

**Agreement between the
Illinois Department of Healthcare and Family Services
and the
County of Lake
regarding the funding of nursing facility services**

Whereas, the Illinois Department of Healthcare and Family Services (DEPARTMENT) is the designated Medicaid single State agency for the State of Illinois, administering the Illinois' Medicaid program under Title XIX of the *Social Security Act*; and

Whereas, the DEPARTMENT is responsible for securing federal financial participation (FFP) earned on expenditures incurred by the State and local governments in support of the Medicaid program; and

Whereas, the County of Lake is a subdivision of State of Illinois responsible for the governance of the County of Lake; and

Whereas, Winchester House is a nursing facility operated by the COUNTY, the DEPARTMENT is responsible for establishing methods of reimbursement for nursing facility services pursuant to Article V of the *Illinois Public Aid Code*; and

Whereas, Section 12-4.7 of Article XII of the *Illinois Public Aid Code* authorizes the DEPARTMENT to make use of, aid, and cooperate with local governmental agencies; and

Whereas, the COUNTY and the DEPARTMENT desire to execute an intergovernmental agreement, pursuant to Section 12-4.7 of Article XII of the *Illinois Public Aid Code* and the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*;

Therefore, the DEPARTMENT and the COUNTY enter into this intergovernmental agreement (AGREEMENT) to delineate respective roles, responsibilities and financial obligations associated with the services provided by the FACILITY owned and operated by the COUNTY.

I. Introduction

This AGREEMENT covers eligible expenditures of funds made by the COUNTY, in support of nursing facility services provided to participants in the medical programs administered by the DEPARTMENT who are residents of the FACILITY, that are in excess of reimbursement received by the FACILITY from the DEPARTMENT.

II. Covered expenditures

The FACILITY has enrolled with DEPARTMENT as a provider and is certified to participate in the Illinois Medicaid program and is, therefore, reimbursed for nursing facility services provided to enrollees of the medical assistance programs administered by the DEPARTMENT.

The COUNTY is expending additional funds above the reimbursements received from the DEPARTMENT for the provision of these services; these expenditures are eligible for federal financial participation. Covered expenditures for purposes of this Agreement are those expenditures eligible for FFP funds in excess of payments made by the DEPARTMENT for such services. Covered expenditures will be determined using the COUNTY's actual allowable costs as 1) reported on its Medicaid Cost Report, 2)

audited by the DEPARTMENT, and 3) approved by the Centers for Medicare and Medicaid Services (CMS).

III. Mutual responsibilities

Both parties agree to:

- A. Develop intergovernmental procedures to facilitate the necessary implementation of this Agreement and to include the procedures in their respective policy manual or like documents, and to share said procedures with the other party within a reasonable time period.
- B. Reconcile outstanding amounts due from the FACILITY to the DEPARTMENT, as well as from the DEPARTMENT to the COUNTY, for rate periods prior to October 1, 2009. This one-time reconciliation will include overpayments made by the DEPARTMENT to the FACILITY which were never recouped, as well as excess transfer amounts paid from the COUNTY to the DEPARTMENT. This reconciliation will not include the routine adjustment processing which the DEPARTMENT conducts on a monthly basis.

IV. County responsibilities

The COUNTY shall be responsible for:

- A. Obtaining all funds necessary for the covered expenditures.
- B. Annually submitting, to the DEPARTMENT, a Medicaid cost report, prepared in accordance with the requirements of *OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments,"* and certifying that the reported expenditures were:
 1. The actual costs incurred.
 2. Paid prior to submittal of the report.
 3. Paid using State or local funds that were not otherwise used to match federal funds, or if federal funds were used, their use was authorized by federal law to be used to match other federal funds.
- C. Annually submitting, to the DEPARTMENT, a Medicare cost report, prepared in accordance with the requirements of *OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments."*
- D. Providing to the DEPARTMENT all documents and other information necessary to allow the DEPARTMENT to submit and justify the claim for FFP. Said documentation shall be submitted in a timely fashion in order to facilitate the claim for FFP in a form and format specified by the DEPARTMENT.

V. Department responsibilities

The DEPARTMENT shall be responsible for:

- A. Reimbursing the FACILITY for nursing facility services provided to residents enrolled in the DEPARTMENT's medical assistance programs using the same methodology used for other, non-governmental nursing facilities.
- B. Receiving and reviewing the cost reports and other documentation submitted by the COUNTY.

