

**INTERAGENCY AGREEMENT
BETWEEN
THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
AND
THE OHIO DEPARTMENT OF ALCOHOL AND DRUG ADDICTION SERVICES**

A-04-07-0004

I. PURPOSE

This Agreement is entered into by the Ohio Department of Job and Family Services (hereinafter "ODJFS") and the Ohio Department of Alcohol and Drug Addiction Services (hereinafter "ODADAS") To establish a sub-recipient relationship between the departments with regard to providing access to behavioral health services for Medicaid eligible clients by:

- A. Providing access to alcohol and drug addiction services (AOD) services;
- B. Developing strategies for managing the Medicaid behavioral health services, including responsibility that may transfer to ODADAS;
- C. Establishing and maintaining an eligibility verification system which will be part of a claims and encounter reporting system for managing alcohol and other drug treatment services; and
- D. Authorizing the transfer of federal funds from ODJFS to ODADAS.

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 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).

II. DEFINITIONS

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| ABD | Aged, Blind and Disabled is one of the eligible populations for Medicaid. |
| ADCDS | The ODADAS Alcohol/Drug Client Data System. |
| AFC | Foster care recipients placed in out-of-home placement arrangements. |
| AOD Treatment Services | Are the following services provided for the assessment and treatment of persons who abuse alcohol and other drugs. <ul style="list-style-type: none"> • Ambulatory detoxification as defined in OAC 3793:2-1-08(X) • Assessment as defined in OAC 3793:2-1-08(K) • Case Management as defined in OAC 3793:2-1-08(M) • Crisis Intervention as defined in OAC 3793:2-1-08(L) • Group Counseling as defined in OAC 3793:2-1-08(O) • Individual Counseling as defined in OAC 3793:2-1-08(N) • Intensive Outpatient as defined in OAC 3793:2-1-08(Q) • Laboratory Urinalysis as defined in OAC 3793:2-1-08(R) • Medical/Somatic as defined in OAC 3793:2-1-08(S) • Methadone Administration as defined in OAC 3793:2-1-08(T) |
| Board(s) | Alcohol Drug Addiction and Mental Health Services (ADAMHS) Boards and Alcohol and Drug Addiction Services (ADAS) Boards which have contracts with ODADAS for the reimbursement of Medicaid AOD treatment services. |
| CFR | United States Code of Federal Regulations |

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| CHIP | The Children's Health Insurance Program (Federal Grant #CFDA 93.767) as set forth in Title XXI Section 2102(b)(3)(D) of the Social Security Act. |
| CMS | The Center for Medicare and Medicaid Services. Formerly the Federal Health Care Financing Administration. |
| FFP | Federal Financial Participation |
| FFS | This refers to those physical health care providers in the ODJFS Medicaid fee-for-service system. |
| HIC | Health Insurance Corporation |
| HIPAA | Health Insurance Portability and Accountability Act |
| Healthy Start | One of the ADC-related federal categories used to identify Medicaid eligibility |
| ISTV | Intrastate Transfer Voucher |
| MACSIS | The Multi-Agency Community Services Information System which serves as the electronic claims and encounter reporting system |
| MCP | Managed Care Plan |
| MEM | Medicaid Eligibility Manual |
| Medicaid | The health insurance program as set forth in Title XIX of the Social Security Act (Federal Grant #CFDA 93.778) |
| MMIS | Medicaid Management Information System |
| OAC | Ohio Administrative Code |
| ODADAS | Ohio Department of Alcohol and Drug Addiction Services |
| ODJFS | Ohio Department of Job and Family Services |
| ODMH | Ohio Department of Mental Health |
| OMB | Office of Management and Budget |
| ORC | Ohio Revised Code |
| OWF | Ohio Works First program |

III. RESPONSIBILITIES OF ODJFS

A. Program Related

1. Recognize ODADAS-certified AOD treatment programs as Medicaid providers.
2. Serve as the final arbiter of Medicaid provider agreement disputes by conducting administrative hearings in accordance with Chapter 119 of the Ohio Revised Code when an ODADAS-certified AOD treatment program is denied an AOD Medicaid agreement or when a community Medicaid contract is terminated by the ADAMH/ADAS Board to which the community AOD treatment program has applied or entered into an agreement.
3. Promulgate administrative rules and Medicaid state plan amendments related to AOD treatment services provided by ODADAS-certified AOD treatment programs.

