

Goal of Integrated Care Management Support

The goal of Integrated Care Management Support (ICMS) is:

1. The Contractor to provide direct-to-Provider practice transformation support services for established Practice Based Care Management (PBCM) programs and support the implementation of additional PBCMs throughout the Commonwealth, as described in **Section 5.3.B.1.h)** and **i)** and **Appendix G**, and,
2. The Contractor to provide Plan-based care management and care coordination (Integrated Care Management Program – ICMP) to identified Enrollees who have complex medical and/or Behavioral health needs and whose overall health care may benefit from the assistance of a care manager, as described in **Section 5.3.E**.

The Contractor’s ICMP shall identify Enrollees with health risks for both Provider PBCM and the ICMP. Care management services and care coordination for Enrollees will provide holistic coordinated health care, social supports, wellness & recovery tools, and assist Enrollees with identifying and using their medical home for treatment of behavioral health, substance use and/or medical conditions.

Integrated Design for Practice Based Care Management and Plan Based Care Management

1. The Contractor shall submit to EOHHS a work plan for Contract Year Four and each subsequent contract year including timelines, for expanding PBCM programs as described in Appendix G, providing on-going support for PBCM programs, and providing care management for Enrollees served in ICMP. Beginning Contract Year Four, the work plan shall be submitted, for review and approval, within two months of the first day of the Contract Year. This work plan shall:
 - a) address a revised Care Management Program model that includes the diversity and range of Enrollees’ health care needs for those Enrollees that would benefit from a PBCM program or ICMP,
 - b) include prioritizing direct real-time Referrals to ICMP for high risk Members not served by PBCM programs and Primary Care Payment Reform (PCPR) care management programs,
 - c) include a plan and timelines for transferring ICMP Participants to PBCM programs,
 - d) include identifying through data analytics those Enrollees with complex behavioral health risk, substance abuse risk, and medical/primary care risk.
 - e) address the transitioning of previous Enhance Care Coordination Enrollees into ICMP,

- f) include a description and process for care coordination activities within ICMP for those Enrollees in need of primary complex care coordination,
 - g) address care management services for those Enrollees transitioning to the community from long term support services,
 - h) address the expansion of Practice-based care management programs throughout the Commonwealth, per Appendix G, to provide Care Management for Enrollees identified by the Contractor as high risk and eligible for care management,
 - i) include the supports and services offered by ICMP to Providers who request support from the Contractor for their practice based care management program, and
 - j) include an ICMP staffing plan with both professional licensed staff and para-professional staff that are Peer Bridger support/recovery staff and community health workers, including the functions to be performed by para-professional staff under the clinical supervision of licensed clinical staff. Licensed staff include behavioral health clinicians and nurses. All ICMP para-professional staff shall be employed directly by the Contractor. The work plan will also include the functions of the PCC Partner Specialists as an ICMP team member.
2. Until EOHHS approval of the work plan for the Contract Year Four, the Contractor shall implement the existing Care Management Program under the leadership of a multidisciplinary medical and Behavioral Health team that includes a diverse staff with the appropriate skills to deliver clinical and non-clinical components of the program, including the Engagement of Enrollees into the ICMP.
 3. Within one month of the first day of Contract Year Two, the Contractor shall submit to EOHHS the policies and procedures for daily operation of the Care Management Program.
 4. The Contractor shall specifically tailor the Care Management provided to improve the health outcomes of each Participant, including such items as the frequency and intensity of interventions, and ensuring that the staff assigned to the Participant is appropriate based on each Participant's particular needs. The Contractor shall educate all Participants in self-care strategies, illness prevention and Wellness Program activities, and ensure that staff assigned to the Participant have knowledge of community-based services and supports.
 5. The Contractor shall include in each Participant's plan a range of Care Management activities that may vary in frequency or intensity depending on the Participant's clinical needs.
 6. The Contractor shall assign a registered nurse, or a behavioral health licensed care manager who shall oversee their assigned caseload, perform

direct clinical activities and oversee all care coordination or support activities performed by a Peer Bridger or Community Health Worker.

7. Within six (6) months of the beginning of Contract Year Four, the Contractor shall evaluate the current ICMP electronic system for tracking, profiling and managing Participants, including but not limited to face-to-face, telephonic, home visits, e-mail, texts, and mail encounter(s) between the care manager and the Participant and submit to EOHHS the results of the evaluation including a proposal, if applicable, to utilize a new electronic system.

C. Identification and Engagement of Enrollees for Practice Based Care Management and Plan Based Care Management

The Contractor shall:

1. Use a predictive modeling tool that incorporates health claims data in its algorithm to stratify high risk Enrollees for consideration into a PBCM or ICMP. EOHHS may in its sole discretion instruct the Contractor to use EOHHS's risk stratification of the PCC Plan for the Care Management Program. EOHHS may also request from the Contractor its risk stratification data on Enrollees.
2. In accordance with the definition for Engagement, Engagement shall include documented completed contact with a Participant, or care management/care coordination activity on behalf of a Participant, no less than once each month, driven by the Participant's comprehensive health assessment and the Individual Care Plan (ICP). At minimum, documented face-to-face or telephonic completed contact with a Participant must occur every sixty (60) days.
3. Beginning Contract Year Four, the Contractor shall:
 - a. Serve a minimum number of unduplicated active Engaged Participants as described in **Appendix G-3**; and
 - b. Enrollees receiving only care coordination by the Contractor including those Enrollees served within the Pediatric Behavioral Health Medication Initiative Program (PBHMI), as described in **Section 5.3**, shall not be included as an Engaged Participant.
4. ICMP shall accept referrals from EOHHS, the Contractor's staff, PCCs, state agencies, Enrollees, other providers, hospital discharge planners, Network Providers, or other knowledgeable sources to identify Enrollees who might be appropriate for Care Management and use the Health Needs Assessment (HNA) tool to identify Enrollees who may want to participate in Care Management.
5. Draft for EOHHS's approval an annual letter to all Enrollees, PCCs, and Behavioral Health network providers explaining the Care Management Program in sufficient detail so that Enrollees, PCCs, and Behavioral

Health Network Providers understand the program, and provides sufficient information on how to participate. Submit the draft letter for EOHHS review and approval within one month of the beginning of each Contract Year.

6. Submit to EOHHS for approval within one month of the start of each Contract Year a work plan for outreach to and engagement of identified or referred Enrollees. This plan must include, but is not limited to, protocols for written and oral attempts to engage nonresponsive Enrollees, those who decline to participate, documentation of all outreach attempts, and strategies to assist practice based providers with engagement of Enrollees, into their care management program.

Document the Participant's verbal consent to participate in the Care Management Program, noting the date consent was given, the Care Management staff to whom the consent was given, and, to the extent that the person giving consent is not the Participant, document the name of the person giving consent and the authority of that person to do so (e.g., "parent" or "guardian," etc.). Additionally, send a letter to the Participant explaining the Care Management Program in sufficient detail so that the Participant understands the program for which the verbal consent was given and provide sufficient information so that the Participant may opt out.

D. Assessment of Enrollee for Practice Based Care Management and Plan Based Care Management

1. Prior to an assessment for the ICMP, the Contractor shall ensure that Enrollees eligible for participation in a PBCM care management program will not be assessed by ICMP.
2. The Contractor shall ensure that an assessment by appropriate health care professionals is conducted for Enrollees in need of care management by the PBCM or ICMP to identify ongoing special conditions of an Enrollee in Care Management. The Care Management assessment shall include the following components:
 - a. Assessment of an Enrollee's physical and Behavioral Health status including cognitive functioning and condition-specific issues;
 - b. Assessment of the Enrollee's health care utilization patterns, including ED visits, types and variety of providers who have treated the Enrollee with the diagnoses;
 - c. Documentation of clinical history, including medications;
 - d. Assessment of activities of daily living;
 - e. Assessment of life planning activities;

- f. Evaluation of cultural and linguistic need, preferences or limitations; and
 - g. Evaluation of caregiver resources and natural community supports.
3. A licensed behavioral health clinician or a nurse supervisor will determine if an Enrollee is in need of ICMP intensive care coordination activities with limited or no care management. All care coordination activities will be documented in an electronic system.

E. Development, Implementation and Monitoring of an Individual Care Plan (ICP) for Practice Based Care Management and Plan Based Care Management

The Contractor shall:

1. Develop required ICPs for, and with, Participants receiving ICMP care management and ensure that an ICP is developed by PBCMs for their Participants. Ensure that the ICMP care manager coordinates a Participant's care across the Contractor's staff, including BH service authorization and BH Utilization Management, and utilizes a multidisciplinary Care Team that includes the Participant, the PCC, and others who are stakeholders in the Participant's care (e.g., family members, Peer Supports, BH Providers or other specialists, state agency case managers and/or service providers, and other community supports), as agreed to by the Participant;
2. The ICP shall address the Participant's specific medical and BH care needs and shall include the following components:
 - a. Long- and short-term goals that seek to reduce the risk and help manage the complexity of the Participant's health conditions;
 - b. Identification of barriers to meeting goals and consideration of the Participant's ability to adhere to treatment plans;
 - c. Development of a schedule for follow-up and ongoing Participant assessment and communication;
 - d. Development and communication of self-management and Wellness plans for Participant;
 - e. Assessment of progress toward meeting goals established in the ICP; and
 - f. Behavioral Health Crisis Prevention Plans as appropriate.
3. Initiate activities, as indicated in the ICP, related to clinical care management to ensure:
 - a. Medication review and reconciliation;
 - b. Communication with other treating providers and other supports identified by the Enrollee;

- c. Care transition planning; and
- d. Education on self-management of chronic conditions.
4. Initiate activities, as indicated in the ICP, to ensure Enrollees' timely and coordinated access to Primary, medical specialty and BH care, such as:
 - a. Reinforcement of PCC, specialists or other Network Provider instructions;
 - b. Guidance and assistance with obtaining a PCC/medical home for Enrollees when needed,
 - c. Assistance in scheduling appointments;
 - d. Well-visit and preventive care self-management reminders;
 - e. Medical and BH appointments reminders and confirmation with the Participant that appointments have been kept;
 - f. Wellness activities (e.g., smoking cessation, weight loss, etc.); and
 - g. Confirmation with Enrollees that they are adhering to medication recommendations; and
 - h. Facilitating communities of social supports available for Enrollees
5. Provide the Participant with the opportunity to sign off on and/or verbally agree to the ICP goals and treatment plan prior to the implementation of such plan;
6. On at least a monthly basis, assess and monitor each Care Management Participant's ICP to ensure that the goals set forth in the ICP are met, the Participant's compliance is monitored, recommendations for follow-up and all ICP activities are documented in the Participant's ICP.

F. Ongoing Care Management and PCC Plan Partner Support Activities for Practice Based Care Management and Plan Based Care Management

The Contractor shall:

1. Assist Providers and Enrollees in the development of an appropriate ICMP discharge plan when the Enrollee changes treatment settings or is admitted to an in-patient treatment program. The development of a discharge plan shall occur prior to an Enrollee's hospital or long term care setting discharge or change in treatment setting, in coordination with appropriate staff, including but not limited to discharge planners, care managers, staff, the Enrollee's PCC, and other Network Providers. Where possible, the care manager should be present at Discharge Planning meetings
2. Ensure that PBCM programs develop appropriate discharge plans for their Enrollees transitioning between treatment settings,
3. Complete discharge plans for continuity of care for Enrollees who transition from ICMP to PBCM programs;

4. Ensure PCC Partner Specialists work with the ICMP to assist with:
 - a. strengthening ICMPs relationships with PCCs,
 - b. increasing number of PCC providers to operate their own practice based care management programs,
 - c. Supporting PCCs with the implementing of new PBCM programs,
 - d. Monitoring compliance of PBCM programs with care management activities, and
 - e. Triaging, managing, and coordinating with ICMP of PCC inquiries, requests, and/or concerns regarding practice based care management programs or other requirements as described in **Section 5.3.C.4.**
5. Provide on-going ICMP clinical updates and coordination of care activities to PCCs and behavioral health (BH) providers on ICMP Enrollees with complex conditions. Document any clinical information received from the PCC or BH provider in the ICMP record. Clinical information to PCCs may be made telephonically, through face to face contacts, by mailings or fax, or as otherwise agreed upon with the PCC. Ensure PBCM programs provide and document clinical updates and coordination of care activities for their Enrollees.
6. Prioritize scheduled home visits and face-to-face contacts with ICMP Enrollees at highest risk, with complex conditions. Face-to-face contacts may be determined as necessary for successful Enrollee engagement and/or tenure. The face-to-face contact can occur in other community or inpatient settings, if necessary and appropriate;
7. Facilitate communication among the ICMP Enrollee, the PCC, the Network Provider and other specialty providers, and the Enrollee's support network, as identified by the Enrollee, who are involved in the Enrollee's health care, to promote service delivery coordination and improved outcomes; ensure the PBCM programs facilitate communication and service delivery coordination to improve outcomes for their Enrollees,
8. Collaborate with staff in other state agencies, community service organizations and providers that are already involved in meeting the Enrollee's needs or that may be helpful in meeting those needs; ensure the PBCM programs collaborate with all involved parties for their Enrollees,
9. Monitor medical and pharmacy utilization for ICMP Enrollees through claims data obtained from EOHHS and appropriately update the ICP and/or coordinate follow-up care as indicated through data received.
10. Educate and provide to the ICMP Enrollee and provider, as appropriate, EOHHS-approved informational materials created by the Contractor or obtained from external sources, about the ICMP Enrollee's medical or BH condition;

11. Document activities related to the provision of Care Management to ICMP Enrollees and share progress reports with care team members, with written consent from the Enrollees, if required by law; and
12. Prior to any disclosures regarding an Enrollee made during the provision of Care Management services, obtain written consent if required by law, and maintain a copy of it in each individual Enrollee's files at the Contractor's principal place of business, to the extent required by law.

G. ICMP and Transition to Practice-Based Care Management

1. The Contractor shall provide all contracted ICMP services to PCC Panel Enrollees that are not associated with a Provider with practice based care management, as agreed upon between Contractor and the Provider. These services include, but are not limited to, the identification of Enrollees for outreach and engagement in the ICMP through predictive modeling, acceptance of referrals from PCCs, Enrollees or other providers for participation in the ICMP, communication with Enrollees and Providers about ICMP, sharing the ICP with the Enrollee's PCC for those Enrollees enrolled in the ICMP, and implementing/evaluating the ICP with the Enrollee.
2. Starting Contract Year Four following approval by EOHHS, the Contractor shall provide a Transition/Discharge summary from the ICMP when an Enrollee transitions to the Provider's practice based care management program. ICMP staff will also meet with Providers regarding transitioning Enrollees, to encourage a seamless transition and continuity of care.
3. The Contractor shall cease all engagement activities to Enrollees associated with a PBCM program and will provide the PBCM program a monthly list of their Enrollees eligible for practice based care management.

H. ICMP and Transition to Primary Care Payment Reform Care Management

1. Beginning Contract Year Four following approval by EOHHS, the Contractor shall provide a Transition/Discharge summary when an ICMP Enrollee transitions to the PCPR's care management program. ICMP staff will also meet with the PCPR Providers regarding transitioning Enrollees, when possible, to encourage a seamless transition and continuity of care.
2. The Contractor shall cease outbound calls to Enrollees associated with a PCPR Provider's care management program when requested by EOHHS or the PCPR provider, to avoid engaging the Enrollee in the ICMP, and will provide the PCPR provider, upon request, a list of their Enrollees eligible for practice based care management.

Reporting

The Contractor shall submit to EOHHS all required reports related to clinical service and utilization management under the Contract, as described in this Section 5 or in Appendix E-1, in accordance with specified timetables, definitions, formats and assumptions, as well as any ad hoc reports required by EOHHS in accordance with **Section 11.2.B.**

INTEGRATION OF CARE

Overview

The Contractor shall promote integration of medical and Behavioral Health care across the Contract by increasing communication and collaboration between health care providers who treat the same Member. The Contractor shall develop an organizational structure that promotes such integration of care through: new or enhanced communication and information sharing among PCCs and Network Providers; measurement and improvement of health outcomes; and the provision of Care Management services that support Covered Individuals and providers in their efforts to coordinate care.

The Contractor shall appropriately staff these efforts with a combination of clinicians, professionals and paraprofessionals to conduct the activities described in this **Section 6**.

Integration of Medical and Behavioral Health Care

Goal of Integration

The Contractor shall make best efforts to ensure the integration of medical and Behavioral Health care provided to Covered Individuals, and to ensure that such care is:

- patient-centered, strength-based and recovery-oriented (if appropriate);
- accessible (e.g., hours, communication methods);
- driven by clinical and care issues and functions, and not practice and administrative issues;
- integrated within practices or facilities as well as across practices and care settings;
- integrated across both physical and Behavioral Health settings; and
- focused on information sharing (process, clinical, and health outcomes) across physical and Behavioral Health systems at the state level.

Integration of Care Activities

The Contractor shall conduct the following activities, at a minimum, to promote coordination and collaboration among PCCs and Network Providers in the care they provide to Covered Individuals:

- Educate Contractor staff on all MassHealth Covered Services provided to Covered Individuals;
- Design, with input from Network Providers and PCCs and other Primary Care Practitioners, develop and implement policies that promote communication, coordination and collaboration across medical and Behavioral Health care providers; including a process for Providers to obtain consent, if required, from Covered Individuals to release information to other providers involved in the care.

Contact Covered Individuals to:

discuss the importance of information sharing among Providers in order to best integrate Covered Individuals' medical and Behavioral Health care; and

obtain verbal consent to participate in Care Management and care coordination programs.

Facilitate specific communication and coordination of a Covered Individual's Behavioral Health and Primary Care with the Network Provider, the PCC or other Primary Care Practitioners, and the Covered Individual;

Coordinate BH Covered Services with other MassHealth Covered Services, any other non-MassHealth services, and programs delivered to Covered Individuals, in concert with the natural community supports identified by the Covered Individual, as necessary and appropriate;

At the direction of EOHHS, within four months after the start of Contract Year 3, submit for EOHHS review a plan to measure and improve the rate at which PCCs receive timely information about their patients' use of Emergency Departments (ED) and inpatient admissions, and implement the plan upon EOHHS approval.

On a quarterly basis, evaluate the frequency and quality of interactions of Network Providers and PCCs and other Primary Care Practitioners regarding Covered Individuals, and develop and implement policy and process improvements based on these evaluations;

Educate PCCs and Network Providers on pharmaceuticals used for BH, in coordination with and support of the MassHealth Pharmacy Program (see **Section 4.4**);

Educate PCCs and Network Providers regarding the need to coordinate and manage prescribed medication use for BH and medical conditions, in coordination with and support of the MassHealth Pharmacy Program;

The Contractor shall monitor the PCCs and BH Network Providers and conduct support activities to assist providers in implementing best practices for integration of care through, at a minimum:

Regular screenings by PCCs to identify Behavioral Health risk factors;

Sharing of information through the PCC Performance Dashboard, Member-Level Report, and PCC Plan PCMHI reports, as described in **Section 5.2.B**;

Sharing of information through BH Network reports;

Outcome measurement; and

Information, education and training in evidence-based practices, wellness programs, and chronic care management.

Utilize the Contractor's website, as described in **Section 7.1.G**, to:

- provide PCCs and other non-Behavioral Health providers with easy access to BH referral sources, treatment options and crisis intervention protocols; and
- provide BH Network Providers with information on how to access the MassHealth Customer Service vendor for Primary Care referral sources, community resources and acute and Urgent Care Services facilities.
- provide Covered Individuals with user-friendly access to at least the following sections of the Contractor's website: the Member Engagement Center, Member medical and Behavioral Health Covered Services, Nurse Advice Line, community supports, self-referral to the CMP.
- Educate Primary Care Practitioners serving children on the availability of psychiatric consultation through the MCPAP, described in **Section 4.5**.
- Ensure that PCCs have access to Behavioral Health Network Providers, e.g., current Behavioral Health Provider Directory, PCC Hotline, Massachusetts Child Psychiatry Access Project.
- Develop an annual full-day statewide training for all PCC and Behavioral Health Providers, approved by EOHHS, that focuses on medical and Behavioral Health integration, utilizing training modules based on collaborative team building and multidisciplinary treatment approaches. All PCCs and PCC-associated Service Locations and PCPs shall be invited and encouraged to attend the training. The plan for training and content shall be submitted to EOHHS for approval two months in advance of the training date.
- Conduct two regional meetings per Calendar year of contracted Behavioral Health Providers, PCCs and PCC-associated Service Locations to discuss new initiatives, lessons learned, and challenges faced by Providers; the plan for the meeting and content shall be submitted to EOHHS for approval two months in advance of the meeting date
- Attend and participate in all EOHHS meetings and workgroups as directed by EOHHS with a particular focus on workgroups targeting medical and Behavioral Health integration.
- Prior to any disclosure of information identifying or concerning an Enrollee made during the provision of services under this **Section 6.1**, obtain written consent, if required by law, and maintain a copy of it in each individual Enrollee's files at the Contractor's principal place of business.

Clinical Service Coordination for Covered Individuals not enrolled in the PCC Plan, including children in DCF and DYS and Covered Individuals enrolled in the MFP Waivers.

The Contractor shall establish clinical protocols for providing Clinical Service Coordination to Covered Individuals:

When such Covered Individuals present with patterns or histories of:

- high inpatient utilization;
- ongoing active involvement with other state agency services and programs;
- frequent ESP utilization;
- utilization of both psychiatric inpatient and detoxification services; or
- co-existing medical and Behavioral Health problems; or

When such Covered Individuals present to a Network Provider with complex child custody and placement issues that are adversely affecting the provision of Behavioral Health and medical services.

The Contractor shall accept referrals from EOHHS, Primary Care Practitioners, state agencies, Network Providers, MFP Case Management entity, or other knowledgeable sources identifying Covered Individuals who may be appropriate for Clinical Service Coordination as described in this **Section 6.3**.

Clinical Service Coordination shall include a specifically assigned Care Coordinator with the authority to authorize Covered Services, who shall convene an interdisciplinary team for service planning meetings. Such meetings shall include, as appropriate, involved Behavioral Health Providers, state agency representatives, Primary Care Practitioners, specialty medical providers, and children and their families. Service planning meetings are utilized to develop a plan that coordinates BH services with services provided by other state agencies involved with the Covered Individual. The Care Coordinator shall authorize and coordinate all services pursuant to such plan. The Care Coordinator shall also work directly with state agency representatives in coordinating care to expedite a timely community placement as part of the Discharge Planning activities described in **Section 4.3.C**.

The Contractor shall ensure that Clinical Service Coordination for Covered Individuals includes:

- a service plan that addresses the Covered Individual's specific BH care needs, including short-term and long-term service needs and, as applicable, medical services the Covered Individual may require;
- ensuring that the care plan is sent to the Primary Care Practitioner after receiving consent, if such consent is required;
- facilitating a schedule of home visits and face-to-face contacts with the Covered Individual, if appropriate;
- facilitating communication among the Covered Individual, Primary Care Practitioner, Network Providers and other specialty providers involved in the Covered Individual's health care, to promote service delivery coordination and improved outcomes;

providing linkages with staff in other state agencies and community service organizations that may be able to provide services the Covered Individual needs; and assisting the Covered Individual to access Primary Care and medical specialty care.

Demonstration Programs

The Contractor shall propose demonstration programs, including at a minimum the two programs described in subsections **A** and **B**, below, to improve integration across Behavioral and medical health care for Covered Individuals, and shall implement them upon approval by EOHHS.

Medical Passports Program

Within the first six months of Contract Year One the Contractor shall propose ways the Contractor can effectively support the availability, completeness and usefulness of “medical passports” for Children in the Care and/or Custody of DCF, their providers, out-of-home placements and DCF. The Contractor’s proposal shall be subject to EOHHS modification, in whole or in part. The Contractor shall implement the proposal as approved by EOHHS.

Access to Primary Care for Children in the Care and/or Custody of the Commonwealth

Within the first six months of Contract Year One the Contractor shall propose a plan for assisting Children in the Care and/or Custody of the Commonwealth to access Primary Care, including EPSDT periodic and inter-periodic screens and Medically Necessary follow-up Behavioral Health, medical and dental services. Such proposal shall include engagement of foster parents, DCF and others involved in the child’s care. The Contractor’s proposal shall be subject to EOHHS modification, in whole or in part. The Contractor shall implement the proposal as approved by EOHHS.

Reporting

The Contractor shall submit to EOHHS all required reports related to integration of care and the Care Management Program, as described in this **Section 6** or in **Appendix E-1**, in accordance with specified timetables, definitions, formats and assumptions, as well as any ad hoc reports required by EOHHS in accordance with **Section 11.2.B**.

MEMBER AND PROVIDER SERVICES

General Requirements

The Contractor shall establish and operate as of the Service Start Date a discrete Member (Covered Individual) and Provider Services Department dedicated to the Contract, responsible for assisting Covered Individuals, Network Providers, PCCs and other PCC Plan providers. The Member and Provider Services Department shall maintain coverage for a minimum of nine hours per day during normal business hours and shall answer 90 percent of all calls within 30 seconds.

Staffing

The Contractor shall:

Employ service representatives with appropriate education and work experience to successfully perform the responsibilities of the position as described in **Section 7.1.B**, and in sufficient numbers to respond to all incoming calls to the Member and Provider Services Department and to handle any written correspondence received;

Train and supervise the service representatives, consistent with **Section 2.2.G** and as follows. The Contractor shall:

Prior to the Service Start Date and thereafter on an ongoing basis, orient and train service representatives regarding their job responsibilities and all applicable Contract matters.

Ensure that all service representatives are cross-trained to handle non-clinical calls from Covered Individuals, Network Providers, PCCs and other PCC Plan providers, including calls related to MassHealth Covered Services, BH Network Provider access, and BH Claims payment.

Immediately refer clinical calls received in the Member and Provider Services Department to clinical staff with the appropriate clinical expertise for response and resolution.

Adequately supervise service representatives to ensure quality and consistency in the performance of their responsibilities.

Establish a schedule of intensive training for newly hired and current service representatives about:

when, where and how Covered Individuals may obtain EPSDT/PPHSD screenings and diagnosis and treatment services;

the Children's Behavioral Health Initiative; and

the Contract's focus on integration of medical and Behavioral Health care and how the customer service representatives should incorporate integration into their contact with Covered Individuals, Network Providers, PCCs and other PCC Plan providers.

Develop a written curriculum for each training, which shall be reviewed and approved by EOHHS before use by the Contractor.

Adjust the number of service representatives to accommodate significant changes in phone call volume;

Empower service representatives to assist all callers as completely as possible and to handle all calls appropriately;

Develop a process with the MassHealth Customer Service vendor to assist in the resolution of calls that initiate with Member and Provider Services Department;

Ensure that all calls from all providers are resolved, to the maximum extent possible, by the same service representative who handled the initial call;

Have the capacity to respond to callers who speak languages other than English; and

Ensure that service representatives have online access to the following BH Network Provider database elements:

- Network Provider name;
- website;
- e-mail address;
- contracted services;
- site addresses (street address, town, ZIP code);
- site telephone numbers;
- site hours of operation;
- Emergency/after-hours provisions;
- professional qualifications and licensing;
- areas of specialty;
- handicapped accessibility; and
- cultural and linguistic capacity.

Ensure that service representatives have online access to MassHealth and PCC Plan provider database elements:

- Provider name;
- website;
- e-mail address;
- contracted services;
- site addresses (street address, town, ZIP code);
- site telephone numbers;
- site hours of operation;

- Emergency/after-hours provisions;
- professional qualifications and licensing;
- areas of specialty;
- handicapped accessibility;
- cultural and linguistic capacity;
- PCCs with open and closed panels, where “open panel” refers to those accepting any new patient, and “closed panel” refers to those that are limited to the current patients only.

Ensure that service representatives have online access to the following database elements for pharmacies:

Alphabetical listing of pharmacies included in MassHealth’s network, with their addresses and phone numbers, as provided by EOHHS; and

Instructions for the Enrollee to select the Member Services menu option from the Contractor’s toll-free telephone line (as described in **Section 9.7**) for assistance in finding a convenient pharmacy.

Orientation, Outreach, and Education to PCC Plan Enrollees

The Contractor shall:

For each new Enrollee who enrolls in the PCC Plan after the Service Start Date, but who has not been enrolled in the PCC Plan in the past six months, offer and make best efforts to provide to the Enrollee an orientation, by telephone or in person, within 30 days of the Enrollee’s Effective Date of Enrollment in the PCC Plan. The Contractor shall submit to EOHHS for review and approval its orientation and outreach materials and phone scripts. Such orientation shall include, at a minimum:

How the PCC Plan operates, including the role of the PCC;

A description of MassHealth Covered Services and service limitations;

Information on participating PCC Plan Providers and how to access the provider directory either via the internet or in writing;

The value of screening and preventive care; and

How to obtain MassHealth Covered Services.

The Contractor shall also provide the orientation described in subsection 1, above to parents or guardians of newborns that are enrolled in the PCC Plan, to the extent applicable. As part of such orientation, the Contractor shall confirm the selection or assignment to a pediatrician within the newborn’s geographic area as an appropriate PCC.

The Contractor must provide a range of health promotion and Wellness information and activities for Enrollees in formats that meet the needs of all Enrollees. The Contractor shall:

Work with EOHHS to implement innovative Enrollee education strategies for Wellness care and immunizations, as well as general health promotion and prevention, and Behavioral Health rehabilitation and recovery;

Work with PCCs and specialists, as appropriate, to integrate health education, Wellness and prevention training into the care of each Enrollee;

Participate in any EOHHS-led joint planning activities with MassHealth-contracted MCOs to develop and implement statewide or regional approaches to Enrollee health and Wellness education;

Provide condition- and disease-specific information and educational materials to Enrollees, including information on its Care Management Program described in **Section 6.2**; and

Provide condition- and disease-specific information and educational materials to Covered Individuals.

Ensure, in accordance with 42 U.S.C. § 1396u-2(a)(5), that all written information for use by Enrollees and potential Enrollees is prepared in a format and manner that is easily readable, comprehensible to its intended audience, well designed, and includes a card or other notice instructing the Enrollee in multiple languages that the information affects their health benefit, and to contact EOHHS for assistance with translation.

Make best efforts to obtain updated contact information whenever the Contractor has been unable to contact an Enrollee as a result of undeliverable mail or an incorrect telephone number. On a monthly basis, notify EOHHS of all Enrollees whom the Contractor has been unable to contact. Such notification shall be in the format and process specified by EOHHS in consultation with the Contractor.

Health Needs Assessment

The Contractor shall:

Develop, implement, and maintain procedures for completing an initial Health Needs Assessment (HNA), within 60 days after an Enrollee's Effective Date of Enrollment in the PCC Plan, for each new Enrollee whose enrollment occurs after the Service Start Date but who has not been enrolled in the PCC Plan in the past six months.

Develop, and administer to the Enrollees described in subsection 1, a template for HNAs, which shall include but not be limited to questions that assess Enrollee demographic characteristics, personal and family health history,

including Behavioral Health and self-perceived health status, to predict an Enrollee's likelihood of experiencing certain conditions. The template shall advise the Enrollee regarding how the information obtained from the HNA may be used and to whom it will be disclosed, including to EOHHS. The Contractor shall submit the HNA template to EOHHS for prior review and approval.

Make best efforts to ensure that the Contractor's information systems, and other records as appropriate, are updated whenever the Contractor and/or a Provider or PCC becomes aware that the Enrollee's health status has changed significantly from that indicated in the initial HNA;

Use the findings from the HNA to identify Enrollees who may benefit from Care Management as described in **Section 6.2**; and

Ensure that Enrollees who are identified as requiring a particular type of service are offered assistance in accessing those services, including Behavioral Health Covered Services.

Virtual Gateway My Account Page Application

With Enrollee consent, the Contractor shall assist Enrollees in providing MassHealth with their current address (residential and mailing), phone numbers and other demographic information including pregnancy, ethnicity, and race, by entering the updated demographic information into the change form via the My Account Page Application on the Virtual Gateway, as follows:

If the Contractor learns from an Enrollee or an authorized representative, orally or in writing, that the Enrollee's address or phone number has changed, or if the Contractor obtains demographic information from the Enrollee or authorized representative, the Contractor shall provide such information to EOHHS by entering it into the change form via the My Account Page Application on the Virtual Gateway, after obtaining the Enrollee's permission to do so, and in accordance with any further guidance from EOHHS.

