

THIS DOCUMENT REPRESENTS ALL INCORPORATED AMENDMENTS AND EXHIBITS
FROM JANUARY 2019 THROUGH AMENDMENT #1. AMENDMENT #1 IS EFFECTIVE
JULY 1, 2019.

		WASHINGTON BEHAVIORAL HEALTH SERVICES Integrated Foster Care WRAPAROUND CONTRACT		HCA Contract Number: K3250-1 Resulting from Solicitation Number (If applicable):	
THIS AGREEMENT is made by and between Washington State Health Care Authority, hereinafter referred to as "HCA," and the party whose name appears below, hereinafter referred to as the "Contractor."					
CONTRACTOR NAME					
CONTRACTOR ADDRESS			WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI)		
CONTRACTOR CONTACT		CONTRACTOR TELEPHONE		CONTRACTOR E-MAIL ADDRESS	
HCA PROGRAM Managed Care Program			HCA DIVISION/SECTION Medicaid Program Operations and Integrity		
HCA CONTACT NAME AND TITLE			HCA CONTACT ADDRESS		
HCA CONTACT TELEPHONE			HCA CONTACT E-MAIL ADDRESS sylvia.soto@hca.wa.gov		
IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			CFDA NUMBER(S) N/A		FFATA Form Required <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
CONTRACT START DATE		CONTRACT END DATE		TOTAL MAXIMUM CONTRACT AMOUNT	
January 1, 2019		December 31, 2020		\$	
PURPOSE OF CONTRACT: Contract for Foster Care BH Wrap Around Services					
ATTACHMENTS/EXHIBITS. When the box below is marked with an X, the following Exhibits/Attachments are attached and are incorporated into this Contract by reference: <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> Exhibits (specify): Exhibit A-1: Non-Medicaid Funding Allocation Exhibit B: Left Intentionally Blank Exhibit C: Removed Exhibit D: Essential Behavioral Health Providers – Exhibit E: Data Use, Security, and Confidentiality <input checked="" type="checkbox"/> Attachments: Attachment 1 - RFP 15-002 – Apple Health – Foster Care (incorporated by reference, available upon request); Attachment 2 – Contractors Response to RFP 15-002 – Apple Health – Foster Care (incorporated by reference, available upon request) </div>					
The terms and conditions of this Contract are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings, and communications, oral or otherwise, regarding the subject matter of this Contract. The parties signing below warrant that they have read and understand this Contract, and have authority to execute this Contract. This Contract shall be binding on HCA only upon signature by HCA.					
CONTRACTOR SIGNATURE			PRINTED NAME AND TITLE		DATE SIGNED
HCA SIGNATURE			PRINTED NAME AND TITLE Annette Schuffenhauer, Chief Legal Officer		DATE SIGNED

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Exhibits:

Exhibit A: Non-Medicaid Funding Allocation

Exhibit B: Left Intentionally Blank

Exhibit C: Removed

Exhibit D: Essential Behavioral Health Providers

Exhibit E: Data Use, Security and Confidentiality

Attachments:

Attachment 1: RFP 15-002 – Apple Health –Foster Care (incorporated by reference, available upon request)

Attachment 2: Contractors Response to RFP 15-002 – Apple Health –Foster Care (incorporated by reference, available upon request)

1. DEFINITIONS

In any subcontracts and in any other documents that relate to this Contract, the Contractor shall use the definitions as they appear in this Contract.

1.1 **Accountable Community of Health (ACH)**

“Accountable Community of Health (ACH)” means a regionally governed, public-private collaborative that is tailored by the region to achieve healthy communities. ACHs coordinate systems that influence health, including public health, health care providers, and systems that influence social determinations of health.

1.2 **Administrative Hearing**

“Administrative Hearing” means an adjudicative proceeding before an Administrative Law Judge or a Presiding Officer that is governed by chapter 34.05 RCW, the agency’s hearings rules found in Titles 388 or 182 WAC, or other law.

1.3 **Advance Directive**

“Advance Directive” means a written instruction, such as a living will or durable power of attorney for health care, recognized under the laws of the state of Washington, relating to the provision of health care when an individual is incapacitated (WAC 182-501-0125, 42 C.F.R. § 438.3, 438.10, 422.128, and 489.100).

1.4 **Adverse Benefit Determination**

“Adverse Benefit Determination” means any of the following (42 C.F.R. § 438.400(b)):

- 1.4.1 The denial or limited authorization of a requested service, including determination based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit;
- 1.4.2 The reduction, suspension, or termination of a previously authorized service;
- 1.4.3 The denial, in whole or in part, of payment for a service;
- 1.4.4 The denial of a request for “good cause” designation that would preclude usual third-party liability procedures;
- 1.4.5 The failure to provide services or act in a timely manner as required herein, including failure to issue an authorization or denial within required timeframes;
- 1.4.6 The failure of the Contractor to act within the timeframes for resolution and notification of Appeals and Grievances;
- 1.4.7 The denial of an Enrollee’s request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other Enrollee financial liabilities; and
- 1.4.8 For a rural area resident with only one Managed Care Organization (MCO) available, the denial of an Enrollee’s request under 42 C.F.R. §

438.52(b)(2)(ii) to obtain services outside the Contractor's network; or, for a plan's denial of coverage by an out-of-network provider when the in-network providers do not have the needed training, experience, and specialization, or do not provide the service the Enrollee seeks, when receiving all care in-network would subject the Enrollee to unnecessary risk, or when other circumstances warrant out-of-network treatment.

1.5 Alcohol/Drug Information School

"Alcohol/Drug Information School" means costs incurred for Alcohol/Drug information schools provide information regarding the use and abuse of alcohol/drugs in a structured educational setting. Alcohol/Drug Information Schools must meet the certification standards.(The service as described satisfies the level of intensity in ASAM Level 0.5).

1.6 Allegation of Fraud

"Allegation of Fraud" means an unproved assertion: an assertion, especially relating to wrongdoing or misconduct on the part of the individual, entity or provider. An allegation has yet to be proved or supported by evidence.

An Allegation of Fraud is an allegation, from any source, including but not limited to the following:

1.6.1 Fraud hotline complaints;

1.6.2 Claims data mining; and

1.6.3 Patterns identified through provider audits, civil false claims cases, and law enforcement investigations.

1.7 American Society of Addiction Medicine (ASAM)

"American Society of Addiction Medicine (ASAM)" means a professional society dedicated to increasing access and improving the quality of SUD treatment.

1.8 American Society of Addiction Medicine (ASAM) Criteria

"American Society of Addiction Medicine (ASAM) Criteria" means a comprehensive set of guidelines for determining placement, continued stay and transfer or discharge of Enrollees with SUD and co-occurring conditions.

1.9 Appeal

"Appeal" means review by the Contractor of an Adverse Benefit Determination.

1.10 Appeal Process

"Appeal Process" means the Contractor's procedures for reviewing an Adverse Benefit Determination.

1.11 Available Resources

“Available Resources” means funds appropriated for the purpose of providing community behavioral health programs. This includes, federal funds, except those provided according to Title XIX of the Social Security Act; and state funds appropriated under RCW 71.24 or RCW 71.05 by the legislature.

1.12 Behavioral Health

“Behavioral Health” means mental health and/or Substance Use Disorders and/or conditions and related benefits.

1.13 Behavioral Health Agency

“Behavioral Health Agency” means an entity licensed by the Department of Health to provide behavioral health services, including mental health disorders and Substance Use Disorders.

1.14 Behavioral Health Administrative Services Organization (BH-ASO)

“Behavioral Health Administrative Services Organization (BH-ASO)” means an entity selected by HCA to administer Behavioral Health services and programs, including crisis and Ombuds services for individuals in a defined Regional Service Area. The BH-ASO administers crisis and Ombuds services for all individuals in its defined service area, regardless of ability to pay, including Medicaid eligible members.

1.15 Behavioral Health Organization (BHO)

“Behavioral Health Organization (BHO)” means a county authority, or a group of county authorities or other entity recognized by the HCA in contract in a defined Regional Service Area (RSA).

1.16 Behavioral Health Services Only (BHSO)

“Behavioral Health Services Only” means those Enrollees who receive only Behavioral Health benefits through this Contract and the AH-FIMC Medicaid Contract.

1.17 Breach

“Breach” means the acquisition, access, use, or disclosure of Protected Health Information (PHI) in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of PHI, with the exclusions and exceptions listed in 45 C.F.R. § 164.402.

1.18 Business Day/Hours

“Business Day/Hours” means Monday through Friday, 8:00 am to 5:00 pm Pacific Time, except for holidays observed by the state of Washington.

1.19 Care Management

“Care Management” means a set of services designed to improve the health of Enrollees. Care Management includes a health assessment, development of a care

plan and monitoring of Enrollee status, Health Care Coordination, ongoing reassessment, consultation, crisis intervention, and case conferencing as needed to facilitate improved outcomes and appropriate use of health services, including moving the Enrollee to a less intensive level of Care Management as warranted by Enrollee improvement and stabilization.

1.20 Centers for Medicare and Medicaid Services (CMS)

“Centers for Medicare and Medicaid Services (CMS)” means the federal agency within the U.S. Department of Health and Human Services (DHHS) that administers the Medicare program and works in partnership with state governments to administer Medicaid, the Children’s Health Insurance Program (CHIP), and health insurance portability standards.

1.21 Certified Chemical Dependency Professional (CDP)

“Certified Chemical Dependency Professional (CDP)” means an individual who is certified according to RCW 18.205.020 and the certification requirements of WAC 246-811-030 to provide chemical dependency counseling (Substance Use Disorder [SUD] services).

1.22 Childcare Services

“Childcare Services” means the provision of child care services, when needed, to children of parents in treatment in order to complete the parent’s plan for Substance Use Disorder treatment services. Childcare services must be provided by licensed childcare providers.

1.23 Code of Federal Regulations (C.F.R.)

“Code of Federal Regulations (C.F.R.)” means the codification of the general and permanent rules and regulations, sometimes called administrative law, published in the Federal Register by the executive departments and agencies of the federal government of the United States.

1.24 Community Behavioral Health Advisory (CBHA) Board

“Community Behavioral Health Advisory (CBHA) Board” means an advisory board representative of the demographic characteristics of the RSA, in accordance with WAC 82-538D-0252.

1.25 Community Health Workers (CHW)

“Community Health Workers (CHW)” means individuals who serve as a liaison and advocate between social services and the community to facilitate access to services and improve the quality and cultural competence of service delivery. They include Community Health Representatives (CHR) in the Indian Health Service funded, Tribally contracted program.

1.26 Community Outreach

“Community Outreach” means an activity of providing critical information and referral regarding behavioral health services to people who might not otherwise have access

to that information. This may include assisting individuals to navigate through different systems including health care enrollment, scheduling appointments for a substance use disorder assessment and ongoing treatment, or providing transportation to appointments. Outreach tasks may include educating communities, family members, significant others, or partners about services and to support access to services where health care coordination may be necessary. Costs to be covered may also include responding to requests for information to be presented both in and out of the treatment facility by individuals, the general public and community organizations.

1.27 Comprehensive Assessment Report and Evaluation (CARE)

“Comprehensive Assessment Report and Evaluation (CARE)” means a person centered, automated assessment tool used for determining Medicaid functional eligibility, level of care for budget and comprehensive care planning, as defined in chapter 388-106 WAC.

1.28 Confidential Information

“Confidential Information” means information that is exempt from disclosure to the public or other unauthorized persons under chapter 42.56 RCW or other federal or state law. Confidential Information includes, but is not limited to, Personal Information, medical records, and any other health and enrollment information that identifies a particular enrollee.

1.29 Continuing Education and Training

“Continuing Education/Training” means costs incurred for activities to support educational programs, training projects, and/or other professional development programs directed toward: 1) improving the professional and clinical expertise of prevention and treatment facility staff; 2) the knowledge base of county employees who oversee the program agreement; and 3) to meet minimum standards and contract requirements.

1.30 Continuity of Care

“Continuity of Care” means the provision of continuous care for chronic or acute medical and Behavioral Health conditions to maintain care that has started or been authorized in one setting as the Enrollee transitions between: facility to home; facility to facility; providers or service areas; Managed Care Contractors; and Medicaid fee-for-service (FFS) and Managed Care arrangements. Continuity of Care occurs in a manner that prevents secondary illness, health care complications or re-hospitalization and promotes optimum health Recovery. Transitions of significant importance include but are not limited to: from acute care settings, such as inpatient physical health or behavioral (mental health/substance use) Health Care Settings or emergency departments, to home or other Health Care Settings, such as outpatient settings; from hospital to skilled nursing facility; from skilled nursing to home or community-based settings; from one primary care practice to another; and from substance use care to primary and/or mental health care.

1.31 Contract

“Contract” means this entire written agreement between HCA and the Contractor, including any Exhibits, documents, and materials incorporated by reference. The parties may execute this Contract in multiple counterparts, each of which is deemed an original and all of which constitutes as one agreement. E-mail (electronic mail) transmission of a signed copy of this Contract shall be the same as delivery of an original.

1.32 Contractor

“Contractor” means the individual or entity performing services pursuant to this Contract and includes the Contractor’s owners, officers, directors, partners, employees, and/or agents, unless otherwise stated in this Contract. For purposes of any permitted Subcontract, “Contractor” includes any Subcontractor and its owners, officers, directors, partners, employees, and/or agents.

1.33 Contracted Services

“Contracted Services” means Covered Services that are to be provided by the Contractor under the terms of this Contract within Available Resources.

1.34 Covered Services

“Covered Services” means health care services that HCA determines are covered for Enrollees within Available Resources. When funding is exhausted, services are no longer covered and cannot be authorized regardless of medical necessity.

1.35 Credible Allegation of Fraud

“Credible Allegation of Fraud” means the Contractor has investigated an Allegation of Fraud and concluded that the existence of Fraud is more probable than not (42 C.F.R. § 455.2).

1.36 Debarment

“Debarment” means an action taken by a federal official to exclude a person or business entity from participating in transactions involving certain federal funds.

1.37 Department of Children, Youth and Families (DCYF)

“Department of Children, Youth and Families (DCYF)” means the Washington State agency responsible for keeping Washington children safe, strengthening families and supporting foster children in their communities

1.38 Department of Social and Health Services (DSHS)

“Department of Social and Health Services (DSHS)” means the Washington State agency responsible for providing a broad array of health care and social services. DSHS administrations with which the Contractor may interface include, but are not limited to:

- 1.38.1 Aging and Long-Term Support Administration (ALTSA) is responsible for providing a safe home, community, and nursing facility array of long-term supports for Washington citizens.
- 1.38.2 Developmental Disabilities Administration (DDA) is responsible for providing a safe, high-quality, array of home, community, and facility-based residential services and employment support for Washington citizens with disabilities.

1.39 Designated Crisis Responder (DCR)

“Designated Crisis Responder (DCR)” means a mental health professional appointed by the county or authority authorized in rule, to perform the civil commitment duties described in chapters 71.05 and 71.34 RCW.

1.40 Director

“Director” means the Director of HCA. In his or her sole discretion, the Director may designate a representative to act on the Director’s behalf. Any designation may include the representative’s authority to hear, consider, review, and/or determine any matter.

1.41 Division of Behavioral Health and Recovery (DBHR)

“Division of Behavioral Health and Recovery (DBHR)” means the HCA division that administers state only, federal grants, and Medicaid funded behavioral health programs.

1.42 Emergency Medical Condition

“Emergency Medical Condition” means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in: (a) placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy; (b) serious impairment to bodily functions; or (c) serious dysfunction of any bodily organ or part.

1.43 Emergency Services

“Emergency Services” means inpatient and outpatient Contracted Services furnished by a provider qualified to furnish the services needed to evaluate or stabilize an emergency medical condition.

1.44 Encrypt

“Encrypt” means to encipher or encode electronic data using software that generates a minimum key length of one hundred twenty eight (128) bits.

1.45 Enrollee

“Enrollee” means an individual who is enrolled in an Apple Health Managed Care program through a Managed Care Organization (MCO) having a Contract with HCA (42 C.F.R. § 438.10(a)).

1.46 Essential Behavioral Health Administrative Functions

“Essential Behavioral Health Administrative Functions” means utilization management, Grievance and Appeals, network development and management, provider relations, quality management, data management and reporting, and claims and financial management.

1.47 Evaluation and Treatment

“Evaluation and Treatment” means services provided in freestanding inpatient residential (non-hospital/non-Institute for Mental Disease (IMD) facilities licensed and certified by the Department of Health to provide medically necessary evaluation and treatment to the Medicaid-enrolled individual who would otherwise meet hospital admission criteria. Evaluation and Treatment includes emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder. (RCW 71.05.020).

1.48 Evidence-Based Practices (EBPs)

“Evidence-Based Practices (EBPs)” means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from review demonstrates sustained improvements in at least one outcome. “Evidence-Based” also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial per the Washington State Institute for Public Policy (WSIPP).

1.49 Facility

“Facility” means but is not limited to: a hospital, an inpatient rehabilitation center, Long-Term and Acute Care (LTAC) center, skilled nursing facility, and nursing home.

1.50 Family Hardship Services

“Family Hardship Services” means the provision of transportation and lodging for family members traveling more than fifty (50) miles from home to a treatment facility to support a Youth receiving services in a facility to allow the family to participate in treatment.

1.51 Federally Qualified Health Center (FQHC)

“Federally Qualified Health Center (FQHC)” means a community-based organization that provides comprehensive primary care and preventive care, including health, dental, and Behavioral Health services to people of all ages, regardless of their ability to pay or health insurance status.

1.52 Fraud

“Fraud” means an intentional deception or misrepresentation made by a person (individual or entity) with the knowledge that the deception could result in some

unauthorized benefit to him or herself or some other person. It includes any act that constitutes Fraud under applicable federal or state law (42 C.F.R § 455.2).

1.53 Freestanding Evaluation and Treatment

“Freestanding Evaluation and Treatment” means services provided for individuals who pose an actual or imminent danger to self, others, or property due to a mental illness, or who have experienced a marked decline in their ability to care for self-due to the onset or exacerbation of a psychiatric disorder. Services are provided in freestanding inpatient residential (non-hospital/non-Institution for Mental Disease (IMD) facilities) licensed and certified by DOH to provide medically necessary evaluation and treatment to the Consumer who would otherwise meet hospital admission criteria.

At a minimum, services include evaluation, stabilization and treatment provided by or under the direction of licensed psychiatrists, nurses, and other Mental Health Professionals, and discharge planning to ensure continuity of mental health care. Treatment may include nursing care, individual and family therapy, milieu therapy, psycho-educational groups and pharmacology. The individual is discharged as soon as a less-restrictive plan for treatment can be safely implemented.

This service is provided for individuals who pose an actual or imminent danger to self, others, or property due to a mental illness, or who have experienced a marked decline in their ability to care for self-due to the onset or exacerbation of a psychiatric or co-occurring substance use disorder. The severity of symptoms, intensity of treatment needs or lack of necessary supports for the individual does not allow him/her to be managed at a lesser level of care.

This service does not include cost for Room and Board. The HCA shall authorize exceptions for involuntary length of stay beyond a fourteen (14) day commitment.

1.54 General Fund State (GFS)

“General Fund State (GFS)” means the payment source for services provided by the Contractor under this Contract.

1.55 Grievance

“Grievance” means an expression of dissatisfaction about any matter other than an Adverse Benefit Determination. Possible subjects for Grievances include, but are not limited to, the Quality of Care or services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the Enrollee’s rights.

1.56 Grievance and Appeal System

“Grievance and Appeal System” means the processes the Contractor implements to handle appeals of Adverse Benefit Determinations and Grievances, as well as the processes to collect and track information about them. (42 C.F.R. § 438.400 to § 438.424)..

1.57 Grievance Process

“Grievance Process” means the procedure for addressing Enrollees’ Grievances (42 C.F.R. § 438.400(b)).

1.58 Guideline

“Guideline” means a set of statements by which to determine a course of action. A Guideline streamlines utilization management decision-making processes according to a set routine or sound evidence-based clinical practice. By definition, following a Guideline is never mandatory. Guidelines are not binding and are not enforced.

1.59 Health Care Authority (HCA)

“Health Care Authority (HCA)” means the Washington State Health Care Authority, any division, section, office, unit or other entity of HCA, or any of the officers or other officials lawfully representing HCA.

1.60 Health Care Coordination

“Health Care Coordination” means an approach to healthcare in which all of an Enrollee’s needs are coordinated with the assistance of a Health Care Coordinator. The Health Care Coordinator provides information to the patient and the patient’s caregivers, and works with the patient to make sure that the patient gets the most appropriate treatment, while ensuring that health care is not duplicated.

1.61 Health Care Coordinator

“Health Care Coordinator” means a health care professional or group of professionals, licensed in the state of Washington, who is responsible for providing health care coordination services to Enrollees. Health Care Coordinators may be:

- 1.61.1 A Registered Nurse, Social Worker, Mental Health Professional, or Chemical Dependency Professional employed by the Contractor or primary care provider or Behavioral Health agency; and/or
- 1.61.2 Individuals or groups of licensed professionals, or paraprofessional individuals working under their licenses, located or coordinated by the primary care provider/clinic/Behavioral Health agency.

Nothing in this definition precludes the Contractor or Health Care Coordinator from using allied health care staff, such as Community Health Workers or Certified Peer Counselors and others to facilitate the work of the Health Care Coordinator or to provide services to Enrollees who need assistance in accessing services but not Health Care Coordination services.

1.62 Health Care Professional

“Health Care Professional” means a physician or any of the following acting within his or her scope of practice; an applied behavior analyst, certified registered dietitian, naturopath, podiatrist, optometrist, optician, osteopath, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist, therapist assistant, speech language pathologist, audiologist, registered or practical nurse (including

nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse midwife), licensed midwife, licensed certified social worker, licensed mental health counselor, licensed marriage and family therapist, registered respiratory therapist, pharmacist, and certified respiratory therapy technician.

1.63 Health Care Provider (HCP)

“Health Care Provider (HCP)” for purposes of this Contract, means a Primary Care Provider, Mental Health Professional or Chemical Dependency Professional.

1.64 Health Care Settings (HCS)

“Health Care Settings (HCS)” for the purpose of this Contract, means health care clinics where primary care services are delivered, community mental health agencies or certified chemical dependency agencies.

1.65 High Intensity Treatment

“High Intensity Treatment” means intensive levels of service provided to Medicaid-enrolled individuals who require a multi-disciplinary treatment team in the community that is available upon demand based on the individual’s needs. Twenty-four (24) hours per day, seven (7) days per week, access is required if necessary.

1.66 Indian Health Care Provider (IHCP)

“Indian Health Care Provider (IHCP)” means the Indian Health Service and/or any Tribe, Tribal organization, or Urban Indian Health Program (UIHP) that provides Medicaid-reimbursable services.

1.67 Individual Service Plan

“Individual Service Plan (ISP)” means a written agreement between the Enrollee and his or her healthcare team to help guide and manage the delivery of diagnostic and therapeutic services and the Enrollee’s engagement in self-management of his or her health (may also be called treatment plan).

1.68 Individuals with Intellectual or Developmental Disability (I/DD)

“Individuals with Intellectual or Developmental Disability (I/DD)” means people with a disability characterized by significant limitations in both intellectual functioning and in adaptive behavior, which covers many everyday social and practical skills. This disability originates before the age of 18.

1.69 Intensive Inpatient Residential Services

“Intensive Inpatient Residential Services” means a concentrated program of Substance Use Disorder treatment, education, and related activities for individuals diagnosed with a Substance Use Disorder excluding room and board in a twenty-four-hour-a-day (24) supervised facility. (The service as described satisfies the level of intensity in ASAM Level 3.5)

1.70 Institute for Mental Disease (IMD)

“Institute for Mental Disease (IMD)” means a hospital, nursing facility, or other institution of more than sixteen (16) beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services. An institution is an IMD if its overall character is that of a facility established and maintained primarily for the care and treatment of Individuals with mental diseases.

1.71 Intake Evaluation

“Intake Evaluation” means an evaluation that is culturally and age relevant initiated prior to the provision of any other mental health services, except crisis services, stabilization services and free-standing Evaluation and Treatment.

1.72 Interim Services

“Interim Services” means services to individuals who are currently waiting to enter a treatment program to reduce the adverse health effects of substance abuse, promote the health of the individual, and reduce the risk of transmission of disease. Such services are provided until the individual is admitted to a treatment program. Services include referral for prenatal care for a pregnant patient, brief screening activities, the development of a service plan, individual or group contacts to assist the person either directly or by way of referral in meeting his/her basic needs, updates to advise him/her of treatment availability, and information to prepare him/her for treatment, counseling, education, and referral regarding HIV and tuberculosis (TB) education, if necessary referral to treatment for HIV and TB.

1.73 Involuntary Treatment Act (ITA)

“Involuntary Treatment Act (ITA)” allows for individuals to be committed by court order to a facility for a limited period of time. Involuntary civil commitments are meant to provide for the evaluation and treatment of individuals with a behavioral health disorder and who may be either gravely disabled or pose a danger to themselves or others, and who refuse or are unable to enter treatment on their own. An initial commitment may last up to seventy-two (72) hours, but, if necessary, individuals can be committed for additional periods of fourteen (14), ninety (90), and one hundred eighty (180) calendar days (RCW 71.05.180, RCW 71.05.230, RCW 71.05.240, and RCW 71.05.290).

1.74 Less Restrictive Alternative Treatment (LRA)

“Less Restrictive Alternative Treatment” or “LRA” means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585.

1.75 Level of Care Guidelines

“Level of Care Guidelines” means the criteria the Contractor uses in determining which individuals within the target groups identified in the Contractor’s policy and procedures will receive services.

1.76 List of Excluded Individuals/Entities (LEIE)

“List of Excluded Individuals/Entities (LEIE)” means an Office of Inspector General’s List of Excluded Individuals/Entities and provides information to the health care industry, patients, and the public regarding individuals and entities currently excluded from participation in Medicare, Medicaid, and all other federal health care programs. Individuals and entities who have been reinstated are removed from the LEIE.

1.77 Long Term Care Residential Services

“Long Term Care Residential Services” means the care and treatment of chronically impaired individuals diagnosed with Substance Use Disorder with impaired self-maintenance capabilities including personal care services and a concentrated program of Substance Use Disorder treatment, individual and group counseling, education, vocational guidance counseling, and related activities for individuals diagnosed with Substance Use Disorder including room and board in a twenty-four-hour-a-day, supervised facility. (The service as described satisfies the level of intensity in ASAM Level 3.3).

1.78 Managed Care

“Managed Care” means a prepaid, comprehensive system of medical and Behavioral Health care delivery including preventive, primary, specialty, and ancillary health services.