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4. Notify ODADAS of providers who have been terminated as Medicaid providers for fraud and abuse.
5. Share, as part of its utilization review activities, Medicaid information with ODADAS for the purpose of identifying persons with alcohol and other drug related problems and evaluating the treatments patterns of persons with the disease of alcohol and drug addictions who receive Medicaid services. Information shared concerning Medicaid consumers will be limited to the following:
 - a. Medical Assistance Identification Numbers;
 - b. Consumer Names and Addresses;
 - c. Medical Services Provided;
 - d. Medical Data, Including Diagnoses and Past History of Disease and Disability; and
 - e. Agency Evaluation of Personal Information.

B. Fiscal Related

1. Operate the MMIS claims system to adjudicate community AOD treatment service claims submitted by ODADAS.
2. Transfer FFP for appropriately adjudicated AOD service claims. The transfer of FFP under this provision is not subject to the interest provisions of the ORC Section 126.12.
3. File in Ohio Administrative Code those services which are reimbursable covered services and obtain ODJFS approval through the Medicaid state plan.
4. ODJFS may suspend payment of claims upon thirty (30) days notice if it reasonable believes ODADAS and/or the ADAMH/ADAS 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.
5. Recognize the costs of doing A-133 audits at the AOD treatment program level when the costs are allowable in the development of AOD program rates.
6. Notify ODADAS timely 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 ODADAS regarding any such notifications within the time limits prescribed by the notice.
7. Upon receipt of any notice of a disallowance or deferral under 45 CFR, Part 201, Subpart B, of 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, payments made in response to ODADAS monthly invoices until such time as the full amount is recovered.
8. Cooperate with ODADAS in preparing appeals of adverse federal audit exceptions, when ODJFS considers an appeal is warranted. If subsequently ODJFS' or ODADAS' position is upheld on appeal, funds withheld from deferral or audit exceptions will be restored to ODADAS upon availability of FFP.

C. Managing Behavioral Health Care

1. Work with ODADAS 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 ODADAS upon CMS approval.
2. Provide staff assistance and information to ODADAS to assist in its establishment of an eligibility verification system which will be part of a claims and encounter reporting system (MACSIS) for managing these behavioral health care services.

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D. General

1. Determine eligibility of Medicaid applicants on a timely basis according to appropriate provisions of state and federal law, regulations and rules, the ^{mem}OPAM, and the Medicaid state plan. *AA*
2. Work with ODADAS to provide necessary information and technical assistance when appropriate in order for ODADAS to properly discharge its responsibilities under Article IV of this Agreement.
3. Monitor ODADAS performance under this Agreement and compliance with applicable state and federal laws, rules and regulations.
4. Review the State Auditor's A-133 audit to ensure that ODADAS is properly performing sub-recipient (subcontractor) monitoring and conducting corrective action follow-up.
5. Act as the single state agency for Ohio's Medicaid program.
6. 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.
7. Work with HMOs and FFS providers to ensure that behavioral health and physical health care is coordinated with Mental Health, Alcohol Drug Addiction and Mental Health, Alcohol and Drug Addiction Services Boards and other stakeholders.

E. The ODJFS Agreement Manager is Katie Stevenson.

IV. RESPONSIBILITIES OF ODADAS

A. Program Related

1. Promulgate the rules regarding standards of participation for AOD treatment programs.
2. Assure that community AOD treatment programs which provide services under this Agreement are certified by ODADAS in accordance with OAC Chapter 5101:3-30 and ORC 3793.06-3793.11. Certification and documentation activity shall be performed in accordance with 42 CFR 440.13(d) and 42 CFR 431.610(f).
3. Assure that ODADAS-certified providers have the right to appeal adverse decisions and that timely review determinations by ODADAS are made by ODADAS regarding appeals by community AOD treatment programs in instances of action by the ADAMH/ADAS Board or group of Boards to deny or terminate community AOD Medicaid agreements. ODADAS must issue its determinations on appeal by AOD treatment programs within forty-five (45) days of receiving an appeal request. If ODADAS determines that an agreement should be awarded or not terminated, ODADAS will require the Board to award or continue the agreement. If the Board refuses to award or continue the contract, ODADAS and/or the program may forward the appeal to ODJFS. If ODADAS affirms the denial or termination, it will forward the appeal to ODJFS to hold an administrative hearing on the matter. ODADAS shall assure that AOD treatment programs do not experience unnecessary delays in receiving decisions on Medicaid agreements from ADAMH/ADAS Boards. An AOD treatment program which has submitted all information to make a decision on a Medicaid agreement may appeal a delay as it would an adverse determination.
4. Assure that fundamental Medicaid requirements including, but not limited to, those enumerated below are stipulated and adhered to in Medicaid agreements between ODADAS and ADAMH/ADAS Boards, and between ADAMH/ADAS Boards and community AOD treatment programs.
 - a. ODADAS and ADAMH/ADAS Boards must adhere to the provision of 42 CFR 431.51 "Free Choice of Providers". This means that any community AOD treatment program certified by ODADAS that meets the information system reporting and financial documentation requirements established by ODADAS must be awarded an agreement by the ADAMH/ADAS Board. Additionally, an ADAMH/ADAS Board is not permitted to deny an agreement to an ODADAS-certified AOD treatment program on the basis of the county in which the program is located. Additionally, a Medicaid consumer cannot be denied from obtaining services under this