Prior to entering such demographic information, the Contractor shall advise the Enrollee as follows:

"Thank you for this change of address/phone information. You are required to provide updated address [phone] information to MassHealth. We would like to help you to do that so, with your oral permission, we will forward this information to MassHealth. You may also provide MassHealth with information about your race or ethnicity. This is not required, but it will help MassHealth to improve Member services. You have provided us with this information. If you do not object, we will pass that information on to MassHealth for you."

If the Contractor receives updated demographic information from a third party, such as a provider, a vendor hired to obtain demographic information, or through the post office, the Contractor must confirm the new demographic

information with the Enrollee and obtain the Enrollee's permission prior to submitting the information to EOHHS on the change form.

The Contractor shall ensure that all appropriate staff entering this information have submitted the documentation necessary to complete this function on the Virtual Gateway and completed any necessary Virtual Gateway training requirements.

Responsibilities of Service Representatives

Service representatives shall:

Determine the nature of all inquiries and respond appropriately;

Exhibit sensitivity to the cultural differences and needs of EOHHS's diverse populations;

Appropriately utilize the reference guide described in **Section 7.1.F**;

Work with Covered Individuals, Network Providers, PCCs, other PCC Plan providers and other individuals as necessary to resolve Complaints or questions where appropriate;

Enter pertinent call information accurately into the Contractor's call tracking system described in **Section 9.7.A.5**, and be able to access relevant information from previous calls;

Arrange for the mailing of Network Provider policies, procedures, billing instructions and other related materials to Network Providers who request them, within two business days of the request;

Arrange for the mailing of Covered Individual educational/informational materials, as appropriate;

Arrange for the mailing of MSS materials to PCCs and other PCC Plan providers that request them, within two business days of the request; and

Perform other related activities as directed by EOHHS.

Member and Provider Services Reference Guide

The Contractor shall:

Develop, and submit to EOHHS for review and approval no later than two weeks after the Service Start Date, a Member and Provider Services reference guide that includes protocols for promptly and accurately:

responding to and resolving Covered Individuals' questions and inquiries;

resolving Providers' questions and concerns;

responding to PCCs' questions and concerns related to the PCC Plan; and

providing seamless collaboration with the PCC Plan staff for resolution of issues raised by Providers and Enrollees.

The Member and Provider Services reference guide shall include detailed information on the Contractor's role in promoting the integration of medical and Behavioral Health care, and how the Contractor can support the Covered Individual, Network Providers, PCCs and other PCC Plan providers in achieving integrated care.

Maintain the Member and Provider Services reference guide, reviewing it annually, and updating it as necessary or upon EOHHS request.

Website

The Contractor shall:

No later than two months prior to the Service Start Date, develop and submit for EOHHS's approval a plan for a website containing information specifically related to the Contract.

Launch the website as of the Service Start Date, and maintain it subject to EOHHS's approval.

Provide a link from the website to EOHHS's website.

Include, at a minimum, the following on its website:

Culturally and linguistically competent information for Covered Individuals regarding services available through the PCC Plan's BHP;

A searchable BH Provider Network Directory that is updated at least monthly and as needed;

A searchable PCC Plan Provider Directory for non-BH providers that is updated at least monthly and more frequently as needed;

The BH Network Provider manual;

The PCC Plan Provider handbook;

The PCC Plan Member handbook;

BHP-only handbook for Covered Individuals that are not enrolled in the PCC Plan;

Educational materials and links to evidence-based practices;

Information and materials to support integration between Network Providers and PCCs;
and

Community resources.

Develop and propose to EOHHS within six months following the Contract Start Date a secure Provider and Covered Individual portal as part of the website.

Not provide any link to the Contractor's corporate website on any part of the website, unless agreed to by EOHHS.

Not provide any link to any type of corporate promotion on any part of the website.

Verify and, consistent with **Section 11.1.B**, certify to EOHHS on a quarterly basis the accuracy of all information contained on the website.

Member Services for Covered Individuals

General Requirements

As of the Service Start Date, the Contractor shall:

Inform Covered Individuals of the Member Services menu option from the Contractor's toll-free telephone number, and that such number can be used by Covered Individuals to obtain general information about the PCC Plan's BHP;

Handle calls from Covered Individuals, family members, guardians, and other interested parties regarding BH Covered Services, Network Providers, and QM initiatives;

Monitor the quality and accuracy of information through a representative sample of 10 percent of all English-speaking and 10 percent of all Spanish-speaking Member Services calls received, or such other percentage agreed to by EOHHS;

Handle calls and questions from Enrollees regarding the Contractor's Care Management Program as described in **Section 6.2**;

Inform Covered Individuals of their legal rights when receiving BH treatment;

Develop and distribute to Covered Individuals materials, such as BH-related fact sheets, quarterly newsletters and Network Provider directories, and mail materials requested by Covered Individuals within one business day of the request;

As appropriate, refer Covered Individuals to other relevant resources, such as the MassHealth Customer Services line, for resolution of their issues or inquiries;

Have the ability to answer inquiries in the Covered Individual's primary language through an alternative language device or interpreter, and notify Covered Individuals of this capacity;

Provide all written materials produced by the Contractor for Covered Individuals in a manner, format and language that can be easily understood by persons

with limited English proficiency and translate such materials into all Prevalent Languages. Currently, Spanish and English are Prevalent Languages. If EOHHS notifies the Contractor that Prevalent Languages shall include additional languages, the Contractor shall submit a work plan to EOHHS within 60 days of the notice and shall comply with the work plan, as approved by EOHHS;

Notify Covered Individuals of the availability of written materials available in alternative formats – i.e., in a format that takes into consideration the special needs of those Members who, for example, are visually limited or have limited reading proficiency (e.g., Braille, large font, audiotape, videotape, or information read aloud) – and provide them in such formats upon request;

Include a notice indicating that enclosed materials are important and should be translated immediately, and that provides information on how the Covered Individual may obtain help with getting the materials translated. This message shall be written in the following languages: Cambodian, Chinese, Haitian Creole, Laotian, Portuguese, Russian and Vietnamese, and other languages as directed by EOHHS.

Resource Materials

General Requirements

The Contractor shall:

Subject to EOHHS approval, develop, produce and distribute to Covered Individuals written materials focusing on issues that reinforce Contract priorities and positive health outcomes for Covered Individuals, including educational materials relating to self-care, Behavioral Health conditions, integration of medical and Behavioral Health services, and other topics;

Submit a draft of the above materials to EOHHS for approval no later than six weeks before the planned production date, or as otherwise agreed to by EOHHS;

Produce and distribute the approved materials to PCC Plan Providers and Network Providers for sharing with Covered Individuals;

Accept materials from EOHHS and distribute them as directed by EOHHS;

Make all materials available to service representatives for distribution, and when community-based presentations are conducted;

Establish and maintain an inventory system to ensure the availability of all resource materials, including those identified in this subsection **B** and in subsection **D**. At a minimum, the system must monitor the types of materials in stock, quantities in stock, quantities of materials mailed, and to whom;

- Share educational/informational materials electronically;
- Work collaboratively with EOHHS to encourage paperless communication; and
- Provide EOHHS with any Covered Individual education materials that are provided to individuals under age 21 and update and distribute such materials to describe EPSDT/PPHSD services as further directed by EOHHS.

Behavioral Health Network Provider Directory

The Contractor shall:

As of the Service Start Date, develop and make available a Network Provider Directory that identifies the Contractor's Network Providers, including, at a minimum, physicians and hospitals. The directory shall include the following information:

Network Providers with areas of special experience, skills and training, including Providers with expertise in treating:

children and adolescents;

persons with physical disabilities, chronic illness, HIV/AIDS, and/or persons with Serious Mental Illness;

Homeless persons;

persons with Dual Diagnosis; and

other specialties.

office addresses and telephone numbers for each Network Provider;

office hours for each Network Provider, including the names of any Network Provider sites open after 5:00 p.m. (Eastern Time) weekdays and on weekends;

the cultural and linguistic capabilities of Network Providers, including languages spoken by the Network Provider or by skilled medical interpreter at the Network Provider's site;

Network Provider licensing information;

whether the Network Provider is accessible for people with physical disabilities;

Network Provider access by public transportation.

Maintain an up-to-date version of the Network Provider Directory on the Contractor's website that is available to the general public. The web version of the Network Provider Directory should include the capability to search by:

name

town;

ZIP code;

Provider specialty;

languages spoken; and

Provider licensing information.

Within a reasonable time after EOHHS enrolls a new Covered Individual pursuant to **Section 12.3.A**, provide each such individual with notification that a copy of the Network Provider Directory can be accessed online at the Contractor's website, or available in writing by calling the Member and Provider Services Department;

At EOHHS's discretion, provide written notice to Covered Individuals of any changes in the Network Provider Directory at least 30 days before the intended effective date of the change or as soon as the Contractor becomes aware of such change;

In the event of the termination of a Network Provider, provide written notice within 15 days after receipt or issuance of the termination notice to each Covered Individual who was seen within the previous 90 days by the terminated Provider, and ensure that care is transferred to another Network Provider in a timely manner to minimize any disruptions to treatment;

Provide annual notification to Providers, PCCs, Covered Individuals and other interested parties that the most current version of the Network Provider Directory is available on the Contractor's website and that hard copies are available on request.

Community Events

The Contractor may conduct or participate in community events (i.e., forums sponsored by the Contractor or other entities that are not organized for the primary purpose of promoting the Contractor's services) at which the Contractor may present information about EOHHS's PCC Plan or BH services or distribute EOHHS-approved materials, only when the following requirements are met:

For Contractor-sponsored community events, the Contractor shall:

At least 20 business days in advance, submit to EOHHS for review and approval any proposed community event and a description of the event, including the time, date, location and expected attendance; and

Invite EOHHS staff and representatives from EOHHS's Customer Services program to attend at no cost.

For community events not sponsored by the Contractor, the Contractor shall:

At least 20 business days before the event, submit to EOHHS a request for approval to participate in the scheduled community event or, if the Contractor is made aware of the event less than 20 business days in advance, as soon as the Contractor determines that it plans to attend; and

Provide a description of the event, including the time, date, location and expected attendance, with the name and phone number for the person or organization responsible for organizing it.

Marketing Activity Requirements

General Requirements

The Contractor's Marketing activities, if any, must comply with the provisions of 42 CFR 438.104. In conducting any Marketing activities described herein, the Contractor shall:

Ensure that all Marketing Materials regarding the Contractor's services under this Contract clearly state that information regarding all MassHealth Managed Care enrollment options including, but not limited to, this Contractor, are available from the MassHealth Customer Service Center. The Contractor shall ensure that all written Marketing Materials prominently display the telephone number and hours of operation of the MassHealth Customer Service Center in the same font size as the same information for the Contractor. EOHHS, in its sole discretion, may exempt, in writing, promotional materials or activities from this requirement upon written request by the Contractor;

Submit all Marketing Materials to EOHHS for approval 60 days prior to distribution or as early as possible;

Distribute and/or publish Marketing Materials statewide, unless the Contractor submits a written request which is approved by EOHHS to implement a targeted Marketing campaign. A targeted Marketing campaign involves distributing and/or publishing materials to a region or part of a region of the state, or, where the campaign relates to a local event (such as a health fair) or to a single Provider (such as a hospital or clinic), to a certain ZIP code or ZIP codes.

Provide EOHHS with a copy of all press releases pertaining to the Contractor's MassHealth line of business for prior review and approval.

Permissible Marketing Activities

The Contractor may engage in only the following Marketing activities, in accordance with the requirements stated in subsection **D.1**, above.

The Contractor may participate in a health fair or community activity sponsored by the Contractor, provided that the Contractor shall notify all MassHealth-contracted MCOs within the geographic region of their ability to participate. Such notification shall be in writing and shall be made as soon as reasonably possible prior to the date of the event. If other MassHealth-contracted MCOs choose to participate in a Contractor's sponsored event, they shall contribute to the costs of such event as a condition of participation, provided costs are reasonably apportioned among the MassHealth-contracted MCOs. The Contractor may conduct or participate in Marketing at Contractor- or non-Contractor-sponsored health fairs and other community activities only if:

Any Marketing Materials the Contractor distributes have been pre-approved by EOHHS; and

Any free samples and gifts offered by the Contractor are only of a nominal value and are available to all attendees of the health fair or other community activity regardless of their intent to enroll in the PCC Plan.

The Contractor shall participate in health benefit fairs sponsored by EOHHS.

The Contractor may market to Covered Individuals, in accordance with subsection **D.1**, above, by distributing and/or publishing Marketing Materials or implementing a targeted Marketing campaign that is pre-approved by EOHHS. The methods for distributing and/or publishing Marketing Materials may include:

Posting written Marketing Materials that have been pre-approved by EOHHS at Network or PCC Provider sites and other locations; and posting written promotional Marketing Materials throughout the state;

Initiating mailing campaigns that have been pre-approved by EOHHS, where the Contractor distributes Marketing Materials by mail; and

Television, radio, newspaper, website postings, and other audio or visual advertising.

Prohibitions on Marketing and Enrollment Activities

The Contractor shall not:

Distribute any Marketing Material that has not been pre-approved by EOHHS;

Distribute any Marketing Material that is inaccurate or false or that misleads, confuses, or defrauds the recipient of the Marketing Material, including but not limited to any assertion or statement, whether written or oral, that:

The recipient of the Marketing Material must enroll in the PCC Plan in order to obtain benefits or in order to not lose benefits; or

The Contractor is endorsed by CMS, the federal or state government or similar entity.

Seek to influence a Member's enrollment in the PCC Plan in conjunction with the sale or offering of any non-health insurance products (e.g., life insurance);

Seek to influence a Member's enrollment into the PCC Plan in conjunction with the sale or offering of cash, cash equivalents or in-kind gifts;

Directly or indirectly, engage in door-to-door, telephonic, or any other cold-call marketing activities ("cold-call marketing" includes any unsolicited personal contact by the Contractor with a Covered Individual who is not enrolled with the BHP that can reasonably be interpreted as intended to influence the individual to enroll in the PCC Plan or the BHP, or to not enroll in or to disenroll from a MassHealth MCO or the BHP);

Engage in any Marketing activities that could mislead, confuse or defraud Members or Covered Individuals, or misrepresent MassHealth, EOHHS, the Contractor or CMS;

Conduct any provider site Marketing, except as otherwise provided in **Section 7.2.D**;

Incorporate any costs associated with Marketing or Marketing incentives, or non-medical programs or services in the Contractor's cost reports;

Engage in Marketing activities that target Members on the basis of health status or future need for health care or Behavioral Health services, or which otherwise may discriminate against individuals eligible for health care services.

Marketing Plan and Schedules

The Contractor shall make available to EOHHS, for review and approval upon request, a comprehensive Marketing plan, including proposed Marketing approaches, current schedules of all Marketing activities, and the methods, modes, and media through which Marketing Materials will be distributed.

Annually, the Contractor shall present its Marketing plan in person to EOHHS for review and approval.

The Contractor shall annually submit to EOHHS a written statement including an executive summary of its MassHealth Marketing plans and a statement that all of its Marketing plans and Marketing Materials are accurate and do not mislead, confuse, or defraud Members or misrepresent the state, and are otherwise in accordance with the requirements of 42 CFR 438.104.

Information to Covered Individuals

Nothing herein shall be deemed to prohibit the Contractor from providing non-Marketing information to Covered Individuals consistent with this Contract regarding existing or new services, personnel, Covered Individual education materials, Care Management programs and Provider sites.

MassHealth Benefit Request and Eligibility Redetermination Assistance

The Contractor or Provider staff may help MassHealth applicants apply for MassHealth eligibility in the following ways. Such staff may:

Explain the MassHealth Benefit Request (MBR) and Eligibility Redetermination Verification (ERV) forms to applicants;

Assist MassHealth applicants in completing and submitting MBRs;

Offer to assist Enrollees with completion of the annual ERV form; and

Refer MassHealth applicants to the MassHealth Customer Service Center.

Network Provider Relations

General Requirements

As of the Service Start Date the Contractor shall:

Ensure that the Contractor's toll-free telephone number has a menu option for Network Provider Relations, and that such number can be used by Network Providers who need general assistance with the Contractor's policies or with Claims and billing inquiries and issues;

Utilize EOHHS's Eligibility Verification System (EVS) to facilitate the resolution of Network Providers' questions regarding eligibility and enrollment matters for Covered Individuals. The Contractor and Network Providers shall not require such verification prior to providing Emergency Services; and

Monitor a representative sample of a minimum of 10 calls per agent per month of all Provider calls received, or other sample size as directed by EOHHS, for consistency and accuracy of the information being provided.

Network Provider Concerns

The Contractor shall:

Maintain written policies and procedures for handling all Network Provider concerns appropriate to the Contract and make available to EOHHS upon request;

- Notify Network Providers of the Contractor's toll-free number and that it can be used by Network Providers who need general assistance regarding Contractor policies and procedures;
- Review the policies and procedures for handling Network Provider concerns at least annually, submitting the results of this review to EOHHS, and making improvements as appropriate;
- Acknowledge, orally or in writing as the Contractor determines is appropriate, within 24 hours, the receipt of a Provider concern;
- Create and maintain a log to document the type and nature of each concern, date of receipt, date of resolution, how each was addressed, whether orally or in writing, and what corrective action, if any, was taken;
- Provide resolution summary, orally or in writing as the Contractor determines is appropriate, to Network Provider concerns within 15 days;
- Designate a staff person(s) to be responsible for coordination, receipt and handling of Provider concerns; and
- Provide a summary report to EOHHS of Provider concerns on a quarterly basis, or other schedule determined by EOHHS.

PCC Plan Provider Services

General Requirements

As of the Service Start Date the Contractor shall:

- Establish and maintain the PCC Plan Hotline for PCCs and other PCC Plan providers to use for information related to the Contractor's responsibilities related to the PCC Plan, including reporting, Quality Management, operations, PCCs participating in PCMHI, and the PCC Plan Provider Contract (see **Appendix C-2**) and other topics as directed by EOHHS.
- Ensure that the Contractor's toll-free telephone number (see **Section 2.1.A.2**) has a menu option for the PCC Hotline so that such number can be used by PCCs and other PCC Plan providers who need general assistance regarding PCC Plan operations and PCC QM issues as outlined in **Sections 5** and **8**;
- Refer callers to the PCC Hotline to other resources, such as EOHHS or EOHHS's other contractors, as appropriate and in accordance with **Appendix C-9**;
- Monitor a representative sample of a minimum of 10 calls per agent per month of all PCC Plan Hotline calls received, or other sample size as directed by EOHHS, for consistency and accuracy of the information being provided. The results shall be made available to EOHHS upon request.

PCC Plan Provider Concerns

The Contractor shall:

Handle PCCs' and other PCC Plan providers' concerns only as they relate to the responsibilities under MSS, Care Management, the PCC Hotline, the PCC Plan Quarterly newsletter and any other PCC Provider Contract issue, directing other PCC issues such as inquiries related to Claims payment or Grievances to EOHHS's Customer Services vendor in accordance with **Appendix C-9**.

Maintain written policies and procedures for handling all appropriate PCC and other PCC Plan provider concerns, and make them available to EOHHS upon request.

Review the policies and procedures for handling PCC and other PCC Plan provider concerns at least annually, submitting the results of this review to EOHHS PCC Plan staff. Propose improvements as appropriate and submit any proposed amendments to EOHHS for approval at least one month before the enactment date of the amendment, unless otherwise specified by EOHHS.

Acknowledge, orally or in writing as the Contractor determines is appropriate, within 24 hours, the receipt of a PCC or other PCC Plan provider concern.

Create and maintain a log to document the type and nature of each concern, date of receipt, date and method of acknowledgment, date of resolution, how each was addressed, whether orally or in writing, what corrective action, if any was taken, and a copy of any correspondence with the PCC or other PCC Plan providers.

Provide resolution summary, orally or in writing, as the Contractor determines is appropriate, to PCC and other PCC Plan provider concerns within 15 days.

Designate a staff person(s) to be responsible for coordination, receipt and handling of PCC and other PCC Plan provider concerns.

Document PCCs' and other PCC Plan providers' concerns in a PCC Plan MSS monthly report, report them to MassHealth's PCC Plan staff, and, when appropriate, propose solutions to MassHealth.

Work with EOHHS to determine which PCCs' and other PCC Plan providers concerns need to be elevated to the PCC Plan staff immediately for assistance in triage and resolution.

Provider and PCC Publications

PCC Plan Quarterly Newsletter

The Contractor shall:

On a quarterly basis, create, produce and electronically transmit or mail to each Network Provider and PCC a PCC Plan newsletter to be entitled "PCC Plan Quarterly," similar to the sample in **Appendix C-6**. Each issue shall include relevant information on Contractor efforts to enhance the

integration between medical and Behavioral Health care and the opportunities for support of PCCs and other Providers in the care of Enrollees who have complex medical and/or Behavioral Health care needs through the Care Management Program. EOHHS reserves the right to modify the name, format or content of this newsletter at anytime.

At least one time per year meet with MassHealth staff regarding the mission and themes for the upcoming year's newsletters.

Submit a written plan to EOHHS for approval regarding the formatting, production and distribution of the newsletter prior to each scheduled publication of "PCC Plan Quarterly" in a timeframe agreed to by EOHHS.

Prepare newsletter content as follows:

Collect potential article ideas consistent with the approved newsletter theme from appropriate sources.

Present all the potential article ideas to EOHHS for review and approval to be included in the upcoming newsletter.

Solicit authors for approved article ideas. (If an appropriate author cannot be identified, the Contractor may author the article.)

Edit articles submitted and review draft with appropriate stakeholders, including a medical professional, before submitting a final draft to EOHHS.

Format and design the layout of the newsletter such that it is visually appealing, using graphics and illustrations in the production of each issue, unless otherwise approved by EOHHS.

Print and distribute the "PCC Plan Quarterly" newsletter with EOHHS approval.

PCC Plan Member Newsletter

The Contractor shall

Two times a year, create, produce and mail to each PCC Plan Member case head a newsletter entitled "Health Highlights," similar to the sample in **Appendix C-7**. The "Health Highlights" newsletter shall focus on promoting and supporting EOHHS or PCC Plan initiatives, its quality improvement activities, the integration of medical and Behavioral Health care, and include information on MassHealth Covered Services as appropriate. EOHHS reserves the right to modify the name, format or content of this newsletter at anytime.

At least one time per year meet with EOHHS staff regarding the mission and themes for the upcoming year's newsletters.

Submit a written plan to EOHHS for approval regarding the formatting, production and distribution of the newsletter prior to each scheduled publication of “Health Highlights” in a timeframe agreed to by EOHHS.

Prepare newsletter content as follows:

Collect potential article ideas consistent with the approved newsletter theme from appropriate stakeholders.

Present all the potential article ideas to EOHHS for review and approval to be included in the upcoming newsletter.

Solicit authors for approved article ideas. (If an appropriate author cannot be identified, the Contractor may author the article.)

Edit articles submitted and review draft with appropriate stakeholders, including a medical professional, before submitting a final draft to EOHHS.

Format and design the layout of the newsletter such that it is visually appealing, using graphics and illustrations, unless otherwise approved by EOHHS.

Submit to EOHHS a proposal for review and approval if the Contractor would like to distribute “Health Highlights” electronically. Such a proposal must maintain the capability to mail “Health Highlights” to Enrollees who have not chosen to receive “Health Highlights” electronically.

Print and distribute “Health Highlights” with EOHHS approval.

PCC Plan Support Materials Catalog

On a semiannual basis, the Contractor shall develop, publish and distribute PCC Plan Support Materials Catalog in collaboration with EOHHS. (See also **Appendix C-9** and **Section 5.3.**)

Inquiries, Grievances, Internal Appeals, and BOH Appeals

General Requirements

Maintain written policies and procedures for:

The receipt and timely resolution of Grievances and Internal Appeals, as further described in **Section 7.6.B**, below. Such policies and procedures shall be approved by EOHHS; and

The receipt and timely resolution of inquiries, where timely resolution means responding to the Inquiry at the time it is raised to the extent possible or, if not possible, acknowledging the inquiry within one business day and making best efforts to resolve the inquiry within one business day of the initial inquiry. Such policies and procedures shall be approved by EOHHS.

Review the inquiry, Grievance and Internal Appeals policies and procedures established pursuant to subsection **1**, above, at least annually, to amend and improve those policies and procedures. The Contractor shall provide copies of any such amendments to EOHHS, for review and approval, 30 calendar days prior to the date of the amendment, unless otherwise specified by EOHHS;

Create and maintain records of inquiries, Grievances, Internal Appeals, and BOH Appeals, using the health information system(s) specified in **Section 9.1.B.11**, to document:

The type and nature of each inquiry, Grievance, Internal Appeal, and BOH Appeal;

How the Contractor disposed of or resolved each Grievance, Internal Appeal, or BOH Appeal; and

What, if any, corrective action the Contractor took.

Report to EOHHS annually regarding inquiries, Grievances, Internal Appeals and BOH Appeals, as described in **Appendix E-1**;

Assure that individuals with authority, such as senior and executive level staff, participate in any corrective action that the Contractor determines is necessary following the resolution of any inquiry, Grievance, Internal Appeal, or BOH Appeal;

Provide Covered Individuals with information about Grievance, Internal Appeal, and BOH Appeal procedures and timeframes, as specified in **Section 7.6.B.2**; and

Provide information about Internal Appeals, Grievances and BOH Appeals to all Providers and Material Subcontractors at the time they enter into a contract with the Contractor.

Grievances and Internal Appeals

The Contractor shall maintain written policies and procedures for the filing by Covered Individuals or Appeals representatives and the receipt, timely resolution, and documentation by the Contractor of any and all Grievances and Internal Appeals which shall include, at a minimum, the following, in accordance with 42 CFR Part 438, Subpart F. (For purposes of this section, in cases where a minor is able, under law, to consent to a medical procedure, that minor can request an appeal of the denial of such treatment, or may appoint an Appeal representative to represent them, without parental/guardian consent.)

General Requirements

The Contractor shall put in place a standardized process that includes:

A means for assessing and categorizing the nature and seriousness of a Grievance or Internal Appeal;

A means for tracking how long the Contractor takes to dispose of or resolve Grievances and Internal Appeals and to provide notice of such disposition or resolution, as specified in **Sections 7.6.B.2.a.3)** and **7.6.B.4**, below; and

A means for expedited resolution of Internal Appeals, as further specified in **Section 7.6.B.4.d**, when the Contractor determines (for a request from the Covered Individual) or a Provider indicates (in making the request on the Covered Individual's behalf or supporting the Covered Individual's request) that taking the time for a standard resolution, in accordance with **Section 7.6.B.4.a**, could seriously jeopardize the Covered Individual's life or health or ability to attain, maintain, or regain maximum function.

The Contractor shall put in a place a mechanism to:

Accept Grievances filed either orally or in writing; and

Accept Internal Appeals filed either orally or in writing within 30 calendar days from the notice of Adverse Action, provided that if an Internal Appeal is filed orally, the Contractor must require the Covered Individual to submit a written, signed Internal Appeal form following the oral filing unless an expedited resolution is requested as specified in **Section 7.6.B.4.d**. Internal Appeals filed later than 30 days from the notice of Adverse Action may be rejected as untimely.

The Contractor shall send a written acknowledgement of the receipt of any Grievance or Internal Appeal to Covered Individuals and, if an Appeals representative filed the Grievance or Internal Appeal, to the Appeals representative and the Covered Individual within one business day of receipt by the Contractor.

The Contractor shall track whether an Internal Appeal was filed orally or in writing within 30 calendar days from the notice of Adverse Action specified in **Section 7.6.B.2**.

Notice of Adverse Action

The Contractor shall put in place a mechanism for providing written notice to Covered Individuals of any Adverse Action in a form approved by EOHHS as follows:

The notice must meet the language and format requirements specified in **Sections 7.1.B.4** and **7.2.A.9-11**.

The notice must explain the following:

The Adverse Action the Contractor has taken or intends to take;

The reason(s) for the Adverse Action;

The Covered Individual's right to file an Internal Appeal or to designate an Appeal representative to file an Internal Appeal on behalf of the Covered Individual;

The procedures for a Covered Individual to exercise his/her right to file an Internal Appeal;

The circumstances under which expedited resolution of an Internal Appeal is available and how to request it;

That the Contractor will provide the Covered Individual Continuing Services, if applicable, pending resolution of the first-level review of an Internal Appeal if the Covered Individual submits the request for the first-level review within 10 days of the Adverse Action;

That the Contractor will provide the Covered Individual Continuing Services, if applicable, pending resolution of the second-level review of an Internal Appeal if the Covered Individual submits the request for the second-level review within 10 days of the Contractor's decision resolving the first-level review; and

That the Contractor will provide the Covered Individual Continuing Services, if applicable, pending resolution of a BOH Appeal if the Covered Individual submits the request for the BOH Appeal within 10 days of receipt of notice of the Final Internal Appeal decision, unless the Covered Individual specifically indicates that he or she does not want to receive Continuing Services.

The notice must be mailed within the following timeframes:

For termination, suspension, or reduction of a previous authorization for a requested service, at least 10 calendar days prior to the Date of Action in accordance with 42 CFR 431.211, except as provided in 42 CFR 431.213. In accordance with 42 CFR 431.214, the period of advance notice may be shortened to five calendar days before the Date of Action if the Contractor has facts indicating that action should be taken because of probable fraud by

the Covered Individual and the facts have been verified, if possible through secondary sources.

For denial of payment where coverage of the requested service is at issue, on the day of the payment denial, except that no notice is necessary for procedural denials of payment where coverage of the requested service is not at issue, which include, but are not limited to, denials for the following reasons:

Failure to follow prior authorization procedures;

Failure to follow referral rules; and

Failure to file a timely claim.

For standard service authorization decisions that deny or provide limited authorization for requested services, as specified in **Section 4.2A.2.e.1**), as expeditiously as the Covered Individual's health condition requires but no later than 14 calendar days following receipt of the service request, unless the timeframe is extended up to 14 additional calendar days. Such extension shall be implemented as follows:

The extension shall only be allowed if:

The Provider, Covered Individual or Appeal representative requests the extension, or

The Contractor can justify (to EOHHS, upon request) that:

(1) The extension is in the Covered Individual's interest; and

(2) There is a need for additional information where:

There is a reasonable likelihood that receipt of such information would lead to approval of the request, if received; and
Such outstanding information is reasonably expected to be received within 14 calendar days.

If the Contractor extends the timeframe, it must:

Give the Covered Individual written notice of the reason for the extension and inform the Covered Individual of the right to file a Grievance if the Covered Individual disagrees with that decision; and

Issue and carry out its determination as expeditiously as the Covered Individual's health condition requires and no later than the date the extension expires.

For expedited service authorization decisions that deny or provide limited authorization for requested services, as specified in **Section 4.2.A.1.e.2)**, as expeditiously as the Covered Individual's health requires but no later than three business days after the receipt of the expedited request for service, unless the timeframe is extended up to 14 additional calendar days. Such extension shall be implemented as follows:

The extension shall only be allowed if:

The Provider, Covered Individual or Appeal representative requests the extension, or

The Contractor can justify (to EOHHS, upon request):

- (1) The extension is in the Covered Individual's interest; and
- (2) There is a need for additional information where:
There is a reasonable likelihood that receipt of such information would lead to approval of the request, if received; and
Such outstanding information is reasonably expected to be received within 14 calendar days.

If the Contractor extends the timeframe, it must do the following:

Give the Covered Individual written notice of the reason for the extension and inform the Covered Individual of the right to file a Grievance if the Covered Individual disagrees with that decision; and

Issue and carry out its determination as expeditiously as the Covered Individual's health condition requires and no later than the date the extension expires.

For standard or expedited service authorization decisions not reached within the timeframes specified in **Sections 4.2.A.1.e.1) and 2)**, whichever is applicable, on the day that such timeframes expire.

When the Contractor fails to provide services in a timely manner in accordance with the access standards in **Section 3.1.G**, within one business day upon notification by the Covered Individual or Provider that one of the access standards in **Section 3.1.G** was not met.

Handling of Grievances and Internal Appeals

In handling Grievances and Internal Appeals, the Contractor shall:

Inform Covered Individuals of the Grievance, Internal Appeal, and BOH Appeal procedures.