1.79 Managed Care Organization (MCO)

“Managed Care Organization (MCO)” means an organization having a certificate of authority or certificate of registration from the Washington State Office of Insurance Commissioner that contracts with HCA under a comprehensive risk contract to provide prepaid health care services to eligible HCA Enrollees under HCA Managed Care programs.

1.80 Marketing

“Marketing” means any promotional activity or communication with a Potential Enrollee that is intended to increase a Contractor’s membership or to “brand” a Contractor’s name or organization. These activities are directed from the Contractor to a Potential Enrollee or Enrollee who is enrolled with another HCA-contracted MCO that can be reasonably interpreted as intended to influence them to enroll with the Contractor or to either not enroll or to end their enrollment with another HCA-contracted MCO. Marketing communications include written, oral, in-person (telephonic or face-to-face), or electronic methods of communication, including email, text messaging, and social media (i.e. Facebook, Instagram, and Twitter).

1.81 Material Provider

“Material Provider” means a Participating Provider whose loss would negatively affect access to care in the service area in such a way that a significant percentage of Enrollees would have to change their Provider or Contractor, receive services from a non-Participating Provider, or consistently receive services outside the service area.

1.82 Medicaid Fraud Control Division (MFCD)

“Medicaid Fraud Control Division (MFCD)” also sometimes called the “Medicaid Fraud Control Unit (MFCU) means the Washington State Attorney General’s Office (AGO), Medicaid Fraud Control Division that investigates and prosecutes abuse of clients of fraud by committed by any entity, facility, agency, Health Care Professional, Health Care Providers, primary care provider, provider or individual.

1.83 Medically Necessary Services

“Medically Necessary Services” means a requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate, or prevent worsening of conditions in the Enrollee that endanger life, or cause suffering of pain, or result in an illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity, or malfunction. There is no other equally effective, more conservative, or substantially less costly course of treatment available or suitable for the Enrollee requesting the service. For the purpose of this Contract, “course of treatment” may include mere observation or, where appropriate, no medical treatment at all (WAC 182-500-0070).

1.84 Medication Assisted Treatment (MAT)

“Medication Assisted Treatment” is the use of medications, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders.

1.85 Mental Health Advance Directive or Directive

“Mental Health Advance Directive” or “Directive” means a written document in which the principal makes a declaration of instructions, or preferences, or appoints an agent to make decisions on behalf of the principal regarding the principal’s mental health treatment, or both, and that is consistent with the provisions of chapter 71.32 RCW.

1.86 Mental Health Parity

“Mental Health Parity” means the Washington Office of the Insurance Commissioner rules for Behavioral Health parity, inclusive of mental health and Substance Use Disorder benefits shall apply to this Contract (WAC 284-43-7000 to -7080).

1.87 Mental Health Care Provider (MHCP)

Mental Health Care Provider (MHCP)” means the individual with primary responsibility for implementing an individualized plan for mental health rehabilitation services. Minimum qualifications are a B.A. level in a related field or A.A. level with two (2) years’ experience in the mental health or related fields.

1.88 Mental Health Professional

“Mental Health Professional” means:

- 1.88.1 A psychiatrist, psychologist, psychiatric nurse, or social worker as defined in Chapters 71.05 and 71.34 RCW;

- 1.88.2 A person who is licensed by the Department of Health as a mental health counselor, mental health counselor associate, marriage and family therapist, or marriage and family therapy associate;
- 1.88.3 A person with a master's degree or further advanced degree in counseling or one of the behavioral sciences from an accredited college or university. Such persons shall have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the supervision of a Mental Health Professional;
- 1.88.4 A person who meets the waiver criteria of RCW 71.24.260, which was granted before 1986;
- 1.88.5 A person who has an approved exception to perform the duties of a Mental Health Professional that was requested by the regional support network and granted by the DSHS Division of Behavioral Health and Recovery before July 1, 2001; or
- 1.88.6 A person who has been granted a time-limited exception of the minimum requirements of a Mental Health Professional by the HCA/DBHR consistent with WAC 388-865-0238.

1.89 National Correct Coding Initiative (NCCI)

"National Correct Coding Initiative (NCCI)" means CMS-developed coding policies based on coding conventions defined in the American Medical Association's CPT manual, national and local policies and edits.

1.90 Network Adequacy

"Network Adequacy" means a network of providers for the Contractor that is sufficient in numbers and types of providers/facilities to ensure that all services are accessible to Enrollees without unreasonable delay. Adequacy is determined by a number of factors, including, but not limited to, provider/patient ratios, geographic accessibility, and travel distance (42 C.F.R. § 438.68 and § 438.206), within Available Resources.

1.91 Non-Participating Provider

"Non-Participating Provider" means a person, Health Care Provider, practitioner, Facility, or entity acting within their scope of practice and licensure, that does not have a written agreement with the Contractor to participate in a Managed Care Organization's provider network, but provides health care services to Enrollees.

1.92 Notice of Adverse Benefit Determination

"Notice of Adverse Benefit Determination" means a written notice that must be provided to Enrollees to inform them that GFS services, available per the Contractor's policy and procedures have not been authorized based on medical necessity criteria.

1.93 Office of Inspector General (OIG)

“Office of Inspector General (OIG)” means the Office of Inspector General within the United States Department of Health and Human Services.

1.94 Opiate Dependency/HIV Services Outreach

“Opiate Dependency/HIV Services Outreach ” means costs incurred to provide Outreach and referral services to special populations such as opiate use disorder, injecting drug users (IDU), HIV or Hepatitis C-positive individuals. Opiate Dependency/HIV and Hepatitis C Outreach is specifically designed to encourage injecting drug users (IDUs) and other high-risk groups such as opiate use disorder and HIV or Hepatitis C-positive individuals to undergo treatment and to reduce transmission of HIV and Hepatitis C disease. Costs include providing information and skills training to non-injecting, drug using sex partners of IDUs and other high-risk groups such as street youths. Programs may employ street outreach activities, as well as more formal education and risk-reduction counseling. Referral services include referral to assessment, treatment, interim services, and other appropriate support services. Costs do not include ongoing therapeutic or rehabilitative services.

1.95 Outreach and Engagement

“Outreach and Engagement” means identification of hard-to-reach individuals with a possible SUD and engagement of these individuals in assessment and ongoing treatment services as necessary. This includes: providing critical information and referral regarding Behavioral Health services to people who might not otherwise have access to that information, providing information on SUD and the impact of SUD on families, providing information on treatment options or resources, re-engaging individuals in the treatment process. This does not include ongoing therapeutic or rehabilitative services.

1.96 Overpayment

“Overpayment” means any payment from HCA to the Contractor in excess of that to which the Contractor is entitled by law, rule, or this Contract, including amounts in dispute.

1.97 Participating Provider

“Participating Provider” means a person, Health Care Provider, practitioner, Facility, or entity, acting within their scope of practice and licensure, with a written agreement with the Contractor to provide services to Enrollees under the terms of this Contract.

1.98 Personal Information

“Personal Information” means information identifiable to any person, including, but not limited to: information that relates to a person’s name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, Social Security Numbers, driver license numbers, other identifying numbers, and any financial identifiers.

1.99 Physician's Orders for Life Sustaining Treatment (POLST)

"Physician's Orders for Life Sustaining Treatment (POLST)" means a set of guidelines and protocols for how emergency medical personnel shall respond when summoned to the site of an injury or illness for the treatment of a person who has signed a written directive or durable power of attorney requesting that he or she not receive futile emergency medical treatment (RCW 43.70.480).

1.100 Post-Service Review

"Post-Service Review" means the Contractor's review of health care services that have already been received by the Enrollee, but were not prior authorized according to Contractor policy.

1.101 Potential Enrollee

"Potential Enrollee" means any individual who HCA determines is eligible for enrollment in an Apple Health Managed Care Program and who, at the time of HCA's determination, is not enrolled (42 C.F.R. § 438.10(a)).

1.102 Pregnant and Post-Partum Women and Parenting Persons (PPW)

"Pregnant and Post-Partum Women and Parenting Persons (PPW)" means: (i) women who are pregnant; (ii) women who are postpartum during the first year after pregnancy completion regardless of the outcome of the pregnancy or placement of children; or (iii) women who are parenting children, including those attempting to gain custody of children supervised by the Department of Children, Youth and Family (DCYF).

1.103 Pregnant, Post-Partum or Parenting Women's (PPW) Housing Support Services

"PPW Housing Support Services" means the costs incurred to provide support services to PPW individuals with children under the age of six (6) in a transitional residential housing program designed exclusively for this position.

1.104 Program of Assertive Community Treatment (PACT)

"Program of Assertive Community Treatment (PACT)" means a team-based, evidence-based mental health service delivery model that incorporates the values of Recovery and Resiliency. PACT is also a client-centered, recovery-oriented, mental health service delivery model that utilizes a multi-disciplinary team approach providing services to individuals with severe and persistent mental illnesses and co-occurring disorders.

1.105 Promising Practice

"Promising Practice" means a practice that, based on statistical analyses or a well-established theory of change, shows potential for meeting the evidence-based or research-based criteria that may include the use of a program that is evidence-based for outcomes (WSIPP 3/2015).

1.106 Provider

“Provider” means any individual or entity engaged in the delivery of services, or ordering or referring for those services, and is legally authorized to do so by the State in which it delivers the services (42 C.F.R. § 438.2).

1.107 ProviderOne

“ProviderOne” means the HCA’s Medicaid Management Information Payment Processing System, or any superseding platform as may be designated by HCA.

1.108 Quality of Care

“Quality of Care” means the degree to which a Contractor increases the likelihood of desired health outcomes of its Enrollees through its structural and operational characteristics and through the provision of health services that are consistent with current professional knowledge.

1.109 Recovery

“Recovery” means the process by which people are able to return to a healthy condition, live, work, learn, and participate fully in their communities.

1.110 Recovery Support Services

“Recovery Support Services” means a broad range of non-clinical services that assist individuals and families to initiate, stabilize, and maintain long-term Recovery from Substance Use Disorders. Recovery Support Services may include: peer delivered motivational interviewing; peer wellness coaching; peer-run respite services; person-center planning; self-care and wellness approaches; WRAP; supported employment; peer health navigators; supportive housing; promotoros; Recovery community centers; whole health action management; wellness-based community campaign; mutual aid groups for individuals with co-occurring disorders; peer specialists; Recovery coaching; shared decision-making; telephone Recovery checkups; warm lines; peer-run crisis diversion services.

1.111 Regional Service Area (RSA)

“Regional Service Area (RSA)” means a single county or multi-county grouping formed for the purpose of health care purchasing.

1.112 Regulation

“Regulation” means any federal, state, or local regulation, rule, or ordinance.

1.113 Rehabilitation Case Management

“Rehabilitation Case Management” means a range of activities conducted in or with a Facility for the direct benefit of a Medicaid-enrolled individual in the public mental health system. To be eligible, the individual must be in need of case management in order to ensure timely and appropriate treatment and Health Care Coordination.

1.114 Resilience

“Resilience” means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, and other stresses to live productive lives.

1.115 Revised Code of Washington (RCW)

“Revised Code of Washington (RCW)” means the laws of the state of Washington.

1.116 Room and Board

“Room and Board” means costs incurred for services in a twenty-four (24) hour-a-day setting, including the provision of accessible, clean and well-maintained sleeping quarters with sufficient space, light and comfortable furnishings for sleeping and personal activities along with nutritionally adequate meals provided three times a day at regular intervals. Room and Board must be provided consistent with the requirements for Residential Treatment Facility Licensing through the Department of Health WAC 246-337.

1.117 Secured Area

“Secured Area” means an area such as a building, room or locked storage container to which only authorized representatives of the entity possessing the Confidential Information have access.

1.118 Security Incident

“Security Incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

1.119 Single Case Agreement

“Single Case Agreement” means a written agreement between the Contractor and a non-Participating Provider to deliver services to an Enrollee Sobering Services

1.120 Sobering Services

“Sobering Services” means short-term (twenty-four (24) consecutive hours) emergency shelter, screening, and referral services to persons who are intoxicated or in active withdrawal.

1.121 State Hospitals

“State Hospitals” means a State Hospital operated and maintained by the state of Washington for handling the most complicated long-term care needs of patients with a primary diagnosis of mental disorder.

1.122 Subcontract

“Subcontract” means any separate agreement or contract between the Contractor and an individual or entity (“Subcontractor”) to perform all or a portion of the duties and obligations that the Contractor is obligated to perform pursuant to this Contract.

1.123 Substance Use Disorder (SUD)

“Substance Use Disorder (SUD)” means a problematic pattern of use of alcohol and/or drugs that causes clinically and functionally significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school or home.

1.124 System for Award Management (SAM)

“System for Award Management (SAM)” means the official U.S. Government system that consolidated the capabilities of CCR/FedReg, ORCA and EPLS. Providers listed in the SAM should not be awarded a contract with the Contractor.

1.125 Therapeutic Interventions for Children

“Therapeutic Interventions for Children” means services promoting the health and welfare of children that include: developmental assessment using recognized, standardized instruments; play therapy; behavioral modification; individual counseling; self-esteem building; and family intervention to modify parenting behavior and/or the child's environment to eliminate/prevent the child's dysfunctional behavior.

1.126 Transitional Age Youth (TAY)

“Transitional Age Youth” means an individual between the ages of fifteen (15) and twenty five (25) years who present unique service challenges because they are too old for pediatric services but are often not ready or eligible for adult services.

1.127 Tracking

“Tracking” means a record keeping system that identifies when the sender begins delivery of Confidential Information to the authorized and intended recipient, and when the sender receives confirmation of delivery from the authorized and intended recipient of Confidential Information.

1.128 Transport

“Transport” means the movement of Confidential Information from one entity to another or within an entity that:

1.128.1 Places the Confidential Information outside of a Secured Area or system (such as a local area network), and

1.128.2 Is accomplished other than via a Trusted System.

1.129 Unique User ID

“Unique User ID” means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase, or other mechanism authenticates a user to an information system.

1.130 Urgent Medical Condition

“Urgent Medical Condition” means a medical or Behavioral Health condition manifesting itself by acute symptoms of sufficient severity such that if services are not received within twenty four (24) hours of the request, the person’s situation is likely to deteriorate to the point that emergent services are necessary.

1.131 Validation

“Validation” means the review of information, data, and procedures to determine the extent to which they are accurate, reliable, and free from bias and in accordance with standards for data collection and analysis (42 C.F.R. § 438.320).

1.132 Washington Administrative Code (WAC)

“Washington Administrative Code (WAC)” means the rules adopted by agencies to implement legislation.

1.133 Washington Apple Health –Integrated Foster Care (AH- IFC)

“Washington Apple Health –Integrated Foster Care (AH-IFC)” means the program under which a Managed Care MCO provides GFS services and, under separate contract, Medicaid funded physical and Behavioral Health services.

1.134 Wraparound with Intensive Services (WiSe)

“Wraparound with Intensive Services (WiSe)” means a range of services that are individualized, intensive, coordinated, comprehensive, culturally competent, and provided in the home and community. The WiSe Program serves for children and youth, under the age of 21 who are experiencing mental health symptoms that are causing severe disruptions in behavior and/or interfering with their functioning in family, school, or with peers requiring: a) the involvement of the mental health system and other child-serving systems and supports; b) intensive care collaboration; and c) ongoing intervention to stabilize the youth and family in order to prevent more restrictive or institutional placement.

1.135 Young Adult

“Young Adult” means a person from age eighteen (18) through age twenty (20).

1.136 Youth

“Youth” means a person from age twelve (12) through age eighteen (18).

2. GENERAL TERMS AND CONDITIONS

2.1 Amendment

Except as described below, an amendment to this Contract generally shall require the approval of both HCA and the Contractor. The following shall guide the amendment process:

- 2.1.1 Any amendment shall be in writing and shall be signed by a Contractor's authorized officer and an authorized representative of HCA. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.
- 2.1.2 HCA reserves the right to issue unilateral amendments which provide corrective or clarifying information.
- 2.1.3 The Contractor shall submit all feedback or questions to HCA at contracts@hca.wa.gov.
- 2.1.4 The Contractor shall submit written feedback within the expressed deadline provided to the Contractor upon receipt of any amendments. HCA is not obligated to accept Contractor feedback after the written deadline provided by HCA.
- 2.1.5 The Contractor shall return all signed amendments within the written deadline provided by HCA Contracts Office.

2.2 Assignment

The Contractor shall not assign this Contract to a third party without the prior written consent of HCA. HCA may withhold its consent at its sole discretion.

2.3 Billing Limitations

- 2.3.1 HCA shall pay the Contractor only for services provided in accordance with this Contract.
- 2.3.2 HCA shall not pay any claims for payment for services submitted more than one hundred and twenty (120) days after the end of the state fiscal year in which the services were performed unless otherwise specified in this Contract.

2.4 Compliance with Applicable Law

In the provision of services under this Contract, the Contractor and its Subcontractors shall comply with all applicable federal, state and local laws and regulations, and all amendments thereto, that are in effect when the Contract is signed or that come into effect during the term of this Contract. The provisions of this Contract that are in conflict with applicable state or federal laws or regulations are hereby amended to conform to the minimum requirements of such laws or regulations. A provision of this Contract that is stricter than such laws or regulations will not be deemed a conflict. Applicable laws and regulations include, but are not limited to:

- 2.4.1 Title XIX and Title XXI of the Social Security Act.
- 2.4.2 Title VI of the Civil Rights Act of 1964.
- 2.4.3 Title IX of the Education Amendments of 1972, regarding any education programs and activities.
- 2.4.4 The Age Discrimination Act of 1975.
- 2.4.5 The Rehabilitation Act of 1973.
- 2.4.6 The Budget Deficit Reduction Act of 2005.
- 2.4.7 The Washington Medicaid False Claims Act and Federal False Claims Act (FCA).
- 2.4.8 The Health Insurance Portability and Accountability Act (HIPAA).
- 2.4.9 The American Recovery and Reinvestment Act (ARRA).
- 2.4.10 The Patient Protection and Affordable Care Act (PPACA or ACA).
- 2.4.11 The Health Care and Education Reconciliation Act.
- 2.4.12 The Mental Health Parity and Addiction Equity Act (MHPAEA) and final rule.
- 2.4.13 21 C.F.R. Food and Drugs, Chapter 1 Subchapter C – Drugs – General.
- 2.4.14 42 C.F.R. Subchapter A, Part 2 – Confidentiality of Alcohol and Drug Abuse Patient Records.
- 2.4.15 42 C.F.R. Subchapter A – Part 8 – Certification of Opioid Treatment Programs.
- 2.4.16 45 C.F.R. 96 Block Grants.
- 2.4.17 45 C.F.R. 96.126 Capacity of Treatment for Intravenous Substance Abusers who Receive Services under Block Grant funding.
- 2.4.18 Chapter 70.02 RCW and the Washington State Patient Bill of Rights, including, but not limited to, the administrative and financial responsibility for independent reviews.
- 2.4.19 Chapter 71.05 RCW Mental Illness.
- 2.4.20 Chapter 71.24 RCW Community Mental Health Services Act.
- 2.4.21 Chapter 71.34 RCW Mental Health Services for Minors.
- 2.4.22 Community Mental Health and Involuntary Treatment Programs.
- 2.4.23 Behavioral Health Services Administrative Requirements
- 2.4.24 WAC Substance Use Disorder Services

- 2.4.25 RCW 43.20A Department of Social and Health Services.
- 2.4.26 Senate Bill 6312 (Chapter 225. Laws of 2014) State Purchasing of Mental Health and Chemical Dependency Treatment Services.
- 2.4.27 All federal and state professional and facility licensing and accreditation requirements/standards that apply to services performed under the terms of this Contract, including but not limited to:
 - 2.4.27.1 All applicable standards, orders, or requirements issued under Section 306 of the Clean Water Act (33 US 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 C.F.R. Part 15), which prohibit the use of facilities included on the EPA List of Violating Facilities. Any violations shall be reported to HCA, DHHS, and the EPA.
 - 2.4.27.2 Any applicable mandatory standards and policies relating to energy efficiency that are contained in the State Energy Conservation Plan, issued in compliance with the Federal Energy Policy and Conservation Act.
 - 2.4.27.3 Those specified for laboratory services in the Clinical Laboratory Improvement Amendments (CLIA).
 - 2.4.27.4 Those specified in Title 18 RCW for professional licensing.
- 2.4.28 Industrial Insurance – Title 51 RCW.
- 2.4.29 Reporting of abuse as required by RCW 26.44.030 and chapter 74.34 RCW.
- 2.4.30 Federal Drug and Alcohol Confidentiality Laws in 42 C.F.R. Part 2.
- 2.4.31 EEO Provisions.
- 2.4.32 Copeland Anti-Kickback Act.
- 2.4.33 Davis-Bacon Act.
- 2.4.34 Byrd Anti-Lobbying Amendment.
- 2.4.35 All federal and state nondiscrimination laws and regulations.
- 2.4.36 Americans with Disabilities Act, of 1990, as amended: The Contractor shall make reasonable accommodation for Enrollees with disabilities, in accordance with the Americans with Disabilities Act, for all Contracted Services and shall assure physical and communication barriers shall not inhibit Enrollees with disabilities from obtaining Contracted Services.
- 2.4.37 All applicable Office of Insurance Commissioner's (OIC) statutes and regulations.

2.5 Covenant Against Contingent Fees

The Contractor certifies that no person or selling agent has been employed or retained to solicit or secure this Contract for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for the purpose of securing business. HCA shall have the right, in the event of breach of this clause by the Contractor, to terminate this Contract or, in its discretion, to deduct from amounts due the Contractor under the Contract recover by other means the full amount of any such commission, percentage, brokerage or contingent fee.

2.6 Debarment Certification

The Contractor, by signature to this Contract, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded in any Washington state or federal department or agency from participating in transactions (debarred). The Contractor agrees to include the above requirement in any and all subcontracts into which it enters, and also agrees that it shall not employ debarred individuals or subcontract with any debarred providers, persons, or entities. The Contractor shall immediately notify HCA if, during the term of this Contract, the Contractor becomes debarred. HCA may immediately terminate this Contract by providing Contractor written notice in accordance with Subsection 2.36 of this Contract if the Contractor becomes debarred during the term hereof.

2.7 Defense of Legal Actions

Each party to this Contract shall advise the other as to matters that come to its attention with respect to potential substantial legal actions involving allegations that may give rise to a claim for indemnification from the other. Each party shall fully cooperate with the other in the defense of any action arising out of matters related to this Contract by providing without additional fee all reasonably available information relating to such actions and by providing necessary testimony.

2.8 Disputes

When a dispute arises over an issue that pertains in any way to this Contract (other than Overpayments, as described below), the parties agree to the following process to address the dispute:

- 2.8.1 The Contractor shall request a dispute resolution conference with the Director. The request for a dispute resolution conference must be in writing and shall clearly state all of the following:
 - 2.8.1.1 The disputed issue(s).
 - 2.8.1.2 An explanation of the positions of the parties.
 - 2.8.1.3 Any additional facts necessary to explain completely and accurately the nature of the dispute.
- 2.8.2 Requests for a dispute resolution conference must be mailed to the Director, Washington State HCA, PO Box 45502 Olympia, WA 98504-5502. Any such

requests must be received by the Director within fifteen (15) calendar days after the Contractor receives notice of the disputed issue(s).

2.8.2.1 The Director, in his or her sole discretion, shall determine a time for the parties to present their views on the disputed issue(s). The format and time allowed for the presentations are solely within the Director's discretion. The Director shall provide written notice of the time, format, and location of the conference. The conference is informal in nature and is not governed in any way by the Administrative Procedure Act, chapter 34.05 RCW.

2.8.2.2 The Director shall consider all of the information provided at the conference and shall issue a written decision on the disputed issue(s) within thirty (30) calendar days after the conclusion of the conference. However, the Director retains the option of taking up to an additional sixty (60) calendar days to consider the disputed issue(s) or taking additional steps to attempt to resolve them. If the Director determines, in his or her sole discretion, that an additional period of up to sixty (60) calendar days is needed for review, he or she shall notify the Contractor, in writing, of the delay and the anticipated completion date before the initial thirty-day period expires.

2.8.2.3 The Director, at his or her sole discretion, may appoint a designee to represent him or her at the dispute conference. If the Director does appoint a designee to represent him or her at the dispute conference, the Director shall retain all final decision-making authority regarding the disputed issue(s). Under no circumstances shall the Director's designee have any authority to issue a final decision on the disputed issue(s).

2.8.3 The parties hereby agree that this dispute process shall precede any judicial or quasi-judicial proceeding and is the sole administrative remedy under this Contract.

2.8.4 Disputes regarding Overpayments are governed by the Notice of Overpayment Subsection of this Contract, and not by this Section.

2.9 **Force Majeure**

If the Contractor is prevented from performing any of its obligations hereunder in whole or in part as a result of a major epidemic, act of God, war, civil disturbance, court order or any other cause beyond its control, such nonperformance shall not be a ground for termination for default. Immediately upon the occurrence of any such event, the Contractor shall commence to use its best efforts to provide, directly or indirectly, alternative and, to the extent practicable, comparable performance. Nothing in this Section shall be construed to prevent HCA from terminating this Contract for reasons other than for default during the period of events set forth above, or for default, if such default occurred prior to such event.

2.10 Governing Law and Venue

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in Superior Court for Thurston County. In the event that an action is removed to U.S. District Court, venue shall be in the Western District of Washington in Tacoma.

Nothing in this Contract shall be construed as a waiver by HCA of the State's immunity under the 11th Amendment to the United States Constitution.

2.11 Independent Contractor

The parties intend that an independent Contractor relationship shall be created by this Contract. The Contractor and its employees or agents performing under this Contract are not employees or agents of the HCA or the state of Washington. The Contractor, its employees, or agents performing under this Contract shall not hold himself/herself out as, nor claim to be, an officer or employee of the HCA or the state of Washington by reason hereof, nor shall the Contractor, its employees, or agent make any claim of right, privilege or benefit that would accrue to such employee. The Contractor acknowledges and certifies that neither HCA nor the state of Washington are guarantors of any obligations or debts of the Contractor.

2.12 Insolvency

If the Contractor becomes insolvent during the term of this Contract:

- 2.12.1 The state of Washington and Enrollees shall not be, in any manner, liable for the debts and obligations of the Contractor.
- 2.12.2 In accordance with the Prohibition on Enrollee Charges for Contracted Services provisions of the Enrollee Rights and Protections Section of this Contract under no circumstances shall the Contractor, or any providers used to deliver services covered under the terms of this Contract, charge Enrollees for Contracted Services.
- 2.12.3 The Contractor shall, in accordance with RCW 48.44.055, provide for the Continuity of Care for Enrollees.
- 2.12.4 The Contractor shall cover continuation of services to Enrollees for duration of period for which payment has been made, as well as for inpatient admissions up until discharge.

