

## UTAH MEDICAID PROGRAM REGULATORY REQUIREMENTS APPENDIX

**THIS UTAH MEDICAID PROGRAM REGULATORY REQUIREMENTS APPENDIX** (this “Appendix”) supplements and is made part of the Participation Agreement (the “Agreement”) between United Behavioral Health (“UBH”) and the Provider named in the Agreement (“Provider”).

### SECTION 1 APPLICABILITY

This Appendix applies with respect to the provision of health care services that a Provider provides directly to Enrollees under the State of Utah Medicaid Program or the Utah 1915(b) Medicaid Waiver (collectively, the “State Program”) as governed by the State’s designated regulatory agencies. In the event of a conflict between this Appendix and other appendices or any provision of the Agreement, the provisions of this Appendix shall control except with regard to benefit contracts outside the scope of this Appendix or unless otherwise required by law. In the event UBH is required to amend or supplement this Appendix as required or requested by the County, the State or other governmental agency, Provider agrees that UBH shall be permitted to unilaterally initiate such additions, deletions or modifications, to be effective immediately unless written notice of such amendment is required under law.

### SECTION 2 DEFINITIONS

Unless otherwise defined in this Appendix, all capitalized terms shall be as defined in the Agreement. For purposes of this Appendix, the following terms shall have the meanings set forth below; provided, however, in the event any definition set forth in this Appendix or the Agreement is inconsistent with any definitions under the State Medicaid Program, the definitions shall have the meaning set forth under the State Program.

2.1 **County:** The Division of Behavioral Health Services of Salt Lake County, a body corporate and politic of the State of Utah,

2.2 **Covered Services:** A health care service or product for which a Enrollee is properly enrolled to receive coverage under the State Program.

2.3 **Enrollee:** An individual who is eligible for, properly enrolled in, and covered under the State Program. An Enrollee may also be referred to as a Covered Person.

2.4 **State:** The State of Utah, or its designated regulatory agencies.

2.5 **County Contract:** UBH’s contract with the County for the purpose of providing and paying for Covered Services to Enrollees enrolled in the State Program.

2.6 **Subcontract:** Any written agreement between UBH and another party to fulfill any requirements of the County Contract, including a participation agreement. For purposes of this Appendix, the Agreement is a Subcontract for the provision of Covered Services.

2.7 **Subcontractor:** The party contracting with UBH to fulfill any requirements of the County Contract. For purposes of this Appendix, a Provider is a Subcontractor that provides Covered Services.

### **SECTION 3 PROVIDER REQUIREMENTS**

The State Program, through federal and State statutes and regulations, requires the Agreement to contain certain conditions that UBH and Provider agree to undertake, which are as follows:

3.1 Provider shall follow the County Contract's requirements for the provision of Covered Services including, without limitation, the Utah Medicaid Provider Manual and any preferred practice guidelines developed by the Division of Substance Abuse and Mental Health and recognized by UBH.

3.2 Provider must be enrolled as a current Medicaid provider, licensed as a health care professional under state law where the individual is participating, or, if not licensed under state law or certified by a state agency, meet the qualifications for the Covered Service to be provided. Any Provider who provides Covered Services will have a National Provider Identifier (NPI) in accordance with the system established under Section 1173(b) of the Social Security Act and in accordance with the Health Insurance Portability and Accountability Act of 1996.

3.3 Provider must provide for timely access for Enrollee appointments in accordance with any appointment availability requirements established under the County Contract including without limitation, appointments for preventive care, urgent care, routine sick care, and well care.

3.4 Provider must cooperate with UBH and provide an Enrollee with continuity of treatment in the event Provider's participation with UBH terminates during the course of an Enrollee's treatment by Provider.

3.5 Provider must look solely to UBH for payment of Covered Services provided to Enrollees pursuant to the Agreement and the County Contract and hold the County, the State, the United States Department of Health and Human Services and Enrollees harmless in the event that UBH cannot or will not pay for such Covered Services. In accordance with 42 CFR Section 447.15, as may be amended from time to time, the

Enrollee is not liable to Provider for any services for which UBH is liable and as specified under the State's relevant health insurance or managed care statutes, rules or administrative agency guidance. Provider shall not require any copayment or cost sharing for Covered Services provided under the Agreement unless expressly permitted under the County Contract. This provision shall survive any termination of the Agreement, including breach of the Agreement due to insolvency.

3.6 Provider will not balance bill Enrollees who are dually eligible for Medicare and Medicaid, but must consider reimbursement from Medicare and Medicaid payment for Medicare crossover claims as payment in full.