Give reasonable assistance to Covered Individuals in completing forms and following procedures applicable to Grievances and Internal Appeals, including, but not limited to, providing interpreter services and toll-free numbers with TTY/TTD and interpreter capability;

Provide notice of Adverse Actions as specified in **Section 7.6.B.2**;

Accept Grievances and Internal Appeals filed in accordance with **Section 7.6.B.3**;

Send written acknowledgement of the receipt of each Grievance or Internal Appeal to the Covered Individual and Appeal representative within one business day of receipt by the Contractor;

Ensure that the individuals who make decisions on Grievances and Internal Appeals are individuals who were not involved in any previous level of review or decision-making;

Ensure that the following types of Grievances are decided by health care professionals who have the appropriate clinical expertise in treating the Covered Individual's medical condition, performing the procedure, or providing the treatment that is the subject of the Grievance:

Grievances regarding the denial of a Covered Individual's request that an Internal Appeal be expedited, as specified in **Section 7.6.B.4.a.3)d**); and

Grievances regarding clinical issues;

Ensure that the following special requirements are applied to Internal Appeals:

The Contractor shall offer two levels of review of an Adverse Action for standard Internal Appeals only;

All first-level reviews shall be conducted by health care professionals who have the appropriate clinical expertise in treating the medical condition, performing the procedure, or providing the treatment that is the subject of the Adverse Action;

The Contractor shall allow the Covered Individual or an Appeal representative to waive the second level of review and must notify the Covered Individual or an Appeal representative of this right in the notice of the Contractor's decision resulting from the first-level review;

The Contractor shall allow the Covered Individual or an Appeal representative to file a request for second-level review within 30 calendar days after the notice of the Contractor's decision resulting from the first-level review;

The second-level review shall be conducted by health care professionals who have the appropriate clinical expertise in treating the medical condition, performing the procedure, or providing the treatment that is the subject of the Adverse Action, and have not been involved in any prior review or determination in the Internal Appeal;

The Contractor shall treat an oral request seeking to appeal an Adverse Action as an Internal Appeal in order to establish the earliest possible filing date for Internal Appeals and may require the Covered Individual or an Appeal representative to confirm such oral requests in writing as specified in **Section 7.6.B.3.e**;

The Contractor shall provide a reasonable opportunity for the Covered Individual or an Appeal representative to present evidence and allegations of fact or law, in person as well as in writing, and shall inform the Covered Individual or an Appeal Representative about the limited time available for this opportunity in the case of expedited Internal Appeals;

The Contractor shall provide an opportunity for the Covered Individual and an Appeal representative, before and during the Internal Appeals process, to examine the Covered Individual's case file, including medical records, and any other documentation and records considered during the Internal Appeals process; and

The Contractor shall include, as parties to the Internal Appeal, the Covered Individual and Appeal representative or the legal representative of a deceased Covered Individual's estate.

Resolution and Notification of Grievances and Internal Appeals

The Contractor shall:

Dispose of each Grievance, resolve each Internal Appeal, and provide notice of each disposition and resolution, as expeditiously as the Covered Individual's health condition requires, within the following timeframes:

For the standard resolution of Grievances and notice to affected parties, no more than 30 calendar days from the date the Contractor received the Grievance, either orally or in

writing, from a valid party, e.g., the Covered Individual or the Covered Individual's authorized Appeal representative;

For standard resolution of Internal Appeals and notice to the affected parties, no more than 40 calendar days from the date the Contractor received either in writing or orally, whichever comes first, the Covered Individual request for a first-level Internal Appeal unless this timeframe is extended under subsection **4.b**, below. This timeframe shall exclude the time the Covered Individual took to file the second-level review as specified in **Section 7.6.B.3.h.4**); and

For expedited resolution of Internal Appeals and notice to affected parties, no more than three business days from the date the Contractor received the expedited Internal Appeal unless this timeframe is extended under subsection **4.b**, below. The Contractor shall process the expedited Internal Appeal even if a Provider is allegedly serving as the Covered Individual's Appeal representative, but the Contractor has still not received in writing the Authorized Appeal representative form. The Contractor may require that the Provider submit a signed Authorized Appeal Representative form to the Contractor as documentation that the Covered Individual did in fact authorize the Provider to file the expedited Internal Appeal on the Covered Individual's behalf, as long as the expedited Internal Appeal is not delayed waiting for the Authorized Appeal Representative form;

Extend the timeframes specified in **Sections 7.6.B.4.a.2)** and **3)** as follows:

Extend the timeframe in **Section 7.6.B.4.a.2)** by up to five calendar days if:

The Covered Individual or Appeal representative requests the extension, or

The Contractor can justify (to EOHHS upon request) that:

The extension is in the Covered Individual's interest;
and

There is a need for additional information where:

There is a reasonable likelihood that receipt of such information would lead to approval of the request, if received; and

Such outstanding information is reasonably expected to be received within five calendar days;

Extend the timeframe in **Section 7.6.B.4.a.3)** for up to 14 calendar days if:

The Covered Individual or Appeal representative requests the extension, or

The Contractor can justify (to EOHHS upon request) that:

The extension is in the Covered Individual's interest;
and

There is a need for additional information where:

There is a reasonable likelihood that receipt of such information would lead to approval of the request, if received; and

Such outstanding information is reasonably expected to be received within 14 calendar days;

For any extension not requested by the Covered Individual, the Contractor shall provide the Covered Individual and Appeal representative written notice of the reason for the delay. Such notice shall include the Covered Individual's right to file a grievance;

Provide notice in accordance with subsection **4.a**, above, regarding the disposition of a Grievance or the resolution of a first- or second-level standard Internal Appeal or an expedited Internal Appeal as follows:

All such notices shall be in writing in a form approved by EOHHS, and for notice of an expedited Internal Appeal resolution, the Contractor must also make reasonable efforts to provide oral notice to the Covered Individual; and

The notice shall contain, at a minimum, the following:

The results of the resolution process and the effective date of the Internal Appeal decision;

For Internal Appeals not resolved wholly in favor of the Covered Individual:

The right to file a BOH Appeal and how to do so, and include the Request for a Fair Hearing form;
and

That the Covered Individual will receive Continuing Services, if applicable, while the BOH Appeal is pending if the Covered Individual submits the appeal request to the BOH within 10 days

of the Adverse Action, unless the Covered Individual specifically indicates that he or she does not want to receive Continuing Services.

Resolve expedited Internal Appeals as follows:

The Contractor shall resolve Internal Appeals expeditiously in accordance with the timeframe specified in subsection **4.a**, above, when the Contractor determines (with respect to a Covered Individual's request for expedited resolution) or a Provider indicates (in making the request for expedited resolution on the Covered Individual's behalf or supporting the Covered Individual's request) that taking the time for a standard resolution could seriously jeopardize the Covered Individual's life or health or ability to attain, maintain, or regain maximum function. The Contractor shall process the expedited Internal Appeal even if the Provider is allegedly serving as the Covered Individual's Appeal representative, but the Contractor has still not received in writing the Authorized Appeal Representative form.

The Contractor shall not take punitive action against Providers who request an expedited resolution, or who support a Covered Individual's Internal Appeal.

If the Contractor denies a Covered Individual's request for an expedited resolution of an Internal Appeal, the Contractor shall:

Transfer the Internal Appeal to the timeframe for standard resolution in subsection **4.a**, above; and

Make reasonable efforts to give the Covered Individual and Appeal representative prompt oral notice of the denial, and follow up within two calendar days with a written notice. Such notice shall include the Covered Individual's right to file a Grievance.

The Contractor shall not deny a Provider's request (on a Covered Individual's behalf) that an Internal Appeal be expedited unless the Contractor determines that the Provider's request is unrelated to the Covered Individual's health condition.

Board of Hearings

The Contractor shall:

Require Covered Individuals and their Appeal representatives to exhaust the Contractor's Internal Appeals process before filing an appeal with the Board of Hearings (BOH). The exhaustion requirement is satisfied if either of the following conditions is met:

The Contractor has issued a decision following the second-level review of the Adverse Action; or

The Contractor has issued a decision following the first-level review of the Adverse Action and the Covered Individual has waived a second-level review of the Adverse Action;

Include with any notice following the resolution of a first- or second-level standard Internal Appeal or an expedited Internal Appeal any and all instructive materials and forms provided to the Contractor by EOHHS that are required for the Covered Individual to request a BOH Appeal; and

Notify Covered Individuals that:

Any Continuing Services being provided by the Contractor that are the subject of a BOH Appeal will continue, unless the Covered Individual specifically indicates that he or she does not want to receive Continuing Services; and

It is the Covered Individual's or the Appeal representative's responsibility to submit any request for a BOH Appeal to the BOH and to ensure that the BOH receives the request within the following time limits, as specified in 130 CMR 610.015(B)(7):

For BOH Appeals of a standard Internal Appeal resolved by the Contractor within the timeframes specified in subsection **4.a**, 30 calendar days after the notice following the Final Internal Appeal, as specified in **Section 7.6.B.h**;

For BOH Appeals of a standard Internal Appeal resolved by the Contractor within the timeframes specified in subsection **4.a**, in which the Covered Individual wants to continue receiving the services that are the subject of the BOH Appeal, 10 calendar days after the notice following the Final Internal Appeal, as specified in **Section 7.6.B.h**;

For BOH Appeals of an expedited Internal Appeal resolved by the Contractor within the timeframe specified in subsection **4.d**, 20 calendar days after the notice following the Final Internal Appeal, as specified in **Section 7.6.4.h** or within 30 calendar days in which case the BOH Appeal will be treated as a non-expedited (i.e., standard) BOH Appeal Request;

For BOH Appeals of a standard Internal Appeal not resolved by the Contractor within the timeframe specified in subsection **4.a**, 30 calendar days from the date on which that timeframe expired; and

For BOH Appeals of an expedited Internal Appeal not resolved by the Contractor within the timeframe specified in subsection **4.d**, 20 calendar days from the date on which that timeframe expired.

Be a party to the BOH Appeal, along with the Covered Individual and his or her representative or the representative of a deceased Covered Individual's estate.

Additional Requirements

The Contractor shall:

For all Final Internal Appeal decisions upholding an Adverse Action, in whole or in part, provide EOHHS a copy of the decision sent to the Covered Individual and Appeal representative within one business day of issuing the decision. This shall include letters that are sent when the Contractor fails to act within the time frames for reviewing Internal Appeals, and letters sent issuing a decision, including all upheld First Level appeals that the Contractor knows or reasonably believes will be appealed at the Board of Hearings. The Contractor shall provide EOHHS with all necessary information to assist EOHHS's review of the Contractor's determination. For decisions involving Behavioral Health Services, EOHHS will consult with the Deputy Commissioner of the Department of Mental Health in its review of the Contractor's decision;

Upon learning of a hearing scheduled on a BOH Appeal concerning such a Final Internal Appeal, notify EOHHS immediately and include the names of the Contractor's clinical and other staff who will be attending the BOH hearing;

Comply with any EOHHS directive to reevaluate the basis for its decision in a manner that is consistent with EOHHS's interpretation of any statute, regulation, and contractual provisions that relates to the decision;

Submit all applicable documentation to the BOH, EOHHS, the Covered Individual and the designated Appeal representative, if any, within five business days prior to the date of the hearing, or if the BOH Appeal is expedited, within one business day of being notified by the BOH of the date of the hearing. Applicable documentation shall include, but not be limited to, a copy of the notice of Adverse Action, any documents relied upon by the Contractor in rendering the decision resolving the Internal Appeal, and any and all documents that will be relied upon at hearing;

Make best efforts to ensure that a Provider, acting as an Appeal representative, submits all applicable documentation to the BOH, the Covered Individual and the Contractor within five business days prior to the date of the hearing, or if the BOH Appeal is expedited, within one business day of being notified by the BOH of the date of the hearing. Applicable documentation shall include, but not be limited to, any and all documents that will be relied upon at the hearing;

Comply with and implement the decisions of the BOH;

In the event that the Covered Individual appeals a decision of the BOH, comply with and implement the decisions of any court of competent jurisdiction; and

Designate an Appeals Coordinator to act as a liaison between EOHHS and the BOH to:

Determine whether each Covered Individual who requests a BOH Appeal has exhausted the Contractor's Internal Appeals process, in accordance with **Section 7.6.C.1**;

If requested by the Covered Individual, assist the Covered Individual with completing a request for a BOH Appeal;

Receive notice from the BOH that an Covered Individual has requested a BOH Appeal, immediately notify EOHHS, and track the status of all pending BOH Appeals;

Ensure that Continuing Services are provided when informed by the BOH that a request for a BOH Appeal was timely received, unless the Covered Individual specifically indicates that he or she does not want to receive Continuing Service;

Instruct Covered Individuals for whom an Adjustment has been made about the process of informing the BOH in writing of all Adjustments and, upon request, assist the Covered Individual with this requirement, as needed;

Ensure that the case folder and/or pertinent data screens are physically present at each hearing;

Ensure that appropriate Contractor staff attend BOH hearings;

Coordinate with BOH requests to reschedule hearings and ensure that the Contractor only requests that hearings be rescheduled for good cause;

Upon notification by BOH of a decision, notify EOHHS immediately;

Ensure that the Contractor implements BOH decisions upon receipt;

Report to EOHHS within 30 calendar days of receipt of the BOH decision that such decision was implemented;

Coordinate with the BOH, as directed by EOHHS; and

Ensure that appropriate Contractor staff attend BOH Appeals training sessions organized by EOHHS.

Continuing Services

The Contractor shall:

Comply with the provisions of 42 CFR 438.420 and, in addition, provide Continuing Services while an Internal Appeal is pending and while a BOH Appeal is pending, unless the Covered Individual specifically indicates that he or she does not want to receive Continuing Services, when the appeal involves the reduction, suspension, or termination of a previously authorized service;

Provide Continuing Services until one of the following occurs:

The Covered Individual withdraws the Internal Appeal or BOH Appeal; and

The BOH issues a decision adverse to the Covered Individual;

If the Contractor or BOH reverses an Adverse Action to deny, limit, or delay services that were not furnished while the Internal Appeal or BOH Appeal were pending, the Contractor shall authorize or provide the disputed services promptly, and as expeditiously as the Covered Individual's health condition requires; and

If the Contractor or BOH reverses an Adverse Action to deny, limit, or delay services and the Covered Individual received Continuing Services while the Internal Appeal or BOH Appeal were pending, the Contractor shall pay for such services.

Reporting

The Contractor shall submit to EOHHS all required reports related to Covered Individual, Provider and PCC services, as described in this **Section 7** or in **Appendix E-1**, in accordance with specified timetables, definitions, formats and assumptions, as well as any ad hoc reports required by EOHHS in accordance with **Section 11.2.B**.

QUALITY MANAGEMENT (QM)

Overview

The Contractor shall implement a comprehensive Quality Management (QM) program that includes ongoing quality assessment and performance improvement of all areas of the Contractor's responsibility under this Contract.

The QM program shall:

- Assess the quality and appropriateness of care and services furnished to all Covered Individuals, and to Enrollees with special health care needs;
- focus on improving the Covered Individual's health status through the delivery of high-quality and cost-effective care, and by the provision of programmatic supports that foster a high level of communication and cooperation among medical and Behavioral Health care providers, with regard to the Enrollees they are both serving;
- incorporate the principles of continuous quality improvement into all aspects of the operation of the Contract;
- be based upon robust data collection, accurate measurement, and data analysis that enhance Behavioral Health service delivery; the integration of care delivered by medical and Behavioral Health care providers; and Covered Individual health outcomes;
- include effective assessment of healthcare disparities and strategies to identify and address variations related to health care access and health outcomes; and
- include activities, resources and strategies that support Covered Individuals through Wellness and preventive health programs.

QM Program, Philosophy and Structure

The Contractor shall implement by the Service Start Date and maintain throughout the Contract a comprehensive QM program based on a written QM philosophy that is consistent with EOHHS priorities and goals.

Organizational Structure

The QM program shall be supported by an organizational structure that:

Is organization-wide, disseminated to, and understood by all Contractor employees;

Delineates clear lines of accountability for Quality Management within the organization;

Corresponds and complies with National Committee on Quality Assurance (NCQA) accreditation requirements;

Provides for an organizational Quality Council that is responsible for overseeing the QM activities throughout the organization and invites participation by EOHHS and DMH;

Includes written standard operating policies and procedures;

Includes a set of clearly defined qualifications, functions, roles and responsibilities for QM staff, including physicians, other clinicians and non-clinicians; and

Provisions for inclusion of Covered Individuals and their families in Quality Improvement (QI) activities.

Data Management

The Contractor's QM program shall be informed by consistent utilization and analysis of data, incorporating at least the following elements:

A process for collecting, analyzing and managing with data to improve Covered Individuals' health outcomes;

A process for tracking to resolution areas targeted for QI as identified by the Contractor, EOHHS or CMS;

Using multiple data sources and drawing conclusions based on data to drive system improvement through evidence-based practices, Practice Guidelines, and other data-driven clinical initiatives.

NCQA Accreditation

The Contractor must either be:

NCQA-accredited as an Health Plan/MCO or as a MBHO; or

apply and be accredited by NCQA as an Health Plan/MCO or a MBHO within the first year of the Contract.

Once accredited, the Contractor shall maintain accreditation pursuant to the requirements of NCQA.

QM Plan for Behavioral Health Management

The Contractor shall create on an annual basis, submit for EOHHS review and approval by January 31st of each Contract Year, and implement a single, comprehensive Quality Management plan that defines the QM program, details the Contractor's quality activities and provides for self-assessment of the Contractor's responsibilities under the Contract.

The QM plan for the first year of the Contract shall focus on the establishment of baselines and benchmarks for use in setting and assessing health improvement targets and quality improvement goals in subsequent years of the Contract.

The QM plan shall include activities, measures and performance improvement projects that are specifically relevant to each of the core activities designated within the Interdepartmental Service Agreement between DMH and EOHHS (ESP programs, MCPAP, and Forensic Evaluation program).

The QM plan shall describe planned improvement activities related to:

The Contractor's management of the BH services provided to Covered Individuals;

The Contractor's Management Support Services for the PCC Plan;

The Contractor's efforts to improve care integration across medical and Behavioral Health care services; and

The Contractor's Care Management Program.

Each year's proposed QM plan shall be informed by an assessment of prior years' activities and results through an annual retrospective report, which the Contractor shall prepare and submit to EOHHS for approval within the first month of each Calendar Year, beginning with January 2013. The annual QM plan shall include but not be limited to:

Monitoring of the following performance indicators, at a minimum, and others as directed by EOHHS. If the results of the performance indicator(s) meet or exceed the benchmark, the Contractor shall continue to monitor the indicator(s); if the results of the performance indicator(s) fall below the benchmark, the Contractor shall implement a Quality Improvement Program (QIP) as directed by EOHHS. Performance Indicators shall, at a minimum:

Assess whether qualified and clinically appropriate Network Providers are available to provide BH Covered Services, and the degree to which the Provider Network met the needs of Covered Individuals for:

access within the access standards required by the Contract;

access within different geographic areas across the Commonwealth;

access to individuals with physical disabilities;

ability to communicate, either directly or through a skilled interpreter, with Covered Individual in his/her primary language; and

ability to address Covered Individuals' health disparity needs.

Assess Network Providers' success at communicating with Primary Care Practitioners, when appropriate.

Assess the development of the Behavioral Health service delivery system, including overuse, underuse and misuse of services; special measures shall be developed and implemented to highlight Provider best practices.

Assess and measure of utilization reviewers' consistency in applying Medical Necessity criteria in UM activities and in the medical record (chart) review process.

Assess and summarize critical incidents reported by Network and non-Network Providers, including actions taken in response.

Assess the subjects and outcomes of Appeals, Grievances and complaints, including timeframes required to reach resolution, and opportunities for improvement.

Assess Covered Individual, Network Provider and PCC satisfaction through administration of satisfaction surveys.

Timelines, objectives and goals for improvement projects and activities, including clinical and non-clinical activities as well as those BH improvement projects generated by the quality improvement (QI) goals as required by EOHHS. The projects shall be designed to achieve, through ongoing measurements and intervention, significant improvement, sustained over time, in clinical care and non-clinical care areas that are expected to have a favorable effect on health outcomes and Covered Individual, Network Provider and PCC satisfaction. The performance improvement projects must involve the following:

measurement of performance using objective indicators of quality;

implementation of system interventions to achieve improvement in quality;

evaluation of the effectiveness of the interventions; and

planning and initiation of activities for increasing or sustaining improvement.

The Contractor must complete each project in a reasonable time period so as to generally allow information on the success of performance improvement projects in the aggregate to produce new information on quality of care every year. The Contractor must report and present the status and results of each project to EOHHS at least twice a year, and as requested.

Analysis of the effectiveness of treatment services, employing standard measures of symptom reduction/management as well as measures of functional status and recovery. The Contractor shall recommend to EOHHS an approach to meet this requirement, including the assessment instrument, or scale, to be used and the methodology for its application. EOHHS reserves the right to approve or specify the instrument(s) and analysis methodology to be used.

Administration no less often than biennially of satisfaction surveys to Covered Individuals (see **Section 8.4.C**).

Administration no less often than biennially of Network Provider satisfaction surveys, with results stratified by provider type and specialty.

Administration biennially of PCC satisfaction surveys with results stratified by provider type and specialty.

Quality Management Plan for PCC Plan Management Support Services

The Contractor shall create and implement a single, comprehensive Quality Management plan, containing the same elements as described in **Section 8.2**, that reflects the Contractor's organizational QM philosophy and structure and includes PCC Plan Management Support Services-related activities. Such QM plan shall be submitted to EOHHS for review and approval by January 31st of each Contract Year. This component of the QM plan shall describe planned improvement projects and activities, including but not limited to:

- Timelines, objectives and goals for the planned improvement projects and activities, including clinical and non-clinical initiatives;
- A process for monitoring data for, and tracking to resolution, areas targeted for quality improvement (QI) as identified by the Contractor or EOHHS;
- A process for comparing QI project results against established goals;
- Plans for coordinating medical and Behavioral Health care services;
- A process for monitoring PCCs' ability to manage the health care needs of culturally diverse PCC Plan Enrollees;
- A process to evaluate annually the effectiveness of QM plan activities and, based on the results, to identify and implement improvement activities;
- An annual retrospective QM activities report based on the previous year's QM plan, which the Contractor shall prepare and submit to EOHHS for approval within the first month of each Calendar Year, beginning with January 2013.

Satisfaction Measurements

Consistent with NCQA accreditation requirements, the Contractor shall conduct assessments of Network Provider, PCC and Covered Individual satisfaction.

Network Provider Satisfaction

The Contractor shall survey Network Providers biennially, starting with Contract Year Two, using a written survey instrument approved by EOHHS, to assess Network Provider satisfaction with the Contractor's administration and management of the BHP and the Care Management Program. The Contractor shall analyze the results of the survey and provide EOHHS with results stratified by Provider type and specialty, by separate program components, and in aggregate.

PCC Provider Satisfaction

The Contractor shall survey PCCs biennially, starting with Contract Year Two, using a written survey instrument approved by EOHHS, to assess PCC satisfaction with the Contractor's administration and management of the BHP, PCC Plan Management Support

Services, and the Care Management Program. The Contractor shall analyze the results of the survey and provide EOHHS with results stratified by Provider type and specialty.

Covered Individual Satisfaction

At the direction of EOHHS, and using one or more external organizations with appropriate experience, the Contractor shall conduct satisfaction surveys of Covered Individuals regarding the requirements of this Contract, as follows. The Contractor shall:

- Propose to EOHHS an approach to meet this requirement, including the experience of care survey to be used, and the methodology for its application. EOHHS reserves the right to approve or specify the instrument(s) and analysis methodology to be used;
 - Ensure that the surveying organization has appropriate experience, conducts surveys by mail or by telephonic and/or site-based interviewing, and includes a valid sample of Covered Individuals; and
 - Share survey results and analysis with Providers and EOHHS, in accordance with timelines as directed by EOHHS, and utilize the survey results as part of Network Management, Quality Management and program development. The Contractor shall provide such reports to EOHHS upon request.
- Upon request by the Member, share the results of the Member's Enrollee survey.

Quality Improvement Projects

The Contractor shall annually develop and propose to EOHHS quality improvement projects (QIPs) to be incorporated into the Contract each year.

Development of QIPs

In conjunction with the development of the annual Quality Management plan each Contract Year, the Contractor shall identify and propose for EOHHS's review and approval a minimum of five annual contractual quality improvement projects. The Contractor shall design Quality Improvement Projects (QIPs) to achieve significant improvement in clinical care and non-clinical care areas that have a favorable effect on health outcomes and Covered Individual satisfaction. The Contractor shall design QIPs as ongoing interventions, sustained over time. The Contractor shall target QIPs to areas that present significant opportunities for performance improvement and meet the following description:

The QIPs shall be based on the Contractor's actual experience serving Covered Individuals, the findings of the assessments required in **Section 8.2.D**, and the performance indicators required in **Section 8.6**. The Contractor also may identify other areas, such as those internal to the Contractor's operation, for inclusion in quality improvement projects.

Data sources for the design of the QIP may include without limitation:

critical incident (Reportable Adverse Incident) reports;

continuing care after discharge from one Level of Care to another, community tenure, and recidivism rates;

Grievances and Internal Appeals and other feedback from Covered Individuals;

Provider concerns;

medical record reviews;

Provider waiting lists;

Covered Individual and Provider satisfaction/experience surveys;

direction from EOHHS and DMH related to agencies' goals;

data related to PCC Plan Management Support Services activities;

the Care Management program; and

data relative to the Contractor operations, such as Claims processing time frames and telephone response time.

The proposed QIPs may include administrative service, quality, and program development goals, although no more than two projects may address administrative services.

Each proposed QIP shall incorporate a project statement that includes highly specified and measurable goals and objectives, methodology, as well as detailed metric calculation specifications.

For each QIP, the Contractor shall develop a work plan for completion of the project including time frames by which the Contractor must demonstrate that the goals of the project have been achieved.

At least two of the five QIPs the Contractor proposes shall be as described in **Section 8.2.D.2** that satisfy the requirements of 42 CFR 438.240(b) and (d). EOHHS's External Quality Review (EQR) vendor shall validate the Contractor's performance of these quality improvement projects. Current listing of BH priority area standard goals including performance measures and quality improvement project initiatives are in **Appendix G**.

Should EOHHS and Contractor be unable to reach agreement on the improvement projects and/or the measures, EOHHS shall establish the improvement projects and/or measures.

Management of the QIPs

The Contractor shall designate relevant QM staff to meet with EOHHS twice a year to review operational issues, milestones and initiatives, as well as progress toward the QIPs, in Contract status meetings.

The Contractor shall evaluate the outcome of the QIPs and present its findings to EOHHS in the forms and time frames agreed to by EOHHS.

If EOHHS determines that the Contractor is not in compliance with the requirements for proposed annual QIPs, the Contractor shall prepare and submit a corrective action plan to EOHHS for review and approval.

Pay for Performance (P4P)

Development of Behavioral Health Pay for Performance Measures

The Contractor shall be eligible for P4P based on exceptional performance based on Contractor results on a select subset of measures that are reliable indicators of quality improvement.

Measures shall be standardized and nationally accepted, except as described in subsection **B.2** below.

EOHHS may consider including non-nationally-accepted measures where such measures are not available to assess Contractor performance on a matter of particular importance to EOHHS.

Measures may change on an annual basis, at the discretion of EOHHS. For Contract Year One, EOHHS has selected the following four measures eligible for P4P:

HEDIS – IET – initiation and engagement of alcohol and other drug dependence treatment;

HEDIS – FUH – Follow-up after hospitalization for mental illness;

HEDIS – ADD – Follow-up for children prescribed ADHD medication;

Service Integration: Primary Care visits for DMH Clients.

Three of the four measures come from the HEDIS data set. The fourth measure focuses on improved health integration through improvements to the percentage of DMH Clients who receive annual Primary Care and appropriate follow-up visits. The Contractor shall work with EOHHS to define the measure to be utilized to measure service integration; provided, however, that EOHHS in its sole discretion shall determine the specific measures.

Behavioral Health Pay for Performance Methodology

Incentive Structure

The P4P incentive structure shall:

Allow for a maximum incentive value for each P4P measure to be designated by EOHHS that corresponds proportionally to the size of the population identified for each P4P measure as detailed above.

Allow for partial P4P to the Contractor for demonstrating incremental improvements in performance, where those improvements exceed certain standards set by EOHHS.

Provide full payment to the Contractor for attaining the highest designated standard of performance as established by EOHHS.

Baseline Measurement

During the Contract Year One, the Contractor shall utilize a baseline for measures established by EOHHS for the PCC Plan in the HEDIS reporting year prior to the Service Start Date. In future Contract years, the Contractor shall be responsible to establish, with EOHHS approval, baseline measurement rates from which to assess performance.

Measurement must follow standard measurement protocols for HEDIS. For example, one full calendar year of Encounter data may be required to produce and establish a HEDIS baseline measurement.

Beginning in Contract Year Two, the measurement methodology may, at the discretion of EOHHS, include all Covered Individuals, not only Enrollees.

Tiers of Measurement

The Contractor shall work with EOHHS to develop Tiers of measurement and performance targets for each measure selected as eligible for P4P. Each performance measure shall have three Tiers of measurement:

Attainment Threshold: represents a minimum level of acceptable performance based on current PCC Plan performance or national Medicaid averages, whichever is higher, that must be met in order for any P4P payment to be made;

Improvement Range(s): representing the minimum and incremental levels of improvement that are prerequisites to the Contractor becoming eligible for partial payments for performance; and

Benchmark: representing excellent performance and full payment for performance.

Data and Measurement Integrity

The Contractor shall be responsible for the integrity of the performance measurement data sets for all required measures, including any subsets of select measures included in P4P.

Contractor shall be responsible for the accuracy of the calculations and measurement.

Contractor shall make available to EOHHS and its designees, including auditors and the EQRO, all performance measurement data sets, including any subsets of select measures included in pay for performance, and associated programming, calculation methodologies and related materials.

Care Management Performance Incentives

Care Management Performance Incentive Arrangements shall be based on Contractor performance in engaging Providers and program Participants and improving outcomes for such Participants.

Each Contract Year the Contractor shall propose, subject to EOHHS approval, the minimum Engagement Targets by Tier and the PPPM rate per Tier.

The remaining Care Management Performance Incentive Arrangements may be earned based on Contractor performance on a designated set of outcomes measures to be proposed by the Contractor for EOHHS review and approval. There shall be no fewer than four outcome measures in Contract Year One.

The Care Management performance measurement areas for Year One are included in **Appendix G**.

The Contractor shall develop for EOHHS review and approval a Pay-for-Performance Incentive arrangement to improve access to and quality of outpatient Behavioral Health providers. This Performance Incentive shall be completed no later than June 30, 2013.

Other Measures of Quality

Overview

In addition to the Performance Incentive measures described in **Section 8.6**, the Contractor shall conduct ongoing measurement based on a set of quality indicators established by EOHHS or proposed by the Contractor and approved by EOHHS. Other measurement categories include:

Quality indicators that are to be monitored relative to established contract standards and for which the Contractor may incur sanctions or penalties, as determined by EOHHS, if the Contractor's performance is below the standard;

Quality indicators that may be applicable, to Enrollees and to Covered Individuals, and for which the measurement design and measurement specifications may be proposed by the Contractor and approved by EOHHS; and

Quality indicators assessed through standard reporting requirements.

Measures of quality shall be reassessed annually and may be prioritized, modified, substituted or deleted throughout the Contract term.

Pursuant to 42 CFR 438.6(f)(2)(ii), the Contractor shall comply with any reporting requirements on Provider Preventable Conditions in the form and frequency as may be specified by EOHHS.

Development of Measures

Measures will be developed based on the following criteria:

Measures should be relevant, and should assess:

Processes known to be linked to improved health outcomes; and

Health outcomes or proxies for improved health outcomes.

Measures should be, to the extent possible, based upon industry standards for the measure specifications; and

Measures should be based on data that is feasible to collect; and shall include clear, detailed specifications.