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Agreement. The Boards shall pay claims to any ODADAS-certified AOD treatment provider with which the Board has a Medicaid agreement for any consumer regardless of county of residence.

- b. Neither ODADAS nor any ADAMH/ADAS 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.

5. Provide for disclosure of survey information as required in 42 CFR 431.115.
6. Establish guidelines governing the manner in which ADAMH/ADAS Boards and community AOD treatment programs which provide community AOD treatment services covered under this Agreement in order 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 mandatory guidelines may be implemented through Medicaid agreements between ODADAS and ADAMH/ADAS Boards, and between ADAMH/ADAS Boards and community AOD treatment programs.
7. Permit community AOD treatment programs 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 suspected or proven abuse or fraud.
8. All subcontractors are subject to the terms of this Agreement and the AOD treatment program shall be fully responsible for the performance of any subcontractor. An ADAMH/ADAS Board may not require a qualified AOD treatment program who seeks a direct Medicaid agreement with the ADAMH/ADAS Board to subcontract in lieu of a direct Medicaid agreement.
9. Assure that the ODADAS Medicaid standard form contract and ODJFS Provider Agreement attached herein are used by local Boards and are not subject to alteration or amendment in any way.
10. Review, upon written request by ODJFS or its designee, Medicaid information and advise ODJFS or its designee regarding treatment patterns of persons with alcohol and other drug related problems and the cost and/or expenditures for such treatment patterns. The confidentiality requirements set forth in Article VI, Section F of this Agreement must be followed.

B. Fiscal Related

1. Process claims submitted ^{py} by participating ODADAS-certified Medicaid contracted programs in accordance with federal regulations and MMIS requirements.
2. 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 ODADAS to ODJFS for Title XIX processing.
3. Submit all claims within 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.
4. Assure ADAMH/ADAS Boards make payment in full for Medicaid claims submitted prior to claiming FFP.
5. Assure cost reconciliation of reimbursed service costs is performed in accordance with OAC 5101:3-30-04. Maintain sufficient detail at each AOD treatment program to document payments and justify an audit trail to the discrete unit of service and its unit price. ODADAS and each AOD treatment program must maintain necessary records to substantiate any claims made.
6. Ensure that the reconciliation methods for non-Medicaid services do not limit, directly or indirectly, payments to AOD treatment programs for Medicaid service.
7. Establish a prospective rate for each type of Medicaid covered service and bill the rate per person per date of service.

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8. ODADAS may bill for the administrative costs incurred in the administration of MACSIS if the following conditions are met:
- Only direct costs can be claimed for full-time employees and/or for costs claimed under contract.
 - 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 addiction programs in accordance with federal regulations and MMIS requirements; and
 - Sufficient documentation must be submitted to ODJFS with the billing to justify the amount.
9. 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:
- 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;
 - Prior federal approval is obtained for indirect costs claimed under this contract including data processing expenses associated with the processing of claims submitted for participating AOD programs in accordance with federal regulations and MMIS requirements;
 - Sufficient documentation must be submitted to ODJFS to justify the amount;
 - Administrative costs will be reimbursed at the prevailing FFP rate; and
 - The Office of Management and Budget Circular A-87 will be used for determining reasonable costs.
10. Assure that audit exceptions are responded to in the manner enumerated below:
- ODADAS shall provide to ODJFS any information which is necessary to respond to any audit exception; and
 - ODADAS shall pay to ODJFS the full amount of any liability against Title XIX from the federal government resulting from such adverse audit exception generated by provisions of this contract, except when it has been established that the loss of the FFP was caused by ODJFS.
11. Accept any reduction pursuant to 45 CFR Part 201, Subpart B. Funds will be withheld as outlined in Article VI, Section J of this Agreement.
12. Assure that no fee is charged by ODADAS or the ADAMH/ADAS Boards to the AOD programs for any cost associated with transferring of funds, contracting or administrative fees.
13. Assure that no capitation-like payment arrangement between ADAMH/ADAS Boards and providers is applied to Medicaid funds. Additionally, assure that no payment arrangements between ADAMH/ADAS Boards and AOD treatment programs 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 AOD agencies for such services.
14. 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 Medicare crossover. A community AOD treatment program or subcontractor will not be reimbursed by ODJFS for services reimbursed by ODADAS under provisions of this Agreement.
15. Submit on a quarterly basis a two-year estimate of ODADAS anticipated expenditures. Sixty (60) days prior to the start of a quarter, ODADAS must give ODJFS a monthly estimate for that quarter and a quarterly estimate for the next seven quarters. Failure to submit the two-year projection on a quarterly basis will result in reimbursement being withheld for that quarter. The report must be sent to ODJFS, Office of the Budget, 30 East Broad Street, 30th Floor, Columbus, Ohio 43215.