2.13 Inspection

The Contractor and its subcontractors shall permit the state of Washington, including HCA, MFCD and state auditor, and federal agencies, including but not limited to: CMS, Government Accountability Office, Office of Management and Budget, Office of the Inspector General, Comptroller General, and their designees, to access, inspect and audit any records or documents of the Contractor or its subcontractors, and shall permit inspection of the premises, physical facilities, and equipment where Medicaid-related activities or work is conducted, at any time.

- 2.13.1 The Contractor and its subcontractors shall forthwith produce all records, documents, or other data requested as part of such inspection, review, audit, investigation, monitoring or evaluation identified in Subsection 2.13. If the requesting agency asks for copies of records, documents, or other data, the Contractor and its subcontractors shall make copies of records and shall deliver them to the requestor, within thirty (30) calendar days of request, or a shorter timeframe as authorized by law or court order. Copies of records and documents shall be made at no cost to the requesting agency (42 C.F.R. § 455.21(a)(2); 42 C.F.R. § 431.107(b)(2)). The right for the parties named above to audit, access and inspect under this section exists for ten (10) years from the final date of the contract period or from the date of completion of any audit, whichever is later, or any other timeframe authorized by law. (42 C.F.R. § 438.3(h)).

2.14 Insurance

The Contractor shall at all times comply with the following insurance requirements:

- 2.14.1 Commercial General Liability Insurance (CGL): The Contractor shall maintain CGL insurance, including coverage for bodily injury, property damage, and contractual liability, with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The policy shall include liability arising out of premises, operations, independent Contractors, products-completed operations, personal injury, advertising injury, and liability assumed under an insured Contract. The state of Washington, HCA, its elected and appointed officials, agents, and employees shall be named as additional insured's expressly for, and limited to, Contractor's services provided under this Contract.
- 2.14.2 Professional Liability Insurance (PL): The Contractor shall maintain Professional Liability Insurance, including coverage for losses caused by errors and omissions, with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000.
- 2.14.3 Worker's Compensation: The Contractor shall comply with all applicable worker's compensation, occupational disease, and occupational health and safety laws and regulations. The state of Washington and HCA shall not be held responsible as an employer for claims filed by the Contractor or its employees under such laws and regulations.
- 2.14.4 Employees and Volunteers: Insurance required of the Contractor under the Contract shall include coverage for the acts and omissions of the Contractor's employees and volunteers.
- 2.14.5 Subcontractors: The Contractor shall ensure that all Subcontractors have and maintain insurance appropriate to the services to be performed. The Contractor shall make available copies of Certificates of Insurance for subcontractors, to HCA if requested.
- 2.14.6 Separation of Insured's: All insurance Commercial General Liability policies shall contain a "separation of insured's" provision.

- 2.14.7 Insurers: The Contractor shall obtain insurance from insurance companies authorized to do business within the state of Washington, with a “Best’s Reports” rating of A-, Class VII or better. Any exception must be approved by HCA. Exceptions include placement with a “Surplus Lines” insurer or an insurer with a rating lower than A-, Class VII.
- 2.14.8 Evidence of Coverage: The Contractor shall submit Certificates of Insurance in accordance with the Notices section of the General Terms and Conditions, for each coverage required under this Contract upon execution of this Contract. Each Certificate of Insurance shall be executed by a duly authorized representative of each insurer.
- 2.14.9 Material Changes: The Contractor shall give HCA, in accordance with the Notices section of the General Terms and Conditions, forty-five (45) calendar days advance notice of cancellation or non-renewal of any insurance in the Certificate of Coverage. If cancellation is due to non-payment of premium, the Contractor shall give HCA ten (10) calendar days advance notice of cancellation.
- 2.14.10 General: By requiring insurance, the state of Washington and HCA do not represent that the coverage and limits specified shall be adequate to protect the Contractor. Such coverage and limits shall not be construed to relieve the Contractor from liability in excess of the required coverage and limits and shall not limit the Contractor’s liability under the indemnities and reimbursements granted to the state and HCA in this Contract. All insurance provided in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state.
- 2.14.11 The Contractor may waive the requirements as described in the Commercial General Liability Insurance, Professional Liability Insurance, Insurers and Evidence of Coverage provisions of this Section if self-insured. In the event the Contractor is self-insured, the Contractor must send to HCA by the third Wednesday of January in each Contract year, a signed written document, which certifies that the Contractor is self-insured, carries coverage adequate to meet the requirements of this Section, shall treat HCA as an additional insured, expressly for, and limited to, the Contractor's services provided under this Contract, and provides a point of contact for HCA.
- 2.14.12 Privacy Breach Response Coverage. For the term of this Contract and three (3) years following its termination Contractor shall maintain insurance to cover costs incurred in connection with a security incident, privacy Breach, or potential compromise of Data including:
- 2.14.12.1 Computer forensics assistance to assess the impact of a data breach, determine root cause, and help determine whether and the extent to which notification must be provided to comply with

Breach notification laws (45 C.F.R. Part 164, Subpart D; RCW 42.56.590; RCW 19.255.010; and WAC 284-04-625).

- 2.14.12.2 Notification and call center services for individuals affected by a security incident, or privacy Breach.
- 2.14.12.3 Breach resolution and mitigation services for individuals affected by a security incident, or privacy Breach, including fraud prevention, credit monitoring and identity theft assistance.
- 2.14.12.4 Regulatory defense, fines, and penalties from any claim in the form of a regulatory proceeding resulting from a violation of any applicable privacy or security law(s) or regulation(s).

2.15 **Records**

- 2.15.1 The Contractor and its Subcontractors shall maintain all financial, medical and other records pertinent to this Contract. All financial records shall follow generally accepted accounting principles. Other records shall be maintained as necessary to clearly reflect all actions taken by the Contractor related to this Contract.
- 2.15.2 All records and reports relating to this Contract shall be retained by the Contractor and its Subcontractors for a minimum of ten (10) years after final payment is made under this Contract. However, when an inspection, audit, litigation, or other action involving records is initiated prior to the end of said period, records shall be maintained for a minimum of ten (10) years following resolution of such action (C.F.R. § 438.3(h)).
- 2.15.3 The Contractor and the Contractor's subcontractors shall retain, as applicable, enrollee grievance and appeal records (42 C.F.R. § 438.416), base data (42 C.F.R. § 438.5(c)), MLR reports (42 C.F.R. § 438.8(k)), and the data, information, and documentation specified in 42 C.F.R. § 438.604, § 438.606, § 438.608, and § 438.610 for a period of no less than ten (10) years.
- 2.15.4 The Contractor acknowledges the HCA is subject to the Public Records Act (Chapter 42.56 RCW). This Contract shall be a "public record" as defined in Chapter 42.56 RCW. Any documents submitted to HCA by the Contractor may also be construed as "public records" and therefore subject to public disclosure.

2.16 **Mergers and Acquisitions**

If the Contractor is involved in an acquisition of assets or merger with another HCA Contractor after the effective date of this Contract, HCA reserves the right, to the extent permitted by law, to require that each Contractor maintain its separate business lines for the remainder of the Contract period. The Contractor does not have an automatic right to a continuation of the Contract after any such acquisition of assets or merger.

2.17 Notification of Organizational Changes

The Contractor shall provide HCA with ninety (90) calendar days' prior written notice of any change in the Contractor's ownership or legal status. The Contractor shall provide HCA written notice of any changes to the Contractor's key personnel within seven (7) days including, but not limited to, the Contractor's Chief Executive Officer, the Contractor's Chief Financial Officer, HCA government relations contact, HCA Account Executive, Compliance Officer, Medical Director, Behavioral Health Medical Director, and Behavioral Health Clinical Director. The Contractor shall provide HCA with an interim contact person that will be performing the key personnel member's duties. If key personnel will not be available for a period exceeding thirty (30) days, or are no longer working full-time in the key position, the Contractor shall notify the HCA within seven (7) days after the date of notification of the change.

2.18 Order of Precedence

In the interpretation of this Contract and incorporated documents, the various terms and conditions shall be construed as much as possible to be complementary. In the event that such interpretation is not possible the following order of precedence shall apply:

- 2.18.1 Federal statutes and regulations applicable to the services provided under this Contract.
- 2.18.2 State of Washington statutes and regulations to the services provided under this Contract.
- 2.18.3 Applicable state of Washington statutes and regulations concerning the operation of Health Maintenance Organizations, Health Care Service Contractors, and Life and Disability Insurance Carriers.
- 2.18.4 General Terms and Conditions of this Contract.
- 2.18.5 RFP Documents
 - 2.18.5.1 Foster Care (Exhibit X): Attachment 4 – RFP 15-002– Foster Care – (available upon request);
- 2.18.6 Contractor's Response to RFP:
 - 2.18.6.1 Foster Care (Exhibit X) Attachment 5 – Contract's response to RFP 15-002 (available upon request);
- 2.18.7 Any other term and condition of this Contract and exhibits.
- 2.18.8 Any other material incorporated herein by reference.

2.19 Severability

If any term or condition of this Contract is held invalid by any court of competent jurisdiction, and if all Appeals have been exhausted, such invalidity shall not affect the validity of the other terms or conditions of this Contract.

2.20 **Survivability**

The terms and conditions contained in this Contract that shall survive the expiration or termination of this Contract include but are not limited to: Confidentiality, Fraud, Overpayment, Indemnification and Hold Harmless, Inspection, Maintenance of Records, Constraints on Use of Data, Security of Data, Data Confidentiality and Non-Disclosure of Data, Data Breach Notification and Obligations, and Material Breach. After termination of this Contract, the Contractor remains obligated to:

- 2.20.1 Submit all data and reports required in this Contract.
- 2.20.2 Provide access to records required in accordance with the Inspection provisions of this Section.
- 2.20.3 Provide the administrative services associated with Contracted Services (e.g. claims processing, Enrollee Appeals) provided to Enrollees prior to the effective date of termination under the terms of this Contract.
- 2.20.4 Repay any Overpayments within sixty (60) calendar days of discovery by the Contractor or its subcontractors of the overpayment, or within sixty (60) calendar days of notification by HCA, MFCD, or other law enforcement agency, (42 U.S.C. 1320a-7k(d)) and that:
 - 2.20.4.1 Pertain to services provided at any time during the term of this Contract; and
 - 2.20.4.2 Are identified through an HCA audit or other HCA administrative review at any time on or before ten (10) years from the date of the termination of this Contract (42 C.F.R. § 438.3(h)); or
 - 2.20.4.3 Are identified through a Fraud investigation conducted by the MFCD or other law enforcement entity, based on the timeframes provided by federal or state law.
- 2.20.5 Reimburse providers for claims erroneously billed to and paid by HCA within the twenty-four (24) months before the expiration or termination of this Contract.

2.21 **Waiver**

Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Contract. Only the Director of the HCA or his or her designee has the authority to waive any term or condition of this Contract on behalf of HCA.

2.22 **Contractor Certification Regarding Ethics**

The Contractor certifies that the Contractor is now, and shall remain, in compliance with Chapter 42.52 RCW, Ethics in Public Service, throughout the term of this Contract.

2.23 Health and Safety

The Contractor shall perform any and all of its obligations under this Contract in a manner that does not compromise the health and safety of any HCA client with whom the Contractor has contact.

2.24 Indemnification and Hold Harmless

HCA and the Contractor shall each be responsible for their own acts and omissions, and the acts and omissions of their agents and employees. Each party to this Contract shall defend, protect and hold harmless the other party, or any of the other party's agents, from and against any loss and all claims, settlements, judgments, costs, penalties, and expenses, including attorney fees, arising from any willful misconduct, or dishonest, fraudulent, reckless, unlawful, or negligent act or omission of the first party, or agents of the first party, while performing under the terms of this Contract except to the extent that such losses result from the willful misconduct, or dishonest, fraudulent, reckless, unlawful or negligent act or omission on the part of the second party. The Contractor shall indemnify and hold harmless HCA from any claims by Participating or Non-Participating Providers related to the provision of services to Enrollees according to the terms of this Contract. Each party agrees to promptly notify the other party in writing of any claim and provide the other party the opportunity to defend and settle the claim. The Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the state and its agencies, officials, agents, or employees.

2.25 Industrial Insurance Coverage

The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, HCA may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. HCA may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by HCA under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

2.26 No Federal or State Endorsement

The award of this Contract does not indicate an endorsement of the Contractor by the Centers for Medicare and Medicaid Services (CMS), the federal government, or the state of Washington. No federal funds have been used for lobbying purposes in connection with this Contract.

2.27 Notices

Whenever one party is required to give notice to the other under this Contract, it shall be deemed given if mailed by United States Postal Services, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

2.27.1 In the case of notice to the Contractor, notice will be sent to:

Paul Goeble, Chief Operating Officer and Interim CEO

Coordinated Care of Washington, Inc.
1145 Broadway, Suite 300
Tacoma, WA 98402

2.27.2 In the case of notice to HCA, send notice to:

Contract Administrator
HCA
Division of Legal Services
Contracts Office
P.O. Box 42702
Olympia, WA 98504-2702

2.27.3 Notices shall be effective on the date delivered as evidenced by the return receipt or the date returned to the sender for non-delivery other than for insufficient postage.

2.27.4 Either party may at any time change its address for notification purposes by mailing a notice in accordance with this Section, stating the change and setting for the new address, which shall be effective on the tenth (10th) day following the effective date of such notice unless a later date is specified.

2.28 Notice of Overpayment

2.28.1 A Notice of Overpayment to the Contractor will be issued if HCA determines an Overpayment has been made.

2.28.2 The Contractor may contest a Notice of Overpayment by requesting an adjudicative proceeding. The request for an adjudicative proceeding must:

2.28.2.1 Comply with all of the instructions contained in the Notice of Overpayment, in accordance with RCW 41.05A.170(1);

2.28.2.2 Be received by HCA within twenty-eight (28) calendar days of service receipt of the Notice of Overpayment by the Contractor, in accordance with RCW 41.05A.170(3);

2.28.2.3 Be sent to HCA by certified mail (return receipt), to the location specified in the Notice of Overpayment;

2.28.2.4 Include a statement and supporting documentation as to why the Contractor thinks the Notice of Overpayment is incorrect; and

2.28.2.5 Include a copy of the Notice of Overpayment.

2.28.3 If the Contractor submits a timely and complete request for an adjudicative proceeding, then the Office of Administrative Hearings will schedule the proceeding. The Contractor may be offered a pre-hearing or alternative dispute resolution conference in an attempt to resolve the dispute prior to the adjudicative proceeding. The adjudicative proceeding will be governed by the administrative procedure act, Chapter 34.05 RCW, and chapter 182-526 WAC.

- 2.28.4 If HCA does not receive a request for an adjudicative proceeding within twenty-eight (28) calendar days of service of a Notice of Overpayment, then the Contractor will be responsible for repaying the amount specified in the Notice of Overpayment within sixty (60) calendar days from the date of receipt. This amount will be considered a final debt to HCA from the Contractor. HCA may charge the Contractor interest and any costs associated with the collection of the debt. HCA may collect an Overpayment debt through lien, foreclosure, seizure and sale of the Contractor's real or personal property; order to withhold and deliver; withholding the amount of the debt from any future payment to the Contractor under this Contract; or any other collection action available to HCA to satisfy the Overpayment debt.
- 2.28.5 Nothing in this Contract limits HCA's ability to recover Overpayments under applicable law.

2.29 Proprietary Data or Trade Secrets

- 2.29.1 Except as required by law, regulation, or court order, data identified by the Contractor as proprietary trade secret information shall be kept strictly confidential, unless the Contractor provides prior written consent of disclosure to specific parties. Any release or disclosure of data shall include the Contractor's interpretation.
- 2.29.2 The Contractor shall identify data which it asserts is proprietary or is trade secret information as permitted by RCW 41.05.026. If HCA anticipates releasing data that is identified as proprietary or trade secrets, HCA will notify the Contractor upon receipt of any request under the Public Records Act (Chapter 42.56 RCW) or otherwise for data or Claims Data identified by the Contractor as proprietary trade secret information and will not release any such information until five (5) business days after it has notified the Contractor of the receipt of such request. If the Contractor files legal proceedings within the aforementioned five (5) business day period in an attempt to prevent disclosure of the data, HCA agrees not to disclose the information unless it is ordered to do so by a court, the Contractor dismisses its lawsuit, or the Contractor agrees that the data may be released.
- 2.29.3 Nothing in this Section shall prevent HCA from filing its own lawsuit or joining any other lawsuit in an attempt to prevent disclosure of the data, or to obtain a declaration as to the disclosure of the data, provided that HCA will promptly notify the Contractor of the filing of any such lawsuit.

2.30 Ownership of Material

HCA recognizes that nothing in this Contract shall give HCA ownership rights to the systems developed or acquired by the Contractor during the performance of this Contract. The Contractor recognizes that nothing in this Contract shall give the Contractor ownership rights to the systems developed or acquired by HCA during the performance of this Contract.

2.31 Solvency

- 2.31.1 The Contractor shall have a Certificate of Registration as a Health Maintenance Organization (HMO), Health Care Service Contractor (HCSC)

or Life and Disability Insurance Carrier, from the Washington State Office of the Insurance Commissioner (OIC). The Contractor shall comply with the solvency provisions of chapters 48.21, 48.21A, 48.44 or 48.46 RCW, as amended.

- 2.31.2 The Contractor agrees that HCA may at any time access any information related to the Contractor's financial condition, or compliance with the Office of the Insurance Commissioner (OIC) requirements, from OIC and consult with OIC concerning such information.
- 2.31.3 The Contractor shall deliver to HCA copies of any financial reports prepared at the request of the OIC or National Association of Insurance Commissioners (NAIC) per the HCSC required filing checklist for financial reports. The Contractor's routine quarterly and annual statements submitted to the OIC and NAIC are exempt from this requirement. The Contractor shall also deliver copies of related documents and correspondence (including, but not limited to, Risk-Based Capital (RBC) calculations and Management's Discussion and Analysis), at the same time the Contractor submits them to the OIC or NAIC.
- 2.31.4 The Contractor shall notify HCA within ten (10) business days after the end of any month in which the Contractor's net worth (capital and/or surplus) reaches a level representing two or fewer months of expected claims and other operating expenses, or other change which may jeopardize its ability to perform under this Contract or which may otherwise materially affect the relationship of the parties under this Contract.
- 2.31.5 The Contractor shall notify HCA within twenty-four (24) hours after any action by the OIC which may affect the relationship of the parties under this Contract.
- 2.31.6 The Contractor shall notify HCA if the OIC requires enhanced reporting requirements within fourteen (14) calendar days after the Contractor's notification by the OIC. The Contractor agrees that HCA may, at any time, access any financial reports submitted to the OIC in accordance with any enhanced reporting requirements and consult with OIC staff concerning information contained therein.

2.32 Conflict of Interest Safeguards

The Contractor shall have conflict of interest safeguards that, at a minimum, are equivalent to conflict of interest safeguards imposed by federal law on parties involved in public Contracting (41 U.S.C. § 423).

2.33 Reservation of Rights and Remedies

A material default or breach in this Contract will cause irreparable injury to HCA. In the event of any claim for default or breach of this Contract, no provision in this Contract shall be construed, expressly or by implication, as a waiver by the state of Washington to any existing or future right or remedy available by law. Failure of the state of Washington to insist upon the strict performance of any term or condition of this Contract or to exercise or delay the exercise of any right or remedy provided in this Contract or by law, or the acceptance of (or payment for) materials, equipment or

services, shall not release Contractor from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of the state of Washington to insist upon the strict performance of this Contract. In addition to any other remedies that may be available for default or breach of this Contract, in equity or otherwise, HCA may seek injunctive relief against any threatened or actual breach of this Contract without the necessity of proving actual damages. HCA reserves the right to recover any or all administrative costs incurred in the performance of this Contract during or as a result of any threatened or actual breach.

2.34 Termination by Default

2.34.1 Termination by Contractor. The Contractor may terminate this Contract whenever HCA defaults in performance of the Contract and fails to cure the default within a period of one hundred twenty (120) calendar days (or such longer period as the Contractor may allow) after receipt from the Contractor of a written notice, as described in the Notices section of the General Terms and Conditions, specifying the default. For purposes of this Section, “default” means failure of HCA to meet one or more material obligations of this Contract. In the event it is determined that HCA was not in default, HCA may claim damages for wrongful termination through the dispute resolution provisions of this Contract or by a court of competent jurisdiction.

2.34.2 Termination by HCA. HCA may terminate this Contract if HCA determines:

- 2.34.2.1 The Contractor did not fully and accurately make any disclosure required under 42 C.F.R. § 455.106(a).
- 2.34.2.2 The Contractor failed to timely submit accurate information required under 42 C.F.R. 455, Subpart E (42 C.F.R. 455.416(d)).
- 2.34.2.3 One of the Contractor’s owners failed to timely submit accurate information required under 42 C.F.R. 455, Subpart E (42 C.F.R. 455.416(d)).
- 2.34.2.4 The Contractor’s agent, managing employee, general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of the Contractor, failed to timely submit accurate information required under 42 C.F.R. 455, Subpart E (42 C.F.R. 455.416(d)).
- 2.34.2.5 One of the Contractor’s owners did not cooperate with any screening methods required under 42 C.F.R. 455, Subpart E.
- 2.34.2.6 One of the Contractor’s owners has been convicted of a criminal offense related to that person’s involvement with the

Medicare, Medicaid, or title XXI program in the last ten (10) years (42 C.F.R. 455.416(b)).

- 2.34.2.7 The Contractor has been terminated under title XVIII of the Social Security Act, or under any states' Medicaid or CHIP program (42 C.F.R. 455.416(c)).
- 2.34.2.8 One of the Contractor's owners fails to submit sets of fingerprints in a form and manner to be determined by HCA within thirty (30) days of a CMS or HCA request (42 C.F.R. 455.416(e); 42 C.F.R. 455.450(d)).
- 2.34.2.9 The Contractor failed to permit access to one (1) of the Contractor's locations for site visits under 42 C.F.R. § 455.432 (42 C.F.R. 455.416(f)).
- 2.34.2.10 The Contractor has falsified any information provided on its application (42 C.F.R. § 455.416(g)).

2.35 Termination for Convenience

Notwithstanding any other provision of this Contract, the HCA may, by giving thirty (30) calendar days written notice, beginning on the second day after the mailing, terminate this Contract in whole or in part when it is in the best interest of HCA, as determined by HCA in its sole discretion. If this Contract is so terminated, HCA shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination.

2.36 Terminations: Pre-termination Processes

- 2.36.1 Either party to the Contract shall give the other party to the Contract written notice, as described in the Notices section of the General Terms and Conditions of this Contract, of the intent to terminate this Contract and the reason for termination.
- 2.36.2 HCA shall provide written notice to the Contractor's Enrollees of the decision to terminate the Contract and indicate whether the Contractor may Appeal the decision.
- 2.36.3 If either party disagrees with the other party's decision to terminate this Contract, that party will have the right to a dispute resolution as described in the Disputes section of this Contract.

2.37 Savings

In the event funding from any state, federal, or other sources is withdrawn, reduced, or limited in any way after the date this Contract is signed and prior to the termination date, HCA may, in whole or in part, suspend or terminate this Contract upon fifteen (15) calendar days' prior written notice to Contractor or upon the effective date of withdrawn or reduced funding, whichever occurs earlier. At HCA's sole discretion the Contract may be renegotiated under the revised funding conditions. If this Contract is so terminated or suspended, HCA shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date.

2.38 Termination - Information on Outstanding Claims

In the event this Contract is terminated, the Contractor shall provide HCA, within ninety (90) calendar days, all available information reasonably necessary for the reimbursement of any outstanding claims or bills for GFS services to Enrollees. Information and reimbursement of such claims is subject to the provisions of the Payment and Sanctions Section of this Contract.

2.39 Administrative Simplification

The Contractor shall comply with the requirements of RCW 70.14.155 and Chapter 48.165 RCW.

- 2.39.1 To maximize understanding, communication, and administrative economy among all Managed Care Contractors, their Subcontractors, governmental entities, and Enrollees, Contractor shall use and follow the most recent updated versions of:
- Current Procedural Terminology (CPT).
 - International Classification of Diseases (ICD).
 - Healthcare Common Procedure Coding System (HCPCS).
 - The Diagnostic and Statistical Manual of Mental Disorders.
 - NCPDP Telecommunication Standard D.O.
 - Medi-Span® Master Drug Data Base or other nationally recognized drug data base with approval by HCA.
- 2.39.2 The Contractor must follow National Correct Coding Initiative (NCCI) policies to control improper coding that leads to inappropriate payments. The Contractor must incorporate compatible NCCI methodologies in its payment systems for processing claims. The NCCI editing should occur in addition to current procedure code review and editing by the Contractor's claims payment systems.
- 2.39.3 In lieu of the most recent versions, Contractor may request an exception. HCA's consent thereto will not be unreasonably withheld.
- 2.39.4 Contractor may set its own conversion factor(s), including special code-specific or group-specific conversion factors, as it deems appropriate.

3. MARKETING AND INFORMATION REQUIREMENTS

3.1 Marketing

- 3.1.1 All Marketing materials must be reviewed by and have written approval of HCA prior to distribution. Marketing materials must be developed and submitted in accordance with the Marketing Guidelines developed and distributed by the HCA. Marketing materials include any items developed by the Contractor for distribution to Enrollees or Potential Enrollees that are intended to provide information about the Contractor's benefit administration, including:
 - 3.1.1.1 Print media;
 - 3.1.1.2 Websites; and
 - 3.1.1.3 Electronic Media (Television/Radio/Internet/Social Media).
- 3.1.2 Marketing materials shall not contain misrepresentations, or false, inaccurate or misleading information.
- 3.1.3 Marketing materials must be distributed in all service areas the Contractor serves.
- 3.1.4 Marketing materials shall not contain an invitation, implied or implicit, for an Enrollee to change from one (1) MCO to the Contractor, or imply that the Contractor's benefits are substantially different from any other BHSO MCO.
- 3.1.5 Marketing materials must be in compliance with the Equal Access for Enrollees and Potential Enrollees with Communication Barriers provisions of this Section.
 - 3.1.5.1 Marketing materials in English must give directions for obtaining understandable materials in the population's primary languages, as identified by HCA.
 - 3.1.5.2 HCA may determine, in its sole judgment, if materials that are primarily visual, auditory, or tactile meet the requirements of this Contract.
- 3.1.6 The Contractor shall not make any assertion or statement, whether written or oral, in Marketing materials that the Contractor is endorsed by CMS, the federal or State government or similar entity.
- 3.1.7 The Contractor may participate in community events, including health fairs, educational events, and booths at other community events.