QM Staffing and Staff Training

The Contractor shall:

Employ appropriately qualified staff experienced in QM in sufficient numbers to satisfy all QM responsibilities. Staff shall include the following positions, unless otherwise approved by EOHHS:

QM Director – a senior manager designated as key personnel; responsible for overseeing all QM activities related to the Contract, and accountable to the Contractor’s appropriate clinical leadership, such as an Associate Medical Director with Quality Management experience, for the successful performance and execution of such activities; and

The Contractor’s **Director of Quality** shall be dedicated solely to the Contract, with demonstrated expertise in quality improvement processes, and shall develop and coordinate all quality improvement program-related activities, including but not limited to staff training in quality improvement processes. Quality improvement objectives shall meet the health care needs of Enrollees, and address integration of care.

QM Analyst(s) – dedicated solely to the Contract and its QM activities, responsible for MIS-related functions such as report production, analysis, and methodological problem-solving and data interpretation.

Each Contract Year, determine the need for training staff in relevant aspects of Quality Management, practice management, or other related skills, and develop and provide such training as necessary.

Ensure that Contractor QM staff collaborate with all applicable units within the Contractor's organization to provide Contract services in a consistent, coordinated manner.

Quality Management – Network Providers

Quality Management Activities

The Contractor shall:

Develop and implement by a date agreed to by EOHHS a work plan for QM activities with Network Providers that measures, among other things, Covered Individuals' functional status and recovery from mental illness and substance use disorders and ensures that:

community-based Network Providers utilize standardized assessment tools approved by the Contractor to assess treatment outcomes, and that data is being utilized in those settings as needed for practice improvement activities;

acute services Network Providers utilize standardized assessment tools approved by the Contractor to inform discharge planning; and

the results of the assessment and discharge plans are forwarded whenever a Covered Individual proceeds to another Level of Care, and to PCCs, as applicable.

Develop and implement a medical record (chart) review process for:

Monitoring provider compliance with written policies and procedures, program specifications, Medical Necessity criteria and billing practices,

Monitoring the quality of services provided, including adherence/fidelity to any evidence-based practices; and

Documenting remedial steps undertaken pursuant to QI corrective action plans for Network Providers.

Ensure that Network Providers adopt continuous quality improvement practices.

Develop and implement:

A process for monitoring Network Providers' compliance with the Contractor's written policies and procedures, program specifications, and appropriateness of care;

A quality assurance process to monitor variation in Provider Network practice patterns, and the identification of outliers and promote care consistent with evidence-based clinical Practice Guidelines;

A process to monitor Providers' safe and appropriate use of restraint and seclusion techniques and its implementation of plans to reduce the use of such techniques; and

A process to use issues identified through the Reportable Adverse Incident reporting process to guide quality and Network management strategies.

Coordination of Network Provider and PCC Profiling and Reporting

The Contractor shall coordinate its profiling activities for Network Provider and PCC Plan MSS programs as described in **Section 5** to ensure optimal integration of delivery of BH Covered Services to Covered Individuals and Enrollees. Findings from each program shall inform the other program over the course of the Contract. Specifically, the Contractor shall:

Develop and submit to EOHHS for approval a plan to ensure that both medical and BH issues are addressed in both the PCC Plan MSS and the Network Provider profiling. The plan must include:

the measures, specifications and data sources the Contractor will use; and
timelines for development and implementation of coordinated measures.

Work collaboratively with EOHHS to continually enhance the Network Provider and PCC Plan MSS profiling programs to improve health outcomes for Covered Individuals and Enrollees.

Forums and Councils

Provider and PCC Quality Forums

The Contractor shall:

Annually organize and conduct at least four quality forums, as follows:

The quality forums shall be held through a webinar at a variety of times convenient to PCCs, Network Providers and other providers as directed by EOHHS. Some or all of the forums may also be held at locations throughout the state, in comfortable environments that encourage PCCs, Network Providers and other providers as appropriate to attend, and including refreshments (food and non-alcoholic beverages) as part of the event.

The quality forums shall be offered on topics that primarily focus on EOHHS goals, quality improvement, increased coordination and collaboration of medical and Behavioral Health care services, or improved service delivery and health outcomes for Covered Individuals.

By September 1 of each year, the Contractor shall submit to EOHHS for review and approval a proposal for the quality forum topics for the year. EOHHS may also require the Contractor to conduct forums on topics of EOHHS's choosing.

The Contractor shall develop the content of each quality forum in collaboration with EOHHS and key stakeholders.

Ensure that only those individuals on the Contractor's staff who are necessary to ensure an effective quality forum attend each forum.

Implement a mechanism for attendees and the Contractor to evaluate the quality forums and identify areas for improvement and, with EOHHS's approval, incorporate such improvements into future quality forums.

Obtain the required approval to offer and grant continuing medical education, risk management, and continuing education units to participants.

Provide a summary report on each series of quality forums described in this **Section 8.11**. The report shall include, at a minimum, information on the number and type of attendees (profession and practice name), the location, the presentation topic and responses from attendees regarding the quality of the program presented. The report shall be submitted within 30 days after the last session of a forum series.

Advisory Committees and Councils

The Contractor shall establish the following advisory councils for the exchange of stakeholder ideas related to this Contract, discussion of relevant topics, and the solicitation of advice, recommendations or concerns. The structure and purpose of the committees and councils must be consistent with NCQA protocols. The goal of these committees and councils shall be to foster improved quality, integrated care and Covered Individual, Provider and PCC satisfaction. The committees and councils shall follow standard rules of order and maintain a written record or minutes of each meeting. All committees and councils must meet at least once during the first six months of Contract Year One, and on a regular schedule thereafter.

The advisory committees and councils described in this section shall not be the only venue for soliciting input from stakeholders.

PCC Clinical Advisory Committee

The Contractor shall establish and facilitate a PCC Clinical Advisory Committee whose main objective is to support and promote improvement in the quality of clinical services provided to Enrollees.

The meetings shall be held at least three times a year and shall include refreshments (food and non-alcoholic beverages) as part of the event.

The membership of the PCC Clinical Advisory Committee shall be subject to EOHHS's approval, and shall consist of:

from eight to 14 PCCs who represent different types of PCC practices, different PCC specialty types, and diverse geographic areas of the Commonwealth;

at least one Network Provider; and

other MassHealth providers acting as specialists, if directed or approved by EOHHS.

BH Clinical Advisory Committee

The Contractor shall establish and facilitate a BH Clinical Advisory Committee whose main objective is to support and promote improvement in the quality of BH Covered Services provided to Covered Individuals, including the integration of medical and Behavioral Health services to the benefit of the Covered Individual.

The meetings shall be held at least three times a year and shall include refreshments (food and non-alcoholic beverages) as part of the event.

The membership of the PCC Clinical Advisory Committee shall be subject to EOHHS's approval, and shall consist of:

from eight to 14 Network Providers who represent different types of Network Providers (e.g., mental health clinics, hospitals, individual practitioners) and different BH specialties from diverse geographic areas of the Commonwealth; and

at least one PCC.

EOHHS may also recommend to the Contractor Network Providers to be invited to serve on the committee. EOHHS, DMH, and other state agencies and major stakeholders identified by EOHHS shall be invited to participate in the committee's meetings.

The activities of the BH Clinical Advisory Committee shall include:

establishing bylaws that include designating a term of duty for committee members;

meeting jointly with the PCC Clinical Advisory Committee (see **Section 8.11.B.1**, above), at least one time per Contract Year; and

developing agendas that promote and support the QM activities of the BHP, including the integration of medical and Behavioral Health care services to the benefit of Covered Individuals and Enrollees.

Enrollee and Family Advisory Councils

The Contractor must include Enrollees and their families in QM activities and document their participation in Enrollee and family advisory councils.

Other Advisory Committees

As directed by EOHHS during the term of the Contract, the Contractor shall facilitate and convene additional advisory committees, which EOHHS shall chair.

HEDIS and Other QM Data Activity

QM Data Collection

The Contractor shall collect and provide to EOHHS:

Data identified by EOHHS in a format specified by EOHHS in order that EOHHS can complete the Behavioral Health-related Healthcare Effectiveness Data and Information Set (HEDIS) measures, which are selected annually by EOHHS and validated by its EQR Contractor pursuant to 42 CFR 438.358(b)(1);

Encounter data; and

Other QM data sets, including data from medical record reviews, as directed by EOHHS during the term of the Contract.

Calculation of HEDIS Measures

The Contractor shall calculate selected BH and non-BH HEDIS measures as directed by EOHHS. The Contractor shall ensure the accuracy of all HEDIS measurement calculations.

Practice Guidelines

Practice Guidelines Endorsed by EOHHS and its Agencies

The Contractor shall:

Adopt any practice guidelines established or endorsed by EOHHS and its agencies, including DMH; and

Disseminate such guidelines to all affected Network Providers, PCCs, and other providers as appropriate, as well as to Covered Individuals upon request. Such dissemination may include posting the guidelines on the Contractor's website.

Disseminate evidence-based clinical practice guidelines and process improvement methodologies to Network Providers and PCCs, as appropriate.

Practice Guidelines Established by the Contractor

The Contractor may propose Practice Guidelines to EOHHS for prior approval, as the Contractor deems appropriate. Such guidelines must:

be based on valid and reliable clinical evidence or a consensus of health care professionals in the particular field;

consider the unique Behavioral Health and medical needs of Covered Individuals; and

be developed in conjunction with Covered Individuals, their families, Network Providers, PCCs, and clinical subject-matter experts within EOHHS agencies.

The Contractor shall not adopt such Practice Guidelines unless EOHHS approves them. If EOHHS approves the guidelines, the Contractor shall:

review and update the Practice Guidelines periodically, as appropriate, and submit any modifications to EOHHS for approval;

disseminate the Practice Guidelines to all affected Network Providers, PCCs, and other providers as appropriate, as well as to Covered Individuals upon request. Such dissemination may include posting the guidelines on the Contractor's website;

provide training, education, and support for their implementation; and

ensure that decisions regarding Utilization Management, Covered Individual education, coverage of services, and other areas to which such Practice Guidelines apply are consistent with the guidelines.

External Quality Review (EQR) Activities

The Contractor shall take all measures necessary to support the External Quality Review Organization (EQRO) contracted by EOHHS (EQR Contractor) to conduct External Quality Review Activities in accordance with 42 CFR 438.358, as described below.

EQR activities shall include, but are not necessarily limited to:

Annually validating performance improvement projects required by EOHHS;

Annually validating performance measures reported to EOHHS, as directed or calculated by EOHHS; and

At least once every three years, reviewing compliance with activities mandated by 42 CFR Part 438, Subpart D, and at the direction of EOHHS, regarding access, structure and operations, and quality of care and services furnished to Covered Individuals.

EQR measures to support the EQR Contractor in conducting EQR Activities shall include, but are not necessarily limited to:

Designating a qualified individual to serve as Project Director for each EQR Activity who shall, at a minimum:

Oversee and be accountable for compliance with all aspects of the EQR Activity;

Coordinate with staff responsible for aspect

of the EQR Activity and ensure that staff respond to requests by the EQR Contractor in a timely manner;

Serve as liaison to the EQR Contractor and EOHHS staff and answer questions or coordinate responses to questions from the EQR Contractor and EOHHS staff; and

Ensure timely access to information systems, data and other resources, as necessary for the EQR Contractor to perform the EQR Activity and as requested by the EQR Contractor or EOHHS.

Maintaining data and other documentation necessary to validate performance of EQR Activities. The Contractor shall maintain such documentation for a minimum of seven years.

Reviewing the EQR Contractor's draft EQR Activities report and offering comments and documentation to support the correction of any factual errors or omissions, in a timely manner, to the EQR Contractor or EOHHS.

Implementing actions, as directed by EOHHS, to address recommendations for quality improvement made by the EQR Contractor and sharing outcomes and results of such activities with the EQR Contractor and EOHHS in subsequent years.

The Primary Care Payment Reform Initiative

Program Overview

The Primary Care Payment Reform Initiative (PCPR) is MassHealth's test of an alternative provider payment methodology that supports a Patient-Centered Medical Home model with a focus on Behavioral Health integration. The PCPR payment model consists of three parts: a monthly prospective capitation payment for Primary Care services and certain outpatient Behavioral Health Services, if selected by the PCPR Provider; a quality incentive bonus; and a shared savings payment based on total spend for services not included in the monthly capitation payment.

Certain PCCs applied and have been selected as PCPR Providers and contracted with EOHHS to participate in the program in December 2013. PCPR Providers chose the level at which they would participate in PCPR based on the PCPR Covered Services they would provide. Tier 1 PCPR Covered Services Providers receive a capitation payment only for primary care medical services. Tier 2 PCPR Covered Services Providers receive a capitation payment for primary care medical services as well as certain outpatient behavioral health services. Tier 3 PCPR Covered Services Providers receive a capitation payment for primary care medical services as well as a more expansive list of outpatient behavioral health services.

Contractor Responsibilities

In support of the PCPR initiative, the Contractor shall pay PCPR Providers as described herein, monitor the progress of PCPR Providers, meet with the EOHHS as frequently as EOHHS determines necessary, and any other responsibilities described herein for the ongoing implementation of the PCPR initiative.

Reporting

The Contractor shall submit to EOHHS all required reports related to Quality Management, as described in this **Section 8** or **Appendix E-1**, in accordance with specified timetables, definitions, formats and assumptions, as well as any ad hoc reports required by EOHHS in accordance with **Section 11.2.B**.

INFORMATION SYSTEMS AND TECHNICAL SPECIFICATIONS

General Information Systems Requirements

General

The Contractor shall:

- Maintain information systems (Information Systems) that will enable the Contractor to meet all of the EOHHS's requirements as outlined in this Contract. The Contractor's Information Systems shall be able to support current EOHHS requirements, and any future IT architecture or program changes.
- Accept all Contract-related files and data delivered by EOHHS, in the format specified by EOHHS.
- Ensure a secure, HIPAA-compliant exchange of information on Covered Individuals and Uninsured Individuals and persons with Medicare only, as applicable, between the Contractor and EOHHS and any other entity EOHHS deems appropriate. Such files shall be transmitted to EOHHS through secure FTP, HTS, or a similar secure data exchange as determined by EOHHS.
- Develop and maintain a website that is accurate, up-to-date, and designed in a way that enables Covered Individuals and Providers to quickly and easily locate all relevant information (see **Section 7.1.G**). The Contractor's website must be ADA-compliant and compliant with the online security protocols of the Public Company Accounting Reform and Investor Protection Act of 2002 (the so-called "Sarbanes-Oxley" law), as appropriate. If directed by EOHHS, establish appropriate links on the Contractor's website that direct users back to the EOHHS website(s).
- Cooperate with EOHHS in its efforts to verify the accuracy of all Contractor data submissions to EOHHS.
- Actively participate in any EOHHS Systems Workgroup or other workgroups, as directed by EOHHS. The workgroup shall meet in the location and on a schedule determined by EOHHS.
- Retain online access to all EOHHS information systems as required by the Contract or directed by EOHHS, and ensure that such access is maintained for the duration of the Contract, unless otherwise directed by EOHHS.
- Establish and maintain an Internet or future interchange connection with the Massachusetts Information Technology Division (ITD) and/or EOHHS to permit file transfers (e.g., eligibility updates) and interactive access by EOHHS to the Contractor's Information System, and ensure that such connection is maintained for the duration of the Contract, unless otherwise directed by EOHHS.

Provide all other automated tracking and processing systems needed to carry out the responsibilities of the Contract.

Provide and maintain all necessary functionality, hardware and software to meet industry standards, to include at least the following:

Standard office software (word processing, spreadsheets, databases, e-mail communication, etc.) and operating systems on desktop, compatible with EOHHS's systems and licensed for all staff users;

Internet connectivity and the appropriate internet capacity to support the Contract; and

Business Intelligence reporting capability that is compatible with EOHHS's systems.

Implement any changes, enhancements and updates to its Information System to allow the Contractor to perform its responsibilities under the Contract, including collaborating with EOHHS on any changes to EOHHS's systems that affect the Contractor's ability to perform its responsibilities under the Contract.

Work with EOHHS to test or evaluate new or enhanced system changes pertaining to the exchange of any electronic information, to ensure that such changes meet Contract specifications and are compatible with other operating processes.

Take all steps necessary to ensure that the Contractor's Information Systems will be able to interface with and accommodate any new EOHHS IT projects that affect the Contractor.

Immediately report to EOHHS any telephone system, fax website, related software application or Information System problem(s) identified in the course of daily operations that prevent or impair the Contractor's performance of its Contract responsibilities.

Design Requirements

The Contractor shall:

Comply with EOHHS requirements, policies and standards in the design and maintenance of its Information Systems in order to successfully meet the requirements of this Contract.

Ensure that its Information Systems interface with and are compliant with EOHHS's MMIS, the EOHHS Virtual Gateway, and other EOHHS IT architecture that EOHHS identifies.

Have adequate resources to support the MMIS interfaces. The Contractor shall demonstrate the capability to successfully send and receive interface files including HIPAA transaction files, as specified on the 820 Companion Guide, 834 Outbound Companion Guide available at:

<http://www.mass.gov/eohhs/gov/newsroom/masshealth/providers/mmis-posc/hipaa-version-5010.html>.

Interface files in the Contract include but are not limited to:

HIPAA 834 History Request File

HIPAA 834 Outbound Daily File

HIPAA 834 Outbound Full File

HIPAA 834 History Response

HIPAA 820

Have the ability to receive and analyze data from the EOHHS Data Warehouse regarding medical and pharmacy Claims, as provided by EOHHS.

Conform to HIPAA-compliant standards for data management and information exchange.

Implement controls to maintain information security and integrity.

Maintain appropriate internal processes to determine the validity and completeness of data submitted to EOHHS. These processes may be reviewed by EOHHS upon request.

Collaborate with EOHHS to verify its compliance with Version 5010 standards during the readiness review period prior to the Service Start Date.

Use the Version 5010 standards for HIPAA electronic health care transactions, including claims, remittance advice, eligibility inquiries, referral authorization, and other administrative transactions.

Implement Version 5010 standards and framework for the revised medical data code sets (ICD-10-CM and ICD-10-PCS), by October 1, 2014.

Ensure that an automated health information system (HIS) to support all of the Contractor's responsibilities under the Contract is operative as of the Service Start Date and remains operative for the duration of the Contract, unless otherwise directed or agreed to by EOHHS. The HIS must achieve the objectives of 42 CFR Part 438, Subpart D and shall collect, analyze, integrate and report data, including but not limited to information regarding:

Service authorizations;

Utilization;

Grievances, Internal Appeals, and BOH Appeals;

Provider information;

Services furnished to Covered Individuals through an Encounter data system, as specified in **Section 9.5**;

Covered Individual characteristics, including but not limited to race, ethnicity, spoken language, hearing loss and use of ASL Interpreter or CART services by deaf, hard-of-hearing and deaf blind persons, blindness and wheelchair dependence, and characteristics gathered through Contractor contact with Covered Individuals, e.g., through the Care Management Program, Behavioral Health Clinical Assessments, or other reliable means;

Enrollee participation in the Care Management Program; and

Identification of Covered Individuals as belonging to any of the special populations or subgroups identified through provision of clinical services.

Ensure that data received from Providers is 99 percent complete and 95 percent accurate by:

Verifying the accuracy and timeliness of reported data;

Screening the data for completeness, logic and consistency;

Establishing a remediation process for data that is deemed inaccurate during verification and screening; and

Collecting service information in standardized formats to the extent feasible and appropriate.

Make all collected data available to EOHHS and, upon request, to CMS, as required by 42 CFR 438.242(b)(3).

Utilize its HIS to pay Network Providers for BH Covered Services and ESP Services rendered to Covered Individuals and Uninsured Individuals, including persons covered by Medicare only, in accordance with the Contractor's service authorization, Claims processing, enrollment and disenrollment procedures, and data handling and administrative billing requirements.

System Access Management and Information Accessibility Requirements

The Contractor shall make all Information Systems and system information available to authorized EOHHS and other agency staff as determined by EOHHS to evaluate the quality and effectiveness of the Contractor's data and Information Systems.

The Contractor is prohibited from sharing or publishing EOHHS data and information without prior written consent from EOHHS.

System Availability and Performance Requirements

The Contractor shall ensure that its Covered Individual and Provider web functions and phone-based functions are available to Covered Individuals and Providers 24 hours a day, seven days a week.

The Contractor shall draft an alternative plan that describes access to Covered Individual and Provider information in the event of Information System failure. Such plan shall be contained in the Contractor's Continuity of Operations Plan (COOP) (see **Section 13.36**) and shall be updated annually and submitted to EOHHS upon request. In the event of Information System failure or unavailability, the Contractor shall notify EOHHS upon discovery, and implement the COOP immediately.

The Contractor shall preserve the integrity of Covered Individual-sensitive data whether active or archived.

Virtual Gateway

If EOHHS directs the Contractor during the term of this Contract to access certain services through the Virtual Gateway, the Contractor shall:

Submit all specified information, including but not limited to invoices, Contract or other information to EOHHS through these web-based applications;

Comply with all applicable EOHHS policies and procedures related to such services;

Use all business services through the EOHHS Virtual Gateway, as required by EOHHS;

Take necessary steps to ensure that the Contractor and its subcontractors or affiliates have the ability to access and utilize all required web-based services; and

Execute and submit all required agreements, including subcontracts, agreements, memorandums of understanding, confidentiality and/or end user agreements in connection with obtaining necessary end user accounts for any Virtual Gateway business service.

Automated Service Authorization

The Contractor shall employ an automated service authorization system that supports the service authorization requirements and procedures in **Section 4.2** and provides for the documentation of at least the following information for each Covered Individual:

Identifying demographic information;

Identification of Provider delivering service, including his/her national provider identifier (NPI);

Diagnosis code(s);

Authorized service units.

Claims Processing

The Contractor shall ensure that its Claims processing system performs, at a minimum the following functions:

Maintains a unique Provider identification number for each Provider and utilizes the NPI for purposes of billing.

Accepts Claims submitted by Network Providers or their designated representative(s). The Contractor shall:

Accept national UB-04 and national CMS 1500 electronic formats;

Accept paper-based Claims using standardized forms.

Adjudicates Claims and issues payment for approved Claims once a week, at a minimum.

Adjudicates and issues payment for all Clean Claims within 30 days of receipt of the Clean Claim.

Provides policies and procedures that track all Claims from point of receipt to final disposition, in order to ensure that all invoices and electronic media Claims are processed to completion and have not been previously paid.

Creates payment and HIPAA 835 remittance advices for each Provider for Claims activities during a current cycle. The system specifications and file layout must:

Identify each Claim in a cycle and its status, including a description of all errors and denial reasons; and

Generate the remittance advices in electronic or paper format, as appropriate for each Provider.

Collects and maintains Network Provider financial data and issues state and federal income tax documents in accordance with state and federal law. This shall include, at a minimum, TIN/FEIN and NPI.

Maintains all Claims files and records in accordance with all applicable laws, and submits them to EOHHS, the Commonwealth or federal agencies, as needed and upon request.

Ensures that security controls are in accordance with current industry standards and relevant CMS policy.

Ensures confidentiality of all data in accordance with state and federal laws and regulations, including 42 CFR 431, Subpart F, implementing procedures to properly safeguard and dispose of data. (See also **Section 14.B.5.**)

Member Eligibility System Requirements

The Contractor shall create policies and procedures to ensure that its enrollment system performs, at a minimum, the following functions:

On each business day, obtains from EOHHS by electronic communications link and immediately updates its database with all information pertaining to all Covered Individual enrollments.

Uniquely identifies each Covered Individual, and includes in the Contractor's data system information provided by the EOHHS eligibility feed regarding the Covered Individual's state agency affiliations, PCC enrollment, PCC, and TPL status. This information must also be incorporated into the Contractor's clinical Information Systems. The Contractor must use the EOHHS-assigned MID as the Covered Individual identifying number.

On each business day receives and processes an electronic file of EOHHS's MID merges.

On each business day, receives from EOHHS by electronic communications link and processes information pertaining to all disenrollments.

Once a month receives and processes a copy of EOHHS's carrier file, including carrier codes, and uses this file to reconcile the Contractor's cost avoidance and recovery activities.

Once a month receives a list of EOHHS's PCCs and track the accuracy of information on PCCs if directed to do so by EOHHS.

Receives and processes on a quarterly basis, or as otherwise agreed to by EOHHS, a file containing a list of all Covered Individuals, by MID, Plan Type and effective dates, and uses this file to reconcile the Contractor's Covered Individual enrollment file with EOHHS data.

Encounter Data

Data Transfers

No later than the fifteenth day of each month, the Contractor shall provide EOHHS with the Encounter Data Set for the preceding month in a format consistent with that described in **Appendix D** and this section.

Encounter Data

The Contractor shall:

Ensure that its Information Systems generate and transmit Encounter data files according to the specifications outlined in **Appendix D** as updated from time to time. EOHHS may update or replace **Appendix D** without the need for a Contract amendment.

Maintain processes to ensure the validity, accuracy and completeness of the Encounter data in accordance with the standards specified in this **Section 9.5**.

Develop and maintain remediation process and key contacts for Encounter data that is deemed invalid.

Collect and maintain 100 percent Encounter data for all Behavioral Health Covered Services provided to Covered Individuals and Uninsured Individuals, including persons with Medicare only, receiving ESP Services through the Contractor, including from any subcapitated sources. Such data for Covered Individuals must be able to be linked to MassHealth eligibility data.

Participate in site visits and other reviews and assessments by EOHHS or its designee, for the purpose of evaluating the Contractor's collection and maintenance of Encounter data.

Upon request by EOHHS or its designee, provide medical records of Enrollees and a report from administrative databases of the Encounters of such Enrollees in order to conduct validation assessments. Such validation assessments may be conducted annually.

Produce Encounter data according to the specifications, format, and mode of transfer reasonably established by EOHHS or its designee in consultation with the Contractor. Such Encounter data shall include, but is not limited to, the data elements described in **Appendix D**.

Provide Encounter data to EOHHS on a monthly basis or within time frames specified by EOHHS in consultation with the Contractor.

Submit Encounter data that is, at a minimum, 99 percent complete and 95 percent accurate. To meet the completeness standard, all critical fields in the data must contain valid values. To meet the accuracy standard, the Contractor must have systems in place to monitor and audit Claims and identify errors. The Contractor must also correct and resubmit denied Encounters as necessary. The data shall be considered complete and accurate if the error rate in the initial submission is no more than 3 percent and the number of Encounters that need to be manually overridden is no more than 1 percent.

Ensure that all initial Behavioral Health Clinical Assessments are explicitly identified in the Encounter data submitted in accordance with this **Section 9.5.B**.

If EOHHS or the Contractor determines at any time that the Contractor's Encounter Data is not 99 percent complete and 95 percent accurate, the Contractor shall:

Notify EOHHS, prior to Encounter data submission, that the data is not complete or accurate.

Submit for EOHHS approval a corrective action plan to implement improvements or enhancements to bring the accuracy and/or completeness to an acceptable level, and a timeline for resolution of the issue. EOHHS shall establish the time frame

the Contractor to submit the corrective action plan, but in no event shall it be submitted later 30 days from the day the Contractor identifies or is notified that it is not in compliance with the Encounter data requirements.

Implement the EOHHS-approved corrective action plan within a time frame approved by EOHHS, which shall in no event be later than 30 days from the date that the Contractor submits the corrective action plan to EOHHS for approval.

Following the Contractor's implementation of the corrective action plan, the Contractor shall participate in a validation study to be performed by EOHHS or its designee, to assess whether the Encounter data is 99 percent complete and 95 percent accurate. The Contractor may be financially liable for such validation study.

Report as a voided Claim in the monthly Encounter data submission any Claims that the Contractor pays, and then later determines it should not have paid.

Eligibility Verification System (EVS)

The Contractor shall maintain access to EOHHS's computer network for online inquiry access to the Eligibility Verification System (EVS) and the Medicaid Management Information System (MMIS) databases for identification of Covered Individuals, their MassHealth eligibility, Managed Care enrollment status, and service restrictions.

Telephone System

Specifications

As of the Service Start Date the Contractor shall:

Maintain the telephone number (800-495-0086), with telecommunications device for the deaf (TDD) and teletypewriter (TTY) transmission and reception capability for the deaf and hearing-impaired, as the Contractor's toll-free number, unless otherwise agreed to by EOHHS.

Provide access through the toll-free number to Member and Provider Customer Service representatives via dedicated menu option(s).

Maintain a telephone system that performs the following functions:

Assigns priority status to Covered Individuals in crisis to ensure immediate response from a clinician staffing the Clinical Referral and Service Authorization line;

Provides a sufficient number of telephone lines and trunks to handle all incoming calls so that no caller receives a busy signal;

Provides a means for callers to leave messages for the Contractor after business hours, and ensures that such calls are handled by the next business day; and

Allows the Contractor to directly connect the caller to other agencies or contractors, as specified by EOHHS.

Submit to EOHHS for approval 30 days prior to the Service Start Date:

A description of its working automated telephone system with menu options that include:

the Clinical Referral and Service Authorization line;

Member Services, Provider Relations, and PCC Hotline; and

a diagram for direct call distribution to the Contractor's telephone queues;

The proposed script for the telephone system's greeting; and

A description of the messages and prompts that are part of the automated telephone system.

Develop, implement, maintain and enhance, as necessary, a call management system for Clinical Authorization and Referral and Member and Provider Customer Service calls that:

Records and tracks all calls handled, to include the following information:

name of caller and Covered Individual, Provider or PCC identification number, where applicable;

call date and time;

reason for the call;

disposition of the call, including whether the matter was resolved at the time of first contact if a complaint, was resolved by the end of the next business day, or if the call is pending resolution; and

if the call is pending resolution, additional information to assist in the escalation and resolution of outstanding issues.

Tracks Covered Individual call volume by PCC, DYS, DCF, TPL, etc.; and

Provides service representatives with online access to relevant information from previous calls.

Arrange for appropriate telephone book listings of the Contractor, as approved by EOHHS, to be submitted for publication at least one month prior to the Service Start Date.

Periodically, and as directed by EOHHS, evaluate the effectiveness of the Provider and Member Customer Services telephone system, and submit proposals for improvement to EOHHS.

Telephone Response Requirements

The Contractor shall ensure that:

Calls from Covered Individuals in crisis are handled immediately by a staff clinician;

For each line, including Clinical Referral and Service Authorizations, Member and Provider Customer Service and PCC Hotlines, staff make best efforts to answer all calls from Covered Individuals and Providers and PCCs within 30 seconds of when callers select the menu option for the line they are trying to reach; but in no case shall fewer than 90 percent of these calls be answered within 30 seconds;

Calls to all lines have an abandoned call rate of less than 5 percent; and

Calls to each specific line are answered within the specified time frames by the appropriate staff:

Calls to clinical lines are answered by a clinician;

Calls to Customer Service are answered by customer service staff; and

Calls to the PCC Hotline are answered by trained and dedicated Provider service representatives.

Other Contractor-Managed Data Systems for Specific Requirements of the Contract

The Contractor shall maintain data systems, which may be standalone, web-based, or integrated into its larger Information System, that are required to manage and report on specific program requirements of the Contract. These data systems include but are not limited to:

ESP Encounter database as described in **Section 3.4.C.6.c**.

Behavioral Health Service Access System database for use by providers to locate available capacity for inpatient, and certain Diversionary and CBHI services, as described in **Section 3.4.A.12**.

CSA referral and enrollment data tracking system as described in **Section 3.5.E.8**.

PCC Plan action plan database as described in **Section 5.2.C.3**.

Clinical database for Care Management as described in **Section 6.2.B.6**.

Reporting

The Contractor shall submit to EOHHS all required reports related to MIS, telephone or other technical systems, as described in this **Section 9** or in **Appendix E-1**, in accordance with specified timetables, definitions, formats and assumptions, as well as any ad hoc reports required by EOHHS in accordance with **Section 11.2.B**.

PAYMENT AND FINANCIAL PROVISIONS

General Financial Provisions

Payment for Provision of Covered Services to Covered Individuals

EOHHS shall make payments to the Contractor in accordance with the payment provisions in this **Section 10.1**. Payments to the Contractor for Covered Individuals, including the Behavioral Health Covered Services Capitation Rates, the Administrative Component of the BH Covered Services Capitation Rates, payments made for Risk Sharing, and payments made for Performance Incentive Arrangements including Pay for Performance and Care Management Incentive Payments shall be made in accordance with 42 CFR 438.6. Except as expressly set forth herein, the Contractor shall accept the payments set forth below as payment in full for the provision of Behavioral Health Covered Services and all other activities described in this Contract.

All payments under this Contract are subject to state appropriation and all necessary federal approvals.

