

INTER-AGENCY AGREEMENT

HOUSTON INDEPENDENT SCHOOL DISTRICT

AND

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT

SCHOOL HEALTH AND RELATED SERVICES (SHARS) PROGRAM

- I. **GENERAL** An Inter-Agency Agreement (Agreement) is one of the six procurement methods allowed under Section 44.031, of the Texas Education Code. This Agreement is entered into by and between Houston Independent School District hereafter referred to as "HISD" and Ector County Independent School District hereafter referred to as "ECISD" or "Client District" as the contracting parties. In consideration of the provisions, covenants and mutual responsibilities herein expressed, the parties hereto enter into this Agreement as follows:

- II. **GOVERNING LAW** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Exclusive venue for all purposes incident to this Agreement shall lie in Harris County, Texas.

- III. **PURPOSE** The purpose of this Agreement is for the HISD to manage and provide Medicaid Billing and Claiming Services for the ECISD's School Health and Related Services (SHARS) Program. These services to be offered by HISD to ECISD, and the duties and responsibilities of ECISD, are described in "**EXHIBIT A: ROLES AND RESPONSIBILITIES**" section of this Agreement. The services of HISD are defined and limited to the claiming for Medicaid reimbursement of the SHARS program activities and associated costs.

- IV. **TERM** This Agreement shall commence on August 18, 2009 and shall remain in effect until August 18, 2010 and this Agreement will be automatically renewed annually for four (4) consecutive years after the completion of the above term, except with 60 days advance written notice of termination by either party in accordance with this Agreement.

Either party may terminate this Agreement at any time without cause upon sixty (60) days advanced written notice to the other party. In the event of termination by either party, each party will cooperate with the other party to facilitate the turnover of materials and records as needed to assure continued support or on-going operations. Any rights each party has to receive revenues from Medicaid reimbursements shall survive termination of this Agreement to the extent that such revenues were completely earned for SHARS claims billed and/or for consulting services provided prior to the effective date of the termination of the Agreement.

- V. **DATA AND PROPRIETARY RIGHTS** The Work shall be deemed "Work Made For Hire" as defined by the United States Copyright Law, and HISD retains for itself sole ownership of all proprietary rights in and to all designs, engineering details and other data pertaining to any discoveries, inventions, patent rights, software, improvements and all related materials originated and/or developed by HISD personnel in the course of performing the work and services associated with this Agreement ("Work").

- VI. **RECORDS, DOCUMENTS, AND CONFIDENTIALITY** HISD will own all proprietary rights to SHARS program billing records, documents, and Proprietary or confidential information and trade secrets developed, created and/or originated by HISD and ECISD either prior to 1 commencement or during the continuation of this Agreement. Upon termination according provisions in the "TERM" section of this Agreement, the ECISD shall make available to the HISD and turn over at HISD's request, all SHARS program billing records, documents, and Proprietary information received from the HISD.

The ECISD acknowledges and agrees not to disclose to any nonparty to this Agreement, other than as required to implement the terms of this Agreement, any SHARS records, documents, proprietary information, reports, operating information, financial data or other business information, relating to the other parties without written permission from an HISD official, except as otherwise provided by the Texas Public Information Act or other applicable law.

- VII. **CONFIDENTIAL AND PROPRIETARY INFORMATION** The parties may provide technical information and expertise to each other that is either: **(1)** marked as being confidential or, **(2)** delivered in oral form, is summarized in writing within 10 working days and identified as being confidential ("Confidential Information"). The receiving party shall for a period of five (5) years from the date of disclosure **(i)** hold the disclosing party's Confidential Information in strict confidence, and **(ii)**, except as previously authorized in writing by the disclosing party, not publish or disclose the disclosing party's Confidential Information to anyone other than the receiving party's employees on a need-to-know basis, and **(iii)** use the disclosing party's Confidential Information solely for performance of this Agreement. The foregoing requirement shall not apply **(a)** to any portion of a party's publicly known information through no wrongful act or omission on the part of the receiving party; **(b)** to any such information that is already known to the receiving party at the time of the disclosure without similar non-disclosure obligations; **(c)** to any such information that is rightfully received by the receiving party from a third party without similar non-disclosure obligations; **(d)** to any such information that is approved for release by written authorization of the disclosing party; or **(e)** to any such information that is required to be disclosed by order of a court or government body or by applicable law, provided that the party intending to make such required disclosure shall promptly notify the other party of such intended disclosure in order to allow such party to seek a protective order or other remedy.