3.2 Information Requirements for Enrollees and Potential Enrollees

- 3.2.1 The Contractor shall provide to new Enrollees the information needed to understand benefit coverage and obtain care in accordance with the provisions of this Section. Specifically, the Contractor shall provide information to Enrollees on the GFS services, including how to access them.

The information shall be provided at least once a year upon request and within fifteen (15) working days of enrollment. In providing this information to the Enrollees, the Contractor may use an existing member handbook that is otherwise provided to Enrollees; however, such handbook must be prior approved in writing by the HCA.

3.2.2 The Contractor shall submit branding materials developed by the Contractor that specifically mention GFS services for review and approval. No such materials shall be disseminated to Enrollees, providers or other members of the public without HCA's approval.

3.2.3 The Contractor shall submit Enrollee information developed by the Contractor that specifically mentions GFS services provided under this Contract at least thirty (30) calendar days prior to distribution for review and approval. All other Enrollee materials shall be submitted as informational. HCA may waive the thirty (30) day requirement if, in HCA's sole judgment, it is in the best interest of HCA and its clients to do so.

3.3 **Equal Access for Enrollees and Potential Enrollees with Communication Barriers**

The Contractor shall assure equal access for all Enrollees and Potential Enrollees when oral or written language communications creates a barrier to such access. (42 C.F.R. § 438.10).

3.3.1 Oral Information

3.3.1.1 The Contractor shall assure that interpreter services are provided for Enrollees and Potential Enrollees with a primary language other than English or who are deaf or hearing impaired, free of charge. Interpreter services shall be provided for all interactions between such Enrollees or Potential Enrollees and the Contractor or any of its providers including, but not limited to:

3.3.1.1.1 Customer service,

3.3.1.1.2 All appointments with any provider for any covered service,

3.3.1.1.3 Emergency services, and

3.3.1.1.4 All steps necessary to file Grievances and Appeals including requests for Independent Review of Contractor decisions (Chapter 284-43 WAC).

3.3.1.2 The Contractor is responsible for payment for interpreter services for Contractor administrative matters including, but not limited to handling Enrollee Grievances and Appeals.

3.3.1.3 HCA is responsible for payment of interpreter services provided when the interpreter service is requested through, authorized,

and provided by the HCA's Interpreter Services program vendor and complies with all program rules.

3.3.1.4 Hospitals are responsible for payment for interpreter services during inpatient stays.

3.3.1.5 Public entities, such as Public Health Departments, are responsible for payment for interpreter services provided at their facilities or affiliated sites.

3.3.1.6 American Sign Language (ASL) interpreter services include the provision of interpreters for Enrollees and Potential Enrollees who are deaf or hearing impaired at no cost to the Enrollee or Potential Enrollee (42 C.F.R. § 438.10(c)(4)).

3.3.2 Written Information

3.3.2.1 The Contractor shall provide all generally available and Enrollee-specific written materials in a language and format which may be understood by each individual Enrollee and Potential Enrollee if five percent (5%) or more of the Contractor's Enrollees speak a language other than English (42 C.F.R. § 438.10(c)(3) and 438.10(d)(1)(ii)).

3.3.2.2 For Enrollees whose primary language is not translated or whose need cannot be addressed by translation under the preceding subsection as required by the provisions of this Section, the Contractor may meet the requirement of this Section by doing any one of the following:

3.3.2.2.1 Translating the material into the Enrollee's or Potential Enrollee's primary reading language.

3.3.2.2.2 Providing the material in an audio format in the Enrollee's or Potential Enrollee's primary language.

3.3.2.2.3 Having an interpreter read the material to the Enrollee or Potential Enrollee in the Enrollee's primary language.

3.3.2.2.4 Providing the material in another alternative medium or format acceptable to the Enrollee or Potential Enrollee. The Contractor shall document the Enrollee's or Potential Enrollee's acceptance of the material in an alternative medium or format in the Enrollee's record.

3.3.2.2.5 Providing the material in English, if the Contractor documents the Enrollee's or Potential Enrollee's preference for receiving material in English.

- 3.3.3 The Contractor shall ensure that all written information provided to Enrollees or Potential Enrollees is accurate, is not misleading, is comprehensible to its intended audience, designed to provide the greatest degree of understanding, is written at the sixth grade reading level, and fulfills other requirements of the Contract as may be applicable to the materials.
- 3.3.4 HCA may make exceptions to the sixth (6th) grade reading level when, in the sole judgment of HCA, the nature of the materials do not allow for a sixth grade reading level or the Enrollees' needs are better served by allowing a higher reading level. HCA approval of exceptions to the sixth (6th) grade reading level must be in writing.
- 3.3.5 Educational materials about topics or other information used by the Contractor for health promotion efforts must be submitted to HCA, but do not require HCA approval as long as they do not specifically mention the GFS services provided under this Contract.
- 3.3.6 Educational materials that are not developed by the Contractor or developed under Contract with the Contractor are not required to meet the sixth (6th) grade reading level requirement and do not require HCA approval.
- 3.3.7 All other written materials must have the written approval of HCA prior to use. For Enrollee-specific written materials, the Contractor may use templates that have been pre-approved in writing by HCA. The Contractor must provide HCA with a copy of all approved materials in final form.

3.4 Development of Training Materials for SSS/Social Workers and Caregivers

- 3.4.1 The Contractor shall coordinate with its HCA Contract Manager and DSHS/CA as necessary in the development of training and informational materials directed towards SSS/Social Workers and Caregivers/Parents of IFC Enrollees.
- 3.4.2 The Contractor shall submit trainings that are part of its catalog of nationally-developed health education trainings, where no modifications can be made to the HCA Contract Manager and DSHS/Children's Administration (CA) for an approval or rejection of the complete content.
- 3.4.3 HCA and DSHS/CA shall review and either approve, reject or, where allowed, return training materials to the Contractor for changes within twenty-one (21) calendar days of submission with the mutual intent to finalize the material within thirty (30) calendar days of initial submission.
- 3.4.4 Upon approval, the Contractor will send the training as a health education FYI to the HCA managed care mailbox prior to use.

4. ENROLLMENT

4.1 Statewide Coverage

This program is a statewide program. The Contractor is responsible for provision of covered services described in this Contract to Enrollees in all service areas. The Contractor's policies and procedures related to Enrollment shall ensure compliance with the requirements described in this Section.

4.2 Eligibility and Enrollment

- 4.2.1 To be eligible for GFS services under this Contract, an individual must: (i) be eligible for Medicaid and an Enrollee in the Contractor's plan; and (ii) meet the clinical or program eligibility criteria for the GFS service.
- 4.2.2 Meeting the eligibility requirements under this Contract does not guarantee the Enrollee will receive the GFS service.
- 4.2.3 HCA shall determine Medicaid eligibility for enrollment over the term of this Contract. Individuals eligible for Medicaid and enrolled with the Contractor will be presumed to meet financial eligibility requirements for GFS services.
- 4.2.4 At HCA's direction, the Contractor shall participate in a regional initiative to develop and implement consistent protocols to determine clinical or program eligibility for the limited-benefit GFS services.
- 4.2.5 At HCA's discretion, the Contractor shall participate in developing protocols for individuals with frequent Medicaid eligibility changes (including those individuals who are eligible through spend-down). The protocols will address, at a minimum, coordination with the BH-ASO, referrals, reconciliations and potential transfer of GFS funds to promote Continuity of Care for the individual. Any reconciliations will occur at a frequency determined by HCA but no less than quarterly with potential for up to monthly reconciliations in the last quarter of the allocation year.

4.3 Termination of Enrollment

- 4.3.1 The Enrollee remains eligible for GFS services until HCA has notified the Contractor in writing that enrollment in the IIFC plan is terminated, or the Enrollee no longer meets clinical/program eligibility requirements, contingent on Available Resources.
- 4.3.2 An Enrollee whose enrollment is terminated for any reason, other than incarceration, at any time during the month remains eligible as a Medicaid Enrollee to receive Contracted Services through the end of that month as long as the Enrollee meets the clinical eligibility requirements for the GFS services.

5. PAYMENT AND SANCTIONS

5.1 Funding

- 5.1.1 The funds under this Contract are dependent upon HCA's receipt of continued state and federal funding awards. If HCA does not receive continued state and federal funding awards, HCA may terminate this Contract in accordance with this Contract's General Terms and Conditions.
- 5.1.2 HCA will provide the Contractor with their budget of GFS and proviso annually, identified in Exhibit A. The Contractor's budget is based upon available funding for the regional service area as a whole and the Contractor's share of the eligible enrollment in the region.
- 5.1.3 A maximum of ten percent (10%) of the GFS and proviso funds expended by the Contractor may be used for administrative costs, taxes and other fees per RCW 71.24.330 and must be reported on the quarterly expenditure report, as identified in Exhibit B.
- 5.1.4 HCA will pay the Contractor GFS and proviso funds, including the administrative portion, in equal monthly amounts, based upon the budget identified in Exhibit A.
- 5.1.5 The Contractor shall send a quarterly expenditure report to the HCA Contract Manager. The expenditure report format is identified in Exhibit B. The expenditure report is due to the HCA no later than thirty (30) calendar days after the last day of the quarter. The expenditures reported shall represent the payments made for services under this Contract during the quarter being reported. The ten percent (10%) administrative load, as identified in Section 5.1.3 will be included on this expenditure report.
- 5.1.6 If the expenditures reported by the Contractor on the expenditure report, exceed the Contractor's budget identified in Exhibit A, HCA will not pay the Contractor for the amount that exceeds the budget.
- 5.1.7 After July 1, 2019, HCA will perform a reconciliation of the Contractor's expenditure reports to their budget. Based upon the results of the reconciliation, at HCA's discretion, the allocation and distribution of GFS and proviso funds may be reevaluated and unspent funds may be reallocated retrospectively.
- 5.1.8 Funds paid under this Contract that are not expended by the end of the applicable fiscal year may be used or carried forward to the subsequent applicable fiscal year or to any other Contract. Unspent allocations shall be reported to HCA at the end of the applicable state fiscal year as specified in this Contract. In order to expend these funds the next fiscal year, the Contractor shall submit a Plan to HCA for approval.
- 5.1.9 The Contractor shall ensure that all funds provided pursuant to this Contract, including interest earned, are used to provide services as described in this Contract.

- 5.1.10 HCA shall not be obligated to provide funding to the Contractor for any services or activities performed prior to the effective date of this Contract.
- 5.1.11 The Contractor shall administer services provided under this Contract in a manner that best maintains Available Resources throughout the Contract period. The Contractor shall maintain financial records that track the funding received and the expenditures for services provided under this Contract by category of service, funding source and state fiscal year.

5.2 **Encounter Data**

- 5.2.1 For purposes of this Subsection:
 - 5.2.1.1 “Encounter” means a single Behavioral Health care service or a period of examination or treatment.
 - 5.2.1.2 “Encounter Data” means records of Behavioral Health care services submitted as electronic data files created by the Contractor’s system in the standard 837 format and the National Council for Prescription Drug Programs (NCPDP) Batch format.
 - 5.2.1.3 “Encounter Record” means the number of service lines or products submitted as line items in the standard 837 format or the National Council for Prescription Drug Programs (NCPDP) Batch format.
 - 5.2.1.4 “Duplicate Encounter” means multiple encounters where all fields are alike except for the ProviderOne Transaction Control Numbers (TCNs) and the Contractor’s Claim Submitter’s Identifier or Transaction Reference Number.
- 5.2.2 The Contractor shall submit and maintain accurate, timely and complete data as to not cause harm to rate development and enhanced payments that are dependent upon accurate encounter data. The Contractor shall comply with the following:
- 5.2.3 Designate a person dedicated to work collaboratively with HCA on quality control and review of encounter data submitted to HCA.
 - 5.2.3.1 Submit to HCA complete, accurate, and timely data for all services for which the Contractor has incurred any financial liability, whether directly or through subcontracts or other arrangements in compliance with current encounter submission guidelines as published by HCA. The Contractor shall submit encounter data using assigned program identifiers corresponding to each program (e.g., IAHFC, BHSO, etc.) the Contractor provides. The data shall adhere to the following data quality standards:
 - 5.2.3.1.1 Encounter data must be submitted to HCA at a minimum monthly, and no later than thirty (30)

- calendar days from the end of the month in which the Contractor paid the financial liability;
- 5.2.3.1.2 Submitted encounters and encounter records must pass all HCA ProviderOne system edits with a disposition of accept and listed in the Encounter Data Reporting Guide or sent out in communications from HCA to the Contractor; and
- 5.2.3.1.3 Submitted encounters or encounter records must not be a duplicate of a previously submitted and accepted encounter or encounter record unless submitted as an adjustment or void per HIPAA Transaction Standards.
- 5.2.3.2 These data quality standards are listed within this Contract and incorporated by reference into this Contract. The Contractor shall make changes or corrections to any systems, processes or data transmission formats as needed to comply with HCA's data quality standards as defined and subsequently amended.
- 5.2.4 The Contractor must report the paid date, paid unit and paid amount paid for each encounter. The "paid amount" data is considered the Contractor's proprietary information and is protected from public disclosure under RCW 42.56.270(11). Paid amount shall not be utilized in the consideration of a Contractor's assignment percentage or in the evaluation of a Contractor's performance.
- 5.2.5 HCA shall perform encounter data quality reviews to ensure receipt of complete and accurate encounter data for program administration and rate setting.
- 5.2.6 The Contractor must certify the accuracy and completeness of all encounter data concurrently with each file upload (42 C.F.R. § 438.606). The certification must affirm that:
- 5.2.6.1 The Contractor has reported to HCA for the month of (indicate month and year) all paid claims for all claim types; and
- 5.2.6.2 The Contractor has reviewed the claims data for the month of submission;
- 5.2.6.3 The Contractor's Chief Executive Officer, Chief Financial Officer, or an individual who has delegated authority to sign for, and who reports directly to, the Contractor's Chief Executive Officer or Chief Financial Officer attest that based on best knowledge, information, and belief as of the date indicated, all information submitted to HCA in the submission is accurate, complete, truthful, and they hereby certify that no material fact has been omitted from the certification and submission.
- 5.2.7 HCA collects and uses this data for many reasons such as: Audits, investigations, identifications of improper payments and other program

integrity activities, federal reporting (42 C.F.R. § 438.242(b)(1)), rate setting and risk adjustment, service verification, Managed Care quality improvement program, utilization patterns and access to care; HCA hospital rate setting; pharmacy rebates, and research studies.

5.2.8 Additional detail can be found in the Encounter Data Reporting Guide and Service Encounter Reporting Instructions (SERI) Guide published by HCA and incorporated by reference into this Contract:

5.2.8.1 HCA may change the Encounter Data Reporting Guide and SERI Guide with ninety (90) calendar days' written notice to the Contractor.

5.2.8.2 The Encounter Data Reporting Guide and SERI Guide may be changed with less than ninety (90) calendar days' notice by mutual agreement of the Contractor and HCA.

5.2.8.3 The Contractor shall, upon receipt of such notice from HCA, provide notice of changes to subcontractors.

5.2.9 The Contractor shall ensure that final reporting of encounters for services provided under this Contract shall occur no more than ninety (90) days after the end of each fiscal year of this Contract.

5.3 **Non-Compliance**

5.3.1 Failure to Maintain Reporting Requirements

5.3.1.1 In the event the Contractor or a Subcontractor fails to maintain its reporting obligations under this Contract, HCA reserves the right to withhold reimbursements to the Contractor until the obligations are met.

5.3.2 Recovery of Costs Claimed in Error

5.3.2.1 If the Contractor claims and HCA reimburses for expenditures under this Contract which HCA later finds were (1) claimed in error or (2) not allowable costs under the terms of the Contract, HCA shall recover those costs and the Contractor shall fully cooperate with the Recovery.

5.3.3 Stop Placement

5.3.3.1 HCA may stop the placement of Enrollee in a treatment facility immediately upon finding that the Contractor or a Subcontractor is not in substantial compliance, as determined by HCA, with provisions of the Contract or any WAC related to behavioral health treatment. The treatment facility will be notified by HCA of this decision in writing.

5.3.4 Additional Remuneration Prohibited

- 5.3.4.1 The Contractor shall not charge or accept additional fees from any patient, relative, or any other person, for GFS services provided under this Contract other than those specifically authorized by HCA. The Contractor shall require its Subcontractors to adhere to this requirement. In the event the Contractor or Subcontractor charges or accepts prohibited fees, HCA shall have the right to assert a claim against the Contractor or Subcontractors on behalf of the client, per RCW 74.09. Any violation of this provision shall be deemed a material breach of this Contract.

5.4 Overpayments or Underpayments

- 5.4.1 If, at HCA's sole discretion, HCA determines as a result of data errors or inadequacies, policy changes beyond the control of the Contractors, or other causes there are material errors or omissions in the allocation of GFS funds, HCA may make prospective and/or retrospective modifications to the allocations, as necessary. At the explicit written approval of HCA, the Contractor can elect to make a lump sum or similar arrangement for payment.

5.5 Sanctions

- 5.5.1 HCA may initiate remedial action if it is determined that any of the following situations exist:
 - 5.5.1.1 A problem exists that negatively impacts Enrollees receiving services.
 - 5.5.1.2 The Contractor has failed to perform any of the GFS services required in this Contract.
 - 5.5.1.3 The Contractor has failed to develop, produce, and/or deliver to HCA any of the statements, reports, data, data corrections, accountings, claims, and/or documentation described herein, in compliance with all the provisions of this Contract.
 - 5.5.1.4 The Contractor has failed to perform any administrative function required under this Contract. For the purposes of this section, "administrative function" is defined as any obligation other than the actual provision of Behavioral Health services.
 - 5.5.1.5 The Contractor has failed to implement corrective action required by the state and within HCA prescribed timeframes.
- 5.5.2 HCA may impose any of the following remedial actions:
 - 5.5.2.1 Require the Contractor to develop and execute a corrective action plan. Corrective action plans developed by the Contractor must be submitted for approval to HCA within thirty (30) calendar days of notification. Corrective action plans may require modification of any policies or procedures by the Contractor relating to the fulfillment of its obligations pursuant to

this Contract. HCA may extend or reduce the time allowed for corrective action depending upon the nature of the situation.

5.5.2.1.1 Corrective action plans must include:

5.5.2.1.1.1 A brief description of the situation requiring corrective action.

5.5.2.1.1.2 The specific actions to be taken to remedy the situation.

5.5.2.1.1.3 A timetable for completion of the actions.

5.5.2.1.1.4 Identification of individuals responsible for implementation of the plan.

5.5.2.1.2 Corrective action plans are subject to approval by HCA, which may:

5.5.2.1.2.1 Accept the plan as submitted.

5.5.2.1.2.2 Accept the plan with specified modifications.

5.5.2.1.2.3 Request a modified plan.

5.5.2.1.2.4 Reject the plan.

5.5.3 HCA will withhold up to five percent (5%) of the next payment and each payment thereafter until the corrective action has achieved resolution. The amount of the withhold will be based on the severity of the situation as detailed in this section. HCA, at its sole discretion, may return a portion or all of any payments withheld once satisfactory resolution has been achieved.

5.5.4 Increase withholdings identified above by up to an additional three percent (3%) for each successive month during which the remedial situation has not been resolved.

5.5.5 Deny any incentive payment to which the Contractor might otherwise have been entitled under this Contract.

5.5.6 Terminate for Default as described in the General Terms and Conditions.

6. ACCESS TO CARE AND PROVIDER NETWORK

6.1 Network Capacity

- 6.1.1 The Contractor shall maintain and monitor an appropriate and adequate provider network, supported by written agreements, sufficient to provide GFS services under this Contract to its Enrollees. The Contractor may provide Contracted Services through Non-Participating Providers, at a cost to the Enrollee that is no greater than if the Contracted Services were provided by Participating Providers, if its network of Participating Providers is insufficient to meet the medical needs of Enrollees in a manner consistent with this Contract. To the extent necessary to comply with the provider Network Adequacy and distance standards required under this Contract, the Contractor may offer contracts to providers in bordering states. The Contractor's provider contracts with providers in bordering states must ensure access to necessary care, including inpatient and outpatient services and must coordinate with Oregon and Idaho providers to explore opportunities for reciprocal arrangements that allow Washington, Oregon, and Idaho border residents to access care when care is appropriate, available, and cost-effective.
- 6.1.2 The Contractor must submit documentation quarterly assuring adequate capacity and services, including information regarding its maintenance, monitoring and analysis of the network to include full provider network submissions to determine compliance with the requirements of this Section, at any time upon HCA request or when there has been a change in the Contractor's network or operations that, in the sole judgment of HCA, would affect adequate capacity and/or the Contractor's ability to provide services. The quarterly reports shall include a one (1) page narrative describing the contracting activities in bordering communities and service areas. The quarterly reports are due no later than the 15th of the month following the quarter.
- 6.1.3 The Contractor shall submit updated provider network information as requested by HCA:
 - 6.1.3.1 At the time it enters into a Contract with HCA and within ten (10) business days of HCA's request.
 - 6.1.3.2 At any time there has been a significant change in the Contractor's operations that would affect adequate capacity and services, including:
 - 6.1.3.2.1 Changes in GFS services, geographic service area;
 - 6.1.3.2.2 The termination or addition of a subcontract with an entity that provides Behavioral Health services, the closing of a Subcontractor site that is providing services under this Contract or temporary inability of a subcontracted provider to deliver services such as strike or other work stoppage;

- 6.1.3.2.3 Enrollment of a new population in the Contractor;
 - 6.1.3.2.4 The closing of a Subcontractor, agency or provider that is providing services under this Contract; and
 - 6.1.3.2.5 Any other changes that result in the Contractor being unable to meet access including a decrease in the number or frequency of a required service, employee strike or other work stoppage related to union activities, or any changes that results in the Contractor being unable to provide timely services.
- 6.1.4 The Contractor shall notify HCA ninety (90) days prior to terminating any of its Subcontracts with entities that provide direct services or entering into new subcontracts with entities that provide direct services. This notification shall occur prior to any public announcement of this change.
- 6.1.4.1 If a Subcontract is terminated in less than ninety (90) days or a site closure occurs in less than ninety (90) days, the Contractor shall notify HCA as soon as possible and prior to a public announcement.
 - 6.1.4.2 If a subcontract is terminated or a site closes, the Contractor shall submit a plan to HCA that includes at a minimum:
 - 6.1.4.2.1 Notification to Ombuds services;
 - 6.1.4.2.2 Individual notification plan;
 - 6.1.4.2.3 Plan for provision of uninterrupted services; and
 - 6.1.4.2.4 Any information released to the media.
 - 6.1.4.3 HCA reserves the right to impose sanctions, in accordance with the sanctions subsection of this Contract, if the Contractor was notified by the terminating provider in a timely manner and does not comply with the notification requirements of this Section.
 - 6.1.4.3.1 If the Contractor does not receive timely notification from the terminating provider, the Contractor shall provide documentation of the date of notification along with the notice of loss of a Material Provider.
- 6.1.5 The updated provider network information will be reviewed by HCA for:

- 6.1.5.1 Completeness and accuracy;
 - 6.1.5.2 The need for HCA provision of technical assistance;
 - 6.1.5.3 Removal of providers who no longer contract with the Contractor; and
 - 6.1.5.4 The effect that the change(s) in the provider network will have on the network's compliance with the requirements of this Section.
- 6.1.6 The Contractor shall incorporate the following requirements when developing its network:
- 6.1.6.1 Only licensed Behavioral Health providers shall provide Behavioral Health services to Enrollees. Licensed Behavioral Health providers include, but are not limited to, Health Care Professionals, licensed agencies or clinics, or non-licensed professionals operating under an agency affiliated license.
 - 6.1.6.2 The Contractor shall establish and maintain contracts with Washington State determined Essential Behavioral Health Providers. The current list of Essential Behavioral Health Providers can be found in Exhibit D.
 - 6.1.6.3 The Contractor shall, in partnership with the BH-ASO, assist the state to expand community-based alternatives for crisis stabilization, such as mobile crisis or crisis residential and respite beds.
 - 6.1.6.4 The Contractor shall assist the state to expand community-based, recovery-oriented services and research- and evidence-based practices.
 - 6.1.6.5 The Contractor shall implement an adequate plan to provide Evaluation and Treatment services to Enrollees, which may include the development of less restrictive alternative to involuntary treatment or prevention programs reasonably calculated to reduce the demand for Evaluation and Treatment services.
- 6.1.7 If the Contractor, in HCA's sole opinion, and in conjunction with recommendations provided by the ACH, fails to maintain an adequate network of Behavioral Health providers in any contracted service area for two (2) consecutive quarters, and after notification following the first quarter, HCA reserves the right to immediately terminate the Contractor's services for that service area. The network established under the Contract must complement and support the network of Medicaid providers established by the IAHFC Medicaid Contract.
- 6.1.8 The Contractor shall update and maintain the Contractor's existing provider manual to include all relevant information regarding GFS services and requirements.

- 6.1.9 The Contractor shall update its existing database to meet the following requirements:
 - 6.1.9.1 Includes a list of all GFS providers.
 - 6.1.9.2 Includes the providers' names, locations, telephone numbers, GFS services offered, clinical specialty and areas of expertise.
 - 6.1.9.3 Includes a description of each provider's language(s) spoken and if appropriate, a brief description of the provider's skills or experiences that would support the cultural or linguistic needs of its Enrollees when provided by a provider.
 - 6.1.9.4 Indicates whether each provider has capacity to serve new patients and the limits on capacity for each provider.
 - 6.1.9.5 Updates to the provider database shall be made: no less than quarterly or whenever there is a change in the Contractor's network that would affect adequate capacity in a service area.
 - 6.1.9.6 Contractor program staff shall be available to conduct provider searches based on office or facility location, clinical specialty, provider discipline, provider capacity, available languages and allowable fund sources (e.g., Medicaid, GFS).

6.2 Service Delivery Network

- 6.2.1 In establishing, maintaining, monitoring and reporting of its network, the Contractor must consider the following:
 - 6.2.1.1 The impact of anticipated enrollment levels, expected utilization of services, characteristics and health care needs of the population, the number and types of providers (training, experience and specialization) able to furnish services, and the geographic location of providers and individuals (including distance, travel time, means of transportation ordinarily used by clients, and whether the location is ADA accessible) for all Contractor funded Behavioral Health programs and services on the availability of GFS services.
- 6.2.2 The Contractor and its Subcontractors shall:
 - 6.2.2.1 Ensure that all services and activities provided under this Contract shall be designed and delivered in a manner sensitive to the needs of all diverse populations;
 - 6.2.2.2 Initiate actions to ensure or improve access, retention, and cultural relevance of treatment, prevention or other appropriate services, for ethnic minorities and other diverse populations in

need of services under this Contract as identified in their needs assessment; and

- 6.2.2.3 Take the initiative to strengthen working relationships with other agencies serving these populations.