Behavioral Health Covered Services Capitation Rates

EOHHS shall pay the Contractor Behavioral Health Covered Services Capitation Rates for all BH Covered Services provided under this Contract except as set forth in **Section 10.1.A.2** below. All Behavioral Health Covered Services Capitation Rates shall be as set forth in **Appendix H-1**.

Exclusions from the Behavioral Health Covered Services Capitation Rates

EOHHS shall pay the Contractor for services provided by ESPs to Uninsured Individuals and persons with Medicare only according to the methodology set forth in **Section 10.10**.

Risk-Sharing Arrangements

The Contractor and EOHHS may share financial risk for Behavioral Health Covered Services. Risk sharing arrangements shall be as set forth in **Appendix H-1**.

Administrative Component of the Behavioral Health Covered Services Capitation Rate and up to 20% of Care Management Program.

EOHHS shall pay the Contractor an Administrative Component of the Behavioral Health Covered Services and up to 20% of Care Management Program Capitation Rate for each Contract Year as set forth in **Appendix H-1**.

The Administrative Component of the Behavioral Health Covered Services Capitation Rate shall be based on a Per Member (Covered Individual) Per Day (PMPD) rate that is determined using the Covered Individuals served under the Contractor's BHP.

Payment shall be for services as set forth in **Appendices G and H-1**.

Performance Incentive Arrangements

EOHHS and the Contractor may establish Performance Incentive Arrangements. If such Performance Incentive Arrangements are established, EOHHS shall pay the Contractor Performance Incentive Arrangement payments based on EOHHS's assessment of the Contractor's achievement of such Performance Incentives and all terms and conditions for payment as set forth in this Contract and **Appendices G and H-1**. Any such incentive payment shall not result in payments in excess of 105 percent of the approved Capitation Payments.

PCC Plan Management Support Services

EOHHS shall pay the Contractor for the PCC Plan Management Support Services activities described in **Section 5** and other sections of the Contract as identified by the parties each Contract Year, as set forth in **Appendix H-1**.

The PCC Plan Management Support payments shall be based on a Per Member (Enrollee) Per Day (PMPD) rate that is determined using the Enrollees in the PCC Plan.

Payment for Provision for DMH Specialty Programs Services

EOHHS shall pay the Contractor to provide DMH Specialty Programs services. Such payments shall include a DMH Specialty Programs Administrative Compensation Rate and a DMH Specialty Programs Service Compensation Rate as set forth in **Appendix H-1**.

Contractor's Use of Earnings for Compliance with Financial Stability Requirements

In no event shall any portion of the any payments made under this Contract, other than earnings, be used to pay the Contractor's cost for compliance with financial stability provisions (**Section 10.12.C**).

Modification of Covered Services

If, at any time during the term of the Contract, EOHHS directs the Contractor to eliminate or modify a BH Covered Services or DMH Specialty Program, the Contractor shall accept a modification in Behavioral Health Covered Services Capitation Rates or in the DMH Specialty Programs Payments, which shall be calculated by EOHHS in consultation with the Contractor.

Periodic Rate Review

In its discretion, at any time, EOHHS may review with the Contractor BH Covered Services Capitation Rates and the other financial provisions of this Contract to determine if such provisions should be adjusted due to changes in enrollment, case mix, or other factors. To the extent required by applicable federal law, such payment adjustments shall comply with the principles of actuarial soundness as determined by EOHHS in accordance with 42 CFR 438.6. In the event that EOHHS performs such a Periodic Rate Review and proposes modifications to any financial provisions as a result, the Contractor shall have 60 days to accept such modifications. In the event that the Contractor does not accept the financial

provisions within 60 days, EOHHS may terminate the Contract and the provisions of **Section 13.16.B** shall apply.

Annual Negotiation of Financial Terms

In determining the financial terms of the Contract, the Contractor shall meet with EOHHS annually to renegotiate the financial terms for each Contract Year. Such meetings shall begin no later than three months before the end of each Contract Year. EOHHS shall incorporate annual financial terms into the Contract as **Appendix H-1**.

Failure to Accept Financial Provisions

In the event that the Contractor does not accept financial provisions for the next Contract Year by the first day of the new Contract Year, EOHHS shall continue to pay the Contractor under the current year's financial provisions and the Contractor shall accept such payment as payment in full under the Contract subject to subsections **a** and **b** below. EOHHS may halt all new Enrollee assignments into the PCC Plan until the Contractor accepts the financial provisions offered by EOHHS.

In the event that any component of the prior year's financial provisions are higher than the financial provisions for the new Contract Year that the Contractor ultimately accepts, EOHHS may recoup the higher payments made during the interim period.

In the event that any component of the prior year's financial provisions are lower than the financial provisions for the new Contract Year that the Contractor ultimately accepts, EOHHS will not retroactively adjust the lower payments made during the interim period.

In the event that the Contractor does not accept the financial provisions within 60 days of EOHHS's offer, EOHHS may terminate the Contract in accordance with **Section 13.16.B**.

If the Contractor does not accept the financial terms within 60 days of EOHHS's offer, EOHHS may terminate the Contract and the Contractor shall be obligated to continue to perform all obligations under the Contract as described in **Section 13.16.E**, until such time as all Covered Individuals are disenrolled from the Contractor's BHP. The Contractor shall accept the lower of the prior year's financial provisions or the EOHHS financial provision offer as payment in full during this time period.

Responsibilities of Chief Financial Officer

The Contractor shall employ a Chief Financial Officer who shall be responsible for overseeing all financial provisions and requirements of this Contract, including but not limited to the following:

Serving as the Contractor's liaison to EOHHS's financial representatives on all financial matters, including payments, reconciliations, and financial forecasting.

Validating the accuracy and completeness of all financial reports required under this Contract.

Payment for Provision of Services by Indian Health Care Providers to Indian Enrollees

All payments to the Contractor are conditioned on compliance with the provisions below and all other applicable provisions of the American Recovery and Reinvestment Act of 2009.

1. The Contractor shall offer Indian Enrollees the option to choose an Indian Health Care Provider as a Primary Care Provider if the Contractor has an Indian Primary Care Provider in its network that has capacity to provide such services;
2. The Contractor shall demonstrate that it has sufficient access to Indian Health Care Providers to ensure access to MCO Covered Services for Indian Enrollees;
3. The Contractor shall pay both network and non-network Indian Health Care Providers who provide MCO Covered Services to Indian Enrollees a negotiated rate which shall be no lower than the MassHealth fee for service rate for the same service or, in the absence of a negotiated rate, an amount not less than the amount that the Contractor would pay for the MCO Covered Service provided by a non-Indian Health Care Provider;
4. The Contractor shall make prompt payment to Indian Health Care Providers; and
5. The Contractor shall pay non-network Indian Health Care Providers that are FQHCs for the provision of services to an Indian Enrollee at a rate equal to the rate that the Contractor would pay to a network FQHC that is not an Indian Health Care Provider.

Rating Categories (RC) for Covered Individuals

RC I (Families) excluding Children under 21 with TPL

RC I includes MassHealth Members under age 65 who are enrolled in MassHealth Standard, including individuals receiving Transitional Aid to Families with Dependent Children (TAFDC) benefits; MassHealth Members who are categorically related to the TAFDC program, (excluding spend-down cases); MassHealth Members under age 65 under the Refugee Resettlement Program, MassHealth Members in MassHealth (Family Assistance); RC I excludes individuals who have Third-Party Liability coverage.

RC I Children under 21 with TPL Only

RC I Children under 21 with TPL Only includes MassHealth Members in MassHealth Standard under age 21 with Third- Party Liability coverage, including Medicare, coverage from any other public payer, or commercial insurance.

RC II (Disabled) excluding Children under 21 with TPL

RC II includes: MassHealth Members under age 65 who are disabled and receiving Supplemental Security Income (SSI), excluding those individuals who receive either Medicare Part A or Medicare Part B benefits; MassHealth Members who are disabled, excluding those individuals who receive either Medicare Part A or Medicare Part B benefits; MassHealth Members receiving SSI and Massachusetts Commission for the Blind benefits, excluding those individuals who receive either Medicare Part A or Medicare Part B benefits; MassHealth Members of the Massachusetts Commission for the Blind excluding those individuals who receive either Medicare Part A or Medicare Part B benefits; MassHealth Standard (Disabled) Members; and Members of MassHealth CommonHealth who have no Third-Party Liability coverage.

RC II Children under 21 with TPL Only

RC II Children under 21 with TPL Only includes MassHealth Members in MassHealth Standard (Disabled) and CommonHealth under age 21 with Third-Party Liability coverage, including Medicare, coverage from any other public payer, or commercial insurance.

RC V (Basic)

RC V includes MassHealth Members over the age of 18 and under the age of 65 who qualify under EOHHS's MassHealth Basic eligibility criteria, which includes persons who have been identified by DMH as getting services or as being on a waiting list to get services from the DMH, are "long-term unemployed," and have income at or below 100 percent of the federal poverty level

RC VII (Essential)

RC VII includes MassHealth Members over the age of 18 and under the age of 65, who qualify under MassHealth Essential eligibility criteria which includes (1) persons not currently working; (2) persons that have not worked in more than one year or, if a person has worked, that person has not earned enough to collect unemployment; (3) persons not eligible to collect unemployment benefits; (4) persons who have an immigration status that prevents them from getting MassHealth Standard, are long-term unemployed and meet MassHealth disability rules; and (5) persons who are not eligible for MassHealth Basic.

RC VIII (MFP)

RC VIII includes MassHealth Members enrolled in one of the two HCBS waivers called the MFP Community Living (MFP-CL) (HCBSG Benefit Plan) Waiver and MFP Residential Supports (MFP-RS) (HCBSH Benefit Plan) Waiver.

RC IX (CarePlus)

RC IX includes Covered Individuals over the age of 20 and under the age of 65 with incomes up to 133 percent of the Federal Poverty Level (FPL), who are not pregnant, disabled, or a parent or a caretaker relative of a child under age 19, or eligible for other MassHealth coverage. Also excluded from RC IX are individuals who are dually-eligible for Medicaid and Medicare.

RC X (CarePlus)

RC X includes Covered Individuals over the age 20 and under the age of 65 with incomes up to 133 percent of the FPL, who are receiving Emergency Aid to the Elderly, Disabled and Children (EAEDC) through the Massachusetts Department of Transitional Assistance. Excluded from RC X are individuals who are pregnant, disabled, or a parent or caretaker relative of a child under age 19, or eligible for other MassHealth coverage. Also excluded from RC X are individuals who are dually-eligible for Medicaid and Medicare.

Payment Methodology for BH Covered Services Capitation Rates

Monthly Estimated BH Covered Services Capitation Rate Payment Process

Each month EOHHS shall pay the Contractor an Estimated Capitation Payment, which will include the BH Covered Services Capitation Payment, in accordance with the following methodology. EOHHS shall:

Convert the BH Covered Services Capitation Rates into a Per-Covered Individual Per-Day (PMPD) amount for each RC by multiplying the Per-Member Per-Month (PMPM) payment rate by 12, then dividing by 365; for Contract Year One, such calculation shall be made by multiplying the PMPM payment rate by 9 then dividing by 273.

Multiply the estimated number of Eligible Days for the month, as determined by EOHHS in each RC, by the PMPD amount for the RC.

Sum the calculations described in subsection 2 for each RC; this is the Estimated Monthly BH Covered Services Capitation Amount.

Estimated Monthly BH Covered Services Capitation Amount Reconciliation Process

EOHHS shall perform a monthly reconciliation of the Estimated Monthly BH Covered Services Capitation Payment Amount calculated according to **Sections 10.3.A.1-2** against the actual number of Eligible Days by RC, as determined by EOHHS, in accordance with the following methodology. EOHHS shall:

Multiply the actual number of Eligible Days, as determined by EOHHS for each RC for the previous month, by the PMPD amount for each RC.

Sum the calculations for each RC described in subsection a; this is the Actual Monthly BH Covered Services Capitation Amount.

Compare the sum of the Estimated Monthly BH Covered Services Capitation Payment paid for the month against the Actual Monthly BH Covered Services Capitation Amount. This reconciliation shall occur monthly.

The Contractor shall provide any information necessary to complete such reconciliation in the time frame and format specified by EOHHS.

Based on the comparison described in subsection **1.c** above, EOHHS shall determine each month whether overpayments or underpayments were made to the Contractor.

EOHHS shall remit to the Contractor the full amount of any underpayments made for the month. Such payments shall be made through an adjustment to future Estimated Monthly BH Covered Services Capitation Payments or by another mechanism, as determined by EOHHS.

The Contractor shall remit to EOHHS the full amount of any overpayments made for the month. Such payments shall be made through an adjustment to a future Estimated Monthly BH Covered Services Capitation Payments or by another mechanism, as determined by EOHHS.

Monthly CarePlus Estimated Capitation Payment Process

EOHHS shall make capitation payments for Covered Individuals in Rating Categories IX and X, as follows:

Monthly, EOHHS shall pay the Contractor an Estimated Capitation Payment equal to the sum of the products of:

- a. The number of Covered Individuals in Rating Categories IX and X in the Contractor's Plan as determined by EOHHS on the first day of the Payment Month, multiplied by
- b. The Behavioral Health Covered Services Capitation Rates for each applicable Rating Category.

EOHHS shall include Covered Individuals in Rating Categories IX and X in the capitation calculation described in subsection 10.3.C.1. above as follows:

- a. For Covered Individuals in Rating Categories IX and X who have an Effective Date of Enrollment with the Contractor's Plan as of the first day of the Payment Month, EOHHS shall include such Covered Individuals in Rating Categories IX and X in the capitation calculation for that Payment Month.
- b. For Covered Individuals in Rating Categories IX and X who have an Effective Date of Enrollment with the Contractor's Plan after the first day of the Payment Month, EOHHS shall include such Covered Individuals in Rating Categories IX and X in the capitation calculation starting with the following Payment Month.

For Covered Individuals in Rating Categories IX and X for whom EOHHS has assigned a specific disenrollment date due to a qualifying event such as a member attaining age 65 within the Payment Month, EOHHS shall make a pro-rated Estimated Capitation Payment to the Contractor. The pro-rated Estimated Capitation Payment will equal:

- a. The Behavioral Health Covered Services Capitation Rate,
- b. Multiplied by the number of Enrollee Days during the Payment Month
- c. Divided by the total number of days in the Payment Month.

Payment Methodology for the Administrative Component of the BH Covered Services Capitation Rates

Estimated Monthly Administrative Payments

Each month EOHHS shall pay the Contractor an Estimated Administrative Payment, which will include the care management administrative rate, in accordance with the following methodology:

EOHHS shall convert the PMPM Rates into a Per-Member (Covered Individual) Per-Day (PMPD) amount by multiplying the Per-Member Per-Month (PMPM) payment rate by 12, then dividing by 365; for Contract Year One, such calculation shall be made by multiplying the PMPM payment rate by 9, then dividing by 273; and

Multiply the estimated number of Eligible Days for the month, as determined by EOHHS, by the PMPD; this is the Estimated Monthly Administrative Component of the BH Covered Services Capitation Rate amount.

Estimated Monthly Administrative Reconciliation Process

EOHHS shall perform a monthly reconciliation of the Estimated Monthly Payment for Administrative Component of the BH Covered Services Capitation Rate calculated according to **Sections 10.4.B.1-2** against the actual number of Eligible Days by Covered Individual and Enrollees in the Care Management portion of the administrative payment as determined by EOHHS, in accordance with the following methodology. EOHHS shall:

Multiply the actual number of Eligible Days, as determined by EOHHS for Covered Individual and Enrollees for the previous month, by the PMPD BH Administrative rate and the Care Management administrative rate amount; this is the Actual Monthly Administrative Component of the BH Covered Services Capitation Rate.

Compare the Estimated Monthly Administrative Component of the BH Covered Services paid for the month against the Actual Monthly Administrative Component of the BH Covered Services Capitation Rate.

The Contractor shall provide any information necessary to complete such reconciliation in the time frame and format specified by EOHHS.

Based on the comparison described in subsection **1.b** above, EOHHS shall determine each month whether overpayments or underpayments were made to the Contractor.

EOHHS shall remit to the Contractor the full amount of any underpayments made for the month. Such payments shall be made through an adjustment to future Estimated Monthly Administrative Component of the BH Covered Services Capitation Rates payment or by another mechanism, as determined by EOHHS.

The Contractor shall remit to EOHHS the full amount of any overpayments made for the month. Such payments shall be made through an adjustment to future Estimated Monthly Administrative Component of the BH Covered Services Capitation Rates payment or by another mechanism, as determined by EOHHS.

Payment Methodology for PCC Plan Management Support Services

Estimated PCC Plan Management Support Services Payment

Each month EOHHS shall pay the Contractor an Estimated PCC Plan Management Support Services Payment, in accordance with the following methodology. EOHHS shall:

Convert the PMPM Rates into a per-Enrollee per-day (PMPD) amount by multiplying the Per-Member Per-Month (PMPM) payment rate by 12, then dividing by 365; for Contract Year One, such calculation shall be made by multiplying the PMPM payment rate by 9, then dividing by 273.

Multiply the estimated number of Eligible Days for the month, as determined by EOHHS, by the PMPD; this is the Estimated Monthly PCC Plan Management Support Services Payment Amount.

Estimated PCC Plan Management Support Services Payment Reconciliation Process

EOHHS shall perform a monthly reconciliation of the Estimated Monthly Payment for the PCC Plan Management Support Services calculated according to **Sections 10.5.B.1-2** against the actual number of Eligible Days by Enrollee, as determined by EOHHS, in accordance with the following methodology. EOHHS shall:

Multiply the actual number of Eligible Days, as determined by EOHHS for Enrollees for the previous month, by the PMPD amount; this is the Actual Monthly PCC Plan Management Support Services Payment.

Compare the Estimated PCC Plan Management Support Services Payment paid for the month against the Actual Monthly PCC Plan Management Support Services Amount.

The Contractor shall provide any information necessary to complete such reconciliation in the time frame and format specified by EOHHS.

Based on the comparison described in subsection **1.b** above, EOHHS shall determine each month whether overpayments or underpayments were made to the Contractor.

EOHHS shall remit to the Contractor the full amount of any underpayments made for the month. Such payments shall be made through an adjustment to future Estimated PCC Plan Management Support Services Payments or by another mechanism, as determined by EOHHS.

The Contractor shall remit to EOHHS the full amount of any overpayments made for the month. Such payments shall be made through an adjustment to future Estimated PCC Plan Management Support Services Payments or by another mechanism, as determined by EOHHS.

Risk-Sharing Arrangements

General Provisions

There may be distinct financial risk-sharing arrangements for the Behavioral Health Covered Services Component of the Capitation Rates paid for under the Rates for RC I excluding Children under 21 with TPL; RC I Children under 21 with TPL only; RC II excluding Children under 21 with TPL; RC II Children under 21 with TPL only; and RC IX and RC X, as applicable, as set forth in **Appendix H-1**.

The arrangement described in this **Section 10.6** may result in payment by the Contractor to EOHHS or by EOHHS to the Contractor.

All payments to be made by the Contractor to EOHHS or by EOHHS to the Contractor shall be calculated and determined by EOHHS based on the Contractor's expenditures related to Covered Individuals, as determined by EOHHS.

The Contractor's Behavioral Health Covered Services Capitation Rate revenue shall mean the sum of the applicable 12 Actual Monthly Behavioral Health Covered Services Capitation Rate payments for the Contract Year, as determined in accordance with **Section 10.3.B.1.b**. This calculation shall be used to determine the Contractor's revenue for the Behavioral Health Covered Services Capitation Rate.

By 210 days after the end of each Contract Year, the Contractor shall provide EOHHS with a report of actual expenditures for all of the services included in the Behavioral Health Covered Services Capitation Rate, subtracting any TPL recoveries retained by the Contractor pursuant to **Section 2.3.C.2**. The report of expenditures shall be based on all Claims paid through no fewer than 180 days, including the Contractor's best estimate of Claims incurred but not reported (IBNR) and any applicable

IBNR completion factor reported to EOHHS with the IBNR methodology report (see **Appendix E-1**). In the event that the above final report of actual expenditures includes an IBNR completion factor greater than 1 percent for total BH Covered Services, EOHHS reserves the right to conduct an audit of the Contractor's IBNR methodology.

EOHHS shall in its sole discretion make the final determination of IBNR, using the Contractor's report of actual expenditures to inform that determination.

EOHHS shall compare the actual PMPD Behavioral Health Covered Services Capitation Rate payments for the Contract Year to the Contractor's actual expenditures. Based on such comparison, and calculating any difference, EOHHS shall determine in accordance with **Section 10.3.B.2** whether overpayments or underpayments were made to the Contractor.

EOHHS shall pay the Contractor a final payment for the preceding Contract Year in accordance with the same methodology as described in **Section 10.3.B.2.a**.

The Contractor shall pay EOHHS a final payment for the preceding Contract Year in accordance with the same methodology as described in **Section 10.3.B.2.b**.

Notwithstanding the generality of the foregoing, if EOHHS determines that risk sharing arrangements result in payments that exceed the approved capitation rates and the excess payments exceed that total amount MassHealth would have paid on a fee for service basis for the BH Covered Services actually furnished to Covered Individuals, EOHHS shall re-price any or all of the Contractor's paid Claims so that the total final payments to the Contractor based on risk sharing arrangements do not exceed the amount MassHealth would have paid for the actual services provided to Covered Individuals on a Fee-For-Service basis.

Performance Incentive Arrangements

Overview

The Contractor may be eligible for three types of Performance Incentive Arrangements under this Contract: Pay for Performance (P4P), Care Management Performance Incentives and an ABA Incentive. Total Payments for Performance Incentive Arrangements may not exceed 105 percent of approved Capitation Payments.

Pay for Performance

The number of P4P measures in Contract Year One shall not exceed four measures. Each Contract Year thereafter during Contract negotiations, the Contractor shall propose to EOHHS a minimum of five P4P measures as described in **Section 8.6**, including the measure methodology and proposed improvement targets which the Contractor must meet in order to receive any P4P payments.

Each Contract Year, EOHHS may in its sole discretion approve, modify or disapprove any or all proposed P4P measures or supporting methodologies.

EOHHS shall make payments to the Contractor based on its performance on selected P4P measures, if agreed to by EOHHS. Partial payments may be made based on demonstration of incremental improvement.

Except as otherwise expressly stated, for any P4P and supporting methodology for which performance is determined by reference to a baseline, EOHHS shall in its sole discretion establish such baseline.

EOHHS shall have the sole authority for determining whether the Contractor has met, exceeded or fallen below any P4P measure. EOHHS shall make its determination as to whether the Contractor has achieved any P4P measure or incremental target, except if EOHHS has not received sufficient material information from the Contractor to make such a determination.

With the exception of the P4P measure on outpatient access and quality, the Contractor shall receive annual payment for performance, where earned, based on actual performance improvement no earlier than six months following the end of the calendar year of the measurement, as illustrated in the table below.

Baseline Measurement Year (Calendar Year)	Performance Measurement Year (Calendar Year)	Payment
CY12	CY13	July 2014
CY13	CY14	July 2015

Care Management Performance Incentives

The Contractor may receive payment for Care Management based on a combination of its Administrative Component of the BH Covered Services Capitation Rates and earned Performance Incentives. The total Care Management Performance Incentives amount the Contractor may earn depends on how much of its Care Management Program (up to 20 percent of total costs) is paid through its Administrative Component of the BH Covered Services Capitation Rate, and the Contractor’s success in engaging program Participants and improving health outcomes.

Engagement Performance Incentives

The Contractor may earn Per Participant Per Month payments based on Engagement of Participants in the Care Management Program.

The Contractor shall propose, subject to EOHHS approval, the minimum Engagement Targets by Tier and the PPPM rate per Tier.

The Contractor shall calculate and report on the number of Participants in Care Management on a monthly basis and shall be paid an Engagement PPPM, upon EOHHS review and approval, on a quarterly basis.

The Contractor shall be subject to reconciliation on an annual basis to ensure that the Contractor has met its Annual Projected Engagement Target of unduplicated Participants. Beginning in Contract Year Two, if the Contractor has not engaged the Annual Projected Engagement Targets by close of Contract Year Two, EOHHS will assess a penalty against the Contractor, using the following formula: EOHHS shall calculate the difference between the Annual Projected Engagement Target number of unduplicated Participants and the actual number of unduplicated Participants served in all Tiers. The penalty shall equal the difference multiplied by the weighted average of the Engagement PPPM for the Contract Year.

Engagement Performance Incentives will be calculated on a monthly basis and paid on a quarterly basis to the Contractor for all Participants who meet the Engagement definition for that month. The remainder of the Care Management outcomes Performance Incentives will be made on an annual and retrospective basis. Payments shall follow the schedule described in **Section 10.7.B**. Performance Incentive calculations shall be performed by EOHHS.

Care Management Outcome Performance Incentives

The Contractor may earn Care Management Outcome Performance Incentive payments based on its performance on designated outcomes measures as described in **Section 8.6.C** and **Appendix G**.

The number of measures in Contract Year One shall not exceed four measures. Each Contract Year thereafter during Contract negotiations, the Contractor shall propose to EOHHS a minimum of four outcome measures, including the measure methodology and proposed improvement targets which the Contractor must meet in order to receive any Care Management Outcome Performance Incentives.

EOHHS may in its sole discretion approve, modify or disapprove any proposed measure or supporting methodology.

The Contractor may receive partial payment for performance meeting set outcome measures targets, if agreed to by EOHHS.

Care Management Outcome Performance Incentive payments will be made on an annual and retrospective basis, no earlier than six months following the end of the calendar year.

Social Innovation Financing for Chronic Homelessness Program (SIF Program)

1. In the event the SIF Program described in **Section 4.8** is implemented by the Commonwealth prior to October 1, 2014, the Contractor shall receive a performance incentive for its participation in the SIF Program (the SIF Performance Incentive) if the Contractor attests, in the form and format specified by EOHHS, that the Contractor supported the SIF Program in accordance with **Section 4.8** as directed by EOHHS.

2. The SIF Performance Incentive shall be in an amount equal to the sum of the case rate payments the Contractor made to SIF Program providers as set forth in **Section 4.8.A**.
3. The SIF Performance Incentive shall be in effect July 1, 2014 through July 31, 2015.
4. The Contractor shall submit to EOHHS an attestation in accordance with Section 10.7.D.1 above, and reflecting all payments described in Section 10.7.D.2 above, that the Contractor made to its SIF Program providers in accordance with Section 4.8. The Contractor shall submit such attestation to EOHHS by December 31, 2015.

ABA Incentive

By December 31, 2015, the Contractor shall hire sufficient staff to provide ABA related technical assistant, ABA related network management activities, and ABA related utilization management activities. In addition, the Contractor shall hire at least one individual with extensive knowledge of ABA such as a Board Certified Behavioral Analyst (BCBA).

BH Covered Services Continuing Services Reconciliation

EOHHS shall perform a year-end Continuing Services reconciliation as follows:

The Contractor shall process and pay its Providers' Claims for all Continuing Services provided in accordance with **Section 7.6.E** at the Contractor's contracted rate with its Providers.

EOHHS shall perform a reconciliation by September 30 following the end of the Contract Year to determine those Continuing Service claims paid by the Contractor for which the Contractor's Adverse Action was upheld by BOH and which were provided following the conclusion of the Internal Appeal ("approved Continuing Service claims"); provided that the Contractor submits to EOHHS by 210 days following the end of the Contract Year all data regarding such services, as required in **Appendix E-1**.

EOHHS shall pay the Contractor no later than 60 days following the reconciliation set forth in subsection B the total value of the approved Continuing Service claims referenced in subsection B that were provided in the applicable Contract Year; provided that the Contractor timely submitted all data required by EOHHS pursuant to **Appendix E-1**.

Approved Continuing Service claims shall include, at a minimum, the following information:

Covered Individuals information, by RID, including date of birth, sex, dates of enrollment, the dates on which the Continuing Services were provided, and current enrollment status;

Costs incurred, by RID, including dates of service; and

Such other information as may be required pursuant to any EOHHS request for information.

The reconciliation payment procedures may include an audit, to be performed by EOHHS or its authorized agent, to verify all claims for the Covered Individuals by the Contractor. The

findings of such audit shall determine the amount, if any, that the Contractor shall be reimbursed by EOHHS. If an audit is not conducted, EOHHS shall reimburse the Contractor as otherwise provided herein.

Payment Methodology for DMH Specialty Programs and MCPAP

DMH Specialty Programs Payments

EOHHS shall pay the Contractor for DMH Specialty Programs, which include two components: a Service Component and an Administrative Component. The DMH Specialty Program Administrative Compensation Rate and DMH Specialty Program Services Compensation Rate shall be used to provide ESP Services for Uninsured Individuals and persons with Medicare only, as described in **Section 3.4** and Forensic Services as described in **Section 4.6** and **Appendix A-6**.

In no event shall any payment, other than the DMH Specialty Program Administrative Compensation Rate or the DMH Specialty Program Services Compensation Rate payments, be utilized by the Contractor as payment for DMH Specialty Program services provided to any Uninsured Individual and persons with Medicare only, or for the cost of administering DMH Specialty Program services.

The DMH Specialty Programs Service Compensation Rate shall be paid each month in an amount equal to one-twelfth of the annual budget for the Contract Year, as set forth in **Appendix H-1**.

EOHHS shall establish a DMH Specialty Program Administrative Compensation Rate payment for the administration of the DMH Specialty Program that is equal to the sum of: Direct Costs; Indirect Costs; and earnings, and such sum shall not exceed an agreed-upon amount, as set forth in **Appendix H-1**.

Earnings shall be an agreed-upon amount, as set forth in **Appendix H-1**.

Each month EOHHS shall pay the Contractor an amount equal to one-twelfth of the DMH Specialty Program Administrative Compensation Rate amount for the Contract Year set forth in **Appendix H-1**.

Reconciliation Process for Forensic Evaluation Services

EOHHS shall perform an annual reconciliation of Forensic Evaluation Services.

EOHHS shall determine annually whether overpayments or underpayments were made to the Contractor.

EOHHS shall remit to the Contractor the full amount of any underpayments made for the month. Such payments shall be made through an adjustment to future Forensic Evaluation Services or by another mechanism, as determined by EOHHS.

The Contractor shall remit to EOHHS the full amount of any overpayments. Such payments shall be made through an adjustment to a future Forensic Evaluation Services or by another mechanism, as determined by EOHHS.

Notwithstanding any other provision of this Contract, EOHHS shall not be required to make any payments for Forensic Evaluation Services funded by the DMH Specialty Program Service Component Rate described in this section until it has received funding from DMH in the amounts necessary to make any such payments.

Particular Payment Provisions for ESP Services for Uninsured Individuals and Persons with Medicare Only

General Provisions

The Contractor shall:

For ESP services for Uninsured Individuals and persons with Medicare only, require ESP Providers to bill other insurances (TPL), where available, and the Health Safety Net in accordance with applicable law (see also **Section 2.3.D**).

Pay ESPs the rate for ESP Services established by the Massachusetts Division of Healthcare Finance and Policy and, as further directed by EOHHS, implement all policies and procedures with regard to payments and payment methodologies to ESPs for ESP Services for Uninsured Individuals and persons with Medicare only delivered under the Contract.

Not utilize the ESP Amount except to pay for ESP Services delivered to Uninsured Individuals and persons with Medicare only.

Payment Methodology

By May 1 of each year, EOHHS shall provide the Contractor with an estimated amount it expects to pay each ESP for ESP Services delivered on a Fee-for-Service basis by EOHHS.

Each year by May 31 the Contractor shall provide EOHHS with a report (see **Appendix E-1**) of the Contractor's estimate of the total amount it expects to pay for ESP Services, including both BH Covered Services and DMH Specialty Program delivered under the Contract.

Based on the Contractor's estimate of the amount it expects to pay for such ESP Services, EOHHS shall establish an ESP Amount for Uninsured Individuals and persons with Medicare only.

The ESP Amount shall be in accordance with **Appendix H-1**. The Contractor shall develop a plan to monitor and report on, throughout each Contract year, ESP expenditures for Uninsured Individuals and persons with Medicare only compared to the amount in **Appendix H-1**. Such report

shall also include monitoring of ESP expenditures for Covered Individuals.

