

Three-Way Contract for Capitated Model

**Contract**

**Between**

**United States Department of Health and Human Services**

**Centers for Medicare & Medicaid Services**

**In Partnership with**

**The Commonwealth of Massachusetts**

**and**

**[PLAN NAME]**

**Effective August 1, 2021**

This Contract, effective July 16, 2013, and amended by addendum effective September 10, 2014 and January 7, 2015; amended and restated effective December 28, 2015; further amended by addendum effective July 5, 2016 and June 11, 2018; further amended and restated effective April 1, 2019; and further amended by addendum effective August 1, 2019 and August 1, 2020, is hereby amended by addendum effective August 1, 2021, and is between the United States Department of Health and Human Services, acting by and through the Centers for Medicare & Medicaid Services (CMS), the Commonwealth of Massachusetts, acting by and through the Executive Office of Health and Human Services (EOHHS) and \_\_\_\_\_ (the Contractor). The Contractor's principal place of business is \_\_\_\_\_.

**WHEREAS**, CMS is an agency of the United States, Department of Health and Human Services, responsible, in relevant part, for the administration of the Medicare, Medicaid, and State Children's Health Insurance Programs under Title XVIII, Title IX, Title XI, and Title XXI of the Social Security Act;

**WHEREAS**, the Massachusetts Executive Office of Health and Human Services is an agency responsible for operating a program of medical assistance under 42 U.S.C. § 1396 et. seq., and M.G.L. c. 118E, designed to pay for health care services for eligible individuals;

**WHEREAS**, the Contractor is in the business of providing health care services, and CMS and the Massachusetts Executive Office of Health and Human Services desire to purchase such services from the Contractor;

**WHEREAS**, the continued provision of covered services contributes to the health and welfare of Enrollees;

**WHEREAS**, in accordance with **Section 5.8.1** of the Contract, EOHHS and the Contractor desire to amend the Contract;

**WHEREAS**, in light of the state of emergency declared in the Commonwealth due to the 2019 novel Coronavirus outbreak, the term of the Contract is being extended pursuant to 801 CMR 21.05(3) to provide necessary services in response to a threat to the health, welfare and safety of Commonwealth residents and 801 CMR 21.05(5)(b) for the period necessary for EOHHS to complete its new procurement for the services set forth in the Contract;

**WHEREAS**, the Contractor agrees to furnish these services in accordance with the terms and conditions of this Contract and in compliance with all federal and State laws and regulations;

**NOW, THEREFORE**, in consideration of the mutual promises set forth in this Contract, the parties agree as follows:

1. This Addendum deletes and replaces the definition for “Demonstration Year” in **Section 1.36** with the following **Section 1.36**:

“Demonstration Year – Demonstration Year 1 runs from the first Effective Enrollment Date through December 31, 2014; Demonstration Year 2 runs from January 1, 2015 through December 31, 2015; Demonstration Year 3 runs from January 1, 2016 through December 31, 2016; Demonstration Year 4 runs from January 1, 2017 through December 31, 2017; Demonstration Year 5 runs from January 1, 2018 through December 31, 2018; Demonstration Year 6 runs from January 1, 2019 through December 31, 2019; Demonstration Year 7 runs from January 1, 2020 through December 31, 2020; Demonstration Year 8 runs from January 1, 2021 through December 31, 2021; and Demonstration Year 9 runs from January 1, 2022 through December 31, 2022.”

2. This Addendum adds the following new **Section 2.3.1.12**:

“The Contractor shall direct all enrollment- and Demonstration eligibility-related inquiries that the Contractor may receive from Enrollees or their representatives, as well as former or prospective Enrollees and their representatives, to the EOHHS customer service vendor as applicable. For inquiries received by phone, the Contractor shall make best efforts to connect the caller to the EOHHS customer service line. For enrollment- and Demonstration eligibility-related inquiries the Contractor may receive through other media, or when the EOHHS customer service vendor is unreachable, the Contractor shall offer to connect the individual at another time, and/or otherwise assist the individual to successfully reach the EOHHS customer service line within a reasonable period of time. The Contractor shall document all measures the Contractor took to address the enrollment- or eligibility-related inquiries, including their efforts to connect the caller to the EOHHS customer service line. The Contractor shall make this information available to the CMT if requested.”