- VIII. **SHARS REVENUE** SHARS revenue shall mean the following; **(1)** the gross Federal Share of the SHARS program's reimbursements before the allocation of gross Federal reimbursements between the State of Texas and the ECISD, and **(2)** cash and any credits received by the State of Texas on the behalf of or for the ECISD'S benefit as a direct result of participating in the SHARS program.

- IX. **COMPENSATION FOR SERVICES** HISD shall be compensated by the ECISD in amounts based on the fee schedule listed in "**Exhibit B**" attached hereto and made a part of this Agreement.

HISD shall be entitled to payment for all current and retroactive claims successfully completed and for which reimbursement has been received by the ECISD. HISD shall send ECISD a monthly invoice of fees due to HISD and each invoice will be due and payable to HISD within 10 days. Claims filed retroactively in accordance with regulatory Medicaid guidelines in the Texas Medicaid Plan will be due and payable based on the current schedule listed in “**Exhibit B**” of this Agreement. The basis for claims filed retroactively is described in “**Exhibit C**” of this Agreement, which is made a part hereof. All invoices shall include appropriate documentation to support the payment. Upon termination of this Agreement, HISD shall be entitled to payment for all claims successfully transmitted to Texas Medicaid and Healthcare Partnership/Medicaid to date of termination, and as payment is received by ECISD.

In the event that any federal and/or state agency shall demand return of any payments for claims previously remitted on behalf of ECISD, including applicable interest, penalties, or charges related to such claims, ECISD shall be responsible for reimbursement of all such amounts.

In the unforeseen event that HISD must incur substantial increases in cost for personnel and/or material to keep in compliance with new Medicaid regulations, the parties to this Agreement mutually agree to negotiate a reasonable increase in fees or costs that would be incurred by the HISD to maintain Medicaid compliance.

- X. **EVENTS OF DEFAULT** Upon the occurrence of an Event of Default (as hereafter defined) by either party to this Agreement, the non-defaulting party may terminate this Agreement effective thirty (30) days from the date of written notice to the defaulting party. Each of the following events constitutes an Event of Default:
- A. ECISD fails to make any payments to HISD on or before the due date and fails to cure this delinquency within thirty (30) days of notice of such delinquency from HISD;
 - B. ECISD fails to perform or observe any other duty or obligation to be performed or observed by it under this Agreement, and such failure shall continue for thirty (30) days after written notice thereof from HISD to the ECISD, or
 - C. HISD fails to perform any of its duties hereunder, and such failure shall continue for thirty (30) days after written notice of such failure sent by the ECISD to HISD.
- XI. **CONFIDENTIALITY OF STUDENT CLINICAL OR MEDICAL DATA** ECISD shall not, during or subsequent to the term of this Agreement, directly or indirectly disclose confidential information or clinical data of students from ECISD to anyone other than an employee of the ECISD, who requires such information to perform hereunder, or an employee of HISD, except as otherwise may be required by the terms of the Texas Public Information Act, the Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA), or pursuant to subpoena or court order.

HISD shall not, during or subsequent to the term of this Agreement, directly or indirectly disclose confidential information or clinical data of students from the ECISD to anyone other than an employee or agent of HISD who requires such information to perform hereunder, or as required in order to perform the claims Submission process, except as otherwise may be required by the terms of the Texas Public Information Act, the Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA), or pursuant to subpoena or court order.

No information shall be deemed confidential unless designated as such in writing by the party asserting such confidential nature, or unless designated as confidential by law under any of the aforementioned statutes or other applicable laws, rules or regulations.

- XII. CUSTOMER SUPPORT** HISD will provide comprehensive client support services including the handling of all incoming customer (client) calls during normal HISD business hours regarding the SHARS program or HISD client services related to SHARS reimbursement.

Upon mutual execution of this Agreement, HISD agrees, within 15 business days, to begin formal training and/or orientation with ECISD on the finance and program processes and/or procedures of this SHARS program.

- XIII. IMMUNITY AND DISCLAIMER** HISD does not waive or relinquish any immunity or defense on behalf of itself, and its trustees, officers, employees (paid or volunteer) and agents all in both their individual and official capacities, as a result of the execution of this Agreement and performance of the functions or obligations described herein.

The Parties expressly agree that HISD has made no warranties whatsoever, express or implied, regarding the accuracy, dependability or viability of the data or the SHARS program or any products related to the SHARS reimbursement process.

HISD hereby expressly disclaims, and the ECISD expressly agrees to such disclaimer, of any and all express and implied warranties with regard to the SHARS program including, without limitation, any implied warranties of merchantability or fitness.

In no event shall HISD be liable for any loss, inconvenience, claims or damages, including without limitation, any damages for loss of business profits, business interruption, loss of any actual or potential SHARS reimbursements, or claims for reimbursement, or any other direct or indirect claims or causes of action, resulting from or arising out of this Agreement and the obligations herein.