Notwithstanding any other provision of this Contract, EOHHS shall not be required to make any payments for ESP Services funded by the DMH Specialty Program Service Component Rate described in this section until it has received funding from DMH in the amounts necessary to make any such payments.

Reconciliation Process for ESP Services Provided to Uninsured Individuals and Persons with Medicare Only

By 210 days after the end of each Contract Year, the Contractor shall provide EOHHS with a report (see **Appendix E-1**) of the Contractor's actual expenditures for ESP Services provided to Uninsured Individuals and persons with Medicare only, based on Claims paid through no later than 180 days, including its best estimate of IBNR Claims and any applicable IBNR completion factor reported to EOHHS.

EOHHS shall conduct a year-end reconciliation of the Contractor's estimated expenditures on ESP Services provided to Uninsured Individuals and persons with Medicare only delivered under the Contract against actual expenditures, including IBNR.

If actual expenditures are less than the Contractor's estimates, EOHHS shall recoup the difference from the Contractor.

If actual expenditures are greater than the Contractor's estimate, EOHHS shall pay the difference to the Contractor.

Payment Methodology for Comprehensive Primary Care Payment Covered Services

BH Rate

Each month the Contractor shall pay Tier 2 and 3 PCPR Providers the BH Rate associated with each Participating Site, for PCC Panel Enrollees, for the provision of Tier 2 or Tier 3 CPCP Covered Services identified in **Appendix J-5**.

The Contractor shall not pay the PCPR Provider for the Tier 1 portion of CPCP Rate, nor for any portion of the Medical Home Load. EOHHS pays Tier 1 CPCP Covered Services and Medical Home Load directly to the PCPR Provider.

EOHHS shall calculate the BH Rate according to the following formula:

The BH Rate = CPCP Rate – EOHHS share of CPCP, where the EOHHS share of CPCP is equal to Tier 1 Services Rate + Tier 2 or 3 Medical Home Load (MHL)

1. Tier 1 Services Rate = Tier 1 Billable Services Rate x Tier 1 PCAL x Tier 1 EESPA

2. Tier 2 or 3 MHL = 12.50 x Tier 2 or 3 PCAL x Tier 2 or 3 EESPA

Quarterly Receipt of CPCP Rate

Beginning with the second quarter of calendar year 2014, EOHHS shall provide the Contractor with the BH Rate for each Tier 2 or Tier 3 PCPR Provider's Participating Site on a quarterly basis, on or about the first Friday of the month prior to the start of each quarter year (e.g., June, September, December, March).

Monthly Receipt of the List of Attributed PCC Plan Enrollees

No later than the third Monday of each month, EOHHS shall make available to the Contractor a list of PCC Panel Enrollees assigned to Tier 2 and Tier 3 Participating Sites, as determined by EOHHS, for which EOHHS shall pay the PCPR Participant EOHHS' portion of the CPCP Rate.

Comparison of Enrollment Data

Each month, the Contractor shall produce a list of all PCC Plan Enrollees attributed to each Participating Site as of the first of that month, based on the Contractor's enrollment records, and shall send these reports to EOHHS as early as reasonably possible but not later than the 20th of every month.

The above-referenced list will include the following information for each identified PCC Plan Enrollee: name, MassHealth ID, attributed Participating Site, enrollment start date, and enrollment end date.

Timing of Payment to Tier 2 and Tier 3 PCPR Providers

The Contractor shall pay Participant within seven business days of Contractor's receipt from EOHHS of (a) the portion of the CPCP Rate that is based on Behavioral Health Services provided to Panel Enrollees (the "BH Rate") and (b) the monthly report of total Panel Enrollees, unless a different payment day is mutually agreed upon by EOHHS and the Contractor at least 30 days prior to the following month's scheduled payment to PCPR Providers.

Claims Adjudication for Tier 2 and Tier 3 PCPR Providers

The Contractor shall ensure that Tier 2 or Tier 3 PCPR Providers continue to submit claims to the Contractor for all CPCP Covered Services to ensure the accurate collection of Encounter data.

1. The Contractor shall provide no payment to Tier 2 or Tier 3 PCPR Providers for claims submitted that meet the following criteria (such claims shall be considered "zero-paid") with the exception of any Hold Harmless payment owed to PCPR Providers as describe in subsection G:
 - a. The claim is for care provided to a PCC Panel Enrollee who is attributed to a PCPR Participating Site on the date of service based on Contractor's enrollment data;

- b. The claim is for a Tier 2 or Tier 3 CPCP Covered Service in **Appendix J-2**; and
 - c. The billing entity is either the PCPR Provider to which the PCC Panel Enrollee is attributed on the date of service; or a Voluntary Pooled Provider that is also a Tier 2 or Tier 3 PCPR Provider.
2. The Contractor shall include PCPR Encounter data reflecting zero-paid claims in the monthly Encounter data feed sent to EOHHS, as required by Section **9.5.B**. Such claims shall include the FFS value of the claim (i.e., the Contractor shall not set the dollar value to zero as a result of zero-paid claims as described above.)

PCPR Provider Hold Harmless Payments

1. EOHHS shall calculate a Hold Harmless Payment for each PCPR Provider, and, for each Tier 2 or 3 PCPR Provider, shall calculate a Contractor portion of such payment, which Contractor shall be responsible for paying to each such Provider.
2. EOHHS shall calculate each PCPR Provider's Hold Harmless Payment in accordance with Section 4.1 of the Primary Care Payment Reform Initiative Contract Addendum to the Fourth Amended and Restated Primary Care Clinician Plan Provider Contract (**Appendix J-1**).
3. EOHHS shall calculate the Contractor portion of each Tier 2 or Tier 3 PCPR Provider's Hold Harmless Payment as a percentage of that PCPR Provider's Hold Harmless Payment. That percentage shall be equal to
 - a. The difference between:
 - 1) The total FFS value of claims that were submitted to Contractor by the PCPR Provider with dates of service during the Hold Harmless period and were zero-paid by Contractor, and
 - 2) The total amount of BH Rate payments made by Contractor to the PCPR Provider during the Hold Harmless period;
 - b. Divided by the following difference:
 - 1) The total FFS value of all claims that were submitted by the PCPR Provider to Contractor and to EOHHS with dates of service during the Hold Harmless period and were zero-paid by Contractor or by EOHHS, minus
 - 2) The total amount of CPCP payments made by Contractor and EOHHS to the PCPR Provider during the Hold Harmless period.
4. EOHHS shall notify the Contractor of the amount of the Contractor portion of each Tier 2 or 3 PCPR Provider's Hold Harmless Payment for each Hold Harmless period. The Contractor may review the amount calculated by EOHHS as the Contractor portion for

accuracy and compliance with the calculation methods stated herein. The Contractor shall pay the Contractor portion to each such Provider by the next monthly PCPR payment.

EOHHS and Contractor Reconciliation for PCPR

1. EOHHS shall pay the Contractor for PCPR payments to PCPR Providers that exceed the FFS amount of payments the Contractor provides to Tier 2 or Tier 3 PCPR Providers for CPCP Covered Services.
 2. EOHHS shall calculate the following for each period a Hold Harmless Payment is made. The Contractor may review the amount calculated by EOHHS for accuracy and compliance with the calculation methods stated herein.
- a. EOHHS's payment to the Contractor for Tier 2 or 3 CPCP Covered Services for PCC Panel Enrollees attributed to Tier 2 or Tier 3 PCPR Provider shall equal the product of:
- 1) the portion of the Contractor's BH Covered Services Capitation Rate described in **Sections 10.3.A** and **Section 10.3.B** that corresponds to Tier 2 or 3 CPCP Covered Services in **Appendix J-2**; and
 - 2) The total number of PCC Plan Enrollees attributed to PCPR Providers as of the first of the month utilizing the EOHHS lists described in **Section 10.11.C**.
- b. Contractor's payment to Tier 2 or Tier 3 PCPR Providers for Tier 2 or Tier 3 CPCP Covered Services shall equal the sum of:
- 1) the BH Rate paid by Contractor; plus
 - 2) the Hold Harmless Payments made by the Contractor; plus
 - 3) all FFS reimbursement for Tier 2 or 3 CPCP Covered Services in **Appendix J-2** rendered by providers to PCC Panel Enrollees attributed to another PCPR Provider.
- If the product of the calculation set forth in subparagraph b. above exceeds the product of the calculation set forth in subparagraph a. above, EOHHS shall pay the Contractor 100% of the difference.
- c. Such payment shall allow for a six months of claims run out as well as additional lag for MassHealth to receive and process the data and make the requisite calculations.

EOHHS Payment to Contractor for PCPR

1. Any payment paid by EOHHS in accordance with the EOHHS – Contractor Reconciliation described in subsection **H** will be included in the calculation described in **Section 10.6.A.4**.
2. Any payment owed to EOHHS in accordance with the EOHHS Contractor Reconciliation described in subsection **H** will be included in the calculation described in **Section 10.6.A.7**.

Mobile Crisis Intervention/Runaway Assistance Program (MCI/RAP)

EOHHS shall pay the Contractor for its payments to ESPs for the MCI/RAP in accordance with Appendix H-1, Section 4. No additional payment will be provided by EOHHS to the Contractor for the operation of MCI/RAP.

Health Insurer Provider Fee Adjustment

Each year, to account for the portion of the Contractor’s Health Insurer Provider Fee under Section 9010 of the ACA (the HIPF) that is allocable to capitation payments made by EOHHS to the Contractor under this Contract (sometimes referred to as “MassHealth premiums”, a type of premium under Section 9010):

- A. Each year, Contractor shall provide EOHHS with information about the Contractor’s HIPF, as requested by EOHHS, including but not limited to the bill the Contractor receives from the U.S. Internal Revenue Service.
- B. EOHHS shall calculate and perform an adjustment set forth in **Appendix H-1, Exhibit 1** to the Contractor’s Capitation Rates to account for the portion of the Contractor’s HIPF that is allocable to capitation payments made by EOHHS to the Contractor under this Contract and, subject to federal financial participation for the tax liability related to the HIPF.
- C. For Calendar Year 2013, such adjustment shall be a retroactive one-time adjustment made as a single payment on or after October 1, 2014.

Financial Requirements

Direct Service Reserve Account

The Contractor shall establish a Direct Service Reserve Account (DSRA) into which all payments received from EOHHS must be deposited.

The DSRA shall be:

An interest-bearing trust account in a banking institution located in Massachusetts and approved by EOHHS. The Commonwealth of Massachusetts shall have the right and title to any and all interest earned in the DSRA.

Maintained, to the extent legally permissible, in a manner that prevents creditors of the Contractor from in any way encumbering or acquiring any funds in the DSRA.

In no event shall funds in the DSRA be used by the Contractor or any other agent or third party to satisfy, temporarily or otherwise, any Contractor liability, or for any other purpose except as provided under the Contract.

EOHHS may require at any time that the Contractor confer upon an authorized representative of EOHHS or a third party approved by EOHHS the obligation to approve all withdrawals and countersign all checks drawn on the DSRA.

The Contractor shall obtain approval of all aspects of the DSRA from EOHHS before establishing or making any changes to the account, and shall make changes to the DSRA at the direction of EOHHS, as necessary.

The Contractor shall transfer all deposits other than deposits for the BH Covered Services Capitation Rate and the DMH Specialty Programs Services Compensation Rate out of the DSRA within seven business days of receiving them.

The Contractor shall transmit all interest income from the DSRA, net of bank charges, to EOHHS in the form of a check payable to the Commonwealth of Massachusetts, twice a year on dates to be specified by EOHHS.

In no case shall the Contractor use interest income as any Earnings or bonus payment.

The Contractor shall exclude interest income from reconciliations of administrative and service expenditures.

EOHHS may, at any time and at its discretion, audit the Contractor's administration and use of the DSRA funds consistent with the Contract requirements.

The Contractor shall comply with the following requirements relative to the management of the DSRA:

Separately tracking the following types of deposits from EOHHS into the DSRA:

BH Covered Services Capitation Rate payments, which includes the Administrative Component of the BH Covered Services Capitation Rate payments;

Care Management Engagement payment;

All Performance Incentive Arrangement payments;

PCC Plan Management Support Services payments;

DMH Specialty Services payments; and

DMH Administrative payments.

Establishing an audit trail that evidences that all payments and transfers from the DSRA are made from deposits received from EOHHS for that express purpose; specifically, that:

All payments from the DSRA for BH Covered Services are made from deposits received from EOHHS for Covered Services for Covered Individuals, and the administration and arrangement of BH Covered Services are made from deposits from EOHHS for that purpose (the Administrative Component of the BH Covered Services Capitation Rate);

All transfers from the DSRA for the Care Management Program-Engagement are made from deposits received from EOHHS for the Care Management Program;

All transfers from the DSRA for PCC Plan Management Support Services are made from deposits received from EOHHS for the PCC Plan Management Support Services; and

All payments from the DSRA for DMH Specialty Programs are made from deposits received from EOHHS for DMH Specialty Programs.

Tracking the interest earned on all deposits into the DSRA.

Except as specifically set forth in this **Section 10.12.A**, the Contractor shall not withdraw funds from the DSRA except to pay Claims properly submitted by Providers for Covered Services authorized by the Contractor pursuant to the Contract.

The Contractor and EOHHS shall reconcile deposits into and transfers from the DSRA within 120 days of the end of each state fiscal year for the preceding fiscal year.

Financial Solvency Requirements

Throughout the term of the Contract, the Contractor shall meet the solvency standards established by the Massachusetts Division of Insurance for private health maintenance organizations, or be licensed or certified by the Massachusetts Division of Insurance as a risk-bearing entity.

Financial Stability

Throughout the term of this Contract, the Contractor shall:

Remain financially stable.

Maintain adequate protection against insolvency in an amount determined by EOHHS to be adequate to both:

Provide to Covered Individuals all Covered Services required by this Contract for a period of 45 days following the date of insolvency; and

Continue to provide all such services to Covered Individuals who are receiving Inpatient Services at the date of insolvency until the date of their discharge.

The Contractor shall maintain liability protection sufficient to protect itself against any losses arising from any claims against it, including, at a minimum, workers' compensation insurance, comprehensive liability insurance, and property damage insurance (see also **Section 13.35**).

Performance Guarantees and Additional Security

Insolvency Reserve

The Insolvency Reserve shall be defined as the funding resources necessary to meet the costs of providing services to Covered Individuals for a period of 45 days in the event that the Contractor is determined insolvent. Please note that for CY1 the Contractor shall provide at minimum fifty-percent of the Insolvency Reserve, consistent with the risk corridor calculation.

EOHHS shall calculate the amount of the Insolvency Reserve annually and provide this calculation to the Contractor within 45 days of the start of the Contract Year.

The Insolvency Reserve calculation shall be an amount equal to 45 days of the Contractor's capitation payment revenue.

Within 30 calendar days of receipt of the Insolvency Reserve calculation, the Contractor shall submit to EOHHS written documentation of its ability to satisfy the Insolvency Reserve requirement. The documentation shall be signed and certified by the Contractor's chief financial officer.

Submit to EOHHS for approval, documentation that the Contractor has satisfied the Insolvency Reserve Requirement through:

Restricted cash reserves of \$10,000,000 or 16.7%; and

any combination equaling 83.3% of the following:

Net worth of the Contractor (exclusive of any restricted cash reserves);

Performance bond or guarantee;

Insolvency insurance;

An irrevocable letter of credit; and

A written guarantee from the Contractor's parent organization.

Prior to the Service Start Date the Contractor shall provide EOHHS with:

Performance Guarantees as specified in **Appendix H-2**, the form of which shall be subject to EOHHS's prior review and approval.

A promissory note from the Contractor's parent(s) to guarantee performance of the Contractor's obligation to provide Covered Services in the event of the Contractor's insolvency, the form and amount of which shall be subject to EOHHS's prior review and approval.

A promissory note from the Contractor's parent(s) to guarantee performance of the Contractor's obligations to perform activities related to the administration of the Contract in the event of the Contractor's insolvency, the form and amount of which shall be subject to EOHHS's prior review and approval.

Other Financial Requirements

The Contractor shall:

Ensure that an independent financial audit of the Contractor is performed annually, which complies with the following requirements:

Provides EOHHS with the Contractor's most recent audited financial statements; and

Provides an independent auditor's report on the system processing of the transactions using the American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards SAS 70 protocol and Chapter 647 of the Acts of 1989 (also known as the Internal Control Law).

Submit annually, by September 30th, a Financial Ratio Analysis that describes the Contractor's performance for financial ratios required by EOHHS in accordance with the definitions in **Appendix E, Exhibit 3A** and the format in **Appendix E, Exhibit 3B**. The report shall be generated from the Contractor's audited financial statements.

Submit on an annual basis after each annual audit a representation letter signed by the Contractor's Chief Financial Officer and its independent auditor

certifying that its organization is in sound financial condition and that all issues have been fully disclosed.

Maintain separate records of all Direct and Indirect administrative Costs, in accordance with generally accepted accounting principles, and make these financial records available to EOHHS on a quarterly basis, for audit purposes.

Obtain EOHHS's approval of and utilize a methodology to estimate IBNR claims adjustments.

Immediately notify EOHHS of any material negative change in the Contractor's financial status that could render the Contractor unable to comply with any requirement of this Contract, or that is significant enough for the Chief Executive Officer or Chief Financial Officer to notify its Board of the potential for insolvency.

Notify EOHHS in writing of any default of its obligations under this Contract, or any default by a parent corporation on any financial obligation to a third party that could in any way affect the Contractor's ability to satisfy its payment or performance obligations under this Contract.

Advise EOHHS no later than 30 days prior to execution of any significant organizational changes, new contracts or business ventures being contemplated by the Contractor that may negatively impact the Contractor's ability to perform under this Contract.

Provider Preventable Conditions

In accordance with 42 CFR 438.6(f)(2), the Contractor shall:

As a condition of payment, comply with the requirements mandating Provider identification of Provider Preventable Conditions, as well as the prohibition against payment for Provider Preventable Conditions as set forth in 42 CFR 434.6(a)(12) and 447.26;

Report all identified Provider Preventable Conditions in a form and format and frequency specified by EOHHS, including but not limited to any reporting requirements specified in accordance with **Section 2.3.F** or **Appendix E**.

Reporting

The Contractor shall submit to EOHHS all required financial reports, as described in this **Section 10** or in **Appendix E**, in accordance with specified timetables, definitions, formats and assumptions, as well as any ad hoc financial reports required by EOHHS in accordance with **Section 11.2.B**.

Alternative Payment Methodology for CBHI Intensive Care Coordination Services

Under the direction and with the approval of EOHHS, the Contractor shall develop and implement an alternative payment methodology for CBHI Intensive Care Coordination services.”

Section 10.17 MFP Claim Information Submission

The Contractor shall submit claim information to EOHHS or its agent for all in-network behavioral health services provided for all MFP Waiver Participants pre-transition. Such claim information shall not be submitted until after the date of discharge, i.e. once the member has transitioned to the community. EOHHS or its agent shall review the information submitted by the Contractor prior to submitting claims information to MMIS for processing and payment to the Contractor. The rate for in-network behavioral health services provided pre-transition shall be in accordance with the Contractor’s regular fee schedule for the specific behavioral health service provided to the member.

REPORTING AND DATA SUBMISSIONS

Data Requirements for Data

General Requirements

The Contractor shall provide and require its subcontractors to:

- provide any and all information EOHHS requires under the Contract related to the performance of the Contractor's responsibilities;
- provide any and all information EOHHS requires in order to comply with the Balanced Budget Act of 1997 or any other federal or state laws and regulations; and
- provide EOHHS and DMH with any and all data to meet all applicable federal and state reporting requirements within the legally required time frames.

Data Certification Requirements

In accordance with 42 CFR 438.600 et seq., the Contractor's Chief Executive or Chief Financial Officer, or a person who has delegated authority to sign for and who reports directly to the Contractor's Chief Executive or Chief Financial Officer, shall, at the time of submission of the types of information, data, reports and other documentation listed below, sign and submit to EOHHS **Appendix E-2** certifying that the information, data, and documentation being submitted by the Contractor is true, accurate, and complete to the best of his or her knowledge, information and belief, after reasonable inquiry:

- data on which payments to the Contractor are based;
- all enrollment information, Encounter data, and measurement data; and
- data and other information required by EOHHS, including but not limited to reports and data described in this Contract.

The Contractor shall submit the certification concurrently with the certified data.

Additional Clinical Data

Upon request of EOHHS, the Contractor shall participate in the development of specifications for a data set consisting of clinical data in the Contractor's Information Systems that include Covered Individual identifier, and data on participation in the Children's Behavioral Health Initiative, Care Management Program, and special populations, which the Contractor shall produce and submit to EOHHS in the frequency and format to be determined by EOHHS.

Corrective Action for Inadequate Data

If EOHHS determines that the Contractor's Encounter data are complete and accurate for less than 90 percent of the data elements contained in the CMS-approved minimum data set

(MDS), the Contractor shall implement a corrective action approved by EOHHS to bring the accuracy to the acceptable level. EOHHS may impose daily financial penalties until the Contractor's deficiencies are corrected.

Requirements for Reporting

General Requirements

The Contractor shall:

Be responsible for all administrative costs associated with the development, production, mailing and delivery of all reports required under the Contract.

Submit to EOHHS all required reports in accordance with the specifications, templates and time frames described in this Contract and its Appendices, specifically including but not limited to the reports described in **Appendix E-1**, unless otherwise directed or agreed to by EOHHS. Any modifications, revisions or enhancements the Contractor proposes to make to any reports must be submitted to EOHHS for its approval prior to making such changes. EOHHS may update or replace **Appendix E-1** without the need for a Contract amendment

Work with EOHHS to correct or modify any reports as directed by EOHHS and resubmit them to EOHHS for final acceptance and approval within agreed-upon time frames.

At the written request of EOHHS's Director of Behavioral Health Programs or designee, or at the written or oral request of the State Office of the Inspector General or Office of the Attorney General, provide additional ad hoc or periodic reports, including any reports EOHHS asks the Contractor to produce as a result of an investigation into the performance of a provider, or analyses of data related to the Contract, according to a schedule and format specified or agreed to by EOHHS. Ad hoc reports shall be requested for one-time or non-routine submission to EOHHS or other agency designated by EOHHS.

Have the capacity to display data graphically, in tables, and in charts, as directed by EOHHS.

Ensure that all reports are identified with a cover page that includes at least the following information:

title of the report;

due date of the report;

production date of the report;

contact person for questions regarding the report;

data sources for the report;

reporting interval;

date range covered by the report; and

methodology employed to develop the information for the report.

Provide with each report a narrative summary of the key findings contained in the report, unless otherwise agreed to by EOHHS, actions taken or planned next steps related to those findings.

Deliver all reports to EOHHS electronically. The Contractor and EOHHS shall work with the MassHealth end users and IT to develop the best method for electronic report delivery in a format and media compatible with EOHHS' software and hardware requirements. The electronic submission must be organized with clearly labeled electronic files with the documented named with the report name and date, as well as an electronic table of contents.

Provide EOHHS and DMH with reports to meet all applicable federal and state reporting requirements within the legally required time frames.

Reporting Timetables

The Contractor shall provide reports to EOHHS according to the following timetable, unless otherwise specified or approved by EOHHS. All references to “annual” or “year-to-date” reports or data refer to the Contract Year, unless otherwise specified.

Reportable Adverse Incidents – Use secure e-mail system to send Reportable Adverse Incident reports to EOHHS by 5:00 p.m. (Eastern Time) on the same day that the Contractor receives Reportable Adverse Incident notification by 3:00 p.m. on a business day, in accordance with the established protocol. Submit Reportable Adverse Incident reports to EOHHS by the next business day if the Contractor receives Reportable Adverse Incident notification after 3:00 p.m. or on a non-business day, in accordance with the established protocol, unless otherwise approved by EOHHS.

Weekly Reports – no later than 5:00 p.m. the next business day following the week reported.

Monthly Reports – no later than 5:00 p.m. on the 20th day of the month immediately following the month reported for non-Claims-based reports; Claims-based reports will allow for a 90-day Claims lag. If the 20th of the month falls on a non-business day, the reports will be due on the next business day. Monthly reports due October 20, January 20, April 20, and July 20 may be submitted with quarterly reports.

Quarterly Reports – no later than 5:00 p.m. on the 30th day of the month following the end of the quarter reported, for non-Claims-based reports, i.e., October 30, January 30, April 30, and July 30; or, if the 30th of the

month falls on a non-business day, the next business day. Quarterly reports due January 30 and July 30 may be submitted with semiannual reports. Claims-based reports shall allow for a 90-day Claims lag and report time, so that, for example, reports due on October 30th will present data for service dates for the quarter from April-June.

Semiannual Reports – no later than 5:00 p.m. on the 30th day following the end of the semiannual period reported, for non-Claims-based reports, i.e., January 30 and July 30; or, if the 30th of the month falls on a non-business day, the next business day. Semiannual reports due July 30 may be submitted with annual reports. Claims-based reports shall allow for a 90-day Claims lag, so that, for example, the report due on January 30th will present data through September 30th.

Annual Reports – no later than 5:00 p.m. on August 15 or, if August 15 falls on a non-business day, the next business day. Claims-based annual reports will allow for a 90-day Claims lag, so data due on August 15th will be for Claims no later than April.

One-time, Periodic, and Ad Hoc Reports – no later than the time stated, or as directed by EOHHS.

Corrective Action for Late or Incomplete Reports

If EOHHS determines that the Contractor's reports are incomplete or late, the Contractor shall implement a corrective action approved by EOHHS to correct the deficiencies. EOHHS may impose daily financial penalties until the Contractor's deficiencies are corrected.

EOHHS RESPONSIBILITIES

Administrative Responsibilities

EOHHS shall:

Designate a Contract Manager for the PCC Plan's BHP, who shall act as liaison, coordinate all requests and activities between the Contractor and EOHHS, and between the Contractor and the other state agencies involved with or affected by the Contract, for the duration of the Contract. EOHHS may change its designation of Contract Manager at any time during the Contract, and shall provide the Contractor with notification of any such change. The Contract Manager shall represent EOHHS in all programmatic and operational aspects of the Contract.

Provide the Contractor with available information and data in its possession necessary for successful performance of the Contract.

Furnish the Contractor with copies of EOHHS regulations, policies and procedures that may materially affect the Contractor's performance of its contractual obligations.

Notify the Contractor of any changes to the PCC Plan and other EOHHS programs, regulations, policies and procedures, operations or systems that may materially affect the Contractor's performance of its contractual obligations.

At least three months in advance, notify the Contractor of the Contract requirements on which EOHHS will base its annual review of the Contractor's performance.

Review and approve all materials, policies and procedures developed by the Contractor when such review and approval is required by the Contract.

Review the Contractor's submitted reports and reserve the right to request additional reports.

Meet with the Contractor's representative(s) on a routine basis, as either party deems necessary.

At its discretion, attend meetings or other activities conducted by the Contractor.

At any time during the term of the Contract, as appropriate, initiate negotiations with the Contractor to revise the scope of the Contract to meet EOHHS's needs.

Review any Contractor-proposed revisions to the scope of the Contract and approve, reject or modify the Contractor's proposal.

Pay the Contractor in accordance with **Section 10** of the Contract.

At its discretion, attend Provider site visits conducted by the Contractor.

Inform the Contractor of new PCCs to be included in MSS activities.

Contract Readiness Review

Prior to the Service Start Date, EOHHS will conduct a Readiness Review of the Contractor.

EOHHS will conduct a Readiness Review of the Contractor that may include on-site review. This review shall include, but is not limited to the elements described in **Section 2.1.D**, and shall be conducted no later than 60 days prior to enrollment of Covered Individuals into the Contractor's Plan, and at other times during the Contract period at the discretion of EOHHS.

EOHHS will conduct the Readiness Review to verify the Contractor's assurances that the Contractor is ready and able to meet its obligations under the Contract. EOHHS reserves the right to conduct an additional Readiness Review in the event that additional populations become managed care eligible.

EOHHS will identify to the Contractor all areas where the Contractor is not ready and able to meet its obligations under the Contract and may, in its discretion, allow the Contractor to propose a plan to remedy all deficiencies prior to the Service Start Date. Alternatively, EOHHS may, in its discretion, postpone the Service Start Date if the Contractor fails to satisfy all Readiness Review requirements

If, for any reason, the Contractor does not fully satisfy EOHHS that it is ready and able to perform its obligations under the Contract prior to the Service Start Date, and EOHHS does not agree to postpone the Contract Operational Start Date, or extend the date for full compliance with the applicable Contract requirement, then EOHHS may terminate the Contract and shall be entitled to recover damages from the Contractor.

Enrollment and Disenrollment

EOHHS shall, as appropriate, enroll, disenroll and re-enroll Covered Individuals in the BHP.
EOHHS shall:

Inform the Contractor of the enrollment disenrollment, or re-enrollment through nightly transmissions of data from MMIS. The Contractor shall accept all Covered Individuals enrolled or re-enrolled by EOHHS.

At its discretion, and as appropriate, instruct the Contractor to resolve enrollment discrepancies through a manual system approved by EOHHS.

EOHHS shall:

Maintain the sole responsibility for the enrollment of Covered Individuals into the PCC Plan's BH Program, as described in this **Section 12.3**. The Contractor shall accept all Covered Individuals enrolled or re-enrolled by EOHHS.

On each business day of the Contract Year, make available to the Contractor, via the HIPAA 834 Outbound Daily Enrollment file, information pertaining to

all enrollments, including the Effective Date of Enrollment, which will be updated on a daily (business day) basis.

At its discretion, and as appropriate, instruct the Contractor to resolve enrollment discrepancies through a manual system approved by EOHHS.

At its discretion, automatically re-enroll on a prospective basis into the PCC Plan's BH Program any Covered Individuals who were disenrolled due to loss of eligibility and whose eligibility was re-established by EOHHS.

EOHHS shall disenroll a Covered Individual from the Contractor's program and he or she shall no longer be eligible for services following:

- a. Loss of MassHealth eligibility;
- b. Completion of the Enrollee's voluntary disenrollment request; or
- c. Loss of eligibility for MassHealth Managed Care.

Except as otherwise provided under federal law or waiver, an Enrollee may disenroll voluntarily at any time. Such voluntary disenrollments shall take effect one business day after such request.

Make best efforts to provide the Contractor with the most current demographic information available to EOHHS. Such demographics shall include, when available to EOHHS, the Covered Individual's name address, MassHealth identification number, date of birth, telephone number, race, gender, ethnicity and primary language.

Review and respond to written complaints from the Contractor about EOHHS's Customer Services vendor or such vendor's subcontractors, or EOHHS's contracted Enrollment Broker within a reasonable time. EOHHS may request additional information from the Contractor in order to perform such review.

EOHHS may at its discretion develop and implement in consultation with the Contractor necessary processes and procedures required to implement enrollment of additional groups with the Contractor. If it does so, EOHHS shall:

Develop a benefit package for any such new group.

Inform the Contractor regarding demographic characteristics and utilization experience of any new group prior to initiation of enrollment, to the extent that such information is available.

Develop a Base PMPM Capitation Rate(s) for such group(s) consistent with 42 CFR 447.361 or other applicable federal statute and regulations, including with respect to UPL limitations, and in consultation with the Contractor.

Develop in cooperation with the Contractor an implementation strategy for providing services to new groups.

Information Systems

EOHHS shall:

Cooperate with the Contractor on any system implementation or enhancement necessary to meet the requirements of the Contract that affects either EOHHS's MMIS or the Contractor's MIS through the term of the Contract.

Provide technical assistance as necessary for the Contractor to gain access to specified EOHHS systems where such access is required by the Contract.

Provide and maintain a list of access codes for all Contractor staff requiring access to EOHHS systems.

Assist the Contractor, as necessary, to verify a Covered Individual's eligibility status in the BHP.

Performance Evaluation

EOHHS shall:

On a semiannual basis, conduct a "lessons learned" exercise with the Contractor. The results shall be used by EOHHS and the Contractor to improve and refine performance as it relates to the responsibilities of this Contract.

At its discretion, perform periodic programmatic and financial reviews. These may include on-site inspections and audits, by EOHHS or its agent, of the records of the Contractor and Network Providers.

Provide reasonable notice to the Contractor prior to any on-site visit to conduct an audit, and further notify the Contractor of any records EOHHS wishes to review.

On a semiannual basis and at its discretion, evaluate and score the Contractor's performance of all contractual obligations and its compliance with the terms of the Contract using an evaluation form such as the Performance Management Evaluation Form found in **Appendix I**.