3. This Addendum deletes and replaces the language in **Section 2.3.4.1.1** with the following **Section 2.3.4.1.1**:

“Provide an orientation to Enrollees, within the time period sixty (60) calendar days prior to and thirty (30) days after the initial date of enrollment. The orientation shall include:”

4. This Addendum adds the following new **Section 2.9.2.10.1**:

“From July 2, 2020 through July 31, 2020, the Contractor shall continue to pay its contracted Adult Day Health providers, including if applicable those Adult Day Health providers contracted through an Aging Services Access Point (ASAP), its contracted rates for Adult Day Health services under the traditional Medicaid benefit, for each day an Enrollee was scheduled to attend the Adult Day Health program, provided however

that such payments shall only be made for Enrollees for whom the Adult Day Health provider documents at least one qualifying encounter with the Enrollee per week. The Contractor shall require its contracted Adult Day Health providers to report to the Contractor, or to the Contractor's contracted ASAP where applicable, on each such encounter in a form and format and at a frequency specified by EOHHS.”

5. This Addendum deletes and replaces the language in **Section 2.10.2.1** with the following **Section 2.10.2.1**:

“The Contractor must operate a call center during normal business hours, seven (7) days a week, consistent with the Marketing Guidance for Massachusetts Medicare-Medicaid Plans. ESRs must be available Monday through Friday, during normal business hours, consistent with the Marketing guidance for Medicare-Medicaid Plans. The Contractor may use alternative call center technologies on Saturdays, Sundays, and Federal holidays except New Year’s Day. On New Year’s Day, the Contractor must operate a call center with ESRs available during normal business hours.”

6. This Addendum deletes **Section 2.15.3.7** in its entirety.

7. This Addendum adds the following new **Section 2.15.3.7**:

“2.15.3.7. COVID-19 Rate Provisions

2.15.3.7.1. As further specified by EOHHS, the Contractor shall increase its contracted rates relative to such rates paid as of February 29, 2020, for the following services covered under the traditional Medicaid benefit and as follows:

2.15.3.7.1.1. For Personal Care Attendant (PCA) Services and other Personal Assistance Services paid at the collectively bargained PCA rate, a 10% rate increase effective for dates of service April 1, 2020 through July 31, 2020.

2.15.3.7.1.2. For Home Health Services a 10% rate increase effective for dates of service April 1, 2020 through July 31, 2020.

2.15.3.7.1.3. For Continuous Skilled Nursing, a 10% increase effective for dates of service April 1, 2020 through July 31, 2020, and an additional incremental 10% increase for dates of service May 1, 2020 through July 31, 2020.

2.15.3.7.1.4. For Program for Assertive Community Treatment (PACT), a 10% rate increase effective for dates of service April 1, 2020 through July 31, 2020.

2.15.3.7.1.5. For Residential Rehabilitative Services, a 10% increase effective for dates of service April 1, 2020 through July 31, 2020, and an additional incremental 15% increase for dates of service May 1, 2020 through June 30, 2020.

2.15.3.7.1.6. For Acute Treatment Services and Clinical Stabilization Services, a 10% increase effective for dates of service April 1, 2020 through July 31, 2020.

8. This Addendum adds the following new **Section 2.15.3.8**:

“2.15.3.8. Adult Day Health Rates

2.15.3.8.1. As further specified by EOHHS and in a manner that does not overlap with payments made under **Section 2.9.2.10.1**, the Contractor shall increase its contracted rates for Adult Day Health services, relative to such rates paid as of February 29, 2020 as follows:

2.15.3.8.1.1. A 40% increase for dates of service August 1, 2020 through September 30, 2020.

2.15.3.8.1.2. A 25% increase for dates of service October 1, 2020 through November 30, 2020. The 25% increase shall supplant the previous 40% increase under **Section 2.15.3.8.1.1** such that the increases are not additive.