3.7 Provider shall cooperate with UBH's quality assessment and performance improvement and utilization review and management activities. This shall include, but not be limited to, participation in any internal and external quality assurance, utilization review, peer review, and grievance procedures established by UBH to assure that Enrollees have due process for their complaints, grievances, appeals, fair hearings or requests for external review of adverse decisions made by UBH or Provider.

3.8 Provider shall cooperate with UBH in the event an immediate transfer to another provider or Medicaid managed care contractor is warranted if the Enrollee's health or safety is in jeopardy.

3.9 In addition to the amount, duration, and scope of Covered Services to be provided by Provider as specified in the Agreement, Provider must continue to provide Covered Services through the duration of the Provider's Agreement with UBH including, without limitation, the applicable capitation or premium payment period for which the County has paid to UBH.

3.10 Provider must not charge for any service provided to a Enrollee at a rate in excess of the rates established by the Agreement in accordance with Section 1128B(d)(1) of the Social Security Act (enacted by Section 4704 of the Balanced Budget Act of 1997), as may be amended from time to time. Criminal penalties will be imposed on Provider as authorized under Section 1128B(d)(1) of the Social Security Act if Provider knowingly and willfully charges a Enrollee at a rate other than those allowed under the County Contract.

3.11 Provider must provide for timely and complete encounter data submission to UBH pursuant to the terms of the County Contract. Provider must also submit all reports and clinical information required by UBH including, without limitation, and any and all encounters and reports for such other Covered Services as may be required under the County Contract.

3.12 Provider will prominently display a consumer assistance notice in all Enrollee reception areas or other conspicuous areas as required by State law or the County Contract. The notice must include the addresses and toll-free numbers of the State

agency charged with enforcing the County Contract, the phone number for any Enrollee assistance program, and any other applicable regulatory agency that is responsible for addressing Enrollee issues. The notice must also clearly state that the address and toll-free number of UBH grievance and appeals department shall be provided upon request.

3.13 Provider must offer hours of operation that are no less than the hours of operation offered to commercial beneficiaries or comparable to Medicaid fee-for-service if Provider serves only Medicaid fee-for-service beneficiaries.

3.14 Provider will comply with 42 CFR 438.214, as may be amended from time to time, which includes, but is not limited to the selection and retention of providers, credentialing and re-credentialing requirements and nondiscrimination.

3.15 Provider agrees to collect co-payments from Enrollees as specified in and permitted under the County Contract or any applicable attachments; provided, however, Provider may not deny Covered Services to a Enrollee resulting from a Enrollee's inability to make a co-payment and co-payments which are deemed uncollectible shall not be billed to the County or the State.

3.16 Provider acknowledges that services provided under this Agreement are funded by county, state and federal funds under the Utah Medicaid Program. Provider understands that any violation by Provider of a state or federal law relating to the delivery of services under this Agreement, or any violation of the County Contract could result in liability for money damages, and/or civil and criminal penalties and sanctions under state and federal law.

3.17 Provider agrees not to make referrals for designated health services to health care entities with which the Provider or a member of the Provider's family has a financial relationship.

3.18 In the event of transitioning Enrollees from other Medicaid managed care contractors and their provider, Provider agrees to assure maximum health outcomes for such Enrollees.

3.19 Provider must provide information to Enrollees regarding treatment options, including the option of no treatment, in a culturally-competent manner and must ensure that individuals with disabilities have effective communications in making decisions regarding treatment options.

#### **SECTION 4 UBH REQUIREMENTS**

4.1 UBH represents that Provider will not be prohibited, or otherwise restricted, when acting within the lawful scope of practice, from advising or advocating on behalf of a Enrollee who is his or her patient, for the following: (i) the Enrollee's health status,

medical care, or treatment or non-treatment options, including any alternative treatments that might be self-administered and any treatment or non-treatment options that may not reflect UBH's position or may not be covered by UBH; (ii) any information the Enrollee needs in order to decide among all relevant treatment options; (iii) the risks, benefits, and consequences of treatment or non-treatment; or (iv) the Enrollee'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 . UBH also will not prohibit a Provider from advocating on behalf of a Enrollee in any grievance system, utilization review process, or individual authorization process to obtain necessary health care services.

4.2 UBH represents that it shall not discriminate with respect to participation, reimbursement, or indemnification of a Provider who is acting within the scope of his/her/its license or certification under applicable State law, solely on the basis of such license or certification. This provision shall not be construed as any willing provider law, as it does not prohibit UBH from limiting Provider's participation to the extent necessary to meet the needs of Enrollees. This provision is not intended and shall not interfere with measures established by UBH that are designed to maintain quality of care practice standards and control costs.