Inform the Contractor of the results of any performance evaluations and of any dissatisfaction with the Contractor's performance, and reserve the right to demand a corrective action plan as set forth in **Section 13.17**, or to apply one or more of the sanctions provided in **Section 13.18**, including termination of the Contract in accordance with **Section 13.16**.

ADDITIONAL TERMS AND CONDITIONS

Prohibited Affiliations and Exclusion of Entities

In accordance with 42 U.S.C. § 1396u-2(d)(1) and 42 CFR 438.610, the Contractor shall not knowingly have an employment, consulting or other agreement for the provision of items and services that are significant and material to the Contractor's obligations under the Contract with any person, or affiliate of such person, who is debarred, suspended or otherwise excluded under federal law, regulation, executive order or guidelines from certain procurement and non-procurement activities. Further, no such person may have beneficial ownership of more than 5 percent of the Contractor's equity nor be permitted to serve as a director, officer or partner of the Contractor. Any person who is an owner, employee, consultant, or has a contract with the Contractor shall:

Not have any direct or indirect financial interest with such entity; and

Not have been directly excluded from participation in the program under Titles XVIII or XIX of the Social Security Act, or debarred by any federal agency, or subject to a civil monetary penalty under the Social Security Act.

Disclosure Requirements

The Contractor shall within one business day disclose to EOHHS any non-compliance by the Contractor with any provision of this Contract, or any state or federal law or regulation governing this Contract.

The Contractor shall make the following federally required disclosures in accordance with 42 CFR § 455.100-106, 42 CFR 455.436, 42 CFR 1002.3. and 42 U.S.C. § 1396b(m)(4)(A) in the form and format specified by EOHHS, at any time upon a written request by EOHHS, and as follows:

Ownership and Control

Upon execution, renewal or extension of this Contract and within 35 days of any change in ownership, the Contractor shall furnish full and complete information to EOHHS as required by 42 CFR 455.104 regarding ownership and control, including information about managing employees, agents, and persons who exercise operational or managerial control over the disclosing entity.

Business Transactions

Within 35 days of a written request by EOHHS, the Contractor shall furnish full and complete information to EOHHS as required by 42 CFR 455.105 regarding business transactions.

Criminal Convictions

Upon any renewal or extension of this Contract and at any time upon a written request by EOHHS, the Contractor shall furnish full and complete information to EOHHS as required by 42 CFR 455.106 regarding persons convicted of crimes.

Other Disclosures

The Contractor shall comply with all reporting and disclosure requirements of 41 USC § 1396b(m)(4)(A) if the Contractor is not a federally qualified health maintenance organization under the Public Health Service Act.

The Contractor shall ensure that its Network Provider enrollment forms require Provider applicants to disclose complete ownership, control, and relationship information, and that Network Applicants and Network Providers fully and accurately complete the required portions of the EOHHS form developed for such purpose. Further, the Contractor shall require persons with an ownership or control interest, or persons who are agents or managing employees of Network Providers, to utilize the EOHHS form developed for such purpose to fully and accurately disclose health care-related criminal convictions, and to notify EOHHS of such disclosures within 20 working days.

Unless otherwise instructed by EOHHS, for the purposes of making the disclosures to EOHHS set forth in **Sections 13.2.B.1-3** and **13.2.C**, the Contractor shall fully and accurately complete the EOHHS form developed for such purpose, the current version of which is attached hereto as **Appendix B-4**. EOHHS may update or replace this Appendix without the need for a Contract amendment.

The Contractor shall search the federal HHS-OIG's List of Excluded Individuals/Entities (LEIE) and the System Award Management website for the names of Network providers upon enrollment, reenrollment, credentialing or re-credentialing, as further described in **Section 3.1.I**. In addition, the Contractor shall conduct such searches for the names of Network providers, persons with ownership or control interest in the Contractor, and agents or managing employees of the Contractor at least monthly to ensure that EOHHS does not pay for services provided by excluded persons or entities.

EOHHS may immediately terminate this Contract in whole or in part if the Contractor fails to comply with this **Section 13.2** or in response to the information contained in the Contractor's disclosures under this **Section 13.2**. In addition, the Contractor shall not be entitled to payment for any MassHealth services for which EOHHS determines federal reimbursement is not available. Any such payments shall constitute an overpayment as defined in 130 CMR 450.235. Under such circumstances, EOHHS may also exercise its authority under 130 CMR 450.238, et seq. to impose sanctions.

EOHHS's Option to Amend or Modify Scope of Work

EOHHS shall have the option at its sole discretion to modify, reduce or terminate any activity related to the Contract whenever, in the judgment of EOHHS, the goals of the project have been modified or altered in any way that necessitates such changes. In the event of the reduction of the scope of work for any tasks or portions thereof, EOHHS will

provide written notice to the Contractor. In the event of a change in the scope of work of any tasks or portions thereof, EOHHS will initiate negotiations with the Contractor.

Notwithstanding the generality of the foregoing, EOHHS reserves the right to amend the Contract to implement new initiatives or to modify initiatives related to:

- new MassHealth programs;

- expansion of or changes to existing MassHealth programs;

- other programs as specified by EOHHS;

- programs resulting from state or federal legislation, including but not limited to the Patient Protection and Affordable Care Act (ACA) of 2010 (Public Law 111–148 March 23, 2010), regulations, initiatives, or judicial decisions that may affect in whole or in part any components of the PCC Plan or the BHP;

- requiring or allowing individuals age 65 and over, with or without Medicare and individuals age 21 or over with Medicare to enroll in the PCC Plan or the BHP; and

- changes the managed care options available to any or all MassHealth Coverage Types, in whole or in part, including, but limited to, requiring MassHealth Coverage Type(s) to choose among Managed Care Organizations (MCOs), requiring MassHealth Coverage Types to enroll in the PCC Plan and excluding any or all MassHealth Coverage Types from either mandatory or voluntary Managed Care.

The parties shall negotiate in good faith to implement any such initiatives proposed by EOHHS. The Contractor's responsibilities, including staffing, space, and all other budgetary requirements, are subject to change due to implementation of such initiatives. EOHHS reserves the right to modify the Contract, including the budget and reimbursements, due to program modifications. In addition, the Contractor may request an opportunity to enter into negotiations with EOHHS over amendments to the Contract related to new initiatives or modified initiatives as described in this section. EOHHS may grant such a request in its sole discretion.

EOHHS reserves the right to enroll additional MassHealth Members over the term of the Contract, or to reduce current enrollment levels. Possible EOHHS initiatives that could change enrollment include but are not limited to:

- Increased or decreased MassHealth membership pursuant to any MassHealth waiver;

- Expanded eligibility coverage for children under age 19 or adults over 65;

- Any other state or federal changes that result in an increase or decrease in MassHealth-eligible individuals, including changes to comply with the ACA, such as an adjustment to the minimum federal poverty eligibility

level, or a change in the MassHealth Managed Care enrollment policy or criteria for participation; and

Changes in EOHHS's methodology by which assignments are made to MassHealth Managed Care plans.

The Contractor shall propose to EOHHS for approval during the term of the Contract new initiatives and reimbursement mechanisms designed to further integrate PCC Plan administrative functions with BH management and performance. Such proposals shall include, upon EOHHS request, detailed work plans and timelines. EOHHS may at its sole discretion accept, reject or modify any proposed initiative.

Contract Compliance

The Contractor shall immediately notify EOHHS of any occurrence that affects the Contractor's ability to operate and comply with all or any material part of its responsibilities under the Contract, along with an assessment of the time and effort necessary to recover.

Compliance with Laws

The Contractor shall comply with all applicable statutes, orders, and regulations promulgated by any federal, state, municipal, or other governmental authority relating to the performance of this Contract as they become effective. Without limiting the generality of the foregoing, the Contractor shall comply with Title VI of the Civil Rights Act of 1964, as implemented by regulations at 45 CFR Part 80; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975, as implemented by regulations at 45 CFR Part 91; the Rehabilitation Act of 1973; the Americans with Disabilities Act; Titles XIX and XXI of the Social Security Act and waivers thereof; Chapter 141 of the Acts of 2000 and applicable regulations; Chapter 58 of the Acts of 2006 and applicable regulations; 42 CFR Part 438; The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (commonly referred to as the Mental Health Parity Law) and applicable regulations; and relevant provisions of the Patient Protection and Affordable Care Act and Health Care and Education Reconciliation Act of 2010, to the extent such provisions apply and other laws regarding privacy and confidentiality.

The Contractor shall promptly execute and comply with any amendment to this Contract that EOHHS determines is necessary to ensure compliance with all applicable federal and state statutes and regulations and any federal waivers including, without limitation, those provisions cited in this Contract, and the terms and conditions of EOHHS's Research and Development Waiver under Section 1115 of the Social Security Act, including any revisions to such waiver.

The Contractor shall be liable for any and all loss of Federal Financial Participation (FFP) incurred by the Commonwealth that results from the Contractor's failure to comply with any requirement of federal law or regulation.

Internal Quality Controls

The Contractor shall:

Comply with Office of State Comptroller (OSC) and the Committee of Sponsoring Organization (COSO) Internal Control Standards.

Have in place a process for investigating and resolving any EOHHS dissatisfaction with the Contractor's performance and for improvements in its internal systems.

Maintain internal quality standards, indicators and written procedures to ensure accurate, timely, and consistent Contract activities to promote:

Adherence to Contract deadlines for the submission of accurate and timely reports and other materials;

Accurate and consistent dissemination of oral and written information by Contractor staff;

Accurate, clear documentation of the Contractor's activities (programmatic and financial) required by EOHHS;

Data integrity and confidentiality of the Contractor's MIS, including maintenance of history files; and

Any other EOHHS-specified operational and reporting performance criteria.

Monitor internal quality control measures, standards, and procedures on a continuous basis and update them as needed to keep them current with standards.

Report to EOHHS in writing all internal quality control issues and findings when and if they arise.

Loss of Licensure

The Contractor shall report to EOHHS if at any time during the Contract the Contractor or any material subcontractor loses, or is at risk of losing, any applicable license, state approval or accreditation. Such loss may be grounds for termination of the Contract under the provisions of **Section 13.16**.

Leases and Licensing of Software

The Contractor shall:

Incorporate into all software license agreements a provision that the Contractor is permitted to assign the license to EOHHS or to EOHHS's designee at no cost to EOHHS. However, in the event that the Contractor is unable to obtain such assignment provision, the Contractor shall obtain the written authorization of EOHHS prior to entering into the agreement. This requirement does not extend to commercially available software for which EOHHS may readily obtain its own license. All payments to maintain the lease, rental agreement, or license that become due after the termination of the agreement become the responsibility of EOHHS or EOHHS's designee. Upon termination of the Contract for any reason, the Contractor hereby agrees to assign or otherwise transfer any

such lease, rental agreement or software license agreement to EOHHS or its designee, at no cost to EOHHS, upon EOHHS's request.

The Contractor agrees that, except with respect to commercial off-the-shelf software (COTS), EOHHS shall be granted a royalty-free, non-exclusive, perpetual and irrevocable license to the use of all software used by the Contractor in the performance of its obligations under the Contract.

Transfer to EOHHS or EOHHS's designee all applications designed or operated under the Contract at no cost to EOHHS, and to provide user and system documentation for any software developed by the Contractor for EOHHS. Upon EOHHS's written request, within 30 calendar days, the Contractor shall deliver to EOHHS, or its designee(s), all software to which the Commonwealth has sole, joint, or several proprietary ownership rights including, without limitation, all code and all documentation of software, as generated by the Contractor and utilized by the Contractor to fulfill its responsibilities in this Contract.

Other Contracts

Upon EOHHS request, the Contractor shall provide a complete list of any managed behavioral health care contracts it or its corporate parent or subsidiary holds within Massachusetts in addition to this Contract. EOHHS shall not disclose non-public information that the Contractor may consider proprietary, except as required by law.

Counterparts

The Contract may be executed simultaneously in two or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

Entire Contract

The Contract constitutes the entire agreement of the parties with respect to the subject matter hereof, including all Attachments and Appendices hereto, and supersedes all prior agreements, representations, negotiations and undertakings not set forth or incorporated herein. The terms of the Contract shall prevail notwithstanding any variances with the terms and conditions of any verbal communication subsequently occurring, except as otherwise provided herein.

Correction of Omissions, Ambiguities, and Manifest Errors

The Contractor shall negotiate in good faith with EOHHS to cure any omissions, ambiguities, or manifest errors in the Contract. By mutual agreement, the Contractor and EOHHS may amend the Contract where such amendment does not violate state or federal statutory, regulatory, or waiver provisions, provided that such amendment is in writing, signed by both parties, and attached to the Contract.

No Third-Party Enforcement

This Contract is entered into by and between the parties hereto and for their sole benefit. There is no intent by either party to create or establish a third-party beneficiary status, or to create any rights in or confer any benefits upon any person or entity not a party to this Contract (except for such rights as are expressly created and set forth in this Contract). Except for the foregoing, no third party shall have any right to enforce or to enjoy any benefit or obligation created or established under this Contract.

Responsibility of the Contractor

The Contractor shall:

Ensure the professional quality, technical accuracy and timely completion and delivery of all services furnished by the Contractor under the Contract.

Without additional compensation, correct or revise any errors, omissions or other deficiencies in its deliverables and other services.

The approval of services furnished hereunder shall not in any way relieve the Contractor of responsibility for the technical adequacy of its work. The review, approval, acceptance or payment for any of the services rendered shall not be construed as a waiver of any of EOHHS's rights under the Contract or of any cause of action arising out of the performance of the Contract.

Contract Term

The Contract is anticipated to be effective for the period from October 1, 2012, through June 30, 2017, unless otherwise terminated or extended in accordance with this section or at such other time that EOHHS may implement changes that render the performance of the Contract unnecessary. At EOHHS's option, the Contract may be extended for up to five additional years at the discretion of EOHHS, and in increments and upon terms to be negotiated by the parties.

Contract Year Two begins on November 15, 2013, and ends on June 30, 2014.

Termination

Termination without Prior Notice

EOHHS may terminate the Contract immediately and without prior written notice, upon any of the following events:

The Contractor's application for or consent to the appointment of a receiver, trustee, or liquidator for itself or any of its property.

The Contractor's admission in writing that it is unable to pay its debts as they mature.

The Contractor's assignment for the benefit of creditors.

Commencement of a proceeding under any bankruptcy, reorganization, insolvency, or readjustment of debt provision of federal or state law or

answer admitting the material allegations of a petition filed against the Contractor in any such proceeding.

Commencement of an involuntary proceeding against the Contractor or Material Subcontractor under any bankruptcy, reorganization, insolvency, or readjustment of debt provision of federal or state law, which is not dismissed within 60 days.

The Contractor loses any applicable state approval.

Cessation in whole or in part of state or federal funding for or approval of the Contract.

EOHHS determines in its sole discretion that the health, safety or welfare of its Covered Individuals requires immediate termination of the Contract.

The Contractor is non-compliant with **Section 13.1**, and the Secretary of Health and Human Services, in accordance with 42 CFR 438.610(c), directs EOHHS to terminate, or does not permit EOHHS to extend, renew or otherwise continue this Contract.

The Contractor is non-compliant with **Section 13.2**.

Termination with Prior Notice

Either party may terminate the Contract upon breach by a party of any duty or obligation hereunder, which breach continues unremedied for 30 days after written notice thereof by the other party.

EOHHS may terminate the Contract after written notice thereof to the Contractor in the event the Contractor fails to accept EOHHS's proposed offer of payment for any financial provision identified in **Section 10** of this Contract.

EOHHS may terminate the Contract if the EOHHS determines that state or federal health care reform initiatives or state or federal health care cost containment initiative makes termination of the Contract necessary or advisable as determined by EOHHS

Termination with Prior Notice for Violation of Section 14 of the Contract

Notwithstanding any other provision in the Contract, EOHHS may terminate this Contract immediately, upon written notice, if EOHHS determines, in its sole discretion, that the Contractor has materially breached any of its obligations set forth in **Section 14**, or any other provision of the Contract pertaining to the security and privacy of any Protected Health Information (PHI) or any data provided to the Contractor under this Contract.

In the event that termination of this Contract for a material breach of any obligation regarding PHI is not feasible, or if a cure is not feasible, EOHHS shall report such breach or violation to the U.S. Secretary of Health and Human Services.

Effect of Termination for Violation of Section 14

Upon termination of the Contract for any reason whatsoever, the Contractor shall return or destroy all PHI and any other Personal Data obtained or created in any form under the Contract, and the Contractor shall not retain any copies of such data in any form. This provision shall apply to all PHI and data in the possession of the Contractor's subcontractors or agents, and the Contractor shall ensure that all such data in the possession of its subcontractors or agents has been returned or destroyed and that no subcontractor or agent retains any copies of such data in any form.

Notwithstanding any other provision concerning the term of this Contract, all protections pertaining to any PHI or other data covered by the Contract shall continue to apply until such time as all such data is returned to EOHHS or destroyed.

Continued Obligations

In the event of termination, expiration or non-renewal of the Contract, the obligations of the parties hereunder with regard to each Covered Individual at the time of termination, expiration, or non-renewal shall continue until the Covered Individual has been disenrolled; provided, however, that EOHHS shall exercise best efforts to complete all disenrollment activities within six months from the date of termination, expiration or non-renewal.

In the event that the Contract is terminated, expires, or is not renewed for any reason:

EOHHS shall be responsible for notifying all Covered Individuals covered by this Contract of the date of termination and the process by which they will continue to receive medical care;

The Contractor shall promptly return to EOHHS all payments advanced to the Contractor for coverage of Covered Individuals for periods after the effective date of their disenrollment; and

The Contractor shall supply to EOHHS all information necessary for the reimbursement of any outstanding claims determined by EOHHS to be due to the Contractor, and any such claims shall be paid to the Contractor accordingly.

For expiration or non-renewal of the Contract following a reprourement of the PCC Plan's BH Program, the financial terms in effect for the current Contract Year shall remain in effect until all Covered Individuals have been disenrolled, except that there shall be no Performance Incentives in EOHHS's sole discretion.

Corrective Action Plan

If, at any time, EOHHS determines that the Contractor is deficient in the performance of its obligations under the Contract, EOHHS may require the Contractor to develop and submit a

corrective action plan to correct such deficiency. EOHHS shall approve, disapprove, or require modifications to the corrective action plan based on its reasonable judgment as to whether the corrective action plan will correct the deficiency. The Contractor shall, upon approval of EOHHS, immediately implement the corrective action plan, as approved or modified by EOHHS. The Contractor's failure to implement any corrective action plan may, in the sole discretion of EOHHS, be considered breach of Contract, subject to any and all contractual remedies including: those under the Contractor's Performance Guarantees in accordance with **Appendix H-2**; termination of the Contract with or without notice; or other intermediate sanctions as described in **Section 13.18**.

Intermediate Sanctions

In addition to termination under **Section 13.16**, EOHHS may, in its sole discretion, impose any or all of the sanctions in subsection B below, for any of the circumstances described in this subsection A. EOHHS shall only impose those sanctions it determines to be reasonable and appropriate for the specific violation(s) identified. Sanctions may be imposed if the Contractor:

- Fails to provide Medically Necessary Covered Services required under the Contract to Covered Individuals and Uninsured Individuals including persons covered by Medicare only;
- Imposes premiums or other charges on Covered Individuals and Uninsured Individuals including persons covered by Medicare only in excess of any permitted under the Contract;
- Discriminates against Covered Individuals on the basis of race, color, gender, or national origin;
- Misrepresents or falsifies information provided to EOHHS, the U.S. Department of Health and Human Services, Covered Individuals, Providers or PCCs;
- Fails to comply with applicable federal requirements regarding Provider incentive plans;
- Fails to comply with federal or state statutory or regulatory requirements related to the Contract;
- Violates restrictions or other requirements regarding marketing;
- Fails to comply with any corrective action plan required by EOHHS
- Fails to meet deliverable timelines which deliverables shall include those reports, analyses, workplans, surveys, evaluations, metrics and other documents with submission dates explicitly defined in the Contract or, if a date is not specified, with explicit timelines or bases of specified duration provided therein'
- Fails to meet satisfactory performance based upon EOHHS' Performance Management Evaluation, in accordance with the provisions of **Section 12.5.D**;
- Fails to comply with financial solvency requirements;

Fails to comply, as determined by EOHHS from audit findings, with any provision of this Contract related to DSRAs;

Fails to comply with any other requirement of Section 1932 of the Social Security Act, and any implementing regulations; or

Fails to comply with any other requirements of this Contract.

Such sanctions may include without limitation, any or all of the following:

financial penalties, including without limitation asserting EOHHS's rights under its Performance Guarantee, in accordance with the provisions of **Appendix H-2**;

withholding of administrative payments;

withholding Performance Incentive bonuses;

the appointment of temporary management to oversee the operation of the Contractor in those circumstances set forth in 42 U.S.C. § 1396u-2(e)(2)(B);

suspension of payment to the Contractor; adjusting or withholding Estimated Base Capitation Rate Payments or other Base PMPM Capitation Rate payments;

adjusting or withholding of Service Compensation Payments;

adjusting or withholding the DMH Administrative Compensation Rate or Administrative Component of the MassHealth Capitation Payments; and

withholding gain from any risk-sharing arrangement.

For any Contract responsibilities for which the Contractor utilizes a Material Subcontractor, if EOHHS identifies any deficiency attributable to the Material Subcontractor in the Contractor's performance for which the Contractor has not successfully implemented an approved corrective action plan in accordance with this **Section 13.17**, EOHHS may require the Contractor to terminate its agreement with the Material Subcontractor and subcontract with a Material Subcontractor deemed satisfactory by EOHHS, or to otherwise alter the manner or method in which the Contractor performs those responsibilities.

The intermediate sanctions provisions contained in this Contract are pursuant to state authority, unless otherwise specifically provided.

Authorizations

This Contract is subject to all necessary federal and state approvals.

Medical Records

The Contractor shall:

Comply with, and require Network Providers to comply with, all state and federal statutory and regulatory requirements applicable to medical records, including the requirements set

forth in 130 CMR 130 CMR 433.409, 130 CMR 450.205, 42 CFR 456.111 and 42 CFR 456.21 (if applicable), and any amendments thereto. In addition, the Contractor shall require that all medical records maintained by it or its Network Providers shall, at a minimum:

Be maintained in a manner that is current, detailed, and organized and that permits effective patient care and quality review;

Include sufficient information to identify the Covered Individual, date of encounter and pertinent information that documents the Covered Individual's diagnosis;

Describe the appropriateness of the treatment and services, the course and results of the treatment and services; and

Accurately document the following:

Covered Individual identifying information;

clinical information;

Behavioral Health Clinical Assessments;

treatment plans;

treatment or services provided;

contacts with Covered Individuals' family, guardians, or significant others; and

treatment outcomes.

Comply with, and require Network Providers to comply with, all state and federal statutory and regulatory requirements applicable to confidentiality of medical records, including but not limited to M.G.L. c. 66A and, if applicable, M.G.L. c. 123 § 36, 104 CMR 27.17, and 104 CMR 28.09.

Provide EOHHS with a copy of any Covered Individual's medical records, in general within 10 days of EOHHS's request; except that EOHHS may allow the Contractor up to one month from the date of EOHHS's initial request to produce such records if the Contractor has made best efforts to produce them in the specified time and EOHHS reasonably determines that the need for such record(s) is not urgent.

Conduct medical record audits periodically and at the request of EOHHS. Such audits may be subject to validation by EOHHS or its agent.

Record Retention

The Contractor is responsible for maintaining all Contract financial and programmatic records specified by EOHHS in accordance with the requirements of 45 CFR 74.53 and Section 7 of the Commonwealth's Standard Terms and Conditions. Specifically, the Contractor shall:

Maintain all pertinent records in a cost-effective and easily retrievable format.

Maintain an off-site storage facility for EOHHS-specified records that is outside the disaster range of the Contractor's principal place of business as described in **Section 2.2.B** and that meets recognized industry standards for physical and environmental security.

Take all reasonable and necessary steps to protect the physical security of any personal data or other EOHHS data and materials used by the Contractor. The protection of physical security shall mean prevention of unauthorized access, dissemination, misuse, reproduction, removal or damage to data or materials used by or in the possession of the Contractor.

Immediately notify EOHHS, both orally and in writing and before releasing any relevant data or materials, if:

Access to or copies of personal or EOHHS data are requested through public records law request or subpoena; or

The Contractor has reason at any time to believe that any data applicable to the Contract have been improperly accessed, disseminated, misused, copied or removed.

Research Data

The Contractor shall obtain written authorization from EOHHS for the use of any data pertaining to the Contract, for research or any other purposes, prior to releasing any information.

Information Sharing

The Contractor shall arrange for the transfer, at no cost to EOHHS or the Covered Individual, of BH and medical information regarding such Covered Individual or Uninsured Individual to any subsequent provider of BH and/or medical services, subject to all applicable federal and state laws, as may be requested by the Covered Individual, Provider, or directed by EOHHS, regulatory agencies of the Commonwealth or the United States government. With respect to Covered Individuals who are Children in the Care and/or Custody of the Commonwealth, the Contractor shall provide in a timely manner, upon reasonable request of the state agency with custody of the Covered Individuals, a copy of any BH or medical records in the Contractor's possession.

Protection of Covered Individual-Provider Communications

In accordance with 42 U.S.C. § 1396u-2(b)(3) and 42 CFR 438.102, the Contractor may not prohibit, or otherwise restrict, a health care professional acting within the lawful scope of practice from advising or advocating on behalf of a Covered Individual who is his or her patient, for the following:

The Covered Individual's health status, medical care, or treatment options, including any alternative treatment that may be self-administered;

Any information the Covered Individual needs in order to decide among all relevant treatment options;

The risks, benefits, and consequences of treatment or non-treatment; and

The Covered Individual's right to participate in decisions regarding his or her health care, including the right to refuse treatment, and to express preferences about future treatment decisions.

Notwithstanding the provisions of subsection A, and subject to the requirements set forth in subsections B and C, the Contractor is not required to provide, reimburse for, or provide coverage of, counseling or referral service if the Contractor objects to the service on moral or religious grounds. The Contractor must furnish information about any service the Contractor does not cover due to moral or religious grounds as follows:

To EOHHS: at least 60 days prior to adopting the policy during the term of the Contract; and

To Covered Individuals: at least 30 days prior to adopting the policy during the term of the Contract.

The Contractor shall accept a reduction in the Base PMPM Capitation Rate for any service it does not provide, reimburse for, or provide coverage of due to moral or religious grounds.

Recordkeeping, Audit and Inspection of Records

The Contractor shall maintain books, records and other compilations of data pertaining to the performance of the provisions and requirements of the Contract to the extent and in such detail as shall properly substantiate claims for payment under the Contract. All such records shall be kept for a minimum period of six years.

EOHHS, the Governor, the Secretary of Administration and Finance, the Comptroller, the State Auditor, the Attorney General and CMS, or any of their duly authorized representatives or designees shall have the right at reasonable times and upon reasonable notice to examine and copy the books, records and other compilations of data of the Contractor which pertain to the provisions and requirements of this Contract, and to evaluate through inspection or other means the quality, appropriateness and timeliness of services performed by the Contractor under the Contract.

EOHHS, the Governor, the Secretary of Administration and Finance, the Comptroller, the State Auditor, the Attorney General, the U.S. Department of Health and Human Services, and CMS, or any of their duly authorized representatives or designees shall have the right at reasonable times and upon reasonable notice to inspect and audit the financial records of the Contractor and its subcontractors.

Assignment

The Contractor shall not assign or transfer any right or interest in the Contract to any successor entity or other entity without the prior written consent of EOHHS.

Subcontractors, Employees, and Agents

The Contractor shall ensure that its employees, subcontractors, and any other of its agents in the performance of the Contract act in an independent capacity, and not as officers or employees of EOHHS or the Commonwealth of Massachusetts.

Use and Ownership of Data and Software

EOHHS Rights

All data developed or acquired by the Contractor from EOHHS or from others in the performance of the Contract (including personal data) remain the property of EOHHS. EOHHS shall be given free and full access at all reasonable times to all such data. All finished or unfinished studies, analyses, flow charts, magnetic tapes, design documents, program specifications, programs, computer source codings and listings, test data, test results, schedules and planning documents, training materials and user manuals, forms, reports, and any other documentation and software, including modifications thereto, prepared, acquired, designed, improved or developed by the Contractor for delivery to EOHHS under the Contract shall be and remain the property of EOHHS. Federal agencies providing full or partial funding for documentation and software pursuant to this Contract shall have royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and authorize others to use all such documentation and software.

Contractor Limitations

The Contractor shall:

Not disseminate, reproduce, display or publish any report, map, information, data or other materials or documents produced in whole or in part pursuant to the Contract without the prior written consent of EOHHS, nor shall any such report, map, information, data or other materials or documents be the subject of an application for patent or copyright by or on behalf of the Contractor without the prior written consent of EOHHS.

Use EOHHS-owned data, materials and documents, before or after termination or expiration of the Contract, only as required for the performance of the Contract.

Return to EOHHS promptly, but in any event no later than one week after EOHHS's request, EOHHS-owned or Commonwealth-owned data, materials and documents, in whatever form they are maintained by the Contractor.

Ownership of Furnishings and Equipment

Unless EOHHS instructs otherwise, the Contractor shall provide and retain all furnishings and equipment used in the completion of its performance under this Contract.

Indemnification

The Contractor shall indemnify and hold harmless EOHHS and the Commonwealth from and against any and all liability, loss, damage, costs, or expenses which EOHHS or the Commonwealth may sustain, incur, or be required to pay, arising out of or in connection with the Contractor's violation of any federal or state law or regulation or any negligent action or inaction or willful misconduct of the Contractor, or any person employed by the Contractor, provided that:

The Contractor is notified of any claims made directly to EOHHS within a reasonable time from when EOHHS becomes aware of the claim; and

The Contractor is afforded an opportunity to participate in the defense of such claims.

Prohibition against Discrimination

In accordance with 42 U.S.C. § 1396u-2(b)(7) and 42 CFR 438.12, the Contractor shall not discriminate with respect to participation, reimbursement, or indemnification as to any Network Provider who is acting within the scope of the Network Provider's license or certification under applicable state law, solely on the basis of such license or certification. If the Contractor declines to include individual or groups of Providers in its network, it must give the affected Providers written notice of the reasons for its decision. This section shall not be construed to prohibit the Contractor from including Network Providers only to the extent necessary to meet the needs of Covered Individuals or from using different reimbursement for different Network Providers, or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the Contractor.

The Contractor shall not discriminate and will not use any policy or practice that has the effect of discriminating against any individual receiving service through this Contract, on the basis of health status, need for health care, race, color or national origin.

If a complaint or claim against the Contractor is presented to the MCAD, the Contractor shall cooperate with MCAD in the investigation and disposition of such complaint or claim.

Anti-Boycott Covenant

The Contractor shall ensure that during the time the Contract is in effect, neither the Contractor nor any affiliated company, as hereafter defined, participate in or cooperate with an international boycott as defined in Section 999(b)(3) and (4) of the Internal Revenue Code of 1954, as amended, or engage in conduct declared to be unlawful by M.G.L. c. 151E § 2. Without limiting such other rights as it may have, EOHHS shall be entitled to rescind the Contract in the event of noncompliance with this section. As used herein, an affiliated company shall be any business entity directly or indirectly owning at least 51 percent of the ownership interests of the Contractor.

Public Communications Protocol

The Contractor shall obtain prior approval from EOHHS before the Contractor or any of its officers, agents, employees or subcontractors respond to any media inquiry, make any public comment or issue other public communication regarding any aspect of the Contract.

Advance Directives

If applicable, the Contractor shall comply with (1) the requirements of 42 CFR Part 489, Subpart I and 42 CFR 422.128, relating to the maintenance of written policies and procedures regarding advance directives; and (2) the requirements of 130 CMR 450.112 and 42 CFR 438.6(i). If applicable, the Contractor shall provide adult Enrollees with written information on advance directives policies, including a description of applicable state law. The information must reflect changes in State law as soon as possible, but no later than 90 days after the effective date of the change.

Insurance for Contractor's Employees

The Contractor shall maintain at its expense all insurance required by law for its employees, including but not limited to worker's compensation unemployment compensation, and health insurance, as applicable, and shall provide EOHHS with certification of same prior to the Service Start Date and by September 30 of each subsequent year.