2.15.3.8.1.3. A 40% increase for dates of service December 1, 2020, through December 31, 2020. This 40% increase shall supplant the previous increases under **Sections 2.15.3.8.1.1** and **2.15.3.8.1.2.**”

9. This Addendum adds the following new **Section 2.16.2.10**:

“2.16.2.10. The Contractor must provide and require its First Tier, Downstream, and Related Entities to provide any information required for the implementation and operation of Electronic Visit Verification (EVV) to ensure that the Contractor’s EVV systems comply with the requirements outlined in Section 12006 of the 21<sup>st</sup> Century Cures Act (codified as 42 USC 1396b(l)) and as directed by EOHHS and CMS.”

10. This Addendum deletes and replaces the language in **Section 4.1.2** with the following **Section 4.1.2**:

“4.1.2. **Demonstration Year Dates**

4.1.2.1. Capitation Rate updates will take place on January 1<sup>st</sup> of each calendar year. However, savings percentages and quality withhold percentages (see

**Sections 4.3.4 and 4.4.5)** will be applied based on Demonstration Years, as follows:

<b>Demonstration Year</b>	<b>Calendar Dates</b>
1	First Effective Enrollment Date – December 31, 2014
2	January 1, 2015 – December 31, 2015
3	January 1, 2016 – December 31, 2016
4	January 1, 2017 – December 31, 2017
5	January 1, 2018 – December 31, 2018
6	January 1, 2019 – December 31, 2019
7	January 1, 2020 – December 31, 2020
8	January 1, 2021 – December 31, 2021
9	January 1, 2022 – December 31, 2022”

11. This Addendum deletes and replaces the language in **Section 4.3.4.1** with the following **Section 4.3.4.1**:

“4.3.4.1. Aggregate savings percentages will be applied equally unless otherwise specified, as follows, to the baseline spending amounts for the Medicare Parts A/B Component and the MassHealth Component of the capitated rate, provided that such savings percentages may be adjusted in accordance with **Section 4.3.4.4**.

4.3.4.1.1. Demonstration Year 1, as divided into the following two time periods:

4.3.4.1.1.1. First six months following the first Effective Enrollment Date: 0%

4.3.4.1.1.2. After the first six months following the first Effective Enrollment Date through December 31, 2014: 1%

4.3.4.1.2. Demonstration Year 2: 0%

4.3.4.1.3. Demonstration Year 3: 0%

4.3.4.1.4 Demonstration Year 4: 0.25%

4.3.4.1.5. Demonstration Year 5: 0.50%

4.3.4.1.6. Demonstration Year 6: 0.50%

4.3.4.1.7. Demonstration Year 7: 0.50%, unless a Commonwealth of Massachusetts state of emergency related to COVID-19 is in effect on or after May 15, 2020, including but not limited to the Commonwealth state of emergency declared via Executive Order No. 591. If such a Commonwealth state of emergency is in effect at any point during the period from May 15, 2020 through December 31, 2020, EOHHS may retroactively revise the savings percentage for the MassHealth Component of the capitated rate for the entirety of Demonstration Year 7 to a percentage not to exceed 0.50%.

4.3.4.1.8. Demonstration Year 8: 0.75% for the Medicare A/B Component of the capitated rate, and 0.50% for the MassHealth Component, unless a Commonwealth of Massachusetts state of emergency related to COVID-19 is in effect on or after September 1, 2020, including but not limited to the Commonwealth state of emergency declared via Executive Order No. 591. If such a Commonwealth state of emergency is in effect at any point during the period from September 1, 2020 through December 31, 2020, the Demonstration Year 8 savings percentage for both the Medicare A/B Component and the MassHealth Component of the capitated rate will be 0.50%.