6.1 **Unavailable Detention Facilities Records**

- 6.1.1 The Contractor shall collaborate with the Behavioral Health Administrative Service Organization (BH-ASO) when a Designated Mental Health Professional (DMHP) reports they are unable to find an available bed for an Enrollee who meets detention criteria (RCW 71.05.150, 71.05.153, 71.34.700 or 71.34.710). Collaboration includes:

- 6.1.1.1 Developing a plan for engaging the Enrollee in appropriate treatment services for which the person is eligible.
- 6.1.1.2 Reporting to HCA within seven (7) calendar days (of receiving the notification from HCA), the plan and attempts made to engage the person in services, including involuntary treatment.

6.2 **Hours of Operation for Network Providers**

The Contractor must require that network providers offer hours of operation for Enrollees that are no less than the hours of operation offered to any other patient.

6.3 **24/7 Availability**

The Contractor shall have the following services available twenty-four (24) hour-a-day, by a toll free telephone number. These services may be provided directly by the Contractor or may be delegated to subcontractors. The Contractor shall have a single toll-free number for Enrollees to call regarding Medicaid and GFS services at its expense. The Contractor shall not have a separate toll-free number for GFS services.

- 6.3.1 Medical and Behavioral Health advice for Enrollees from licensed Health Care Professionals.
- 6.3.2 Authorization of urgent and emergency services, including emergency care and services provided outside the Contractor's service area.
- 6.3.3 The toll-free line staff must be able to make a warm handoff to the regional crisis line managed by the BH-ASO.
- 6.3.4 Information, triage and referral for GFS funded services with access to licensed Health Care Professionals and, licensed agencies or clinics to address emergent or urgent needs.

6.4 **Customer Service**

The Contractor shall provide adequate staff to provide customer service representation at a minimum from 8:00 a.m. to 5:00 p.m., Pacific Time, Monday through Friday, year round and shall provide customer service on all dates that are recognized as work days for state employees. HCA may authorize exceptions to this

requirement if the Contractor provides HCA with written assurance that its providers will accept enrollment information from HCA.

- 6.4.1 The Contractor shall report by December 1st of each year its scheduled non-business days for the upcoming calendar year.
- 6.4.2 The Contractor must notify HCA five (5) business days in advance of any non-scheduled closure during scheduled business days, except in the case when advanced notification is not possible due to emergency conditions.
- 6.4.3 The Contractor Enrollee customer service centers, if any, shall comply with the following customer service performance standards:
 - 6.4.3.1 Telephone abandonment rate – standard is less than three percent (3%).
 - 6.4.3.2 Telephone response time – average speed of answer within thirty (30) seconds.
- 6.4.4 The Contractor provider help desks, if any, shall comply with the following customer service performance standards:
 - 6.4.4.1 Telephone abandonment rate – standard is less than three percent (3%).
 - 6.4.4.2 Telephone response time – average speed of answer within thirty (30) seconds.
- 6.4.5 The Contractor shall staff its call center with a sufficient number of trained customer service representatives to answer the phones. Staff shall be able to access information regarding GFS service eligibility requirements and benefits; navigation of the eligibility systems to access Medicaid benefits and GFS services; refer for Behavioral Health services; Appeal or Grievance; and resolve and triage Grievances and Appeals.
- 6.4.6 The Contractor shall submit its customer services policies and procedures to the HCA for review. Customer services policies and procedures shall address the following:
 - 6.4.6.1 Information on the GFS services including where and how to access them;
 - 6.4.6.2 Authorization requirements;
 - 6.4.6.3 Requirements for responding promptly to family members and other service systems including, but not limited to the regional BH-ASO, BHO, law enforcement, criminal justice system and social services; and
 - 6.4.6.4 Assisting and triaging Enrollees with access to qualified clinicians without placing the Enrollee on hold. The qualified clinician shall assess the crisis and warm transfer the call to the BH-ASO or its designated crisis provider(s), call 911, refer the

Enrollee for services or to his or her provider, or resolve the crisis as appropriate.

- 6.4.7 The Contractor shall train customer services representatives on revised GFS policies and procedures.

6.5 **Data Collection**

- 6.5.1 The Contractor shall collect and report on patient information as specified in this Contract. The Contractor's disclosure of individually identifiable information is authorized by law, including 42 C.F.R. § 2.53, authorizing disclosure of patient records for purposes of Medicaid evaluation.

6.6 **Provider Database**

The Contractor shall have, maintain, and provide to HCA upon request an up-to-date database of its provider network. In populating its database, the Contractor shall obtain the following information: the identity, location, languages spoken (when this information is supplied by the provider), qualifications, practice restrictions, and availability of all current contracted providers, including specialty providers.

- 6.6.1 The Contractor shall prepare a network inventory, including licensure, to quantify the number of providers offering GFS services.

6.7 **Access to Services**

- 6.7.1 The Contractor shall, subject to allocated and available funds, ensure that services are not denied to any eligible Enrollee regardless of:
 - 6.7.1.1 The Enrollee's drug(s) of choice.
 - 6.7.1.2 The fact that an Enrollee is taking medically-prescribed medications.
 - 6.7.1.3 The fact that a person is using over the counter nicotine cessation medications or actively participating in a Nicotine Replacement Therapy regimen.
- 6.7.2 Enrollees cannot be required to relinquish custody of minor children in order to access residential SUD treatment services.
- 6.7.3 A pregnant woman who is unable to access residential treatment due to lack of capacity and is in need of detoxification, can be referred to a Chemical Using Pregnant (CUP) program for admission, typically within twenty-four (24) hours.

7. QUALITY ASSESSMENT AND PERFORMANCE IMPROVEMENT

7.1 Quality Management Program

- 7.1.1 The Contractor shall ensure its Quality Management (QM) Program addresses GFS requirements.
- 7.1.2 The Contractor shall comply with the following QM requirements:
 - 7.1.2.1 The Contractor shall participate in the single RSA Community Behavioral Health Advisory Board (CBHA) in each region of the State

7.2 Quality Review Activities

- 7.2.1 The HCA, Office of the State Auditor, or any of their dully-authorized representatives, may conduct announced and unannounced:
 - 7.2.1.1 Surveys, audits and reviews of compliance with licensing and certification requirements and the terms of this Contract;
 - 7.2.1.2 Audits regarding the quality, appropriateness, and timeliness of Behavioral Health services provided under this Contract; and
 - 7.2.1.3 Audits and inspections of financial records.
- 7.2.2 The Contractor shall participate with HCA in review activities. Participation will include at a minimum:
 - 7.2.2.1 The submission of requested materials necessary for an HCA initiated review within thirty (30) days of the request.
 - 7.2.2.2 The completion of site visit protocols provided by HCA.
 - 7.2.2.3 Assistance in scheduling interviews and agency visits required for the completion of the review.
- 7.2.3 The Contractor shall notify HCA when an entity other than the State Auditor performs any audit described above related to any activity contained in this Contract.

7.3 Performance-Based Goals and Other Reporting Requirements

- 7.3.1 At HCA's discretion, performance will be linked to payment.
- 7.3.2 HCA defined reporting and data submission methods for Performance Measurement and Reporting:
 - 7.3.2.1 The Contractor shall comply with the reporting and data submissions requirements as directed by HCA and shall make reports available to HCA at least annually through the HCA monitoring process or more frequently, as requested by HCA. Should the HCA adopt a subsequent set of requirements during

the term of this Contract, the HCA shall update the performance requirements as necessary.

7.3.3 All performance measures are subject to an audit; HCA will fund the audit.

7.3.4 The Contractor shall report all instances of suspected patient abuse to HCA.

7.4 Practice Guidelines

7.4.1 The Contractor shall adopt Behavioral Health practice guidelines known to be effective in improving health outcomes. Practice guidelines shall meet the following requirements:

7.4.1.1 Valid and reliable clinical scientific evidence;

7.4.1.2 In the absence of scientific evidence, on professional standards; or

7.4.1.3 In the absence of scientific evidence and professional standards, a consensus of Health Care Professionals in the particular field.

7.4.2 The Contractor may adopt guidelines developed by recognized sources that develop or promote evidence-based clinical practice guidelines such as United States Preventive Services Task Force (USPSTF), voluntary health organizations, National Institute of Health Centers, or the Substance Abuse and Mental Health Services Administration (SAMHSA). If the Contractor does not adopt guidelines from recognized sources, board-certified practitioners must participate in the development of the guidelines. The guidelines shall:

7.4.2.1 Be age appropriate to address the special needs or considerations that are driven by age.

7.4.2.2 Consider the needs of Enrollees and support client and family involvement in care plans.

7.4.2.3 Be adopted in consultation with contracting Health Care Professionals within the state of Washington, or, when applicable, are adopted in consultation with the Behavioral Health professionals in the Contractor's contracted network.

7.4.2.4 Be reviewed and updated at least every two (2) years and more often if national guidelines change during that time.

7.4.2.5 Be disseminated to all affected providers and, upon request, to HCA, Enrollees and Potential Enrollees.

7.4.2.6 Be distributed to affected providers within sixty (60) calendar days of adoption or revision, identifying which specific guidelines are newly adopted or revised. If distributed via the

Internet, notification of the availability of adopted or revised guidelines must be provided to providers.

7.4.2.7 Be the basis for and are consistent with decisions for utilization management, Enrollee education, coverage of services, and other areas to which the guidelines apply.

7.4.3 The Contractor shall include the Behavioral Health medical director in the evaluation of medications and other emerging technologies for the treatment of Behavioral Health conditions and related decisions. The Contractor shall also have a child psychiatrist available for consultation related to medications and other emerging technologies for the treatment of Behavioral Health conditions in children and adolescents.

7.5 Health Information Systems

The Contractor shall establish and maintain, and shall require Subcontractors to maintain, a health information system that complies with the requirements of 42 C.F.R. § 438.242, 42 C.F.R. § 164, HCA Security Policies and standards 6-05 through 6-15-01, and OCIO Security Standard 141.10, and provides the information necessary to meet the Contractor's obligations under this Contract. HCA Security Policies and Standards. OCIO Security Standards are available at: <https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets>. The Contractor shall have in place mechanisms to verify the health information received from Subcontractors. The Contractor shall:

7.5.1 Collect, analyze, integrate, and report data. The system must provide information on areas including, but not limited to: utilization, Grievance and Appeals.

7.5.2 Ensure data received from providers is accurate and complete by:

7.5.2.1 Verifying the accuracy and timeliness of reported data;

7.5.2.2 Screening the data for completeness, logic and consistency; and

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

7.5.3 Make all collected data available to HCA upon request, to the extent permitted by the HIPAA Privacy Rule (45 C.F.R. Part 160 and Subparts A and E of Part 164), 42 C.F.R. Part 2, and RCW 70.02.005 et seq.

7.5.4 Establish and maintain protocols to support timely and accurate data exchange with any Subcontractor that will perform any delegated functions under the Contract.

7.5.5 Establish and maintain web-based portals with appropriate security features that allow referrals, requests for prior authorizations, encounter submission, for GFS services.

- 7.5.6 Have information systems that enable paperless submission, automated processing and status updates for prior authorization and other utilization management related requests.
- 7.5.7 Maintain Behavioral Health content on a website that meets the following minimum requirements. The Contractor may use its Medicaid website as long as the website includes information on GFS services.
 - 7.5.7.1 Public and secure access via multi-level portals for providing web-based training, standard reporting, and data access for the effective management and evaluation of the performance of the Contract and the service delivery system as described under this Contract.
 - 7.5.7.2 The Contractor shall organize the website to allow for easy access of information by Enrollees, family members, network providers, stakeholders and the general public in compliance with the Americans with Disabilities Act. The Contractor shall include on its website, at a minimum, the following information or links:
 - 7.5.7.2.1 Hours of operations;
 - 7.5.7.2.2 How to access GFS services, including crisis contact information and toll-free crisis telephone numbers;
 - 7.5.7.2.3 Telecommunications device for the deaf/text telephone numbers;
 - 7.5.7.2.4 Information on the right to choose a qualified Behavioral Health service provider, when available and medically necessary;
 - 7.5.7.2.5 An overview of the range of Behavioral Health services being provided;
 - 7.5.7.2.6 Access to Behavioral Health-medical integration tools and supports to support provider integration initiatives;
 - 7.5.7.2.7 Access to information for Transitional Age Youth (TAY);
 - 7.5.7.2.8 A library, for providers and Enrollees, that provides comprehensive information and practical recommendations related to mental illness, addiction and recovery, life events and daily living skills;
 - 7.5.7.2.9 Information regarding community forums, volunteer activities, and workgroups/committees that provide opportunities for Enrollees, family

members, providers and stakeholders to become involved;

7.5.7.2.10 Information regarding advocacy organizations, including how Enrollees and other family members may access advocacy services; and

7.5.7.2.11 Opportunities, including surveys, for Enrollees, family members, network providers, and other stakeholders to provide satisfaction/complaint feedback.

7.5.8 Data Security Requirements

7.5.8.1 The Contractor shall comply with applicable provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, codified in 42 U.S.C. § 1320(d) et. seq. and 45 C.F.R. Parts 160, 162 and 164l, and HCA Security Policies and Standards 6-05 through 6-15-01 and OCIO Security Standard 141.10. The Contractor will implement physical, administrative, and technical safeguards to assure the confidentiality, integrity, and accessibility of the data. The Contractor will require all Subcontractors to implement those safeguards.

7.5.8.2 The Contractor shall ensure that confidential information provided through or obtained by way of this Contract or services provided, is protected in accordance with the Data Security Requirements described in this section.

7.5.8.3 The Contractor shall maintain a statement on file for each individual service provider and Contractor staff who has access to the Contractor's mental health information system that is signed by the provider and attested to by a witness's signature, acknowledging that the provider understands and agrees to follow all regulations on confidentiality.

7.5.8.4 The Contractor shall take appropriate action if a Subcontractor or Contractor employee wrongly releases confidential information.

7.5.8.5 **Data Transport.** When transporting HCA Confidential Information electronically, including via email, the data will be protected by:

7.5.8.5.1 Transporting the data within the (State Governmental Network) SGN or, if it is secure, Contractor's internal network; or

7.5.8.5.2 Encrypting any data that will be in transit outside the SGN or, if it is secure, Contractor's internal network. This includes transit over the public Internet.

- 7.5.8.6 **Protection of Data.** The Contractor agrees to store data in a manner that follows HIPAA security measures.
- 7.5.8.7 Data Segregation.
 - 7.5.8.7.1 HCA data must be segregated or otherwise distinguishable from non-HCA data. This is to ensure that when no longer needed by the Contractor, all HCA data can be identified for return or destruction. It also aids in determining whether HCA data has or may have been compromised in the event of a security breach.
 - 7.5.8.7.2 The Contractor shall store HCA data:
 - 7.5.8.7.2.1 On media (e.g. hard disk, optical disc, tape, etc.) which will contain no non-HCA data; or
 - 7.5.8.7.2.2 In a logical container on electronic media, such as a partition or folder dedicated to HCA data; or
 - 7.5.8.7.2.3 In a database which will contain no non-HCA data; or
 - 7.5.8.7.2.4 Within a database and will be distinguishable from non-HCA data by the value of a specific field or fields within database records; or
 - 7.5.8.7.2.5 Physically segregated from non-HCA data in a locked container, when stored as physical paper documents.
 - 7.5.8.7.3 When it is not feasible or practical to segregate HCA data from non-HCA data, then both the HCA data and the non-HCA data with which it is co-mingled must be protected as described in this section.
- 7.5.8.8 **Data Disposition.** When the contracted work has been completed or when no longer needed, data shall be returned to HCA or destroyed. When contractor destroys data, it will keep

no copies. Media on which data may be stored and associated acceptable methods of destruction are as follows:

Data stored on:	Will be destroyed by:
Server or workstation hard disks, or Removable media (e.g. floppies, USB flash drives, portable hard disks, Zip or similar disks)	Using a “wipe” utility which will overwrite the data at least three (3) times using either random or single character data, or Degaussing sufficiently to ensure that the data cannot be reconstructed, or Physically destroying the disk
Paper documents with sensitive or confidential data	Recycling through a contracted firm provided the contract with the recycler assures that the confidentiality of data will be protected.
Paper documents containing confidential information requiring special handling (e.g. protected health information)	On-site shredding, pulping, or incineration
Optical discs (e.g. CDs or DVDs)	Incineration, shredding, or completely defacing the readable surface with a coarse abrasive
Magnetic tape	Degaussing, incinerating or crosscut shredding

7.5.8.9 Notification of Compromise or Potential Compromise. The Contractor shall report the compromise or potential compromise of HCA shared data to the HCA within one (1) business day of discovery. The report will include at least the following: any omitted information will be added, and any information found to have been incomplete or inaccurate will be supplemented or corrected, within fifteen (15) days of the discovery:

7.5.8.9.1 A description of the incident;

7.5.8.9.2 A description of the types of PHI or PII involved;

- 7.5.8.9.3 An estimate of the number of individuals whose information were or may have been compromised; and
- 7.5.8.9.4 A description of what the Contractor is doing to investigate the matter, mitigate harm to individuals, and avoid further compromise.

7.5.8.10 If Contractor notifies individuals, the Department of Health and Human Services, or the Washington Attorney General of the compromise or possible compromise, pursuant to 45 C.F.R. § 164.400 et seq., RCW 19.255.010, or otherwise, Contractor will give HCA a copy of the notice no later than the day the notice is sent.

7.5.8.11 Data shared with Subcontractors. If HCA data provided under this Contract is to be shared with a Subcontractor, the Contract with the Subcontractor must include all of the data security provisions within this Contract and within any amendments, attachments, or exhibits within this Contract. If the Contractor cannot protect the data as articulated within this Contract, then the Contract with the Subcontractor must be submitted to the HCA for review and approval.

7.6 **Required Reporting for Behavioral Health Services**

7.6.1 The Contractor will comply with required reporting for Behavioral Health services in this Contract for both IIFC and FC-BHSO Enrollees. The Contractor's disclosure of individually identifiable information is authorized by law, including 42 C.F.R. § 2.53, authorizing disclosure of patient records for purposes of Medicaid evaluation.

7.7 **Technical Assistance**

The Contractor may request technical assistance for any matter pertaining to this Contract by contacting HCA.

8. POLICIES AND PROCEDURES

The Contractor shall develop, implement, maintain, comply with and monitor compliance with written policies and procedures related to all requirements of this Contract. The Contractor shall submit policies and procedures to the HCA for review and approval in accordance with 8.2 of this Section, Assessment of Policies and Procedures. The Contractor may use policies and procedures it has developed under other contracts with the HCA to the extent the policies and procedures meet the requirements of this Contract. However, the Contractor shall re-submit such policies and procedures and note that such policy/procedure was previously approved by the HCA under another contract.

8.1 Contractor's Policies and Procedures

The Contractor's policies and procedures shall:

- 8.1.1 Direct and guide the Contractor's employees, Subcontractors, and any non-contracted providers' compliance with all applicable federal, state, and contractual requirements;
- 8.1.2 Fully articulate the Contractor's understanding of the requirements.
- 8.1.3 Have an effective training plan related to the requirements and maintain records of the number of staff participating in training, including evidence of assessment of participant knowledge and satisfaction with the training;
- 8.1.4 Have an effective training plan related to the requirements and maintain records of the number of providers who participate in training, including satisfaction with the training; and
- 8.1.5 Include monitoring of compliance, prompt response to detected non-compliance, and effective corrective action.

8.2 Assessment of Policies and Procedures

- 8.2.1 The Contractor shall complete a self-assessment and provide a list of its policies and procedures related to this Contract to HCA for review and approval. The self-assessment format for the list will be provided by HCA. The Contractor shall complete and submit the self assessment list no later than June 30, 2019; of each year starting in 2017 and thereafter, and in response to corrective action, and any time there is a new policy and procedure or a change to an existing policy and procedure. The Contractor shall also submit copies of policies and procedures upon request by HCA.

9. SUBCONTRACTS

9.1 Contractor Remains Legally Responsible

Subcontracts, as defined herein, may be used by the Contractor for the provision of any service under this Contract, except as limited in Section 9.5. However, the Contractor is legally responsible to HCA for any work performed under this Contract and for oversight of any functions and/or responsibilities it delegates to any Subcontractor.

9.2 Provider Nondiscrimination

- 9.2.1 The Contractor shall not discriminate, with respect to participation, reimbursement, or indemnification, against providers practicing within their licensed scope of practice solely on the basis of the type of license or certification they hold.
- 9.2.2 If the Contractor declines to include individual or groups of providers in its network, it shall give the affected providers written notice of the reason for its decision.
- 9.2.3 The Contractor's policies and procedures on provider selection and retention shall not discriminate against particular providers that serve high-risk populations or specialize in conditions that require costly treatment.
- 9.2.4 Consistent with the Contractor's responsibilities to the Enrollees, this Section may not be construed to:
 - 9.2.4.1 Require the Contractor to contract with providers beyond the number necessary to meet the needs of its Enrollees within Available Resources.
 - 9.2.4.2 Preclude the Contractor from using different reimbursement amounts for different specialties or for different providers in the same specialty.
 - 9.2.4.3 Preclude the Contractor from establishing measures that are designed to maintain quality of services and control costs.

9.3 Required Provisions

Subcontracts shall be in writing, and available to HCA upon request. All Subcontracts shall contain applicable provision contained in Subsection 9.4 and 9.5 of this Contract and the following provisions:

- 9.3.1 Identification of the parties of the Subcontract and their legal basis for operation in the state of Washington.
- 9.3.2 The process for revoking delegation or imposing other sanctions if the Subcontractor's performance is inadequate.
- 9.3.3 The responsibilities of the Quality Management section of this Contract may not be delegated to a Contracted Network Behavioral Health Agency.

- 9.3.4 The Contractor may not delegate its responsibility to contract with a provider network, without express permission from HCA. This does not prohibit a contracted, licensed provider from subcontracting with other appropriately licensed providers so long as the subcontracting provisions of this Contract are met.
- 9.3.5 Procedures and specific criteria for terminating the Subcontract and for any other remedies the Contractor provides if HCA or the Contractor determines that the subcontractor has not performed satisfactorily.
- 9.3.6 Identification of the services to be performed by the Subcontractor and which of those services may be subcontracted by the Subcontractor. If the Contractor allows the Subcontractor to further subcontract, all Subcontractor requirements contained in this Contract must be propagated downward into any other lower tiered subcontracts. (45 C.F.R. 92.35).
- 9.3.7 Reimbursement rates and procedures for services provided under the Subcontract.
- 9.3.8 Release to the Contractor of any information necessary to perform any of its obligations under this Contract.
- 9.3.9 Reasonable access to facilities and financial and medical records for duly authorized representatives of HCA or DOH for audit purposes and immediate access for Medicaid Fraud investigators.
- 9.3.10 The requirement to submit complete and accurate reports and data required under the Contract, including encounter data, to the Contractor. Contractor shall ensure that all Subcontractors required to report encounter data have the capacity to submit all HCA required data to enable the Contractor to meet the reporting requirements under the Contract, including reporting requirements developed by HCA and agreed upon by HCA and the Contractor as described in Section 7.3.
- 9.3.11 The requirement to comply with the Program Integrity requirements of this Contract and the Contractor's HCA approved program integrity policies and procedures.
- 9.3.12 No assignment of a subcontract shall take effect without HCA's written agreement.
- 9.3.13 Subcontracts shall set forth and require the subcontractor to comply with any term or condition of this Contract that is applicable to the services to be performed under the subcontract (42 C.F.R. § 438.6).
- 9.3.14 The Contractor shall provide the following information regarding the Grievance system for GFS funded services to all Subcontractors:

- 9.3.14.1 The toll-free numbers to file oral Grievances and Appeals.
 - 9.3.14.2 The availability of assistance in filing a Grievance or Appeal, including informing the Enrollee about Ombuds services and how to access these services.
 - 9.3.14.3 The Enrollees do not have a right to continuation of benefits during an Appeal Process or the Administrative Hearing process.
 - 9.3.14.4 The Enrollee's right to file Grievances and Appeals and their requirements and timeframes for filing.
 - 9.3.14.5 The Enrollee's right to a hearing, how to obtain a hearing and representation rules at a hearing.
- 9.3.15 The requirement to permit the state of Washington, including HCA, MFCD and state auditor, and federal agencies, including but not limited to: CMS, auditors from the federal Government Accountability Office, federal Office of the Inspector General, federal Office of Management and Budget, the Office of the Inspector General, the Comptroller General, and their designees, to access, inspect audit and evaluate any records or documents of the Contractor or its subcontractors, at any time and shall permit inspection of the premises, physical facilities, and equipment where Medicaid-related activities or work is conducted, at any time. Contractor and its subcontractors shall forthwith produce all records, documents, or other data requested as part of such inspection, review, audit, investigation, monitoring or evaluation. If the requesting agency asks for copies of records, documents, or other data, the Contractor and its subcontractors shall make copies of records and shall deliver them to the requestor, without cost, within thirty (30) calendar days of request, or any shorter timeframe as authorized by law or court order. Copies of records and documents shall be made at no cost to the requesting agency. (42 C.F.R. § 455.21(a)(2); 42 C.F.R. § 431.107(b)(2)). The right for the parties named above to audit, access and inspect under this section exists for ten (10) years from the final date of the contract period or from the date of completion of any audit, whichever is later, or any other timeframe authorized by law. (42 C.F.R. § 438.3(h)).
- 9.3.16 The Contractor and its subcontractors shall forthwith produce all records, documents, or other data requested as part of such inspection, review, audit, investigation, monitoring or evaluation identified in subsection 9.3.13. If the requesting agency asks for copies of records, documents, or other data, the Contractor and its subcontractors shall make copies of records and shall deliver them to the requestor, without cost, within thirty (30) calendar days of request, or any shorter timeframe as authorized by law or court order. Copies of records and documents shall be made at no cost to the requesting agency. (42 C.F.R. § 455.21(a)(2); 42 C.F.R. § 431.107(b)(2)). The right for the parties named above to audit, access and inspect under this section exists for ten (10) years from the final date of the contract period or from the date of completion of any audit, whichever is later, or any other timeframe authorized by law. (42 C.F.R. § 438.3(h)).