4.3 UBH represents that it shall not discriminate against Provider for serving high-risk Enrollees or if Provider specializes in conditions requiring costly treatments.

4.4 UBH agrees to pay Provider in accordance with the claims payment procedures described in Section 1902(a)(37)(A) of the Social Security Act and pursuant to the County Contract, applicable State law and regulations, and 42 CFR 447.46, 42 CFR 447.45(d)(2), 42 CFR 447.45(d)(3), 42 CFR 447.45(d)(5) and 42 CFR 447.45(d)(6), as applicable and as may be amended from time to time and unless Provider and UBH agree to an alternate payment schedule. If a third party liability exists, payment of claims shall be determined in accordance with federal and/or State third party liability law and the terms of the County Contract. Unless UBH otherwise requests assistance from Provider, UBH will be responsible for third party collections in accordance with the terms of the County Contract.

4.5 In the event Provider's claims are denied pending additional information (i.e., unclear claims), UBH will send Provider a written notice identifying the claim, all reasons the claim is being denied, the date the claim was received by UBH, all information required from Provider for UBH to adjudicate the claim, and the date by which information requested must be received from Provider.

4.6 UBH must pay Provider interest on a clean claim which is not adjudicated within 60 days from the date the claim is received by UBH at a rate of 1.5% per month (18% annual) for each month the clean claim remains unadjudicated.

4.7 To the extent applicable under the County Contract and in the case of newborns, UBH shall be responsible for any payment owed to Provider for services rendered prior to the newborn's enrollment with UBH.

4.8 In some instances, individuals applying for Medicaid are given retroactive Medicaid eligibility. Although an individual's retroactive Medicaid eligibility may go back further than 12 months, PMHPs are financially responsible only for inpatient hospital psychiatric services, and outpatient mental health and substance use disorder services provided during the most recent 12 months of the individual's retroactive eligibility period. Providers must contact the PMHP contractor for payment of services provided during this 12-month time period.

## **SECTION 5 SUBCONTRACTOR REQUIREMENTS**

5.1 Subcontractor must maintain during the term of the Subcontract general liability insurance, workers' compensation insurance and, if applicable, professional liability insurance for all employees connected with the provision of services under the Subcontract. Such workers compensation insurance shall comply with State Workers' Compensation Law. Such comprehensive general liability insurance and professional liability insurance shall provide coverage in an amount established by UBH pursuant to the Subcontract or as required under the County Contract.

5.2 Subcontractor must indemnify and hold the County, the State and Enrollees harmless from and against all claims, damages, causes of action, costs or expense, including court costs and reasonable attorney fees, to the extent proximately caused by any negligent act or other wrongful conduct arising in connection with the Subcontract. This clause shall survive the termination of the Subcontract for any reason, including breach due to insolvency.

5.3 Subcontractor must permit the County, the State, the United States Department of Health and Human Services ("DHHS"), and their designated representatives to access its facilities, upon reasonable advance notice, to evaluate through inspection or other means the quality, appropriateness, and timeliness of services performed under the County Contract. Subcontractor must also permit inspections of any records pertinent to the County Contract by the County, the State, DHHS, and their designated government agencies and representatives.

5.4 Subcontractor must maintain an adequate record keeping system for recording services, charges, dates and all other commonly accepted information elements for services rendered to Enrollees. Subcontractor must maintain records for a period of not less than six (6) years from the close of the County Contract, or such other period as required by law. Records relating to matters in litigation must be retained for six (6) years following the termination or resolution of the litigation. If records are under review or audit, they must be retained until the review or audit is complete. Subcontractor must safeguard information about Enrollees in accordance with applicable federal and State

privacy laws and rules including 42 CFR §438.224, as may be amended from time to time.

5.5 Subcontractor agrees that the Centers for Medicare and Medicaid Services (“CMS”), the County and the State shall have the right to inspect, evaluate, and audit any pertinent books, financial records, documents, papers, and records involving any financial transactions related to the County Contract.

5.6 Subcontractor must comply with UBH’s cultural competency program consistent with the terms of the County Contract.

5.7 Any marketing materials developed and distributed by Subcontractor must be submitted to UBH to submit to the County for prior approval.

5.8 If Subcontractor delegates any functions of the Subcontract, the ensuing subcontract or delegation must include all of the requirements of this Appendix, and applicable requirements of the County Contract.

5.9 Subcontractor will comply with all applicable privacy rule and security rule provisions of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and associated implementing regulations, as may be amended from time to time.