4.3.4.1.9. Demonstration Year 9: 0.75% for the Medicare A/B Component of the capitated rate, and 0.50% for the MassHealth Component, unless a Commonwealth of Massachusetts state of emergency related to COVID-19 is in effect on or after September 1, 2021, including but not limited to the Commonwealth state of emergency declared via Executive Order No. 591. If such a Commonwealth state of emergency is in effect at any point during the period from September 1, 2021 through December 31, 2021, the Demonstration Year 9 savings percentage for both the Medicare A/B Component and the MassHealth Component of the capitated rate will be 0.50%.”

12. This Addendum deletes and replaces the language in **Section 4.4.5.6** with the following **Section 4.4.5.6**:

“4.4.5.6. Withhold Measures in Demonstration Years 2 - 9

4.4.5.6.1. The quality withhold will be 0% in Demonstration Year 2 and 1% in Demonstration Year 3.

4.4.5.6.2. The quality withhold will be 1.25% in Demonstration Year 4, 1.50% for Demonstration Year 5, 1.75% in Demonstration Years 6 – 8, and 2.50% for Demonstration Year 9.

4.4.5.6.3. Payment will be based on performance on the quality withhold measures listed in **Figure 4.2**, below. The Contractor must report these measures according to the prevailing technical specifications for the applicable measurement year.

4.4.5.6.4. If the Contractor is unable to report at least three of the quality withhold measures listed in **Figure 4.2** for a given year due to low enrollment or inability to meet other reporting criteria, alternative measures will be used in the quality withhold analysis. Additional information about this policy is available in separate technical guidance.

4.4.5.6.5. For Demonstration Years 6, 7, 8, and/or 9, CMS and EOHHS in their sole discretion may provide flexibilities via administrative guidance to the quality withhold measures listed in **Figure 4.2** related to COVID-19 impacts.

**Figure 4.2: Quality Withhold Measures for Demonstration Years 2 through 9**

Measure	Measure Steward/Data Source	CMS Core Withhold Measure	State-Specified Withhold Measure
Getting Appointments and Care Quickly (for DY 2 only)	AHRQ/CAHPS	X	
Customer Service (for DY 2 only)	AHRQ/CAHPS	X	
Plan all-cause readmissions	NCQA/HEDIS	X	
Annual flu vaccine	AHRQ/CAHPS	X	
Follow-up after hospitalization for mental illness	NCQA/HEDIS	X	
Controlling blood pressure	NCQA/HEDIS	X	
Part D medication adherence for diabetes medications	CMS/PDE Data	X	
Initiation and engagement of alcohol and other drug dependence treatment	NCQA/HEDIS		X
Adults' access to preventive/ambulatory health services (starting in DY 3)	NCQA/HEDIS		X



Measure	Measure Steward/Data Source	CMS Core Withhold Measure	State-Specified Withhold Measure
Encounter data (starting in DY 3)	CMS defined process measure	X”	

13. The Addendum adds the following new **Section 4.4.10**:

“4.4.10. COVID-19 Vaccination Incentive Payment

4.4.10.1. For Demonstration Year 8, EOHHS shall provide the Contractor with a vaccine incentive payment if, by June 30, 2021, the Contractor ensures that at least eighty (80%) percent of the One Care Plan’s eligible Enrollees as specified below are fully vaccinated (i.e. all doses of the recommended regimen for the applicable vaccine are administered). Enrollees in the Contractor’s plan eligible to be counted towards the eighty (80%) percent vaccination threshold shall:

4.4.10.1.1. Reside in the cities and towns identified by DPH as most disproportionately impacted by COVID-19, as further directed by EOHHS; and

4.4.10.1.2. Exclude those Enrollees in the F1 Rating Category, as set forth in **Section 4.2.1.2.**, as of January 1, 2021.