- C. Calculating the COUNTY's allowable expenditures and the annual allowable per diem reimbursement rate in accordance with the methodologies approved in the Illinois Title XIX State Plan.
- D. Submitting claims for, and drawing into the State treasury, FFP.
- E. Authorizing, on at least a quarterly basis, payment to the COUNTY in an amount equal to 55% of the FFP drawn on the difference between the allowable per diem reimbursement rate and the payment made for each day of nursing facility services provided by the FACILITY. Upon final reconciliation, pursuant to paragraph (F) of this section, this payment must ensure that the COUNTY receives a total payment rate in the cost report year equal to or greater than the net reimbursement rate from the FY 2010 alternate reimbursement rate methodology.
- F. Auditing all cost reports received from the COUNTY for the purpose of determining the COUNTY's final allowable expenditures for the cost report period. Based upon the audit results, the DEPARTMENT shall reconcile the final allowable expenditures against the expenditures reported previously to the federal government and make all necessary adjustments to claim for FFP and to the payments to the COUNTY pursuant to paragraph (E) of this section.

VI. Records and audits

- A. The COUNTY agrees to maintain complete and accurate ongoing documentation and record-keeping capability appropriate to disclose the extent of all financial transactions authorized under this AGREEMENT. Records must be maintained in accordance with the *Illinois Local Records Act (50 ILCS 205/1, et. seq.)*.
- B. With respect to all data, records, and other information collected, gathered, obtained, accessed or otherwise received by each party under this AGREEMENT, each party shall:
 - 1. Protect the same from unauthorized disclosure. All information regarding applicants and enrollees in the DEPARTMENT's medical assistance programs is confidential and each party shall follow the appropriate requirements to maintain the confidentiality of such information. Any violation of this provision shall be considered cause for immediate termination of this AGREEMENT.
 - 2. Maintain and make the same available to each other or its designee, or other entity with competent authority, including the United States Department of Health and Human Services. Such records shall be maintained for a period of not less than five (5) years, except that if an audit or litigation is initiated within the required retention period the records must be retained until the audit or litigation is completed and every exception resolved.
- C. The parties agree to cooperate fully with any review or audit, including monitoring the use of federal money through use of site visits, audits or other means. Upon reasonable notice by competent authority, each party will provide full and complete access to the relevant portions of its account books, records and documents as they relate to this AGREEMENT.

VII. Federal auditing

- A. In the event that a federal audit results in a finding that FFP was obtained or distributed incorrectly for expenditures reimbursed under this AGREEMENT, and the finding requires repayment of such funds, the DEPARTMENT will take action to recover the federal funds that were incorrectly distributed, including requiring the COUNTY to return the funds. The repayment shall

be processed through the DEPARTMENT's current FFP cash draw-down procedure and be debited against the fund into which the FFP was initially deposited.

- B. The COUNTY agrees to comply with the provisions of *OMB Circular A-133*, "Audits of States, Local Governments, and Non-Profit Organizations," concerning single audits. Local governments that expend \$300,000 or more a year in federal financial assistance must have an audit performed in accordance with the *OMB Circular A-133*. Such audit report(s), if required, should be completed within nine months following the end of the COUNTY's fiscal year. The COUNTY must submit to the DEPARTMENT one copy of any required audit within thirty calendar days after receipt of the auditor's report(s). The auditor's report(s) shall be sent to:

Illinois Department of Healthcare and Family Services
Office of Procurement Management
201 South Grand Avenue East
Springfield, Illinois 62763

VIII. Notices

All written notices, requests and communications, unless specifically required to be given by a specific method, may be: (i) delivered in person, obtaining a signature indicating successful delivery; (ii) sent by a recognized overnight delivery service, obtaining a signature indicating successful delivery; (iii) sent by certified mail, obtaining a signature indicating successful delivery; or (iv) transmitted by telefacsimile, producing a document indicating the date and time of successful transmission, to the address or telefacsimile number set forth below. All telephonic communications between the parties shall be made to the telephone number(s) set forth below. Either party may at any time give notice in writing to the other party of a change of name, address, or telephone or telefacsimile number.

