRDD and other certified providers whose fiscal year begins January 1, for services provided on January 1, 2001 and after; for certified providers with fiscal years beginning other than January 1, ODMR/DD shall perform these functions for services provided on July 1, 2000 and after. Settlement amounts shall be paid to ODJFS for payment to CMS within the federal fiscal quarter. If a provider requests a 119 hearing, ODJFS shall consult with ODMR/DD prior to adjusting a settlement amount.

**4. HCBS Waivers: Fiscal Responsibility**

- (a) ODMR/DD shall assure, either through statute, OAC or contracts, the specific responsibility for the provision of matching funds for HCBS waiver services.
- (b) ODMR/DD shall provide ODJFS with HCBS waiver claims adjustment transaction information at a summary level, and shall make supporting detail information available to ODJFS upon request.
- (c) ODMR/DD shall assure that payment of non federal matching funds for waiver services for waiver enrollees who move from one county to another county occur, subject to the provisions of ORC 5123.041

**5. ICF-MR Including ICF-MR Services Delivered in Developmental Centers: Fiscal Responsibilities**

- (a) ODMR/DD shall provide matching funds for Developmental Centers.
- (b) ODMR/DD shall work with ODJFS to review reimbursement methods for Medicaid covered services provided to Developmental Center residents for the purpose of improving the cost

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effectiveness of Medicaid payments and the efficiency of Medicaid service delivery.

- (c) ODMR/DD shall complete required invoices monthly for the prior month's services or to correct payment errors for residents in ICF-MR certified areas of each Developmental Center. ODMR/DD shall also report third party payments and changes in resources to the CDJFS.
- (d) ODMR/DD shall monitor personal allowance in ICF-MR certified areas of each Development Center.

6. PASRR: Fiscal Responsibilities

- (a) ODMR/DD shall invoice ODJFS, at least quarterly, via an ISTV for the actual Medicaid reimbursable costs for screening required by OBRA '87, as amended, for persons with MR/DD to determine whether specialized services are needed. ODMR/DD shall ensure that CB/MRDD submit invoices for PASRR related evaluation costs only.

v.  
GENERAL PROVISIONS

*A end date  
B roll over*

A. **Effective Dates**

This Agreement shall become effective upon execution and will remain in effect until June 30, 2002, subject to the cancellation provisions contained in this Agreement. This Agreement replaces the current Agreement which took effect on July 1, 2001 and is identified as Interagency Agreement No. A-00-07-276, which has been amended to bear a correct document control number of A-02-07-0904. Interagency Agreement No. A-00-07-276, amended as A-02-07-0904, is hereby terminated effective upon the date this Agreement (A-02-07-0466) is executed.

B. All obligations in this Agreement are subject to the requirements of Section 126.07 of the Ohio Revised Code.

C. **Termination by Notice**

1. This Agreement may be terminated by either party upon 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 Medicaid funding, disapproval by a federal administrative agency, including but not limited to disapproval by CMS, or upon discovery of non-compliance with any federal or state laws, rules or regulations. In the event termination is pursuant to this paragraph C.2., a notice specifying the reasons for termination shall be sent as soon as possible after the termination in accordance with the procedures set forth in Article V., paragraph C.1.
3. If the Ohio General Assembly ceases funding ODJFS or ODMR/DD for payments hereunder, this agreement is terminated as of the date funding expires without notice or further obligation to ODJFS or ODMR/DD.

D. **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, to the extent permitted by law. The waiver of any occurrence of breach or default is not waiver of such subsequent occurrences, and the parties retain the right to exercise all remedies mentioned herein.

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**E. 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 amendment, unless such amendments shall substantially modify this Agreement as to make the performance hereunder impractical or impossible.

**F. 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, sex, sexual orientation, age, disability, or Vietnam-era 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, sex, sexual orientation, age, disability, or Vietnam-era 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, sex, national origin, ancestry, sexual orientation, Vietnam-era 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.

**G. 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 either party 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 either party.