4.4.10.2. Subject to the Contractor meeting the requirements set forth in **Section 4.4.10.1.** above, such vaccine incentive payment shall be the lesser of five hundred thousand (\$500,000) dollars or five (5%) percent of the Contractor’s Medicaid capitation payments, which will be calculated as if the Contractor has received the full quality withhold payment, for Demonstration Year 8 (2021) as determined by EOHHS; and

4.4.10.3. Such vaccine incentive payment shall be excluded from the calculation of Risk Corridors and Medical Loss Ratios as described in **Section 4.7.**

4.4.10.4. Such incentive arrangement is available to both public and private Contractors under the same terms of performance. Participation in this incentive arrangement is not conditioned upon the Contractor entering into or adhering to intergovernmental transfer agreements. Such incentive arrangement is

necessary for the specified activities, targets, performance measures, or quality-based outcomes that support program initiatives as specified in the state's quality strategy.”

14. In **Section 4.7.1** this Addendum deletes the sentence “Risk corridors will be established for Demonstration Years 1 through 8.” and replaces it as follows:

“Risk corridors will be established for Demonstration Years 1 through 9.”

15. In **Section 4.7.3.3.4**, this Addendum revises the sentence “Demonstration Years 6 - 8” to read:

“Demonstration Years 6 - 9”.

16. In **Section 4.7.3.4.4**, this Addendum revises the sentence “Demonstration Years 6 – 8.” to read:

“Demonstration Years 6 - 9”.

17. This section deletes and replaces the language in **Section 4.7.4.3.5** with the following **Section 4.7.4.3.5**:

“4.7.4.3.5 Premium Revenue. Medicare and Medicaid revenue should include the amounts paid back to the Contractor under the quality withhold, as part of the MLR denominator.”

18. This section deletes and replaces the language in **Section 4.7.4.4.2** with the following **Section 4.7.4.4.1**:

“4.7.4.4.1 The numerator of the Contractor’s MLR for each year is the sum of the Contractor’s incurred Medicaid and Medicare claims; expenses for activities that improve health care quality; medical sub-capitation arrangement; and fraud reduction activities, all of which must be calculated in accordance with relevant EOHHS/CMS guidance;

19. This section deletes and replaces the language at **Section 4.7.4.4.2** with the following **Section 4.7.4.4.2**:

“4.7.4.4.2 The denominator of the Contractor’s MLR for each year is the difference between the total capitation payment received by the Contractor and the Contractor’s federal, State, and local taxes and licensing and regulatory fees, all of which must be calculated in accordance with relevant EOHHS and CMS guidance. The denominator will also include net receipts or payments related to risk sharing mechanisms.”

20. This section adds the following new **Section 5.3.17.2**:

“5.3.17.2. Should any part of the scope of work under this Contract relate to a state program that is no longer authorized by law (e.g., which has been vacated by a court of law, or for which CMS has withdrawn federal authority, or which is the subject of a legislative repeal), the Contractor must do no work on that part after the effective date of the loss of program authority. EOHHS and CMS must adjust capitation rates to remove costs that are specific to any program or activity that is no longer authorized by law. If the Contractor works on a program or activity no longer authorized by law after the date the legal authority for the work ends, the Contractor will not be paid for that work. If EOHHS or CMS paid the Contractor in advance to work on a no-longer-authorized program or activity and under the terms of this Contract the work was to be performed after the date the legal authority ended, the payment for that work should be returned to EOHHS or CMS, respectively. However, if the Contractor worked on a program or activity prior to the date legal authority ended for that program or activity, and EOHHS or CMS included the cost of performing that work in its payments to the Contractor, the Contractor may keep the payment for that work even if the payment was made after the date the program or activity lost legal authority.”