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C. Managing Behavioral Health Services

1. Develop strategies for managing, promoting and assuring access to Medicaid AOD treatment services throughout the state, including responsibilities that ODJFS may transfer to ODADAS. Strategies may include, but are not limited to, the implementation of an RFP vendor selection process or the development of alternative payment structures.
2. In conjunction with ODMH, establish MACSIS, a claims and encounter reporting system including Medicaid eligibility verification which supports the management of service responsibility transferred to both departments.
3. Jointly, with ODJFS, establish a procedure for identifying duplicate service delivery between AOD treatment programs and HICs and between AOD programs and providers paid directly by ODJFS. Additionally, AOD treatment providers shall not bill both ODADAS and ODJFS for a single service event. ODADAS agrees that billing for the same person on the same day to both ODADAS and ODJFS is not allowable.

D. General Responsibilities

1. Take any action necessary not expressly prohibited by state or federal law or regulations to assure compliance with the requirements of this Medicaid Agreement, the Medicaid state plan, ODJFS administrative rules and federal Medicaid regulations.
2. Perform monitoring of its recipients and conduct corrective follow-up as necessary.
3. Carry out the responsibilities specified in this Interagency Agreement as a sub-recipient.
4. Assure the maintenance of records in accordance with federal regulations. ODADAS shall also assure the maintenance of records necessary to fully disclose the extent and nature of AOD services provided by all participating AOD programs 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. ODADAS 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:
 - a. Consumer information;
 - b. Description of discrete service components, Medicaid and non-Medicaid, and source of payment;
 - c. Identification of the service site; and
 - d. Dates of service for each discrete service component by consumer.
5. Work with the Mental Health, Alcohol and Drug Addiction and Mental Health, and Alcohol Drug Addiction Services Boards to ensure that behavioral health and physical health care and service delivery is coordinated with HMOs, FFS physical health care providers and other stakeholders.
6. Inform providers eligible for Medicaid participation pursuant to OAC rule 5101:3-30-01, to cooperate with 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 OAC Chapter 5101:3-36. The scope of that cooperation shall include, but not be limited to, those matters pertaining to:
 - a. Service delivery protocols;
 - b. Quality assurance;
 - c. Utilization review;
 - d. Record keeping and reporting;

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- e. AOD assessment and treatment of pregnant Medicaid consumers referred by HICs, as required by ORC Section 5111.017, and submittal of data required by ODADAS on a monthly basis for sharing with ODJFS; and
- f. Other activities including, but not limited to, those identified in 42 CFR 434; Chapter 5101:3-26 of the OAC; and the Risk Contract between ODJFS and the HIC or similar entity as set forth in OAC 5101:3-26. ODADAS 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.

E. The ODADAS Agreement Manager is Douglas Day, Medicaid Administrator.

V. TIME OF PERFORMANCE

A. Effective Dates

This Agreement will become effective upon execution and will remain in effect from July 1, 2003 to 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 ODADAS, upon proper invoicing and preparation of an Intra-State Transfer Voucher, on a quarterly basis for actual expenditures incurred pursuant to responsibilities outlined in Article IV. The total amount to be reimbursed shall not exceed Eleven Million, Five Hundred Thousand and 00/100 Dollars, (\$11,500,000.00) for July 1, 2003 to September 30, 2003 (SFY 2004). The parties agree that no further reimbursement will be sought hereunder.
- B. Payment for any and all services provided pursuant to this Agreement may be contingent upon the availability of federal funds. If the Ohio General Assembly or the federal government disapproves or ceases to continue funding ODJFS 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

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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.

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 ODADAS 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 ODADAS. 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 ODADAS 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

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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.