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of any third party against HISD.

- XIV. ERRORS AND OMISSIONS** No accidental errors or omissions upon the part of either party shall relieve the other party of its responsibilities under this agreement, provided such errors and omissions are reported as soon after discovery as possible.
- XV. SOLICITATION** During the term of this Agreement, and for a period of one year thereafter, neither ECISD nor HISD will solicit for employment, in areas related to Medicaid programs, any employees of the other party or its affiliates who directly participated in the work being performed hereunder.
- XVI. NO ASSIGNMENT** No assignment of this Agreement or of any duty or obligation of performance hereunder, shall be made in whole or in part by either party without the prior written consent of the other party.
- XVII. SECTION HEADINGS** The heading of sections contained in this Agreement are for convenience only, and they shall not, expressly or by implication, limit, define, extend, or construe the terms or provisions of the sections of this Agreement.
- XVIII. NOTICE** Any notice required to be given under the provisions of the Agreement shall be in writing and shall be duly served when it shall be hand-delivered to the addressees set out below, or shall have been deposited, duly registered or certified, return receipt requested, in a United States Post Office addressed to the other party at the following addresses:

To: Houston Independent School District

Houston Independent School District
Attn: Melinda Garrett,
Chief Financial Officer
4400 West 18th Street
Houston, TX 77092

To: Ector County Independent School District

Ector County Independent School District
Attn: Elaine Smith
Special Education Director
802 N. Sam Houston
Odessa, Texas 79760

- XIX. MISCELLANEOUS** This Agreement shall constitute the complete understanding of HISD and ECISD, and may not be modified in any manner without the express written consent of both parties.

If any portion of this Agreement shall be declared or held unenforceable for any reason, the remaining portions hereof shall continue in full force and effect. All exhibits attached hereto are expressly made a part of this Agreement.

In WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date(s) set forth herein.

Dated this _____ day of _____, 2009

ECTOR COUNTY ISD

HOUSTON ISD

Hector Mendez
Superintendent of Schools

Abelardo Saavedra, Ph.D
Superintendent of Schools

APPROVED AS TO FORM:

Donald R. Boehm, Attorney

APPROVED AS TO FUNDING AND BUSINESS TERMS

Melinda Garrett, Chief Financial Officer

EXHIBIT "A"

ROLES AND RESPONSIBILITIES

HOUSTON ISD / BILLING AGENT

- 1) Assist the client district in obtaining a Medicaid Provider Identification Number.
- 2) Assist the client district in executing a provider contract as required by TMHP to file electronic claims.
- 3) Verify student eligibility for each claim submitted (**HISD pays for and maintains a direct-line access to the State Medicaid eligibility mainframe on behalf of all its school districts**).
- 4) Provide the client district with pre-printed or on-line SHARS service tickets generated from the client district's Medicaid eligible student list.
- 5) Process all required data to create and maintain student, clinician/therapist, and service files.
- 6) Process each SHARS claim generated by the client district's clinician or health care provider documenting each SHARS service provided to Medicaid eligible students.
- 7) Submit SHARS claim data to TMHP/Medicaid for SHARS reimbursement utilizing HISD bill software for electronic claims submission for which Medicaid reimbursement will be sought.
- 8) Provide the client district with support services for Claims Tracking for the client district's use tracking monthly service tickets for SHARS Medicaid eligible students.
- 9) Issue monthly invoice for services provided to client district that discloses claims successfully processed, submitted, and subsequently paid by TMHP/Medicaid.
- 10) Maintain billing records including site storage for data stored at HISD.
- 11) Generate quarterly reports, which show: **(1)** SHARS revenue billed to date, and **(2)** SHARS revenue received to date.
- 12) Provide access to applicable documentation and records required by federal and state laws, rules, and regulations, and guidelines for Medicaid or other governmental compliance.
- 13) Provide support with the Center for Medicare and Medicaid Services (CMS), Texas Health and Human Services Commission (THHSC), and Texas Education Agency (TEA) audits.
- 14) Provide client support Hot Line with free 1-800 long distance access during normal HISD business hours.
- 15) Monitor compliance with changing federal and state Medicaid laws.
- 16) Assist client district with the quarterly submission of the "Certification of Expended State Funds Letter" as required by CMS and THHSC.