**H. Compliance with Federal and State Laws, Rules and Regulations**

All obligations in this Agreement are further subject to approval by CMS; if ODJFS receives notice that the Agreement is not approved, this Agreement is terminated pursuant to paragraph V. B. above. The parties agree to comply with all federal and state laws, rules, regulations, and auditing standards which are applicable to the performance of this Agreement.

**I. Partial Invalidation**

A judicial or administrative finding, order, or decision that any part of this Agreement is illegal or invalid shall not invalidate the remainder of the Agreement.

**J. Records Retention**

All records relating to costs, work performed and supporting documentation for invoices submitted to ODJFS by ODMR/DD along with copies of all deliverables submitted to ODJFS pursuant to this Agreement shall be retained and made available by ODMR/DD 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, including but not limited to CMS, for a minimum of six (6) years.

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after final payment under this Agreement. If an audit is initiated during this time period, ODMR/DD shall retain such records until the audit is concluded and all issues resolved. Records may be retained on microfilm and/or other electronic media.

**K. 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 this Agreement. ODJFS shall promptly notify ODMR/DD of any adverse findings which allegedly are the fault of ODMR/DD. Upon receipt of notification by ODJFS, ODMR/DD shall fully cooperate with ODJFS and timely prepare and send to ODJFS its written response to the audit exception.
2. ODMR/DD 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 the audit exception result from the acts or omissions of both ODJFS and ODMR/DD, the financial liability for the audit exception shall be shared by the parties in direct 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 allocates financial liability among and between the parties to this Agreement. For the purpose of this section, the term "audit exception", shall include any and all federal disallowances and deferrals.

**L. Liability Requirements (other than audit)**

To the extent allowable by law, each agency agrees to hold the other agency harmless from liability, suits, losses, judgments, damages or other demands brought as a result of its actions or omissions in performance of this Agreement. However in the event that an agency is subject to liability, suits, losses, judgments, damages or other demands which are due to the acts or omissions of the other agency, the other agency will not be held harmless.

**M. Resolution of Disputes**

The agencies agree that the directors of the agencies 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 the disputes they shall be referred to the Office of the Governor for a final, binding determination resolving the dispute.

**N. Child Support Enforcement**

ODMR/DD agrees to cooperate with ODJFS and any Ohio Child Support Enforcement Agency (CSEA) in ensuring employees of ODMR/DD meet child support obligations established under state law. Further, by executing this Agreement, ODMR/DD certifies present and ongoing compliance with any court order for the withholding of support which is issued pursuant to sections 3113.21 to 3113.217 of the Ohio Revised Code.

**O. 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 regarding a drug-free workplace. The parties shall make a good faith effort to ensure that all employees, while working on State, county or private property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

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**P. Public Assistance Work Program Participants**

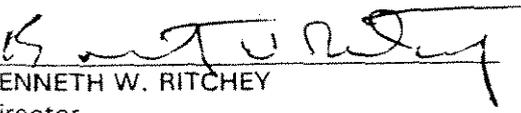
By executing this Agreement, ODMR/DD agrees to cooperate with ODJFS and each County Department of Job and Family Services, as required by law, in providing employment and other work opportunities for recipients of assistance under Chapter 5107 of the Revised Code and recipients of food stamps who are required by law to obtain employment or participate in a work program activity.

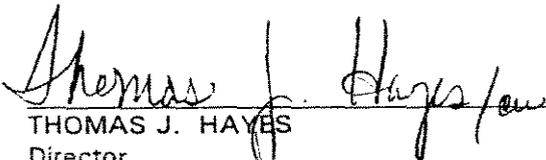
**Q. Entirety of Agreement**

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.

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:

  
KENNETH W. RITCHEY  
Director  
Ohio Department of Mental Retardation  
and Developmental Disabilities  
1810 Sullivant Avenue  
Columbus, Ohio 43223-1239

  
THOMAS J. HAYES  
Director  
Ohio Department of Job and Family Services  
30 East Broad Street, 32nd Floor  
Columbus, Ohio 43266-0423

11/21/07  
Date

11/21/07  
Date

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