9.4 Management of Subcontracts

- 9.4.1 The Contractor must monitor the Subcontractor's performance on an ongoing basis and subject it to formal review according to a periodic schedule established by the HCA, consistent with industry standards or state law and regulation.
 - 9.4.1.1 This review may be combined with a formal review of services performed pursuant to the Contractor's Medicaid Contract between the Contractor and HCA.
 - 9.4.1.2 The review must be based on the specific delegation agreement with each Subcontractor, and must address compliance with Contract requirements for each delegated function, which may include but is not limited to:
 - 9.4.1.2.1 Documentation and appropriateness of medical necessity determinations.
 - 9.4.1.2.2 Patient record reviews to ensure services are appropriate based on diagnosis, the treatment plan is based on the patient's needs and progress notes support the use of each service.
 - 9.4.1.2.3 Client record reviews to ensure the treatment plans are consistent with WAC 246-341-0620 and 246-341-0640.
 - 9.4.1.2.4 Timeliness of service.
 - 9.4.1.2.5 Network adequacy.
 - 9.4.1.2.6 Cultural, ethnic, linguistic, disability or age related needs are addressed.
 - 9.4.1.2.7 Coordination with primary care.
 - 9.4.1.2.8 Provider adherence to practice guidelines, as relevant.
 - 9.4.1.2.9 Provider processes for reporting, Tracking and resolving Grievances.
 - 9.4.1.2.10 Provider compliance with reporting and managing critical incidents.
 - 9.4.1.2.11 Information security.
 - 9.4.1.2.12 Disaster recovery plans.
 - 9.4.1.2.13 Fiscal management, including documenting the provider's cost allocations, revenues, expenditures

and reserves in order to ensure that funds under this Contract are being spent appropriately.

9.4.1.2.14 Licensing and certification reviews, including oversight of any issues noted during licensing and/or certification reviews conducted by Department of Health and communicated to the Contractor.

9.4.1.2.15 No assignment of a Subcontract shall take effect without HCA's written agreement.

9.4.2 The Contractor shall evaluate any prospective Subcontractor's ability to perform the activities for which that Subcontractor is contracting, including the Subcontractor's ability to perform delegated activities described in the subcontracting document.

9.4.3 Unless a county is a licensed service provider and the Contractor is contracting with the county for direct services, the Contractor shall not provide GFS funds to a county without a contract or single-case agreement.

9.5 **Health Care Provider Subcontracts**

The Contractor's Subcontracts shall also contain the following provisions:

9.5.1 A statement that Subcontractors receiving GFS funds shall cooperate with Contractor or HCA-sponsored Quality Improvement (QI) activities.

9.5.2 A means to keep records necessary to adequately document services provided to Enrollees for all delegated activities including Quality Improvement, Utilization Management, Enrollee Rights and Protections, and Credentialing and Recredentialing.

9.5.3 For providers in twenty-four (24) hour settings, a requirement to provide discharge planning services which shall, at a minimum:

9.5.3.1 Coordinate a community-based discharge plan for each Enrollee served under this Contract beginning at intake. Discharge planning shall apply to all Enrollees regardless of length of stay or whether they complete treatment;

9.5.3.2 Coordinate exchange of assessment, admission, treatment progress, and continuing care information with the referring entity. Contact with the referral agency shall be made within the first week of residential treatment;

9.5.3.3 Establish referral relationships with assessment entities, outpatient providers, vocational or employment services, and courts which specify aftercare expectations and services,

- including procedure for involvement of entities making referrals in treatment activities;
- 9.5.3.4 Coordinate, as needed, with HCA/DBHR prevention services, vocational services, housing services and supports, and other community resources and services that may be appropriate, including the Department of Children, Youth, and Families ; and
- 9.5.3.5 Coordinate services to financially-eligible Enrollees who are in need of medical services.
- 9.5.4 Requirements for information and data sharing to support health care coordination consistent with Section 14 of this Contract.
- 9.5.5 A requirement to implement a Grievance process as described in the Grievance Section of this Contract.
- 9.5.6 A requirement that termination of a subcontract shall not be grounds for a fair hearing or a Grievance for the Enrollee if similar services are immediately available in the service area.
- 9.5.7 How Enrollees will be informed of their right to a Grievance in the case of:
 - 9.5.7.1 Denial or termination of service related to medical necessity determinations.
 - 9.5.7.2 Denial or termination of service related to Available Resources.
 - 9.5.7.3 Failure to act upon a request for services with reasonable promptness.
- 9.5.8 A requirement that the Subcontractor shall comply with Chapter 71.32 RCW (Mental Health Advance Directives).
- 9.5.9 A requirement to provide Enrollees access to translated information and interpreter services as described in Section 3.3 of this Contract.
- 9.5.10 Adherence to established protocols for determining eligibility for services consistent with Section 4 of this Contract.
- 9.5.11 A requirement to use HCA/DBHR approved Integrated Co-Occurring Disorder Screening and Assessment Tool(s); this shall include requirements for training staff that will be using the tool(s) to address the screening and assessment process, the tool and quadrant placement as well as requirements for corrective action if the process is not implemented and maintained throughout the Contract's period of performance.
- 9.5.12 A requirement to participate in training when requested by the HCA; exceptions must be in writing and include a plan for how the required information shall be provided to targeted Subcontracted staff.

- 9.5.13 A requirement to conduct criminal background checks and maintain related policies and procedures and personnel files consistent with requirements in Chapter 43.43 RCW, and Chapter 388-06A WAC.
- 9.5.14 Requirements for nondiscrimination in employment and patient services.
- 9.5.15 Protocols for screening for debarment and suspension of certification.
- 9.5.16 Requirements to identify funding sources consistent with Section 5 and Federal Block Grant reporting requirements.
- 9.5.17 A requirement that the Subcontractor shall respond in a full and timely manner to law enforcement inquiries regarding an individual's eligibility to possess a firearm under RCW 9.41.040(2)(a)(ii).
- 9.5.18 Delegated activities are documented and agreed upon between Contractor and Subcontractor. The document must include:
 - 9.5.18.1 Assigned responsibilities.
 - 9.5.18.2 Delegated activities.
 - 9.5.18.3 A mechanism for evaluation.
 - 9.5.18.4 Corrective action policy and procedure.
- 9.5.19 Information about Enrollees, including their medical records, shall be kept confidential in a manner consistent with state and federal laws and regulations.
- 9.5.20 The Subcontractor accepts payment from the Contractor as payment in full; shall not request payment from HCA or any Enrollee for Contracted Services performed under the subcontract, and shall comply with WAC 182-502-160 requirements applicable to providers.
- 9.5.21 The Subcontractor agrees to hold harmless HCA and its employees, and all Enrollees served under the terms of this Contract in the event of non-payment by the Contractor. The Subcontractor further agrees to indemnify and hold harmless HCA and its employees against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses which may in any manner accrue against HCA or its employees through the intentional misconduct, negligence, or omission of the Subcontractor, its agents, officers, employees or Contractors.
- 9.5.22 A ninety (90) day termination notice provision.
- 9.5.23 A specific termination provision for termination with short notice when a subcontractor is excluded from participation in the Medicaid program.
- 9.5.24 The Subcontractor agrees to comply with the appointment wait time standards of this Contract all relevant provisions of this Contract, including, but not limited to, the appointment wait time standards and the obligation to report accurately the information required for the Contractor's provider

directory and any changes thereto. The subcontract must provide for regular monitoring of timely access and corrective action if the Subcontractor fails to comply with the appointment wait time standards

9.5.25 A provision for ongoing monitoring and periodic formal review that is consistent with industry standards and OIC regulations. Formal review must be completed no less than once every three (3) years, except as noted below, and must identify deficiencies or areas for improvement and provide for corrective action.

9.5.25.1 The Contractor shall conduct a Subcontractor review which shall include at least one onsite visit every two (2) years to each Subcontractor site providing state funded treatment services during the period of performance of this Contract in order to monitor and document compliance with requirements of the subcontract.

9.5.25.2 The Contractor shall ensure that Subcontractors have complied with data submission requirements established by HCA for all services funded under the Contract.

9.5.25.3 The Contractor shall ensure that the Subcontractor updates patient funding information when the funding source changes.

9.5.25.4 The Contractor shall maintain written or electronic records of all Subcontractor monitoring activities and make them available to HCA upon request.

9.5.25.5 The Contractor shall monitor SUD residential providers.

9.5.26 A statement that Subcontractors shall comply with required audits, including authority to conduct a facility inspection and Office of Management and Budget (OMB) Circular 2 – C.F.R. – 200, Part F – Audit Requirements audits, as applicable to the Subcontractor.

9.5.26.1 The Contractor shall submit a copy of the 2 – C.F.R. – 200, Part F – Audit Requirements audit performed by the State Auditor to the HCA Contact identified on page one (1) of the Contract within ninety (90) days of receipt by the Contractor of the completed audit.

9.5.26.1.1 If a Subcontractor is subject to OMB Circular 2 – C.F.R. – 200, Part F – Audit Requirements, the Contractor shall require a copy of the completed Single Audit and ensure corrective action is taken for any audit finding, per 2 – C.F.R. – 200, Part F – Audit Requirements requirements.

9.5.26.1.2 If a Subcontractor is not subject to OMB Circular 2 – C.F.R. – 200, Part F – Audit Requirements, the Contractor shall perform subrecipient monitoring in compliance with federal requirements.

- 9.5.27 The Contractor shall document and confirm in writing all single-case agreements with providers. The agreement shall include:
- 9.5.27.1 The description of the services;
 - 9.5.27.2 The authorization period for the services, including the begin date and the end date for approved services;
 - 9.5.27.3 The rate of reimbursement for the service or reference to the Contractor's fee schedule or other plan documents that define payment; and
 - 9.5.27.4 Any other specifics of the negotiated rate.
- 9.5.28 The Contractor must supply documentation to the Subcontractor no later than five (5) business days following the signing of the agreement. Updates to the single case agreement, must include all elements (begin date, end date, rate of care or reference to fee schedule and any other specifics regarding the services or payment methods).
- 9.5.29 The Contractor shall maintain a record of the single-case agreements for a period of six (6) years.

9.6 Health Care Provider Subcontracts Delegating Administrative Functions

- 9.6.1 Subcontracts that delegate administrative functions under the terms of this Contract shall include the following additional provisions:
- 9.6.1.1 For those Subcontractors at financial risk, the Subcontractor shall maintain the Contractor's solvency requirements throughout the term of the Contract.
 - 9.6.1.2 Clear descriptions of any administrative functions delegated by the Contractor in the Subcontract. Administrative functions are any obligations of the Contractor under this Contract other than the direct provision of services to Enrollees and include, but are not limited to: utilization/medical management, claims processing, Enrollee Grievances and Appeals, and the provision of data or information necessary to fulfill any of the Contractor's obligations under this Contract.
 - 9.6.1.3 If Grievances are delegated, the Contractor must ensure that network providers have a process in place for reporting, tracking, and resolving customer expressions of dissatisfaction. The Contractor must monitor and report Grievances documented at the provider level.
 - 9.6.1.4 How frequently and by what means the Contractor will monitor compliance with solvency requirements and Subcontractor

performance related to any administrative function delegated in the subcontract.

9.6.1.5 Provisions for revoking delegation or imposing sanctions if the Subcontractor's performance is inadequate.

9.6.1.6 Whether referrals for Enrollees will be restricted to providers affiliated with the group and, if so, a description of those restrictions.

9.6.1.7 Prior to delegation, an evaluation of the Subcontractors ability to successfully perform and meet the requirements of this Contract for any delegated administrative function.

9.6.2 The Contractor shall submit a report of all current delegated entities, activities delegated and the number of Enrollees assigned or serviced by the delegated entity to the HCA as part of the annual monitoring review, or as required by the HCA.

9.7 Behavioral Benefit Administration with Subcontractors and Subsidiaries

9.7.1 Subcontracts, as defined herein, may be used by the Contractor for the provision of any service under this Contract, except Essential Behavioral Health Administrative Functions. Essential Behavioral Health Administrative Functions may be subcontracted for a period of time as determined by HCA and the Contractor. The Contractor shall achieve full integration of Essential Behavioral Health Administrative Functions according to a timeline agreed upon with HCA. No subcontractor shall terminate the Contractor's legal responsibility to HCA for any work performed under this Contract nor for oversight of any functions or responsibilities it delegates to any Subcontractor.

9.7.2 Required Provisions. Behavioral Health Subcontracts must require Subcontractors to hold all necessary licenses, certifications, and/or permits as required by law for the performance of the activity to be performed under this Contract.

9.7.2.1 Subcontracts must require Subcontractors to notify the Contractor in the event of a change in status of any required license or certification.

9.7.3 GAIN-SS

9.7.3.1 Subcontracts for the provision of behavioral health services must require the use of the GAIN-SS and assessment process that includes use of the quadrant placement. In addition, the Subcontract must contain terms requiring corrective action if the Integrated Co-Occurring Disorder Screening and Assessment process is not implemented and maintained throughout the Contract period of performance.

9.7.3.2 If the results of the GAIN-SS are indicative of the presence of a co-occurring disorder, this information must be considered in

the development of the treatment plan including appropriate referrals.

9.8 Provider Education

9.8.1 The Contractor shall keep Participating Providers informed about:

9.8.1.1 Covered Services for Enrollees served under this Contract.

9.8.1.2 Coordination of care requirements.

9.8.1.3 HCA and the Contractor's policies and procedures as related to this Contract.

9.8.1.4 Data interpretation.

9.8.1.5 Practice guidelines as described in the provisions of this Contract.

9.8.1.6 Behavioral Health services through the Contractor.

9.8.1.7 Behavioral Health resource line (RCW 74.09).

9.8.1.8 The information requirements for utilization management (UM) decision making, procedure coding and submitting claims for GFS services. The Contractor shall inform GFS providers in writing regarding these requirements.

9.8.1.9 Contractor Care Management staff for assistance in care transitions and Care Management activity.

9.8.1.10 Principles of Trauma Informed Care

9.8.1.11 Program Integrity requirements.

9.8.1.12 DSHS long-term care services including availability of home and community based care.

9.8.1.13 DSHS developmental disability services including community-based care.

9.8.1.14 DCYF/Children's Administration services for children in state dependency care.

9.8.1.15 DCYF services for children and families including but not limited to, DCYF-contracted home visiting, ESIT, ECLIPS, ECEAP and Head Start programs using informational letter template jointly developed by DCYF and HCA.

9.8.2 The Contractor shall develop and deliver ongoing training, technical assistance and support tools for GFS providers regarding GFS protocols and requirements. The training materials and documents shall be pre-approved

by HCA. The training program shall meet the following minimum requirements:

- 9.8.2.1 Training shall be accessible to GFS providers at alternate times and days of the week. A schedule of training shall be available on the Contractor's website and updated as needed but at least annually. The Contractor shall make reasonable efforts to ensure that:
 - 9.8.2.1.1 Training is developed in collaboration with peer MCO's.
 - 9.8.2.1.2 Training is made available to treatment staff.
 - 9.8.2.1.3 Subcontractors provide opportunities for staff to attend trainings.
- 9.8.2.2 Training for GFS providers address the following requirements:
 - 9.8.2.2.1 Screening and assessment tools and protocols, including the GAINS-SS.
 - 9.8.2.2.2 Referral protocols.
 - 9.8.2.2.3 Claims and encounter submission.
 - 9.8.2.2.4 Other data submission and reporting required under the Contract.
 - 9.8.2.2.5 Evidence-based practices, as relevant to the service(s) provided.
 - 9.8.2.2.6 Transition protocols for individuals moving between funding sources or with frequent Medicaid eligibility status changes.
 - 9.8.2.2.7 Training includes the application of evidence-based, research-based, Promising Practices related to the assessment and treatment of Behavioral Health conditions, including those from the Bree Collaborative.
 - 9.8.2.2.8 Recovery and Resilience principles are incorporated in service provision as well as policies and procedures.

- 9.8.2.3 Enrollees, family members and other caregivers are involved in the planning, development and delivery of trainings specific to delivery of GFS services.
- 9.8.2.4 Cultural competency is incorporated into provider training specific to delivery of GFS services.
- 9.8.2.5 Annually, all community behavioral health employees who work directly with Individuals must be provided with training on safety and violence prevention topics described in RCW 49.19.030.
- 9.8.3 The Contractor shall maintain records of the number and type of providers and support staff participating in provider education, including evidence of assessment of participant satisfaction from the training process.
- 9.8.4 Subcontracts must require Subcontractors to participate in training when requested by HCA. Requests for HCA to allow an exception to participation in required training must be in writing and include a plan for how the required information will be provided to targeted Subcontractor staff.

9.9 **Provider Payment Standards**

- 9.9.1 The Contractor shall meet the same timeliness of payment standards specified for Medicaid fee-for-service in Section 1902(a) (37) (A) of the Social Security Act, 42 C.F.R. § 447.46 and specified for health carriers in WAC 284-43-321 for paying providers who submit claims and encounters for GFS services. To be compliant with payment standards the Contractor shall pay or deny, and shall require Subcontractors to pay or deny, ninety-five percent (95%) of clean claims and encounters within thirty (30) calendar days of receipt, ninety-five percent (95%) of all claims within sixty (60) calendar days of receipt and ninety-nine percent (99%) of claims within ninety (90) calendar days of receipt. The Contractor and its providers may agree to a different payment requirement in writing on an individual claim.
 - 9.9.1.1 A claim is a bill for services, a line item of service or all services for one Enrollee within a bill.
 - 9.9.1.2 A clean claim is a claim that can be processed without obtaining additional information from the provider of the service or from a third party.
 - 9.9.1.3 The date of receipt is the date the Contractor receives the claim or encounter from the provider.
 - 9.9.1.4 The date of payment is the date of the check or other form of payment.
- 9.9.2 The Contractor must support both hardcopy and electronic submission of claims, encounters and bills for all GFS services types.
- 9.9.3 The Contractor must support hardcopy and electronic submission of claim, encounter or bill inquiry forms, adjustment claims, encounters and bills.

- 9.9.4 The Contractor shall update its claims and encounter system to support processing of payments for the GFS services.
- 9.9.5 The Contractor shall support Behavioral Health Providers statewide to transition to the requirement to submit HIPAA-compliant encounters.
 - 9.9.5.1 The Contractor shall work with BH Providers to rapidly resolve encounters or claims not approved on initial submission, to quickly identify and resolve errors in encounter submission before they become widespread and systemic, and to address other billing issues in the first 180 days of the Contract.
 - 9.9.5.2 The Contractor shall ensure prompt payment to the BH providers, including developing a contingency plan that will ensure payment for services delivered to enrollees in the event that a mental health or substance use disorder provider cannot submit HIPAA-compliant encounters or electronic claims.
 - 9.9.5.3 The Contractor shall produce reports for contracted BH providers that assist them with claims management, such as monthly reports with numbers of accepted claims or encounters vs. those that are not accepted on initial submission, and error rates by types of errors.

9.10 **Provider Credentialing**

The Contractor's policies and procedures shall be in writing and follow the State's requirements related to the credentialing and recredentialing of Health Care Professionals who have signed contracts or participation agreements with the Contractor (Chapter 246-12 WAC). The Contractor shall ensure and demonstrate compliance with the requirements described in this Contract.

- 9.10.1 The Contractor's policies and procedures shall ensure compliance with the requirements described in this section.
 - 9.10.1.1 The Contractor's BH Medical Director or other designated physician who is a board certified psychiatrist or physician certified in addiction medicine shall have direct responsibility for and participation in the credentialing program.
 - 9.10.1.2 The Contractor shall have a designated Credentialing Committee to oversee the credentialing process.
- 9.10.2 The Contractor's credentialing and recredentialing program shall include:
 - 9.10.2.1 Identification of the type of providers credentialed and rec6dentialed, including but not limited to, acute, primary,

- behavioral, substance use disorder and LTSS providers, as appropriate.
- 9.10.2.2 Specification of the verification sources used to make credentialing and recredentialing decisions, including any evidence of provider sanctions.
- 9.10.2.3 A process for provisional credentialing that affirms that:
- 9.10.2.3.1 The practitioner may not be held in a provisional status for more than sixty (60) calendar days; and
- 9.10.2.3.2 The provisional status will only be granted one time and only for providers applying for credentialing the first time.
- 9.10.2.3.3 Provisional credentialing shall include an assessment of:
- 9.10.2.3.3.1 Primary source verification of a current, valid license to practice;
- 9.10.2.3.3.2 Primary source verification of the past five (5) years of malpractice claims or settlements from the malpractice carrier or the results of the National Practitioner Databank query; and
- 9.10.2.3.3.3 A current signed application with attestation.
- 9.10.2.4 Prohibition against employment or contracting with providers excluded from participation in federal health care programs under federal law and as described in the Excluded Individuals and Entities provisions of this Contract.
- 9.10.2.5 A detailed description of the Contractor's process for delegation of credentialing and recredentialing.
- 9.10.2.6 Verification of provider compliance with all Program Integrity requirements in this Contract.
- 9.10.3 The Contractor's process for communicating findings to the provider that differ from the provider's submitted materials shall include communication of the provider's rights to:

- 9.10.3.1 Review materials.
- 9.10.3.2 Correct incorrect or erroneous information.
- 9.10.3.3 Be informed of their credentialing status.
- 9.10.4 The Contractor's process for notifying providers within sixty (60) calendar days of the credentialing committee's decision.
- 9.10.5 An Appeal process for providers for quality reasons and reporting of quality issues to the appropriate authority and in accordance with the Program Integrity requirements of this Contract.
- 9.10.6 The Contractor's process to ensure confidentiality.
- 9.10.7 The Contractor's process to ensure listings in provider directories for Enrollees are consistent with credentialing file content, including education, training, certification and specialty designation.
- 9.10.8 The Contractor's process for recredentialing providers at minimum every thirty-six (36) months through information verified from primary sources, unless otherwise indicated.
- 9.10.9 The Contractor's process to ensure that offices of all Health Care Professionals meet office site standards established by the Contractor.
- 9.10.10 The Contractor's system for monitoring sanctions, limitations on licensure, complaints and quality issues or information from identified adverse events and provide evidence of action, as appropriate based on defined methods or criteria.
- 9.10.11 The Contractor's process and criteria for assessing and reassessing organizational providers.
- 9.10.12 The criteria used by the Contractor to credential and recredential practitioners shall include:

- 9.10.12.1 Evidence of a current valid license or certification to practice;
- 9.10.12.2 A valid DEA or CDS certificate if applicable;
- 9.10.12.3 Evidence of appropriate education and training;
- 9.10.12.4 Board certification if applicable;
- 9.10.12.5 Evaluation of work history;
- 9.10.12.6 A review of any liability claims resulting in settlements or judgments paid on or on behalf of the provider; and
- 9.10.12.7 A signed, dated attestation statement from the provider that addresses:
 - 9.10.12.7.1 The lack of present illegal drug use;
 - 9.10.12.7.2 A history of loss of license and criminal or felony convictions;
 - 9.10.12.7.3 A history of loss or limitation of privileges or disciplinary activity;
 - 9.10.12.7.4 Current malpractice coverage;
 - 9.10.12.7.5 Any reason(s) for inability to perform the essential functions of the position with or without accommodation; and
 - 9.10.12.7.6 Accuracy and completeness of the application.
- 9.10.12.8 Verification of the: National Provider Identifier, the provider's enrollment as a Washington Medicaid provider, and the Social Security Administration's death master file.
- 9.10.13 The Contractor shall ensure that all subcontracted providers have completed a background check consistent with RCW 43.43, and WAC 388-06-0170.
- 9.10.14 The Contractor shall terminate any provider where HCA or Medicare has taken any action to revoke the provider's privileges for cause, and the provider has exhausted all applicable Appeal rights or the timeline for Appeal has expired. For cause may include, but is not limited to: Fraud, integrity, or quality (42 C.F.R. § 455.101).
- 9.10.15 The Contractor shall notify HCA in accordance with the Notices section of this Contract, within three (3) business days of receipt of information relating to disciplinary action against the accreditation, certification, license and/or registration of the Contractor, an employee, Subcontractor or Subcontractor employee.
- 9.10.16 The Contractor's policies and procedures shall be consistent with 42 C.F.R. § 438.12, and the process shall ensure the Contractor does not discriminate

against particular Health Care Professionals that serve high-risk populations or specialize in conditions that require costly treatment, and any other methods for assuring nondiscrimination.

10. ENROLLEE RIGHTS AND PROTECTIONS

10.1 General Requirements

- 10.1.1 The Contractor shall comply with any applicable federal and state laws that pertain to Enrollee rights and ensure that its staff and affiliated providers protect and promote those rights when furnishing services to Enrollees.
- 10.1.2 The Contractor shall require that Mental Health Professionals, MHCPs, and CDPs acting within the lawful scope of practice, are not prohibited or restricted from advising or advocating on behalf of an Enrollee with respect to:
 - 10.1.2.1 The Enrollee's Behavioral Health status;
 - 10.1.2.2 Receiving all information regarding mental health and/or SUD treatment options including any alternative or self-administered treatment, in a culturally-competent manner.
 - 10.1.2.3 Any information the Enrollee needs in order to decide among all relevant Behavioral Health treatment options.
 - 10.1.2.4 The risks, benefits, and consequences of Behavioral Health treatment (including the option of no treatment);
 - 10.1.2.5 The Enrollee's right to participate in decisions regarding his or her Behavioral Health care, including the right to refuse treatment and to express preferences about future treatment decisions;
 - 10.1.2.6 The Enrollee's right to be treated with respect and with due consideration for his or her dignity and privacy;
 - 10.1.2.7 The Enrollee's right to be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation;
 - 10.1.2.8 The Enrollee's right to request and receive a copy of his or her medical records, and to request that they be amended or corrected, as specified in 45 C.F.R. Part 164; and
 - 10.1.2.9 The Enrollee's right to be free to exercise his or her rights and to ensure that to do so does not adversely affect the way the Contractor treats the Enrollee.
- 10.1.3 The Contractor shall provide information including but not limited to education, licensure, and board certification or re-certification or registration of Mental Health Professionals and MHCPs upon an Enrollee's request.
- 10.1.4 The Contractor shall require a criminal history background check through the Washington State Patrol for employees and volunteers of the Contractor who may have unsupervised access to children, people with developmental disabilities or vulnerable adults, consistent with Chapter 388-06 WAC. If the

employee or volunteer has been working in another state within the last twelve (12) months, a background check from that state will be required.