5.10 Subcontractor agrees that all relevant federal and State statutes and rules pertaining to Medicaid Managed Care Organizations apply and, in addition, Subcontractor agrees to comply with 42 CFR 434 and 42 CFR 438.6, as may be amended from time to time.

5.11 Subcontractor will comply with any and all applicable federal and state statutes, laws, rules, regulations and applicable provisions of the County Contract, including, without limitation, Title XIX of the Social Security Act and Title 42 of the CFR; Title VI of the Civil Rights Act of 1964 as implemented by regulations at 45 CFR, part 80; the Age Discrimination Act of 1975 as implemented by regulations at 45 CFR, part 91; the Rehabilitation Act of 1973; and titles II and III of the Americans with Disabilities Act); and other laws regarding privacy and confidentiality.

5.12 Subcontractor agrees that it is subject to all State and federal laws and regulations relating to fraud, abuse or waste in health care and the State Program. Subcontractor must cooperate and assist the County, the State and any other State or federal agency charged with the duty of identifying, investigating, sanctioning or prosecuting suspected fraud, abuse or waste. Subcontractor must provide originals and/or copies of any and all information, allow access, wherever Subcontractor maintains such books, to premises and provide records, to the County and/or State’s fraud and abuse designee, CMS, the U.S. Department of Health and Human Services, the Federal Bureau of Investigation (FBI), or any other unit of State or federal government upon request, and free-of-charge.

5.13 Subcontractor must report any suspected fraud or abuse including any suspected fraud and abuse committed by Contractor or an Enrollee to the County.

5.14 UBH will provide monitoring and oversight and Subcontractor must assure that all licensed medical professionals are credentialed in accordance with the applicable County Contract credentialing requirements if UBH delegates credentialing to Subcontractor.

5.15 Subcontractor agrees to provide information related to business transactions as defined in 42 CFR 455.105 within 35 days of the date on a request from UBH, the County, the State or the DHHS Secretary.

5.16 Subcontractor agrees to conduct monthly searches of the Federal HHS-OIG LEIE and EPLS databases, and/or other databases as required by UBH or the County or the State to capture exclusions and reinstatements that have occurred since the last search, and to notify UBH if any of the following are found to be excluded:

- 1) Subcontractor;
- 2) persons with ownership or control interest in the Subcontractor;
- 3) agents or managing employees of the Subcontractor;
- 4) other employees who are providing Covered Services incident to the Agreement; or,
- 5) other employees of the Subcontractor who provide administrative and management services not directly related to Enrollee's care, but that are a necessary component of providing items and services to Enrollees (e.g., administrators, billing agents, accountants, claims processors or utilization reviewers); and,

Subcontractor shall maintain documented evidence of the searches required under this section.

5.17 Subcontractor shall disclose all pending or potential litigation or administrative actions against Subcontractor. After the effective date of this Agreement, Subcontractor must notify UBH of any litigation which is initiated or threatened against Subcontractor within seven (7) days of receiving service or becoming aware of the threatened litigation.

5.18 As required by Utah Code Ann. § 63G-11-103(3) (2010) and the County Contract, Subcontractor shall certify to UBH by affidavit that Subcontractor has verified through the Status Verification System, an electronic system operated by the federal government, through which an authorized official of a state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. § 1373 to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision, the employment status of each new employee of Subcontractor.



**SECTION 6  
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**SECTION 7  
OTHER REQUIREMENTS**

7.1 To the extent applicable and required by law or the terms of the County Contract, any notice of termination by UBH to Subcontractor shall be furnished to the County, the State or its designated government agencies.

7.2 In addition to its termination rights under the Subcontract, UBH shall have the right to revoke any functions or activities UBH delegates to Subcontractor under the Subcontract or impose other sanctions consistent with the County Contract if in UBH's reasonable judgment Subcontractor's performance under the Subcontract is inadequate.

7.3 UBH shall perform ongoing monitoring of Subcontractor and shall perform periodic formal reviews of Subcontractor consistent with the requirements of State and federal law and the County Contract. As a result of such monitoring activities, UBH shall identify to Subcontractor any deficiencies or areas for improvement and Subcontractor shall take appropriate corrective action.

7.4 All tasks performed under the Subcontract must be performed in accordance with the County Contract, the applicable provisions of which are incorporated into the Subcontract by reference. Nothing in the Subcontract relieves UBH of its responsibility under the County Contract. If any provision of the Subcontract is in conflict with provisions of the County Contract, the terms of the County Contract shall control.