G. Records Retention

All records relating to costs, work performed and supporting documentation for invoices submitted to ODJFS by ODADAS along with copies of all deliverables submitted to ODJFS pursuant to this Agreement shall be retained and made available by ODADAS 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 three (3) years after final payment under this Agreement. If an audit is initiated during this time period, ODADAS shall retain such records until the audit is concluded and all issues resolved or three (3) years after final payment, whichever is longer. If appropriate, ODADAS 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 ODADAS of any adverse findings which allegedly are the fault of ODADAS. Upon receipt of notification by ODJFS, ODADAS shall fully cooperate with ODJFS and timely prepare and send to ODJFS its written response to the audit exception.
2. ODADAS 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 ODADAS, 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.

Liability Requirements (other than audit)

To the extent allowable by law, ODADAS 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.

Resolution of Disputes

The agencies agree that the directors of ODJFS and ODADAS 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.

Child Support Enforcement

ODADAS agrees to cooperate with any Ohio Child Support Enforcement Agency (CSEA) in ensuring employees of ODADAS meet child support obligations established under state law. Further, by executing this Agreement, ODADAS certify 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.

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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.

N. Public Assistance Work Program Participants

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

1. Permitted Uses and Disclosures. The ODADAS 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. ODADAS shall use appropriate safeguards to protect against use or disclosure not provided for by this Agreement.
3. Reporting of Disclosures. The ODADAS 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 ODADAS shall mitigate any adverse effects of such a breach of confidentiality to the greatest extent possible.
4. Agents and Sub Contractors. ODADAS shall ensure that all its agents and sub contractors that receive PHI from or on behalf of the ODADAS and/or ODJFS agree to the same restrictions and conditions that apply to ODADAS with respect to the use or disclosure of PHI.

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5. Accessibility of Information. The ODADAS 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 ODADAS shall make PHI available to ODJFS so that ODJFS may fulfill its obligations pursuant to HIPAA to amend the information. As directed by ODJFS, ODADAS shall also incorporate any amendments into the information held by the ODADAS and shall ensure incorporation of any such amendments into information held by ODADAS's agents or subcontractors.
7. Disclosure. The ODADAS 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 ODADAS 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 ODADAS 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 ODADAS shall return to ODJFS or destroy all PHI in ODADAS'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 ODADAS, its agent(s), or subcontractor(s) destroy any PHI, then the ODADAS will provide to ODJFS documentation evidencing such destruction. Any PHI retained by the ODADAS 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 ALCOHOL AND
DRUG ADDICTION SERVICES

OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

Lucille Fleming

Lucille Fleming, Director

Thomas J. Hayes

Thomas J. Hayes, Director

Ohio Department of Alcohol &
Drug Addiction Services
280 North High Street
Columbus, Ohio 43215-2537

Ohio Department of Job and Family Services
30 East Broad Street, 32nd Floor
Columbus, Ohio 43215-3414

JUNE 30, 2003

Date

7/1/03

Date

*Verified original
Signature JB / 7/1/03*

**ODJFS
INTERAGENCY AGREEMENT AMENDMENT
Amendment No. 1
A-04-07-0004**

- 1. Amendment to Interagency Agreement between the Department of Job and Family Services, State of Ohio, (hereinafter referred to as "ODJFS") and the Ohio Department of Alcohol and Drug Addiction Services, (hereinafter referred to as "ODADAS"), dated July 1, 2003.
- 2. In ARTICLE VI, Paragraph A of the Agreement is hereby amended to read as follows:
 - A. ODJFS agrees to reimburse ODADAS, upon proper invoicing and preparation of an ISTV the current FFP for services provided in accordance with Chapter 5101:3-30 of the Administrative Code. The total amount of FFP reimbursement shall not exceed Eleven Million, Five Hundred Thousand and 00/100 Dollars (\$11,500,000.00) for the period beginning July 1, 2003 and ending September 30, 2003 (the first quarter of SFY 2004). Such reimbursement shall occur after receipt of FFP from CMS by ODJFS. The parties agree that no further reimbursement will be sought hereunder.
- 3. All other terms of the Interagency Agreement are hereby affirmed.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to Interagency Agreement A-04-07-0004 as of the date of the signature of the Director of the Ohio Department of Job and Family Services.

Ohio Department of Alcohol & Drug
Addiction Services

Ohio Department of Job and Family Services

Gary Q. Tester, Director
Ohio Department of Alcohol and Drug
Addiction Services
280 North High St., 12th floor
Columbus, Ohio 43215-2537

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

7.24.03

8/1/03

Date

Date

00-ADA-0000
Central Accounting System (CAS) ID Number

TN No. 03-014

APPROVAL DATE 5/11/04

SUPERSEDES

TN No. 99-010

EFFECTIVE DATE 7/1/03