10.2 **Cultural Considerations**

- 10.2.1 The Contractor shall participate in and cooperate with HCA efforts to promote the National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care. The Contractor will provide effective, equitable, understandable, and respectful quality care and services that are responsive to diverse cultural health beliefs and practices, preferred languages, health literacy, and other communication needs.
- 10.2.2 At a minimum, the Contractor shall:
 - 10.2.2.1 Educate and train governance, leadership, and workforce in culturally and linguistically appropriate policies and practices on an ongoing basis (CLAS Standard 4);
 - 10.2.2.2 Offer language assistance to individuals who have limited English proficiency or other communication needs, at no cost to them, to facilitate timely access to all health care and services (CLAS Standard 5);
 - 10.2.2.3 Inform all individuals of the availability of language assistance services clearly and in their preferred language, verbally and in writing (CLAS Standard 6);
 - 10.2.2.4 Ensure the competence of individuals providing language assistance, recognizing that the use of untrained individuals or minors as interpreters should be avoided (CLAS Standard 7);
 - 10.2.2.5 Provide easy-to-understand print and multimedia materials and signage in the languages commonly used by the populations in the service area (CLAS Standard 8);
 - 10.2.2.6 Establish culturally and linguistically appropriate goals (CLAS Standard 9);
 - 10.2.2.7 Conduct ongoing assessments of the organization's CLAS-related activities and integrate CLAS-related measures into measurement and continuous quality improvement activities (CLAS Standard 10);
 - 10.2.2.8 Collect and maintain accurate and reliable demographic data to monitor and evaluate the impact of CLAS on health equity and

outcomes and to inform service delivery (CLAS Standard 11);
and

- 10.2.2.9 Create conflict and Grievance resolution processes that are culturally and linguistically appropriate to identify, prevent, and resolve conflict or complaints (CLAS Standard 14).

10.3 **Advance Directives and Physician Orders for Life Sustaining Treatment (POLST)**

- 10.3.1 The Contractor shall meet the requirements of WAC 182-501-0125, 42 C.F.R. § 438.6, 438.10, 422.128, 489.100 and 489 Subpart I as described in this section.
- 10.3.2 The Contractor's Advance Directive policies and procedures shall be disseminated to all affected providers, Enrollees, HCA, and, upon request, Potential Enrollees.
 - 10.3.2.1 The Contractor shall develop policies and procedures to address Physician Orders for Life Sustaining Treatment (POLST) and ensure that they are distributed in the same manner as those governing Advance Directives.
 - 10.3.2.2 10.3.2.2 The Contractor's policies and procedures respecting the implementation of advance directives and POLST rights shall be included in the Enrollee handbook at a location designated in its template by HCA, and shall be featured on the Contractor's website in the member/enrollee section.
- 10.3.3 The Contractor's written policies respecting the implementation of Advance Directive POLST rights shall include a clear and precise statement of limitation if the Contractor cannot implement an Advance Directive as a matter of conscience. At a minimum, this statement must do the following:
 - 10.3.3.1 Clarify any differences between Contractor conscientious objections and those that may be raised by individual physicians.
 - 10.3.3.2 Identify the state legal authority permitting such objection.
 - 10.3.3.3 Describe the range of medical conditions or procedures affected by the conscience objection.
- 10.3.4 If an Enrollee is incapacitated at the time of initial enrollment and is unable to receive information (due to the incapacitating condition or a mental disorder) or articulate whether or not he or she has executed an Advance Directive or received a POLST, the Contractor may give a Directive information to the Enrollee's family or surrogate in the same manner that it issues other materials about policies and procedures to the family of the incapacitated Enrollee or to a surrogate or other concerned persons in accordance with state law. The Contractor is not relieved of its obligation to provide this information to the Enrollee once he or she is no longer incapacitated or unable to receive such information. Follow-up procedures must be in place

to ensure that the information is given to the individual directly at the appropriate time.

- 10.3.5 The Contractor must require and ensure that the Enrollee's medical record documents, in a prominent part, whether or not the individual has executed an Advance Directive or received a POLST.
- 10.3.6 The Contractor shall not condition the provision of care or otherwise discriminate against an Enrollee based on whether or not the Enrollee has executed an Advance Directive or received a POLST.
- 10.3.7 The Contractor shall ensure compliance with requirements of state and federal law (whether statutory or recognized by the courts of the State) regarding Advance Directives or POLSTs.
- 10.3.8 The Contractor shall provide education to staff concerning its policies and procedures on Advance Directives or POLSTs.
- 10.3.9 The Contractor shall provide community education regarding Advance Directives that may include material required herein, either directly or in concert with other providers or entities. Separate community education materials may be developed and used, at the discretion of the Contractor. The same written materials are not required for all settings, but the material should define what constitutes an Advance Directive, emphasizing that an Advance Directive is designed to enhance an incapacitated individual's control over medical treatment, and describe applicable state and federal law concerning Advance Directives. The Contractor shall document its community education efforts.
- 10.3.10 The Contractor is not required to provide care that conflicts with an Advance Directive; and is not required to implement an Advance Directive if, as a matter of conscience, the Contractor cannot implement an Advance Directive and state law allows the Contractor or any Subcontractor providing services under this Contract to conscientiously object.
- 10.3.11 The Contractor shall inform Enrollees that they may file a Grievance with the Contractor if the Enrollee is dissatisfied with the Contractor's Advance Directive policy and procedure or the Contractor's administration of those policies and procedures. The Contractor shall also inform Enrollees that they may file a Grievance with the Washington State Department of Health (DOH) if they believe the Contractor is non-compliant with Advance Directive and POLST requirements.

10.4 Mental Health Advance Directive

- 10.4.1 The Contractor shall maintain a written Mental Health Advance Directive (MHAD) policy and procedure that respects individuals' Advance Directive for Behavioral Health care. Policy and procedures must comply with Chapter 71.32 RCW.
- 10.4.2 The Contractor shall inform all Enrollees of their right to a Mental Health Advance Directive and shall provide technical assistance to those who

express an interest in developing and maintaining a Mental Health Advance Directive.

10.4.3 The Contractor shall maintain current copies of any Mental Health Advance Directive in the Enrollee's record.

10.4.4 The Contractor shall inform Enrollees that complaints concerning noncompliance with a MHAD should be referred to the Department of Health by calling 1-360-236-2620.

10.5 Enrollee Choice of Behavioral Health Provider

10.5.1 An Enrollee may maintain existing Behavioral Health provider relationships when funding is available and when the GFS services are medically necessary. However, Enrollees are not guaranteed choice of Behavioral Health providers for GFS services.

10.6 Prohibition on Enrollee Charges for Covered Services

10.6.1 Under no circumstances shall the Contractor or any providers used to deliver services under the terms of this Contract, including Non-Participating Providers, charge Enrollees for Covered Services (WAC 182-502-0160).

10.6.2 The Contractor shall require providers to report when an Enrollee is charged for services. The Contractor shall maintain a central record of the charged amount, Enrollee's agreement to pay, if any, and actions taken regarding the billing by the Contractor. The Contractor shall be prepared at any time to report to HCA any and all instances where an Enrollee is charged for services, whether or not those charges are appropriate.

10.6.3 If an Enrollee has paid inappropriate charges, the Contractor will make every effort to have the provider repay the Enrollee the inappropriate amount. If the Contractor's efforts to have the provider repay the Enrollee fail, the Contractor will repay the Enrollee the inappropriately charged amount.

10.6.4 The Contractor shall have a separate and specific policy and procedure that fully articulates how the Contractor will protect Enrollees from being billed for Contracted Services.

10.6.5 The Contractor shall coordinate benefits with other insurers in a manner that does not result in any payment by or charges to the Enrollee for Covered Services including other insurer's copayments and coinsurance.

10.7 Enrollee Self-Determination

The Contractor shall ensure that all providers: obtain informed consent prior to treatment from Enrollees, or persons authorized to consent on behalf of an Enrollee as described in RCW 7.70.065; comply with the provisions of the Natural Death Act (Chapter 70.122 RCW) and state rules concerning Advance Directives (WAC 182-501-0125); and, when appropriate, inform Enrollees of their right to make anatomical gifts (Chapter 68.64 RCW).

11. UTILIZATION MANAGEMENT PROGRAM AND AUTHORIZATION OF SERVICES

11.1 Utilization Management Requirements

- 11.1.1 The Contractor's BH Medical Director will provide guidance, leadership and oversight of the Contractor's UM program for GFS services. The following activities may be carried out in conjunction with the administrative staff or other clinical staff, but are the responsibility of the BH Medical Director to oversee:
 - 11.1.1.1 Processes for evaluation and referral to GFS services.
 - 11.1.1.2 Review of consistent application of criteria for provision of services within Available Resources and related Grievances.
 - 11.1.1.3 Review of assessment and treatment services against clinical practice standards. Clinical practice standards include, but are not limited to evidenced-based practice guidelines, culturally appropriate services, discharge planning guidelines, and community standards governing activities such as coordination of care among treating professionals. This review must include a review of the coordination with Indian Health Service, Indian Tribal Organizations, and Indian Health Care Providers (IHCP) and other Consumer serving agencies.
 - 11.1.1.4 Monitoring for over-utilization and under-utilization of services and ensuring that resource management and UM activities are not structured in such a way as to provide incentives for any individual or entity to deny, limit, or discontinue Medically Necessary mental health services inconsistent with the Contractors policy and procedures for determining eligibility for services within Available Resources.
- 11.1.2 The Contractor shall develop and implement UM protocols for all services and supports funded solely or in part through GFS funds. The UM protocols shall comply with the following provisions:
 - 11.1.2.1 The Contractor must have policies and procedures that establish a standardized methodology for determining when GFS resources are available for the provision of Behavioral Health services. The methodology shall include the following components:
 - 11.1.2.1.1 A plan to address under- or over-utilization patterns with any provider to avoid unspent funds or gaps in service at the end of a contract period due to limits in Available Resources;
 - 11.1.2.1.2 Education and technical assistance to address issues related to Quality of Care, medical necessity, timely and accurate claims submission or aligning service utilization with allocated funds

to avoid disruption in service or unspent funds at the end of a contract year;

11.1.2.1.3 Corrective action with providers, as necessary, to address issues with compliance with state and federal regulations or ongoing issues with patterns of service utilization; and

11.1.2.1.4 A process to make payment denials and adjustments when patterns of utilization deviate from state, federal or contract requirements (e.g., single source funding).

11.1.2.2 The Contractor shall monitor provider discharge planning to ensure GFS providers meet contractual requirements for discharge planning defined in this Contract.

11.1.3 The Contractor shall educate UM staff in the application of UM protocols, communicating the criteria used in making UM decisions. UM protocols shall recognize and respect the cultural needs of diverse populations.

11.1.4 The Contractor shall demonstrate that all UM staff making service authorization decisions have been trained and are competent in working with the specific area of service for which they are authorizing and managing including, but not limited to co-occurring MH and SUDs, co-occurring Behavioral Health and medical diagnoses, and co-occurring Behavioral Health and I/DD.

11.1.5 The Contractor's policies and procedures related to UM shall comply with, and require the compliance of Subcontractors with delegated authority for UM requirements described in this section.

11.1.6 Authorization reviews shall be conducted by licensed behavioral health professionals with experience working with the populations and settings under review.

11.1.6.1 The Contractor shall have UM staff with experience and expertise in working with individuals of all ages TAY, adults and older adults with a SUD and who are receiving medication-assisted treatment.

11.1.7 Adverse utilization review determinations based on medical necessity including any decision to authorize a service in an amount, duration or scope that is less than requested shall be conducted by:

- 11.1.7.1 A physician board-certified or board-eligible in Psychiatry or Child and Adolescent Psychiatry;
- 11.1.7.2 A physician board-certified or board-eligible in Addiction Medicine, a Subspecialty in Addiction Psychiatry; or by ASAM, or
- 11.1.7.3 A licensed, doctoral level psychologist.
- 11.1.8 The Contractor shall have a sufficient number of Behavioral Health clinical peer reviewers available to conduct denial and Appeal reviews or to provide clinical consultation on complex cases, treatment plan issues and other treatment needs.
- 11.1.9 The Contractor shall ensure that any Behavioral Health clinical peer reviewer who is subcontracted or works in a service center other than the Contractor's Washington State service center shall be subject to the same supervisory oversight and quality monitoring as staff located in a Washington State service center, to include participation in initial orientation and at least annual training on Washington State specific benefits, protocols and initiatives.
- 11.1.10 The Contractor shall ensure that any Behavioral Health Adverse Benefit Determinations must be peer-to-peer, that is, the credential of the licensed clinician making the decision to authorize service in an amount, duration or scope that is less than requested must be at least equal to that of the recommending clinician. In addition:
 - 11.1.10.1 A physician board-certified or board-eligible in Psychiatry must review all inpatient level of care Adverse Benefit Determinations (full or partial denials, terminations and reductions) for psychiatric treatment.
 - 11.1.10.2 A physician board-certified or board-eligible in Addiction Medicine, or a Subspecialty in Addiction Psychiatry; must review all inpatient level of care Adverse Benefit Determinations (full or partial denials, termination and reductions) for SUD treatment.
- 11.1.11 The Contractor shall ensure that Appeals of adverse determinations shall be evaluated by Health Care Providers who were not involved in the initial decision and who have appropriate expertise in the field of medicine that encompasses the covered person's condition or disease (WAC 284-43-620(4)).
 - 11.1.11.1 The Contractor shall ensure documentation of timelines for Appeals shall be in accordance with the Appeal Process provisions of the Grievance System Section of this Contract.
- 11.1.12 The Contractor's Care Management system must include a periodic review of any consumer having an Individual Service Plan to ensure the requirements are being met. The Contractor must establish criteria for, document and monitor:

11.1.12.1 Consistent application of Medical Necessity criteria and Level of Care Guidelines; and

11.1.12.2 Over and under-utilization of services.

11.1.13 The Contractor shall not penalize or threaten a provider or facility with a reduction in future payment or termination of Participating Provider or participating facility status because the provider or facility disputes the Contractor's determination with respect to coverage or payment for health care service.

11.2 Medical Necessity Determination

The Contractor shall collect all information necessary to make medical necessity determinations. The Contractor shall determine which services are medically necessary, according to the definition of Medically Necessary Services in this Contract. The Contractor's determination of medical necessity in specific instances shall be final except as specifically provided in this Contract regarding Appeals, hearings and independent review.

11.3 Authorization of Services

11.3.1 The Contractor shall provide education and ongoing guidance and training to Enrollees and providers about its' UM protocols and Level of Care Guidelines, including admission, continued stay, and discharge criteria.

11.3.2 The Contractor shall consult with the requesting provider when appropriate.

11.4 Timeframes for Authorization Decisions

11.4.1 The Contractor must provide a written Notice of Determination to the Consumer, or their legal representative, if a denial, reduction, termination or suspension occurs based on the Level of Care Guidelines.

11.4.2 The Contractor shall adhere to the requirements set forth in Section 11.5, Notification of Coverage and Authorization Determination.

11.4.3 The Contractor shall provide for the following timeframes for authorization decisions and notices:

11.4.3.1 For denial of payment that may result in payment liability for the Enrollee, at the time of any Adverse Benefit Determination affecting the claim.

11.4.3.2 For termination, suspension, or reduction of previously Covered Services, ten (10) calendar days prior to such termination,

suspension, or reduction, except if the criteria stated in 42 C.F.R. § 431.213 and 431.214 are met.

11.4.3.3 For post-service reviews, the Contractor must make its determination within thirty (30) calendar days of receipt of the authorization request.

11.4.3.3.1 The Contractor shall notify the Enrollee and the requesting provider within two (2) business days of the Contractor's determination.

11.4.3.3.2 Standard Appeal timeframes apply to post-service denials.

11.4.3.3.3 When post-service reviews are approved they become effective the date the service was first administered.

11.5 Notification of Coverage and Authorization Determinations

11.5.1 For all Adverse Benefit Determinations, the Contractor must notify the ordering provider, facility, and the Enrollee. The Contractor must inform the parties, other than the Enrollee, in advance whether it will provide notification by phone, mail, fax or other means. The Contractor must notify the Enrollee in writing of the decision. For an adverse authorization decision involving an expedited authorization request the Contractor may initially provide notice orally. For all adverse authorization decisions, the Contractor shall provide written notification within seventy-two (72) hours of the decision (WAC 284-43-2000(6)(b)(ii)).

11.5.1.1 The Contractor shall give notice at least five (5) calendar days before the date of Adverse Benefit Determination when the Adverse Benefit Determination is a termination, suspension or reduction of previously authorized Medicaid-Covered Services when Enrollee Fraud has been verified.

11.6 Compliance with Office of the Insurance Commissioner Regulations

The Contractor shall comply with all Office of the Insurance Commissioner (OIC) regulations regarding utilization management and authorization of services unless those regulations are in direct conflict with federal regulations. Where it is necessary to harmonize federal and state regulations, HCA will direct such harmonization. If an OIC regulation changes during the Period of Performance of this Contract, HCA will determine whether and when to apply the regulation.

12. PROGRAM INTEGRITY

12.1 General Requirements

- 12.1.1 The Contractor shall have and comply with policies and procedures that guide and require the Contractor and the Contractor's officers, employees, agents and subcontractors compliance with the requirements of this section.
- 12.1.2 The Contractor shall include Program Integrity requirements in its subcontracts and provider application, credentialing and recredentialing processes.
- 12.1.3 The following are relevant citations for Program Integrity compliance. The Contractor is expected to be familiar with, comply with, and require compliance with all regulations related to Program Integrity whether or not those regulations are listed.
 - 12.1.3.1 Section 1902(a) (68) of the Social Security Act; and
 - 12.1.3.2 Chapters 74.09 and 74.66 RCW.

12.2 Program Integrity

The Contractor shall ensure compliance with the program integrity provisions of this Contract, including proper payments to providers or Subcontractors and methods for detection of Fraud, waste, and abuse.

- 12.2.1 The Contractor shall perform ongoing analysis of its utilization, claims, billing, and encounter data to detect Overpayments, and shall perform audits and investigations of Subcontractor providers and provider entities. For the purposes of this subsection, "Overpayment" means a payment from the Contractor to a Subcontractor, to which the Subcontractor is not entitled to by law, rule, or contract, including amounts in dispute.
 - 12.2.1.1 When the Contractor or the state identifies an Overpayment, pursuant to RCW 74.09.220, the funds must be recovered by and returned to the state or the Contractor. For the purpose of this subsection, "overpayment" means a payment from the Contractor to a provider or subcontractor to which the provider or subcontractor is not legally entitled.
 - 12.2.1.2 Overpayments that are not recovered by or returned to the Contractor within sixty (60) calendar days from the date they were identified and known by the state and the Contractor, such Overpayments may be recovered by HCA.
 - 12.2.1.3 Consistent with subsection 12.7 of this Contract, the Contractor shall submit quarterly reports of any recoveries made by the Contractor during the course of its claims review/analysis.

12.3 Fraud, Waste and Abuse (FWA)

- 12.3.1 The Contractor's Fraud, Waste and Abuse program shall have:

- 12.3.1.1 A process to inform officers, employees, agents and Subcontractors regarding the False Claims Act.
- 12.3.1.2 Administrative and management arrangements or procedures, and a mandatory compliance plan.
- 12.3.1.3 Standards of conduct that articulate the Contractor's commitment to comply with all applicable federal and state standards.
- 12.3.1.4 The designation of a compliance officer and a compliance committee that is accountable to senior management.
- 12.3.1.5 Effective Fraud, waste and abuse training for all affected parties.
- 12.3.1.6 Effective lines of communication between the compliance officer and the Contractor's staff and Subcontractors.
- 12.3.1.7 Enforcement of standards through well-publicized disciplinary guidelines.
- 12.3.1.8 Provision for internal monitoring and auditing.
- 12.3.1.9 Provision for prompt response to detected offenses, and for development of corrective action initiatives.
- 12.3.1.10 Provision for notification of the Contractor's program integrity activities when requested by HCA and MFCD to prevent duplication of activities.
- 12.3.1.11 Provision for prompt reporting of all overpayments identified and recovered, specifying the overpayments due to potential fraud, to HCA.
- 12.3.1.12 Provision for prompt referral of any potential fraud the Contractor identifies to HCA Program Integrity and to the MFCD pursuant to subsection 12.4.
- 12.3.1.13 Provision of detailed information to employees and Subcontractors regarding Fraud and abuse policies and procedures and the False Claims Act as identified in Section 1902(a)(68) of the Social Security Act and the Washington false claims statutes, Chapter 74.66 RCW and RCW 74.09.210, including information about rights of employees to be protected

as whistleblowers, and the criminal statutes found in chapter 74.09.230-.280 RCW.

- 12.3.1.14 Provision for full cooperation with any federal, DOH or HCA investigation including promptly supplying all data and information requested for the investigation.
- 12.3.1.15 Verification that services billed by providers were actually provided to Enrollees. The Contractor may use explanation of benefits (EOB) for such verification only if the Contractor suppresses EOBs that would be a violation of Enrollee confidentiality requirements for women's healthcare, family planning, sexually transmitted diseases, and Behavioral Health services (42 C.F.R. § 455.20).
- 12.3.2 In Accordance with RCW 74.09.195, when the Contractor conducts an audit of a Contractor's provider or subcontractor, the Contractor must:
 - 12.3.2.1 Provide a thirty (30) day notice to a provider or subcontractor prior to an onsite audit, unless there is evidence of danger to public health and safety or fraudulent activities.
 - 12.3.2.2 Avoid auditing a provider or subcontractor claim that is or has already undergone an audit, review or investigation by the Contractor, HCA, MFCS, or another governmental or law enforcement entity.
 - 12.3.2.3 Allow a provider or subcontractor, at their request, to submit records requested as a result of an audit in electronic format, including compact disc, digital versatile disc, or other electronic formats deemed appropriate by the Contractor, or by facsimile transmission.
 - 12.3.2.4 Issue draft or preliminary findings within one-hundred twenty (120) calendar days from receipt of all provider or subcontractor information required to conduct the audit.
 - 12.3.2.5 Extrapolate only when there is a sustained high level of payment error or when documented provider or subcontractor educational intervention has failed to correct the level of payment error.
 - 12.3.2.6 Provide a detailed explanation in writing to a provider or subcontractor for any adverse determination that would result in partial or full recoupment of a payment to the provider or subcontractor. The written notification shall, at a minimum, include the following:
 - 12.3.2.6.1 The reason for the adverse determination;
 - 12.3.2.6.2 The specific criteria on which the adverse determination was based;

- 12.3.2.6.3 An explanation of the provider's appeal rights; and
 - 12.3.2.6.4 If applicable, the appropriate procedure to submit a claim adjustment.
 - 12.3.2.7 Ensure all informal and formal appeal processes are completed before recouping overpayments.
 - 12.3.2.8 Offer a provider or subcontractor with an adverse determination the option of repaying the amount owed according to a negotiated repayment plan of up to twelve (12) months.
 - 12.3.2.9 In any appeal by a health care provider, employ or contract with a medical, mental or dental professional who practices within the same specialty, is board certified, and experienced in the treatment, billing, and coding procedures used by the provider being audited to make findings and determinations.
 - 12.3.2.10 Provide educational and training programs annually for providers. The training docs must include a summary of audit results, a description of common issues, problems and mistakes identified through audits and reviews, and opportunities for improvement.
 - 12.3.2.11 In the event of an audit of a provider or subcontractor who is no longer in the Contractor's network, include a description of the claim with patient name, date of service and procedure.
- 12.3.3 The Contractor must provide HCA a detailed list of current and past program integrity activities initiated and completed by the Contractor upon HCA's or MFCD's request.
- 12.3.4 Notification and treatment of potential provider and subcontractor improper payment made by the Contractor and identified by HCA.
 - 12.3.4.1 HCA will notify the Contractor to conduct an audit or review when potential provider or subcontractor improper payment(s) are identified by HCA, see chapter 182-502-A WAC. The Contractor shall:
 - 12.3.4.1.1 Initiate an audit or review of the potential improper payment(s) within thirty (30) calendar days of HCA's notification;
 - 12.3.4.1.2 Report to HCA when initiation of the audit or review occurs; and
 - 12.3.4.1.3 Report to HCA the outcome of the Contractor's audit or review.

- 12.3.4.2 If the Contractor confirms an improper payment was made to the provider or subcontractor, the Contractor shall follow the requirements found in RCW 74.09-195, and:
 - 12.3.4.2.1 Following any applicable appeal process, recoup overpayments from the provider or subcontractor, as appropriate;
 - 12.3.4.2.2 Work with the provider or subcontractor to void or adjust improperly paid claim(s);
 - 12.3.4.2.3 Submit an adjustment to or void the encounter record submitted to HCA to reflect the recoupment of the overpayment or provider/subcontractor adjusted or voided; and
 - 12.3.4.2.4 Record all program integrity activities, in progress and completed in the monthly Program Integrity Report.

12.4 Referrals of Credible Allegations of Fraud and Provider Payment Suspensions

- 12.4.1 The Contractor shall establish policies and procedures for referring all identified allegations of suspected fraud to HCA and MFCD and for provider payment suspensions. When HCA notifies the Contractor that a credible allegation of fraud exists, the Contractor shall follow the provisions for payment suspension. (42 C.F.R § 455.23).
- 12.4.2 When the Contractor has concluded that an Allegation of suspected fraud exists, the Contractor shall make a referral to MFCD and HCA within five (5) business days of the determination. The referral must be submitted to HCA through programintegrity@hca.wa.gov and emailed to MFCUreferrals@atq.wa.gov. The Contractor shall submit the report using the -WA-Fraud Referral form.
- 12.4.3 HCA shall notify the Contractor's compliance officers whether MFCD, or other law enforcement agency, accepts or declines the referral within five (5) business days. If HCA, MFCD, or other law enforcement agency accepts the referral, HCA will notify the Contractor's compliance officers within five (5) business days of any determination to suspend payments. Unless otherwise notified by HCA to suspend payment, the Contractor shall not suspend payment of any provider(s) identified in the referral. If HCA, MFCD, or other law enforcement agencies decline to investigate the fraud referral, the Contractor may proceed with its own investigation and comply with the reporting requirements contained in this subsection 12.4.
- 12.4.4 Upon receipt of payment suspension notification from HCA, the Contractor shall send notice of the decision to suspend program payments to the provider within the following timeframes within five (5) calendar days of HCA's notification to suspend payment, unless the MFCD or other law enforcement agency requests a temporary withhold of the notice.