To the DEPARTMENT: Kelly Cunningham, Chief
Illinois Department of Healthcare and Family Services
Division of Medical Programs
Bureau of Long Term Care
201 South Grand Avenue East
Springfield, Illinois 62763

Telephone: (217) 524-7245
Telefacsimile: (217) 524-7114

To the County: David Stolman, Board Chairman
Lake County Board
18 N. County Street
Waukegan, Illinois 60085

Telephone: (847)377-2300
Telefacsimile: (847)360-7322

Anne Wagner, Administrator
Winchester House
1125 N. Milwaukee Ave.
Libertyville, Illinois 60048

Telephone: (847)377-7200
Telefacsimile: (847)816-5176

X. General provisions

- A. Termination without cause. Either party may terminate this AGREEMENT with ninety days written notice to the other. Upon the mutual written consent of both parties, the AGREEMENT may be terminated sooner. In the event of termination, the DEPARTMENT shall process all data and matching funds requests for expenditures made prior to the effective date of termination even though such processing activities may extend beyond the termination date.
- B. Termination for cause. In the event of a party's failure to comply with the terms of this AGREEMENT, or with applicable State or federal law, the other party will notify the non-complying party of the breach. If such breach is not cured to the notifying party's satisfaction within thirty days after such notice, the notifying party may proceed to termination by serving a notice of termination upon the non-complying party, which shall immediately terminate this AGREEMENT.
- C. The parties may, by mutual consent, amend this AGREEMENT. Amendments shall be in writing and signed by the parties.
- D. Either party may assign, directly or indirectly, any of its rights, duties or obligations under this AGREEMENT, in whole or in part, upon thirty days written notice to the other party prior to the assignments. This AGREEMENT shall be binding upon the parties and their respective transferees, successors, and assigns.
- E. This AGREEMENT shall be effective upon federal approval of State plan amendment transmittal number 09-08, shall apply to services provided since the October 1, 2009, effective date of the amendment, and shall continue in full force and effect for a period of four years from the effective date, unless terminated as provided herein. On the date of the fourth anniversary of this AGREEMENT, the parties may renew and re-execute an AGREEMENT for an additional four year period.
- F. Nothing contained herein shall be construed as an agreement to perform any illegal act or to perform any act not permitted to be performed by either the DEPARTMENT or the COUNTY. In the event that this AGREEMENT, as a whole, is determined to be invalid by a court of law with jurisdiction over the parties, it shall be terminated immediately, subject to processing data and matching fund requests for services provided prior to such termination. Should any portion or portions of the AGREEMENT be found to be invalid by a court of law with jurisdiction over the parties, the said portion or portions shall not be construed to render the entire AGREEMENT void, but shall be severed from the AGREEMENT upon such finding.
- G. Nothing contained herein serves to limit, alter or amend the parties' duties, rights or responsibilities as set out in the applicable State and federal statutes, law or regulations.
- H. Funding for the implementation of this AGREEMENT consists of federal funds obtained by and dispersible through the DEPARTMENT. This AGREEMENT is subject to the availability to the DEPARTMENT of both appropriation authority and federal funds for the purpose outlined in the AGREEMENT. The DEPARTMENT's obligations hereunder shall cease immediately, without penalty or further payment being required, in any year for which the General Assembly of the State of Illinois or federal funding sources fail to make available, respectively, appropriation authority or federal funds sufficient to pay such obligation. The DEPARTMENT shall give the COUNTY reasonable notice of such termination for funding as soon as practicable after the DEPARTMENT becomes aware of the failure of funding. The COUNTY's obligation to perform shall cease upon reasonable notice by the DEPARTMENT of lack of funds.

- I. Failure of either party to insist on performance of any term or condition of this AGREEMENT or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.
- J. The DEPARTMENT and the COUNTY shall, respectively, at all times observe, comply with, and perform all obligations hereunder in accordance with, all laws, ordinances, codes and regulations of federal, State, county and local governmental agencies which in any manner affect the terms of this AGREEMENT.
- K. Either party shall, upon the written request by the other party and receipt of a proposed amendment to this AGREEMENT, negotiate in good faith with the other party to amend the AGREEMENT if and when required, in the opinion of the DEPARTMENT, to comply with federal or State laws or regulations. If the parties are unable to agree upon an amendment within sixty days, or such shorter time required by federal or State law or regulation, the DEPARTMENT may terminate this AGREEMENT.

IN WITNESS WHEREOF, the parties sign their names as evidence of their authority to enter into, and their approval of, this AGREEMENT.

Julie Hamos, Director, HFS

David Stolman, Chairman Lake County

Date

Date

Exhibit A

Taxpayer Identification Number

I certify that:

The number shown on this form is the County's correct taxpayer identification number

Lake County, Illinois

Taxpayer Identification Number: E9995-7817-04

Employer identification number: 36-6006600

Legal Status: Government

THE UNDERSIGNED AFFIRMS, UNDER PENALTIES OF PERJURY, THAT HE OR SHE IS AUTHORIZED TO EXECUTE THIS CERTIFICATION ON BEHALF OF THE COUNTY.

Signature of Authorized Representative

Printed Name and Title

Date:

David Stolman, Chairman Lake County