Disaster Recovery and Continuity of Operations Plan

The Contractor shall:

Develop, submit to EOHHS for approval no later than four months following the Service Start Date, and maintain a disaster recovery plan that meets recognized industry standards and federal requirements for security, disaster range, and disaster recovery requirements.

Ensure that the Contractor's responsibilities under the Contract are never interrupted for the delivery of BH Covered Services, and are not interrupted for more than five business days for all other functions.

Maintain a continuity of operations plan (COOP) that addresses how the Contractor's, Material Subcontractors', and other subcontractors' operations shall be maintained in the event of a natural disaster, terrorist attack, pandemic or other event which leads to a significant disruption in operations due to staff absence and/or loss of utilities. The Contractor shall provide copies of such plan to EOHHS upon request and shall inform EOHHS whenever such plan must be implemented.

Use reasonable care to minimize the likelihood of all damage, loss of data, delays, and errors resulting from an uncontrollable event.

Store a copy of the disaster recovery plan.

Prepare a summary of the disaster recovery plan to communicate the procedures under the plan to EOHHS and all Contractor employees.

Review and, if necessary, update the disaster recovery plan on an annual basis and whenever the Contractor or EOHHS makes changes to systems and/or business operations that warrant updating the plan; resubmit any such updated plan to EOHHS for approval.

Test the disaster recovery plan on an annual basis or whenever there have been substantial changes to the plan.

Participate in disaster recovery tests conducted by EOHHS or the Massachusetts Information Technology Department to test connections from the Contractor's facilities to the backup data center facility identified in **Section 2.2.B**.

License of Software

The Contractor agrees that, except with respect to commercial off-the-shelf software (COTS), EOHHS shall be granted a royalty-free, non-exclusive, perpetual and irrevocable license to the use of all software used by the Contractor in the performance of its obligations under the Contract.

Order of Precedence

The Contractor's response to EOHHS's Request for Responses (RFR) that served as the basis for this Contract is incorporated by reference into the Contract. Any ambiguity or inconsistency between these documents shall be resolved by applying the following order of precedence:

this Contract, including any amendments thereto;

the Contractor's response submitted on August 9, 2011; and

EOHHS's Request for Responses for a Vendor to Provide for the MassHealth Primary Care Clinician Plan a Comprehensive Behavioral Health Program and Management Support Services, as well as Behavioral Health Specialty Programs, issued on May 18, 2011, including any amendments thereto.

Section Headings

The headings of the sections of the Contract are for convenience only and do not affect the construction hereof.

Waiver

EOHHS's acceptance or approval of any materials, including those materials submitted in relation to the Contract, shall not constitute waiver of any requirements of the Contract.

Administrative Procedures Not Covered

EOHHS may from time to time issue memoranda clarifying, elaborating upon, explaining, or otherwise relating to Contract administration and other management matters.

Effect of Invalidity of Clauses

If any clause or provision of the Contract is in conflict with any state or federal law or regulation, that clause or provision shall be null and void; any such invalidity shall not affect the validity of the remainder of the Contract.

Survival

The obligations of the Contractor under **Section 14** of this Contract shall survive the termination of the Contract.

Remedies

Nothing in this Contract shall be construed to waive or limit any of EOHHS's legal rights or remedies which may arise from Contractor's unauthorized use or disclosure of any data received by it under the Contract.

Interpretation

Any ambiguity in this Contract shall be resolved to permit EOHHS to comply with the Privacy Rule, HIPAA, and any other applicable law pertaining to the privacy, confidentiality, or security of PHI or Personal Data.

Written Notices

Notices to the parties as to any Contract matter will be sufficient if given in writing and sent by certified mail, postage prepaid, or delivered in hand as follows:

To EOHHS:

Emily Sherwood
Director of the Office of Behavioral Health
Executive Office of Health and Human Services
1 Ashburton Place, 11th floor
Boston, MA 02108

With copies to:

General Counsel
Executive Office of Health and Human Services
1 Ashburton Place, 11th floor
Boston, MA 02108

Rashiem Grant, Contract Manager
Executive Office of Health and Human Services
Accounting Unit, 7th floor
600 Washington Street
Boston, MA 02111-1712

And, in addition, for notices required by the provisions of **Section 14**, a copy to:

EOHHS Privacy Office
600 Washington Street
Boston, MA 02111

To the Contractor:

PRIVACY AND CONFIDENTIALITY

Definitions

All terms used but not otherwise defined in this section shall be construed in a manner consistent with the Privacy and Security Rules and all other applicable state or federal privacy or security laws.

Commonwealth Security Information. “Commonwealth Security Information” shall mean all data that pertains to the security of the Commonwealth’s information technology, specifically, information pertaining to the manner in which the Commonwealth protects its information technology systems against unauthorized access to or modification of information, whether in storage, processing or transit, and against the denial of service to authorized users, or the provision of service to authorized users, including those measures necessary to detect, document and counter such threats.

EOHHS-CE. “EOHHS-CE” shall mean any component of EOHHS and its constituent Agencies that constitutes a Covered Entity under the Privacy and Security Rules (including: the Office of Medicaid; the Department of Developmental Services; the Department of Mental Health; the Soldiers’ Home in Massachusetts; the Soldiers’ Home in Holyoke; the covered components of the Department of Public Health, a hybrid agency, having designated its covered components as: the Childhood Lead Screening Laboratory and the MDPH Public Health Hospitals (Lemuel Shattuck Hospital; Massachusetts Hospital School; Tewksbury Hospital; Western Massachusetts Hospital; and State Office of Pharmacy Services)) whose data is covered by this Contract.

Individual. “Individual” shall mean the person to whom the PI refers and shall include a person who qualifies as a personal representative in accord with 45 CFR § 164.502 (g).

Privacy Rule. “Privacy Rule” shall mean the Standards of Privacy of Individually Identifiable Health Information, at 45 CFR Parts 160 and 164.

Protected Information (PI). “Protected Information” shall mean any “Personal Data” as defined in Mass. Gen. Laws c. 66A and any “Protected Health Information” as defined in the Privacy Rule; any “Patient Identifying Information” as defined in 42 CFR Part 2; and any other confidential individually identifiable information under any federal or state law (including for example any state and federal tax return information) that the Contractor uses, maintains, discloses, receives, creates or otherwise obtains under this Contract. Information, including aggregate information, is considered PI if it is not fully de-identified in accord with 45 CFR 164.514 (a), (b), and (c).

Required By Law. “Required By Law” shall have the same meaning as used in the Privacy Rule.

Secretary. “Secretary” shall mean the Secretary of the US Department of Health and Human Services or the Secretary’s designee.

Security Incident. “Security Incident” shall have the same meaning as used in the Security Rule.

Security Rule. “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information, at 45 CFR Parts 160 and 164.

Contractor’s Obligations

Mass. Gen. Laws c. 66A and other Privacy and Security Obligations

The Contractor acknowledges that in the performance of this Contract it will create, receive, use, disclose, maintain, or otherwise obtain “Personal Data,” and that in so doing, it becomes a “Holder” of Personal Data, as such terms are used within Mass. Gen. Laws c. 66A. The Contractor agrees that, in a manner consistent with the Privacy and Security Rules, it shall comply with Mass. Gen. Laws c. 66A, and any other applicable privacy or security law (state or federal) governing Contractor’s use, disclosure, and maintenance of any PI under this Contract, including but not limited to, 42 CFR Part 431, Subpart F; ; Mass. Gen. Laws c. 93H; 801 CMR § 3.00; 201 CMR 17; and Executive Order 504.

The Contractor further agrees that it shall comply with any other privacy and security obligation that is applicable to any PI under this Contract as the result of EOHHS having entered into an agreement with a third party (such as the Social Security Administration) to obtain the data, including by way of illustration and not limitation, signing any written compliance acknowledgment or confidentiality agreement or complying with any other privacy and security obligation required by the third party for access to data that EOHHS receives from the third party.

Business Associate

The Contractor acknowledges that in the performance of this Contract, it is the Business Associate of EOHHS, as that term is used in the Privacy and Security Rules for providing services pursuant to **Sections 4.4, 4.5, 5, 6, 7.1, 7.2, 7.3, 7.4, and Section 8** to the extent that **Section 8** activities involve functions performed by the Contractor on EOHHS’ behalf, and such additional sections as EOHHS shall identify in the Contract or shall identify in either written amendments to the Contract or written work plans or instructions during the course of the Contract. The Contractor further acknowledges that Title XIII (the HITECH Act) of the American Recovery and Reinvestment Act of 2009 and related modifications to the Privacy and Security Rules issued by the federal Department of Health and Human Services on January 25, 2013 at 78 FR 5566 through 5702, with an effective date of March 26, 2013, increases the privacy and security obligations of, and imposes certain civil and criminal penalties upon, a Business Associate under the Health Insurance Portability and Accountability Act and the Privacy and Security Rules. Further, the HITECH Act imposes direct responsibility upon the Business Associate as if the Business Associate were a Covered Entity, as that term is

used in the Privacy and Security Rules, for certain obligations, including but not limited to the requirement to implement administrative, physical, and technical safeguards to protect PI and other requirements set forth in 45 CFR §§ 164.308, 164.310, 164.312, and 164.316. The HITECH Act also imposes certain breach notification obligations upon a Business Associate, and permits a Business Associate to use and disclose Protected Health Information, as that term is used in the Privacy and Security Rules, only if such use or disclosure, respectively, is in compliance with each applicable requirement of 45 CFR 164.504(e). The Contractor agrees to comply with all Business Associate requirements implemented by the HITECH Act and related modifications to the Privacy and Security Rules in accord with any applicable compliance dates.

EOHHS Data

The Contractor acknowledges that its access to, receipt, creation, use, disclosure, and maintenance of any PI covered by this Contract, and any data derived or extracted from such PI, arises from and is defined by the Contractor's obligations under this Contract, and that the Contractor does not possess any independent rights of ownership to such data..

Agents and Subcontractors

The Contractor shall not engage any agent or subcontractor to perform any activity under this Contract involving PI, unless such engagement is otherwise explicitly permitted under this Contract or unless the Contractor first seeks EOHHS's written permission to engage an agent or subcontractor by submitting a written description of the work to be performed by the proposed agent or subcontractor together with such other information as EOHHS may request. If engaging an agent or subcontractor is permitted, the Contractor shall ensure that the agent or subcontractor agrees in writing to the same restrictions and conditions that apply to Contractor under this Contract with respect to PI, including but not limited to, implementing reasonable safeguards to protect such information and conformance to applicable laws including but not limited to: 45 CFR 160.103; 45 CFR 164.502(e)(1)(ii) and (2); and 45 CFR 164.504(e).

The Contractor shall ensure that its agents or subcontractors who (i) have access to personal information as defined in Mass. Gen. Law c. 93H, and personal data, as defined in Mass. Gen. Laws c. 66A, that the Contractor uses, maintains, receives, creates or otherwise obtains under this Contract, or (ii) have access to Contractor systems containing such information or data, sign an Executive Order 504 Contractor Certification Form or other written agreement containing all applicable data security obligations as required by such certification form. Upon EOHHS' request, Contractor shall provide EOHHS with a listing of its agents or subcontractors who have such access and copies of these certifications.

Contractor is solely responsible for its agents' and subcontractors' compliance with this provision and all requirements in this **Section 14**, and shall not be relieved of any obligation under this **Section 14** because the data was in the hands of its agents or subcontractors.

Data Security

Administrative, Physical, and Technical Safeguards

The Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PI and that prevent use or disclosure of such data other than as provided for by this Contract. All such safeguards must meet, at a minimum, all standards set forth in the Privacy and Security Rules, as applicable to a business associate; all applicable standards set forth in **Section 9** of this Contract; and must comply with all security mechanisms and processes established for access to any of EOHHS's databases, as well as all Commonwealth security and information technology resource policies, processes, and mechanisms established for access to PI, including any applicable data security policies and procedures established by Executive Order 504 (for which the Contractor agrees to separately sign all required compliance certifications) and by the Information Technology Division. As one of its safeguards, the Contractor shall not transmit PI in non-secure transmissions over the Internet or any wireless communication device. The Contractor shall protect from inappropriate use or disclosure any password, user ID, or other mechanism or code permitting access to any database containing PI, and shall give EOHHS prior notice of any change in personnel whenever the change requires a termination or modification of any password, user ID, or other security mechanism or code that EOHHS may give to the Contractor for access to EOHHS databases to maintain the integrity of the database.

The Contractor agrees to allow representatives of EOHHS access to its premises where PI is kept for the purpose of inspecting privacy and physical security arrangements implemented by the Contractor to protect such data. Upon request, the Contractor shall provide EOHHS with copies of all written policies, procedure, standards and guidelines related to the protection, security, use and disclosure of PI, Commonwealth Security Information, or other confidential information and the security and integrity of its technology resources.

Commonwealth Security Information

If through this Contract the Contractor obtains access to any Commonwealth Security Information, the Contractor is prohibited from making any disclosures of or about such information, unless in accord with EOHHS's express written instructions. If the Contractor is granted access to such information in order to perform its obligations under this Contract, the Contractor may only use such information for the purposes for which it obtained access. In using the information for such permitted purposes, the Contractor shall limit access to the information only to staff or agents necessary to perform the permitted purposes. While in possession of such information, the Contractor shall apply all privacy and security requirements set forth in this Contract, as applicable to maintain the confidentiality, security, integrity, and availability of such information. Notwithstanding any other provision in this Contract, the Contractor shall report any non-permitted use or disclosure of such information to EOHHS (both the EOHHS contact specified in the Contract and the EOHHS Privacy Office) immediately within twenty-four hours. the Contractor shall immediately take

all reasonable and legal actions to retrieve such information if disclosed to any non-permitted individual or entity; shall include a summary of such retrieval actions in its required report of the non-permitted disclosure; and shall take such further retrieval action as EOHHS shall require. Notwithstanding any other provision in this Contract regarding termination the Contractor may not retain any Commonwealth Security Information upon termination of this Contract, unless such information is expressly identified in any retention permission granted in accordance with subsection F (Effect of Termination). If retention is expressly permitted, all data protections stated herein survive termination of this Contract and shall apply for as long as the Contractor retains the information.

Non-Permitted Use or Disclosure Report and Mitigation Activities

As used in this subsection, the term Event refers to the following, either individually or collectively: 1) any use or disclosure of PI by the Contractor, its subcontractors or agents, not permitted under this Contract, 2) any Security Incident by the same, or 3) any event that would trigger consumer or oversight agency notification obligations under the Privacy Rule, Mass. Gen. Laws 93H, or other similar federal or state data privacy or security laws.

Immediately upon becoming aware of an Event, the Contractor shall take all appropriate lawful action necessary to: (1) retrieve, to the extent practicable, any PI involved in the Event; (2) mitigate, to the extent practicable, any known harmful effect of the Event; and (3) take such further action as may be required by any applicable state or federal law concerning the privacy and security of any PI involved in the Event. As soon as possible, but in any event no later than two business days following the date upon which the Contractor becomes aware of the Event, the Contractor shall verbally report the Event to EOHHS with as much of the details listed below as possible, and shall follow such verbal report within five business days with a written report outlining the Event with the following details:

- a. The date of the Event, if known or if not known, the estimated date;
- b. The date of the discovery of the Event;
- c. The nature of the Event, including as much specific detail as possible describing the Event (for example, cause, contributing factors, chronology of events) and the nature of the PI involved (for example, types of identifiers involved such as name, address, age, social security numbers or account numbers, or medical or financial or other types of information). Include any sample forms or documents that were involved in the Event to illustrate the type of PI involved (with personal identifiers removed or redacted), and include any policies and procedures, standards, guidelines, and staff training relevant to the event or to the types of PI involved in the Event;
- d. The exact number of individuals whose PI was involved in the Event, if known, or if not known, a reasonable estimate based on the known facts, together with a description of how the exact or estimated number of individuals was determined (If

different types of PI was involved for different individuals, please categorize the exact or estimated numbers of individuals involved according to type of PI);

- e. A summary of the nature and scope of the Contractor investigation of the Event;
- f. The harmful effects of the Event known to the Contractor, all actions the Contractor has taken or plans to take to mitigate such effects, and the results of all mitigating actions already taken; and
- g. A review of and any plans to implement changes to the Contractor's policies and procedures, including staff training, to prevent such Event in the future. Include copies of all written policies and procedures reviewed, developed or amended in connection with the Event.

If within the timeframes specified, the Contractor is unable to gather and confirm all details surrounding the Event, the Contractor shall explain the factors delaying its investigation, provide as much detail as possible, and outline actions it intends to take to further gather and confirm facts surrounding the Event. Upon EOHHS's request the Contractor shall take such further actions as directed by EOHHS to provide further information and clarify any issues or questions that EOHHS may have regarding the Event.

Upon EOHHS's request, the Contractor shall take such further actions as identified by EOHHS or shall take such additional action to assist EOHHS to further mitigate, to the extent practicable, any harmful effect of the Event. Any actions to mitigate harmful effects of such privacy or security violations undertaken by the Contractor on its own initiative or pursuant to EOHHS's request under this paragraph shall not relieve the Contractor of its obligations to report such violations under this paragraph or any other provisions of this Agreement.

Consumer Notification

In the event the consumer notification provisions of Mass. Gen. Laws c. 93H or similar notification requirements in other state or federal laws, are triggered by a data breach involving the Contractor, its employees, agents, or subcontractors, the Contractor shall promptly comply with its obligations under such laws. If EOHHS determines, in its sole discretion, that it is required to give such notifications, the Contractor shall, at EOHHS' request, assist EOHHS in undertaking all actions necessary to meet consumer notification requirements and in drafting the consumer notices and any related required notices to state or federal agencies for EOHHS review and approval, but in no event shall the Contractor have the authority to give these notifications on EOHHS behalf. The Contractor shall reimburse EOHHS for reasonable costs incurred by EOHHS associated with such notification, but only to the extent that such costs are due to: (i) the Contractor's failure to meet its responsibilities under, or in violation of, any provision of this Contract, (ii) the Contractor's violation of law, (iii) the Contractor's negligence, (iv) the Contractor's failure to protect data under its control with encryption or other security

measures that constitute an explicit safe-harbor or exception to any requirement to give notice under such laws, or (v) any activity or omission of its employees, agents, or subcontractors resulting in or contributing to a breach triggering such laws.

Response to Legal Process

The Contractor shall report to the EOHHS (both the EOHHS contact specified in the Contract and the EOHHS Privacy Office), both verbally and in writing, any instance where PI, Commonwealth Security Information, or any other data obtained under this Contract is subpoenaed or becomes the subject of a court or administrative order or other legal process. If EOHHS directs the Contractor to respond, the Contractor shall take all necessary legal steps, including objecting to the request when appropriate, to comply with Mass. Gen. Laws c. 66A, 42 CFR 431.306 (f), and any other applicable federal and state law. If EOHHS determines that it shall respond directly, the Contractor shall fully cooperate and assist EOHHS in its response. In no event shall the Contractor's reporting obligations under this paragraph be delayed beyond two business days preceding the return date in the subpoena or legal process, or two business days from obtaining such request for data, whichever is shorter.

Individual's Request for Access to PI

The Contractor shall take such action as may be requested by EOHHS for any EOHHS-CE to meet obligations under 45 CFR §§ 164.524, 164.526, and 164.528 with respect to any such EOHHS-CE's PI in Contractor's possession in sufficient time and manner for EOHHS or the EOHHS-CE to meet its obligations under such Privacy Rule provisions. If an Individual contacts the Contractor with respect to exercising any rights the Individual may have under 45 CFR §§ 164.524, 164.526, and 164.528 with respect to PI in the Contractor's possession, the Contractor shall notify EOHHS within two business days of the Individual's request and cooperate with EOHHS or the applicable EOHHS-CE to meet any EOHHS-CE's obligations with respect to such request.

With respect to an Individual's right to an accounting under 45 CFR § 164.528, the Contractor shall document all disclosures of PI and other data access activities as would be necessary for EOHHS to respond to a request by an Individual for an accounting in accord with 45 CFR § 164.528. Within ten business days of the execution of the 4th Amendment to this Contract, the Contractor shall provide EOHHS with a written description of its tracking system to meet accounting obligations under 45 CFR § 164.528.

Individual's Direct Authorization to Disclose PI to Third Party

In the event the Contractor receives a request from the Individual or from a third party to release PI to a third party pursuant to a consent, authorization, or other written document, the Contractor shall, within three business days of receipt of such consent, authorization, or other written document, notify EOHHS Privacy Office of receipt of the document, shall cooperate with the Privacy Office in confirming the validity and sufficiency of such

document before releasing any PI to the third party, and shall release PI only in accordance with the Privacy Office's instructions.

If an Individual or a third party directly submits to the Contractor a consent, authorization or other written document to disclose PI to a specified third party, the Contractor shall disclose the specified PI to the specified third person only after confirming that the written consent, authorization, or document complies with all requirements under the Privacy Rule, and any other applicable state or federal law. the Contractor may release PI upon receipt of a EOHHS Permission to Share form, provided required elements of the form are completed and the form is signed by the Individual, and no other additional information is required to be included on the form under other applicable state or federal law. If additional information is required under other applicable state or federal law, the data may not be released unless the Contractor obtains a compliant release under such law. If the authorization involves PI not in its possession, the Contractor shall, within three business days of receipt of such authorization, notify EOHHS of the authorization in writing and provide a copy of any written authorization.

Individual's Request for PI Amendment

Within five business days of receipt of EOHHS's written request, the Contractor shall make any amendment(s) to PI that EOHHS requests in order for EOHHS to meet its obligations under 45 CFR § 164.526. Such amendments shall be made in a manner specified in, and in accord with any time requirement under, 45 CFR § 164.526. the Contractor shall notify EOHHS in writing of any request under 54 CFR § 164.526 for an amendment to PI maintained under this Contract that an Individual makes directly to the Contractor, within three days of receiving such request, and shall proceed in accord with EOHHS's instructions.

Accountable Disclosures

The Contractor shall document all disclosures of PI, and required information related to such disclosures, as would be necessary for EOHHS to respond to a request by an Individual for an accounting of disclosures of PI and related information in accord with 45 CFR § 164.528. Within five business days of EOHHS's written request, the Contractor shall make a listing of such disclosures and related information available to EOHHS, or upon EOHHS's direction to the Individual. In the event an Individual makes a request for an accounting, under 45 CFR § 164.528, directly to the Contractor, the Contractor shall, within three business days of receipt of such request, notify EOHHS (both the EOHHS contact specified in the Contract and the EOHHS Privacy Office) of the request, and cooperate in responding to such request with respect to PI maintained under this Contract. Within ten business days of the execution of this Contract, the Contractor shall provide EOHHS Privacy Office with a written description of its tracking system for accountable disclosures. The Contractor shall work with EOHHS Privacy Office in developing a process whereby the Contractor reports accountable disclosures to EOHHS on a routine basis.

Compliance Access for Secretary

The Contractor shall make its internal practices, books, and records, including policies and procedures and PI, relating to the use and disclosure of PI received from, or created or received by it on behalf of, EOHHS, available to EOHHS or upon EOHHS's written request, to the Secretary, in a time and manner designated by either EOHHS or the Secretary for purposes of the Secretary determining EOHHS's compliance with the Privacy and Security Rules.

Under the modifications to the Privacy and Security Rules referenced in this **Section 14**, the Contractor must comply with any direct obligation that it may have under such modifications to comply with any request from the Secretary.

Electronic and Paper Databases Updates

Within 30 days of execution of this Contract, the Contractor shall provide EOHHS (both the EOHHS contact specified in the Contract and the EOHHS Privacy Office), an accurate list of electronic and paper databases containing PI, together with a description of the various uses of the databases. The Contractor shall update such lists as necessary in accord with the addition or termination of such databases.

Data Privacy and Security Custodian

Within five days of this Contract's effective date, the Contractor shall provide EOHHS (both the EOHHS contact specified in the Contract and the EOHHS Privacy Office) in writing with the name of an individual(s), who shall act as the Contractor's Privacy and Security Officer(s) and be responsible for compliance with this **Section 14**. The Contractor shall also notify EOHHS (both the EOHHS contact specified in the Contract and the EOHHS Privacy Office) in writing within five business days of any transfer of such duties to other persons within its organization.

Permitted Uses and Disclosures by the Contractor

Except as otherwise limited in this Contract, the Contractor may use or disclose PI only as follows:

Contract Functions and Services

Except as otherwise limited in this Contract, the Contractor may use or disclose PI to perform functions, activities, or services for, or on behalf of, EOHHS as specified in this Contract, amendments thereto, or any written work plan or instructions during the course of the Contract, provided such use or disclosure would not: (1) violate the Privacy Rule or other applicable laws such as 42 CFR Subpart F and Mass. Gen. Laws c. 66A if done by EOHHS; (2) violate the minimum necessary policies and procedures of EOHHS; or (3) conflict with statements in EOHHS's Notice of Privacy Practices. In performing functions, activities, or services under this Contract, the Contractor represents that it shall seek from EOHHS only the amount of PI that is minimally necessary to perform the particular function, activity, or service. To the extent this Contract permits the Contractor to request, on EOHHS's behalf, PI from other covered entities under the Privacy Rule,

the Contractor shall only request an amount of PI that is reasonably limited to the minimal necessary to perform the intended function, activity, or service.

Required By Law

The Contractor may use or disclose PI as Required by Law, consistent with the restrictions of 42 CFR 431.306 (f), Mass. Gen. Laws c. 66A, and the restrictions in any other applicable privacy or security law (state or federal) governing the Contractor's use, disclosure, and maintenance of any PI under this Contract.

Restriction on Contacting the Individual

The Contractor may not use PI to attempt to contact the Individual, unless such contact is otherwise specified in the Contract as necessary to perform functions, activities, or services for EOHHS under this Contract, or unless EOHHS otherwise instructs the Contractor to do so in writing.

Publication Restriction

The Contractor shall not use PI for any of its own publication, statistical tabulation, research, or similar purpose, even if PI has been transformed into de-identified data in accord with the standards set forth in 45 CFR 164.514(a), (b), and (c)), unless the Contractor obtains EOHHS's prior written permission and complies with any conditions set forth in such permission.

Contractor's Activities as a managed care entity subject to HIPAA

Contractor may use or disclose PI obtained in its role as a business associate for its own activities as a managed care entity in the following circumstances:

its receipt of PI from EOHHS in its role as a covered entity would meet the requirements of 45 CFR 506(c)(4) if EOHHS had made the disclosure of PI to the Contractor as a Covered Entity, and not a business associate;

as agreed to by EOHHS in writing during the course of this Contract; and

for its proper management and administration, provided:

it first determines whether it can reasonably use de-identified data for such management and administrative activities, and if it can, de-identifies PI in accord with standards set forth in the Privacy Rule for such activities;

it only uses PI for management and administrative activities that are directly related to its performance under this Contract;

the use and disclosure of PI for such management and administrative activities is necessary and complies with minimally necessary principles;

one of the following two conditions is met for disclosures:

the disclosure is Required by Law; or

it (a) obtains reasonable assurances from the person to whom the PI is disclosed that the PI will remain confidential and will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person; and (b) the person to whom the PI is disclosed notifies Contractor of any instances of which it is aware in which the confidentiality of the PI has been breached.

Nothing set forth in this subsection **C.5** is intended to circumvent any legal or other requirement to obtain the written consent of the individual to whom the PI applies if such consent is required for the transfer of PI to the Contractor in a role other than as EOHHS' business associate, including, for example, the requirements of 45 CFR Part 2 or the requirements and procedures established by EOHHS for use of the electronic CANS system. In such circumstances, Contractor must obtain the required written consent and maintain documentation of such consent.

Notwithstanding any language in this section C. or the "Contract", Contractor may not use or disclose any PI without consent, if such use and disclosure requires written consent under applicable law (including for example 45 CFR Part 2) or any EOHHS policy and procedure (including for example, use of EOHHS CANS electronic exchange system.).

EOHHS Obligations

Changes in Notice of Privacy Practices

EOHHS shall notify the Contractor in writing of any changes in its notice of privacy practices issued in accordance with 45 CFR § 164.520, to the extent that such change may affect the Contractor's use or disclosure of PI. EOHHS shall provide the Contractor with a new copy of its notice of privacy practices each time such notice is modified or amended.

Notification of Changes in Authorizations to Disclose

EOHHS shall notify the Contractor in writing of any changes in, or revocation of, permission by an Individual to use or disclose PI, to the extent that such changes may affect the Contractor's use or disclosure of PI.

Notification of Restrictions

EOHHS shall notify the Contractor in writing of any restriction to the use of disclosure of PI that it has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect the Contractor's use or disclosure of PI.

Termination for Privacy or Security Violation

Termination for Violation

Notwithstanding any other provision in this Contract, EOHHS may terminate this Contract, immediately upon written notice, if EOHHS determines, in its sole discretion, that the Contractor has materially breached any of its obligations set forth in this **Section 14** or any other provision of this Contract pertaining to the security and privacy of any PI provided to the Contractor under this Contract.

Cure

Prior to terminating this Contract as permitted above, EOHHS, in its sole discretion, may provide an opportunity for the Contractor to cure the breach or end the violation. If such an opportunity is provided, but cure is not feasible, or the Contractor fails to cure the breach or end the violation within a time period set by EOHHS, EOHHS may terminate the Contract immediately upon written notice.

HHS Report

In the event that termination of this Contract for a material breach of any obligation regarding PI is not feasible, or if cure is not feasible, EOHHS shall report such breach or violation to the Secretary if such material breach and termination pertains to work performed for an EOHHS-CE, under this Contract.

Effect of Termination

Return or Destroy Data

Except as provided immediately below, upon termination of this Contract for any reason whatsoever, the Contractor shall, at EOHHS's option, either return or destroy all PI obtained or created in any form under this Contract, and the Contractor shall not retain any copies of such data in any form. In no event shall the Contractor destroy any PI without first obtaining EOHHS's approval. In the event destruction is permitted, the Contractor shall destroy PI in accord with standards set forth in NIST Special Publication 800-98, Guidelines for Media Sanitization, all applicable state retention laws, all applicable state and federal security laws (including the HITECH Act), and all state data security policies including policies issued by EOHHS and the Information Technology Division. Within five days of any permitted destruction, the Contractor shall provide EOHHS with a written certification that destruction has been completed in accord with the required standards and that the Contractor and its subcontractors and agents no longer retain such data or copies of such data. This provision shall apply to all PI in the possession of Contractor's subcontractors or agents, and the Contractor shall ensure that all such data in the possession of its subcontractors or agents has been returned or

destroyed and that no subcontractor or agent retains any copies of such data in any form, in accord with EOHHS's instructions

Retain Data

If the Contractor determines that returning or destroying PI is not feasible, the Contractor shall provide EOHHS with written notification of the conditions that make return or destruction not feasible. If based on Contractor's representations, EOHHS concurs that return or destruction is not feasible, the Contractor shall extend all protections set forth in this **Section 14** to all such PI and shall limit further uses and disclosures of such data to those purposes that make the return or destruction of such data not feasible, for as long as the Contractor maintains the data.

Survival

Notwithstanding any other provision concerning the term of this Contract, all protections pertaining to any PI covered by this Contract shall continue to apply until such time as all such data is returned to EOHHS or destroyed, or until any period of storage following the termination of this Contract is ended, or if return or destruction is not feasible, protections are applied to such data in accord with subsection **2**, immediately above.

Miscellaneous Provisions

Regulatory References

Any reference in this Contract to a section in the Privacy or Security Rules or other regulation or law refers to that section as in effect or as amended.

Amendment

The Contractor agrees to take such action as is necessary to amend this Contract in order for EOHHS to comply with any requirements of the Privacy and Security Rules, the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (HIPAA), and any other applicable state or federal law pertaining to the privacy, confidentiality, or security of PI. Upon EOHHS's written request, the Contractor agrees to enter promptly into negotiations for any amendment as EOHHS, in its sole discretion, deems necessary for EOHHS's compliance with any such laws. The Contractor agrees that, notwithstanding any other provision in this Contract, EOHHS may terminate this Contract immediately upon written notice, in the event the Contractor fails to enter into negotiations for, and to execute, any such amendment.

Survival

The obligations of the Contractor under subsection **F** (Effect of Termination) of this **Section 14** or any provision allowing for continued possession of PI shall survive the termination of this Agreement.

Waiver