21. This section deletes and replaces the language in **Section 5.5.6.2** with the following **Section 5.5.6.2**:

“5.5.6.2. In the event that this Contract is terminated, expires, or is not renewed for any reason other than as described in **Section 5.5.6.2.4** below:

5.5.6.2.1. If CMS or EOHHS, or both, elect to terminate the Contract, CMS and EOHHS will be responsible for notifying all Enrollees covered under this Contract of the date of termination and the process by which those Enrollees will continue to receive care. If the Contractor elects to terminate or not renew the Contract, the Contractor will be responsible for notifying all Enrollees and the general public, in accordance with federal and State requirements;

5.5.6.2.2. The Contractor must promptly return to CMS and EOHHS all payments advanced to the Contractor for Enrollees after the effective date of their disenrollment; and

5.5.6.2.3. The Contractor must supply to CMS and EOHHS all information necessary for the payment of any outstanding claims determined by CMS and EOHHS to be due to the Contractor, and any such claims will be paid in accordance with the terms of this Contract.

5.5.6.2.4. If CMS and EOHHS elect to terminate the Contract in order to transition to a follow-on One Care initiative in which the Contractor will participate, the provisions outlined in **Sections 5.5.6.2.1, 5.5.6.2.2, and 5.5.6.2.3** shall not apply.

22. This Addendum deletes and replaces the language in **Section 5.7.1** with the following **Section 5.7.1**:

“5.7.1. Contract Term

This Contract shall be in effect through December 31, 2022, and, so long as the Contractor has not provided CMS with a notice of intention not to renew, and CMS/EOHHS have not provided the Contractor with a notice of intention not to renew, pursuant to 42 C.F.R. § 422.506 or **Section 5.5** above, may be renewed in one year terms subject to CMS/EOHHS approval.”

23. This Addendum adds the following language to **Appendix D** at the end of Section I:

“15. Language that states the medical providers shall implement and use EVV as required by EOHHS and CMS.”

24. This Addendum deletes **Section P.18** in **Appendix N**, and renumbers the remaining items accordingly.

25. This Addendum deletes and replaces the language in **Appendix P** with the following **Appendix P**:

“Appendix P – Additional Medicare Waivers

In addition to the waivers granted for the One Care Demonstration in the MOU, CMS hereby waives:

- P1. Section 1860-D1 of the Social Security Act, as implemented in 42 C.F.R. § 423.38(c)((4)(i), and extend Sections 1851(a), (c), (e), and (g) of the Social Security Act, as implemented in 42 C.F.R. Part 422, Subpart B only insofar as such provisions are inconsistent with allowing dually eligible beneficiaries to change enrollment on a monthly basis.
- P2. Section 1851(d) of the Social Security Act and the implementing regulations at 42 C.F.R. § 422, Subpart C, only insofar as such provisions are inconsistent with the network adequacy processes provided under the Demonstration.
- P3. Section 1851(h), Section 1852(c), and Section 1860 D-4 of the Social Security Act and the implementing regulations at 42 C.F.R. 422 and 423, Subparts C and V, only insofar as such provisions are inconsistent with the state-specific marketing guidance developed for the demonstration.”

In Witness Whereof, CMS, EOHHS, and the Contractor have caused this Agreement to be executed by their respective authorized officers:

\_\_\_\_\_

(Insert Contractor Signatory Name and Title)

\_\_\_\_\_

(Date)

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In Witness Whereof, CMS, EOHHS, and the Contractor have caused this Agreement to be executed by their respective authorized officers:

\_\_\_\_\_

Lindsay P. Barnette

\_\_\_\_\_

(Date)

Director, Models, Demonstrations, and Analysis Group

Centers for Medicare & Medicaid Services

United States Department of Health and Human Services

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In Witness Whereof, CMS, EOHHS, and the Contractor have caused this Agreement to be executed by their respective authorized officers:

\_\_\_\_\_

Kathryn Coleman

Director

Medicare Drug & Health Plan Contract Administration Group

Centers for Medicare & Medicaid Services

United States Department of Health and Human Services

\_\_\_\_\_

(Date)

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In Witness Whereof, CMS, EOHHS, and the Contractor have caused this Agreement to be executed by their respective authorized officers:

\_\_\_\_\_

Marylou Sudders

Secretary

Executive Office of Health and Human Services

Commonwealth of Massachusetts

\_\_\_\_\_

(Date)

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