EXHIBIT "A"

ROLES AND RESPONSIBILITIES

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ECISD / CLIENT DISTRICT

- 1) Designate contact person(s) or coordinator to officially communicate and maintain on-going contact with the HISD
- 2) Obtain a Medicaid Provider Identification Number.
- 3) Execute a provider contract as required by TMHP to file electronic claims.
- 4) Authorize HISD to act as billing agent by executing **Billing Service Authorization** per "Exhibit I" of this Agreement.
- 5) Submit a listing, and/or data base of all of ECISD'S special education students for HISD determine SHARS Medicaid eligibility, and update list as required by HISD.
- 6) Submit copies of monthly SHARS service tickets to HISD for claims processing and submission.
- 7) Maintain source documentation for a period of seven (7) years on services for which SHARS claims were filed.
- 8) Warrant to the best of the knowledge of the district, its agents, officers, and employees, the accuracy, reliability, and completeness of any and all claim information submitted to HISD.
- 9) Pay monthly invoices received from HISD for SHARS Medicaid revenue received and services provided to ECISD in accordance with the **Current Fee Schedule** in "Exhibit B" of this Agreement.
- 10) Require clinicians and SHARS service providers to complete monthly pre-printed SHARS Service Tickets for monthly processing and claims submission for Medicaid reimbursement.
- 11) Authorize HISD as billing agent, by executing Release Of Information as per "Exhibit E" to obtain copy of the client district quarterly "**Certification of Expended State Funds Letter**" from TMHP.
- 12) Provide other information and services as required in order to successfully complete the SHARS claim process.

EXHIBIT "B"
FEE SCHEDULE

**HISD SERVICE FEE SCHEDULE
ECTOR COUNTY ISD
ELECTRONIC CLAIM SUBMISSION**

**HISD SERVICE FEE SCHEDULE FOR CLIENT DISTRICT'S PAID
CLAIMS**

7.5 % OF ALL SHARS REIMBURSEMENT REVENUE RECEIVED

PLEASE NOTE:

- 1) Service fee will only apply to PAID CLAIMS that generated Medicaid reimbursement revenue.
- 2) Contract renewals will be effective _____ of each consecutive year.
- 3) Payment of fees to HISD must be made on or before the due date of monthly invoice received from HISD.

EXHIBIT "C"

RETROACTIVE CLAIMS

For retroactive claims submitted during the period designated in the Texas Medicaid Plan, HISD shall be entitled to payment only for claims successfully completed and for which reimbursement has been received by the ECISD. Billings by HISD under this agreement shall be due and payable only for claims for which ECISD has received prior reimbursement. In the event that any claims are subsequently disallowed after payment to the ECISD, then HISD shall reimburse ECISD for fees received by HISD on any such claims. Fees due and payable will be based on the fee schedule in "**Exhibit B**" of this agreement. These terms apply only to the retroactive claim filing period as designated by the Texas Health and Human Services Commission (THHSC) and do not impact claims incurred during the current academic year.

EXHIBIT "D"

BILLING SERVICE AUTHORIZATION

This form authorizes the Houston Independent School District through its billing software service to on the behalf of ECISD in meeting the requirements authorized in the following paragraphs, w/ submitting Medicaid claims on behalf of ECISD.

This is also to certify that information appearing on billings submitted by ECISD for the Texas Medi Assistance Program is and will be true, accurate and complete. ECISD understands that payment of a Texas Medical Assistance Program claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws. These certifications are made in accordance with requirements found at 42 Code Federal Regulations 455.18 and 455.19.

ECISD also certifies that the items billed to the Texas Medical Assistance Program are and will be services that have been and will be provided by ECISD, and in cases of physician services, the service supplies, or other items billed have been and will be medically necessary for the diagnosis or treatment of the condition of the patients, and are provided without regard to race, color, sex, national origin, age or handicap.

Additionally, ECISD agrees to keep such records as are necessary to disclose fully the extent of service provided to individuals under the Texas Medical Assistance Program and to furnish and provide access to information regarding any payment claimed for providing such services as the State Agency, Attorney General's Office, and Department of Health and Human Services (HHS) Office may request for five years from date of service, or until any dispute is settled, whichever occurs first.

ECISD agrees to accept the amounts paid by the Medicaid program as full payment for the service rendered for which a Medicaid benefit is provided under the Texas Medical Assistance Program.

This form, to be retained in HISD files, bears ECISD's original authorized signature:

Medicaid Provider Number

Name of Authorized Representative

Provider (District Name)

Authorized Signature

P.O. Box / Street

Title

City/State/Zip

Date

EXHIBIT "E"
RELEASE OF INFORMATION

Ector County Independent School District authorizes HISD, as billing agent, to obtain a copy of the quarterly "**Certification of Expended State Funds Letter**" from the Texas Medicaid and Healthcare Partnership (TMHP) at the time it is sent to the district.

EXECUTED ON: _____

Authorized Signature

Printed Name

Title

Date