- 12.4.5 The notice of payment suspension must include or address all of the following:
 - 12.4.5.1 State that payments are being suspended in accordance with this provision;
 - 12.4.5.2 Set forth the general allegations identified by HCA. The notice should not disclose any specific information concerning an ongoing investigation;
 - 12.4.5.3 State that the suspension is for a temporary period and cite suspension will be lifted when notified by HCA that is no longer in place;
 - 12.4.5.4 Specify, when applicable, to which type or types of claims or business units the payment suspension relates; and
 - 12.4.5.5 Where applicable and appropriate, inform the provider of any appeal rights available to this provider, along with the provider's right to submit written evidence for consideration by the Contractor.
- 12.4.6 All suspension of payment actions under this section will be temporary and will not continue after either of the following:
 - 12.4.6.1 The Contractor is notified by HCA, MFCD or other law enforcement agency that there is insufficient evidence of fraud by the provider; or
 - 12.4.6.2 The Contractor is notified by HCA or MFCD that the legal proceedings related to the provider's alleged fraud are completed.
 - 12.4.6.3 The Contractor must document in writing the termination of a suspension and issue a notice of the termination to the provider and to HCA.
 - 12.4.6.4 HCA may find that good cause exists not to suspend payments, in whole or in part, or not to continue a payment suspension previously imposed, to an individual or entity against which there is an investigation of a Credible Allegation of Fraud if any of the following are applicable:
 - 12.4.6.4.1 MFCD or law enforcement agencies have specifically requested that a payment suspension not be imposed because such a payment suspension may compromise or jeopardize an investigation.
 - 12.4.6.4.2 Other available remedies are implemented by the Contractor, after HCA approves the remedy, as more effective or timely to protect GFS funds.

- 12.4.6.4.3 HCA determines, based upon the submission of written evidence by the Contractor, individual or entity that is the subject of the payment suspension, there is no longer a Credible Allegation of Fraud and that the suspension should be removed. HCA shall review evidence submitted by the Contractor or provider. The Contractor may include a recommendation to HCA. HCA shall direct the Contractor to continue, reduce or remove the payment suspension within thirty (30) calendar days of having received the evidence.
- 12.4.6.4.4 Enrollee access to items or services would be jeopardized by a payment suspension because of either of the following:
 - 12.4.6.4.4.1 An individual or entity is the sole community physician or the sole source of essential specialized services in a community;
 - 12.4.6.4.4.2 The individual or entity serves a large number of Enrollees within a federal Health Resources and Services Administration (HRSA) designated medically underserved area.
- 12.4.6.4.5 MFCD or law enforcement declines to verify that a matter continues to be under investigation.
- 12.4.6.4.6 HCA determines that payment suspension is not in the best interests of the GFS program.
- 12.4.6.5 The Contractor shall maintain for a minimum of ten (10) years from the date of issuance all materials documenting:
 - 12.4.6.5.1 Details of payment suspensions that were imposed in whole or in part; and
 - 12.4.6.5.2 Each instance when a payment suspension was not imposed or was discontinued for good cause.
- 12.4.6.6 If the Contractor fails to suspend payments to an entity or individual for whom there is a pending investigation of a Credible Allegation of Fraud without good cause, and HCA directed the Contractor to suspend payments, HCA may impose sanctions in accordance with the Sanctions Section of this Contract.
- 12.4.6.7 If any government entity, either from restitutions, recoveries, penalties or fines imposed following a criminal prosecution or

guilty plea, or through a civil settlement or judgment, or any other form of civil action, receives a monetary recovery from any entity, the entirety of such monetary recovery belongs exclusively to the state of Washington and the Contractor has no claim to any portion of this recovery.

- 12.4.6.8 Furthermore, the Contractor is fully subrogated, and shall require its Subcontractors to agree to subrogate, to the state of Washington for all criminal, civil and administrative action recoveries undertaken by any government entity, including, but not limited to, all claims the Contractor or Subcontractor has or may have against any entity that directly or indirectly receives funds under this Contract including, but not limited to, any Health Care Provider, manufacturer, wholesale or retail supplier, sales representative, laboratory, or other provider in the design, manufacture, Marketing, pricing, or quality of drugs, pharmaceuticals, medical supplies, medical devices, durable medical equipment, or other health care related products or services.
- 12.4.6.9 Any funds recovered and retained by a government entity will be reported to the actuary to consider in the rate-setting process.
- 12.4.6.10 For the purposes of this Section, "subrogation" means the right of any state of Washington government entity or local law enforcement to stand in the place of a Contractor or client in the collection against a third party.

12.5 Investigations

- 12.5.1 The Contractor shall cooperate with all state and federal agencies that investigate Fraud, waste and abuse.
- 12.5.2 The Contractor shall suspend its own investigation and all program integrity activities if notified in writing to do so by any applicable state or federal agency (i.e., MFCS DOH, OIG).
- 12.5.3 The Contractor shall maintain all records, documents and claim data for Enrollees, providers and subcontractors who are under investigation by any state or federal agency in accordance with retention rules or until the investigation is complete and the case is closed by the investigating state or federal agency.
- 12.5.4 The Contractor shall comply with directives resulting from the state or federal agency investigations.
- 12.5.5 The Contractor shall request a refund from a third-party payer, provider or subcontractor when an investigation indicates that such a refund is due. These refunds must be reported to HCA as Overpayments.

12.6 Excluded Individuals and Entities

12.6.1 The Contractor and its subcontractors are prohibited from paying with funds received under this Contract for goods and services furnished by an excluded person, at the medical direction or on the prescription of an excluded person (Social Security Act (SSA) section 1903(i)(2) of the Act; 42 C.F.R. § 455.104, § 455.106, and § 1001.1901(b)).

12.6.1.1 The Contractor shall monitor for excluded individuals and entities by:

12.6.1.1.1 Screening Contractor and Subcontractor individuals and entities with an ownership or control interest during the initial provider application, credentialing and recredentialing processes and prior to entering into a contractual or other relationship where the individual or entity would benefit directly or indirectly from funds received under this Contract and payable by a federal health care program.

12.6.1.1.2 Screening individuals during the initial provider application, credentialing and recredentialing process and before entering into a contractual or other relationship where the individual would benefit directly or indirectly from funds received under this Contract or payable by a federal health care program.

12.6.1.1.3 Screen, the LEIE and SAM lists monthly no later than the 15th of each month, all Contractor and Subcontractor individuals and entities with an ownership or control interest, and individuals defined as affiliates, in the Federal Acquisition Regulation, of an individual that is debarred, suspended, or otherwise excluded from participating in procurement activities, and individuals that would benefit from funds received under this Contract for newly added excluded individuals and entities. 42 C.F.R. 438.610(a), and SMD letter 2/20/98.

12.6.1.2 The Contractor will not make any payments for goods or services that directly or indirectly benefit any excluded individual or entity effective with the date of exclusion. The Contractor will immediately recover any payments for goods and services that benefit excluded individuals and entities that it discovers.

12.6.1.3 The Contractor shall immediately terminate any employment, contractual and control relationships with any excluded individual or entity discovered during its provider screening processes, including the provider application, credentialing and

recredentialing, and shall report these individuals and entities within five (5) business days of discovery.

- 12.6.1.4 Civil monetary penalties may be imposed against the Contractor if it employs or enters into a contract with an excluded individual or entity to provide goods or services to Enrollees (SSA section 1128A (a) (6) and 42 C.F.R. § 1003.102(a) (2)).
- 12.6.1.5 An individual or entity is considered to have an ownership or control interest if they have direct or indirect ownership of 5 percent (5%) or more, or are a managing employee (e.g., a general manager, business manager, administrator, or director) who exercises operational or managerial control, or who directly or indirectly conducts day-to-day operations (SSA section 1126(b), and 42 C.F.R. § 455.104(a).
- 12.6.1.6 In addition, if HCA notifies the Contractor that an individual or entity is excluded from participation by HCA, the Contractor shall terminate all beneficial, employment, and contractual and control relationships with the excluded individual or entity immediately (WAC 182-502-0030).
- 12.6.1.7 The HCA will validate that the Contractor is conducting all screenings required by this Section during its annual monitoring review.

12.7 Reporting

- 12.7.1 All Program Integrity reporting to HCA shall be in accordance with the Notices provisions of the General Terms and Conditions of this Contract unless otherwise specified herein.
- 12.7.2 On a monthly basis, the Contractor shall use the Program Integrity Form to report the following:
 - 12.7.2.1 Allegations of provider and subcontractor fraud received and reviewed by the Contractor.
 - 12.7.2.2 Program Integrity Activities and all required notifications found in section 12.3.
 - 12.7.2.3 Provider Termination Report to include but not limited to:
 - 12.7.2.3.1 Termination for convenience;
 - 12.7.2.3.2 Provider self-termination;
 - 12.7.2.3.3 Terminations due to:
 - 12.7.2.3.3.1 Sanction;
 - 12.7.2.3.3.2 Invalid Licenses;

- 12.7.2.3.3.3 Services or Billing Errors;
 - 12.7.2.3.3.4 Re-credentialing Errors;
 - 12.7.2.3.3.5 Data Mining;
 - 12.7.2.3.3.6 Investigation; or
 - 12.7.2.3.3.7 Any other related program integrity involuntary terminations.
- 12.7.3 Any excluded individuals and entities discovered in the screening described in the Fraud and Abuse Subsection of this Contract, including the provider application, credentialing and recredentialing processes, must be reported to HCA within five (5) business days of discovery. The identified excluded individuals/entities shall be reported the WA Excluded Individual Reporting form.
- 12.7.4 The Contractor shall investigate and disclose to HCA, at Contract execution or renewal, and upon request of HCA, the identity of any person who has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the Title XXI services program since the inception of those programs and:
 - 12.7.4.1 Who is an agent or person who has been delegated the authority to obligate or act on behalf of the Contractor; or
 - 12.7.4.2 Any person entering into a provider or subcontractor agreement with the Contractor, or
 - 12.7.4.3 Any person who has ownership or control interest in a provider or subcontractor, or
 - 12.7.4.4 Is an agent or managing employee of the provider or subcontractor.
- 12.7.5 The Contractor and any person entering into a provider or subcontractor agreement, or a person who has ownership or control interest in a provider or subcontractor, or is an agent or managing employee of the provider or subcontractor shall, on a monthly basis, check the LEIE and SAM database to identify any excluded individuals/entities. Documentation shall be kept validating the review of the database and provided to HCA upon request.
- 12.7.6 The Contractor shall submit an Annual Program Integrity Plan of activities the Contractor plans for the upcoming year. The Plan shall include all provider, service and subcontractor specific program integrity activities such as, but not limited to: algorithms, data analytics, clinical reviews, audits, investigations planned, services requiring authorization, prepayment services or providers, payment edits and audits, provider credentialing, and COB/TPL identification.
- 12.7.7

- 12.7.8 The Contractor shall submit the Program Integrity reports to the OPI mailbox at: ProgramIntegrity@hca.wa.gov

DELIVERABLES	FREQUENCY	DUE DATE
Annual Program Integrity Plan for WA State	Annual	60 days after the execution of the new contract or extension of the contract.
Records	On Request, or while On-site	Within three (3) business days from the date of the request unless otherwise specified by HCA.
Program Integrity Report	Monthly	Thirty (30) calendar days after the end of the reporting month.
WA Excluded Individual Reporting Form	Ad Hoc	Within five (5) business days from the date of discovery.
WA Fraud Referral Form	Ad Hoc	Within five (5) business days from the date of determining a Credible Fraud Allegation of Fraud exists.

12.8 Access to Records and On-site Inspections

- 12.8.1 The Contractor and its providers and subcontractors shall permit the state of Washington, including HCA, MFCD and state auditor, federal agencies, including but not limited to: CMS, Government Accountability Office, Office of Management and Budget, Office of the Inspector General, Comptroller General, and their designees, to access, inspect and audit any records or documents of the Contractor or its subcontractors, at any time and shall permit inspection of the premises, physical facilities, and equipment where Medicaid-related activities or work is conducted, at any time.
- 12.8.2 The Contractor and its subcontractors shall forthwith produce all records, documents, or other data requested as part of such inspection, review, audit, investigation, monitoring or evaluation identified in subsection 12.8.1. If the requesting agency requests copies of records, documents, or other data, the Contractor and its subcontractors shall make copies of records and shall deliver them to the requestor, within thirty (30) calendar days of request, or any shorter timeframe as authorized by law or court order. Copies of records and documents shall be made at no cost to the requesting agency. (42 C.F.R. § 455.21(a)(2); 42 C.F.R. § 431.107(b)(2)). The right for the

parties named above to audit, access and inspect under this Section exists for ten (10) years from the final date of the contract period or from the date of completion of any audit, whichever is later, or any other timeframe authorized by law. (42 C.F.R. § 438.3(h)).

12.8.3 A record, in this Section, includes, but is not limited to:

12.8.3.1 Medical records;

12.8.3.2 Billing records;

12.8.3.3 Financial records;

12.8.3.4 Any record related to services rendered, quality, appropriateness, and timeliness of service;

12.8.3.5 Any record relevant to an administrative, civil or criminal investigation or prosecution; and

12.8.3.6 Any record of a Contractor-paid claim or encounter, or a Contractor-denied claim or encounter.

12.8.4 Upon request, the Contractor, its provider or subcontractor shall provide and make staff available to assist in such inspection, review, audit, investigation, monitoring or evaluation, including the provision of adequate space on the premises to reasonably accommodate HCA or other state or federal agency.

13. GRIEVANCE SYSTEM

13.1 General Requirements

The Contractor shall have a Grievance system. The Grievance system shall include a Grievance process, an Appeal Process, access to independent review, and access to the hearing process. NOTE: Provider claim disputes initiated by the provider are not subject to this Section.

- 13.1.1 The Contractor shall have policies and procedures addressing the Grievance system, which comply with the requirements of this Contract. HCA must approve, in writing, all Grievance system policies and procedures and related notices to Enrollees regarding the Grievance system.
- 13.1.2 The Contractor shall inform Enrollees about Behavioral Health Ombuds services and how to access Ombuds services. Enrollees may use the free and confidential regional Ombuds services at any time.
- 13.1.3 The Contractor shall acknowledge receipt of each Grievance, either orally or in writing, within two (2) business days.
- 13.1.4 The Contractor shall acknowledge in writing, the receipt of each Appeal. The Contractor shall provide the written notice to both the Enrollee and requesting provider within seventy-two (72) hours of receipt of the Appeal (WAC 284-43-620).
- 13.1.5 The Contractor shall ensure that decision makers on Grievances and Appeals were not involved in previous levels of review or decision-making
- 13.1.6 nor were they a subordinate or direct report of any such individual (42 C.F.R. § 438.406(a)(3)(i) and WAC 284-43-4040(4).
- 13.1.7 Decisions regarding Grievances and Appeals shall be made by Health Care Professionals with clinical expertise in treating the Enrollee's condition or disease if any of the following apply:
 - 13.1.7.1 If the Enrollee is Appealing an Adverse Benefit Determination concerning medical necessity, including any decision to not authorize the service in an amount, duration or scope less than requested.
 - 13.1.7.2 If the Grievance or Appeal involves any clinical issues.
- 13.1.8 With respect to any decisions described in 13.1.6, the Contractor shall ensure that the Health Care Professionals making such decisions:
 - 13.1.8.1 Have clinical expertise in treating the Enrollee's condition or disease that is age appropriate and when clinically indicated (e.g., a pediatric psychiatrist for a child Enrollee).
 - 13.1.8.2 Are physician board-certified or board-eligible in Psychiatry or Child and Adolescent Psychiatry if the Grievance or Appeal is

related to inpatient level of care denials for psychiatric treatment.

- 13.1.8.3 Are physician board-certified or board-eligible in Addiction Medicine, a Sub-specialty in Addiction Psychiatry, or by ASAM, if the Grievance or Appeal is related to inpatient level of care denials for SUD treatment.
- 13.1.8.4 Are one or more of the following, as appropriate, if a clinical Grievance or Appeal is not related to inpatient level of care denials for psychiatric or SUD treatment:
 - 13.1.8.4.1 Physicians board-certified or board-eligible in Psychiatry, Addiction Medicine or a sub-specialty in Addiction Psychiatry or by ASAM;
 - 13.1.8.4.2 Licensed, doctoral level psychologists; or
 - 13.1.8.4.3 Pharmacists.

13.2 **Grievance Process**

The following requirements are specific to the Grievance process:

- 13.2.1 An Enrollee or the Enrollee's authorized representative may file a grievance with the Contractor at any time. Only an Enrollee or the Enrollee's authorized representative may file a Grievance with the Contractor; a provider may not file a Grievance on behalf of an Enrollee unless the provider is acting on behalf of the Enrollee and with the Enrollee's written consent.
- 13.2.2 The Contractor shall request the Enrollee's written consent should a provider request an Appeal on behalf of an Enrollee without the Enrollee's written consent.
- 13.2.3 The Contractor shall accept, document, record, and process Grievances forwarded by HCA.
- 13.2.4 The Contractor shall provide a written response to HCA within three (3) business days to any constituent Grievance. For the purpose of this subsection, "constituent Grievance" means a complaint or request for information from any elected official or agency director or designee.
- 13.2.5 The Contractor shall assist the Enrollee with all Grievance and Appeal processes (WAC 284-43-615(2) (d)).
- 13.2.6 The Contractor shall cooperate with any representative authorized in writing by the covered Enrollee (WAC 284-43-615(2) (e)).
- 13.2.7 The Contractor shall consider all information submitted by the covered person or representative (WAC 284-43-615(2) (f)).

- 13.2.8 The Contractor shall investigate and resolve all Grievances whether received orally or in writing (WAC 284-43-615(2) (g)). The Contractor shall not require an Enrollee or his/her authorized representative to provide written follow-up for a Grievance or Appeal the Contractor received orally.
- 13.2.9 The Contractor shall complete the resolution of a Grievance and notice to the affected parties as expeditiously as the Enrollee's health condition requires, but no later than forty-five (45) calendar days from receipt of the Grievance. The Contractor may extend the timeframe for processing a grievance by up to 14 calendar days if the enrollee requests the extension. For any extension not requested by an Enrollee, the Contractor must document that there is need for additional information and that the delay is in the Enrollee's best interest and give the Enrollee prompt oral notice of the delay.
- 13.2.10 If the Contractor extends the timeline for a grievance not at the request of the Enrollee, it must give the Enrollee written notice, within two (2) calendar days, of the reason for the decision to extend the timeframe and inform the Enrollee of the right to file a grievance if he or she disagrees with that decision. 42 C.F.R. § 438.408(c)(2)(ii); and 42 C.F.R. § 438.408(b)(1). The Contractor shall provide information on the covered person's right to obtain a second opinion (WAC 284-43-615(2)(h)).
- 13.2.11 The Contractor must notify Enrollees of the resolution of Grievances within five (5) business days of determination. The notification may be orally or in writing for Grievances not involving clinical issues. Notices of disposition for clinical issues must be in writing must be easily understood and meet all Enrollee communications requirements in Subsection 3.2.
- 13.2.12 Enrollees do not have the right to a hearing in regard to the disposition of a Grievance.

13.3 **Appeal Process**

The following requirements are specific to the Appeal Process:

- 13.3.1 An Enrollee, the Enrollee's authorized representative, or a provider acting on behalf of the Enrollee and with the Enrollee's written consent, may Appeal a Contractor Adverse Benefit Determination.
- 13.3.1.1 If a provider has requested an Appeal on behalf of an Enrollee, but without the Enrollee's written consent, the MCO shall not dismiss the Appeal without first contacting the Enrollee, informing the Enrollee that an Appeal has been made on the Enrollee's behalf, and then asking if the Enrollee would like to continue the Appeal.
- 13.3.1.2 If the Enrollee wants to continue the Appeal, the MCO shall obtain from the Enrollee a written consent for the Appeal. If the Enrollee does not wish to continue the Appeal, the MCO shall formally dismiss the Appeal, in writing, with appropriate Enrollee

Appeal rights and by delivering a copy of the dismissal to the provider as well as the Enrollee.

- 13.3.1.3 For expedited appeals, the Contractor may bypass the requirement for Enrollee written consent and obtain Enrollee oral consent. The Enrollee's oral consent shall be documented in the Contractor's UMP records.
- 13.3.2 If HCA receives a request to Appeal an Adverse Benefit Determination of the Contractor, HCA will forward relevant information to the Contractor and the Contractor will contact the Enrollee.
- 13.3.3 An Enrollee may Appeal an Adverse Benefit Determination by filing an Appeal, either orally or in writing, within sixty (60) calendar days of the date of the Contractor's Notice of Adverse Benefit Determination. The Contractor will not be obligated to continue services pending the results of the Appeal.
- 13.3.4 HCA will notify the Contractor of hearing determinations. Oral inquiries seeking to Appeal an Adverse Benefit Determination shall be treated as Appeals and be confirmed in writing. The Appeal acknowledgement letter sent by the MCO to an Enrollee shall serve as written confirmation of an Appeal filed orally by an Enrollee.
- 13.3.5 The Appeal Process shall provide the Enrollee a reasonable opportunity to present evidence, and allegations of fact or law in writing. The Contractor shall inform the Enrollee of the limited time available sufficiently in advance of the resolution timeframe for appeals.
- 13.3.6 The Appeal Process shall provide the Enrollee and the Enrollee's representative copies of the Enrollee's case file, including medical records, other documents and records relied on, or generated by the Contractor (or at the direction of the Contractor) in connection with the appeal of the adverse benefit determination.. The information must be provided upon request by either the Enrollee or the Enrollee's representative and free of charge and sufficiently in advance of the resolution time frame for appeals as specified in 42 C.F.R. §438.308(b) and (c).
- 13.3.7 The Appeal Process shall include as parties to the Appeal, the Enrollee and the Enrollee's representative, or the legal representative of the deceased Enrollee's estate.
- 13.3.8 In any Appeal of an Adverse Benefit Determination by a Subcontractor, the Contractor or its Subcontractor shall apply the Contractor's own clinical practice guidelines, standards, protocols, or other criteria that pertain to the medical necessity determination.
- 13.3.9 The Contractor shall resolve each Appeal and provide notice, as expeditiously as the Enrollee's health condition requires, but no longer than seventy-two (72) hours after the day the Contractor receives the appeal.
- 13.3.10 The Contractor may extend the timeframes by up to fourteen (14) calendar days if the Enrollee requests the extension; or the Contractor shows there is

a need for additional information and how the delay is in the Enrollee's interest.

13.3.11 For any extension not requested by an Enrollee, the Contractor must give the Enrollee written notice of the reason for the delay.

13.3.12 The notice of the resolution of the Appeal shall:

13.3.12.1 Be in writing and sent to the Enrollee and the requesting provider.

13.3.12.2 Include the date completed and reasons for the determination in easily understood language.

13.3.12.3 Include a written statement of the clinical rationale for the decision, including how the requesting provider or Enrollee may obtain the UMP clinical review or decision-making criteria.

13.3.12.4 For Appeals not resolved wholly in favor of the Enrollee, include information on the Enrollee's right to request a hearing and how to do so.

13.4 Administrative Hearing

13.4.1 Only the Enrollee or the Enrollee's authorized representative may request a hearing. A provider may not request a hearing on behalf of an Enrollee.

13.4.2 If an Enrollee does not agree with the Contractor's resolution of the Appeal, the Enrollee may file a request for a hearing within ninety (90) calendar days of the date of notice of the resolution of the Appeal (See WAC 182-526-0200). The Contractor will not be obligated to continue services pending the results of the hearing.

13.4.3 If the Enrollee requests a hearing, the Contractor shall provide to HCA and the Enrollee, upon request, and within three (3) working days, all Contractor-held documentation related to the Appeal, including but not limited to, any transcript(s), records, or written decision(s) from Participating Providers or delegated entities.

13.4.4 The Contractor is an independent party and is responsible for its own representation in any hearing, independent review, Board of Appeals and subsequent judicial proceedings.

13.4.5 The Contractor's Medical Director or designee shall review all cases where a hearing is requested and any related Appeals.

13.4.6 The Enrollee must exhaust all levels of resolution and Appeal within the Contractor's Grievance system prior to filing a request for a hearing with HCA. . If the Contractor fails to adhere to the appeal notice and timing requirements, the Enrollee is deemed to have exhausted the appeal process and may initiate a hearing (42 C.F.R § 438.408(c)(3)).

- 13.4.7 The Contractor will be bound by the final order, whether or not the final order upholds the Contractor's decision. Implementation of the final order shall not be the basis for termination of enrollment by the Contractor.
- 13.4.8 If the final order is not within the purview of this Contract, then HCA will be responsible for the implementation of the final order.
- 13.4.9 The hearings process shall include as parties to the hearing, the Contractor, the Enrollee and the Enrollee's representative, or the legal representative of the deceased Enrollee's estate and HCA.

13.5 Independent Review

After exhausting both the Contractor's Appeal Process and the Administrative Hearing, an Enrollee has a right to request an independent review in accordance with RCW 48.43.535, WAC 182-526-0200, and Chapter 284-43 WAC. Independent review is at the option of the Enrollee but is not a prerequisite for filing a Petition for Review at HCA's Board of Appeals.

13.6 Petition for Review

Any party may Appeal the initial order from the Administrative Hearing to HCA Board of Appeals in accordance with Chapter 182-526 WAC. Notice of this right shall be included in the Initial Order from the Administrative Hearing or the written decision of the Independent Review Organization.

If an Enrollee or HCA disagrees with the independent review decision, the Enrollee or HCA may Appeal the independent review decision to the HCA Board of Appeals; the Contractor may not Appeal the independent review decision to the HCA Board of Appeals. See RCW 48.43.535 and Chapter 182-526 WAC.

13.7 Effect of Reversed Resolutions of Appeals and Hearings

- 13.7.1 If the Contractor's decision not to provide GFS services is reversed, either through a final order of the Office of Administrative Hearings or of the HCA Board of Appeals, the Contractor shall provide the disputed services promptly, and as expeditiously as the Enrollee's health condition requires.

13.8 Recording and Reporting Adverse Benefit Determinations, Grievances, Appeals and Independent Reviews

The Contractor shall maintain records of all Adverse Benefit Determinations, Grievances, Appeals and independent reviews.

- 13.8.1 The records shall include Adverse Benefit Determinations, Grievances and Appeals handled by delegated entities, and all documents generated or obtained by the Contractor in the course of responding to such Adverse Benefit Determinations, Grievances, Appeals, and independent reviews.
- 13.8.2 The Contractor shall provide a separate report of all Adverse Benefit Determinations, Grievances, Appeals and independent reviews related to GFS services to HCA in accordance with the Grievance System Reporting Requirements published by HCA.

- 13.8.2.1 The Contractor will separately track, trend and report behavioral health Adverse Benefit Determinations, Grievances, Appeals, and independent reviews.
- 13.8.3 The Contractor is responsible for maintenance of records for and reporting of any Grievance, Adverse Benefit Determinations, and Appeals handled by delegated entities.
- 13.8.4 Delegated Adverse Benefit Determinations, Grievances, and Appeals are to be integrated into the Contractor's report.
- 13.8.5 Data shall be reported in HCA and Contractor agreed upon format. Reports that do not meet the Grievance System Reporting Requirements shall be returned to the Contractor for correction. Corrected reports will be resubmitted to HCA within thirty (30) calendar days.
- 13.8.6 The report medium shall be specified by HCA and shall be in accordance with the Grievance System Reporting Requirements published by HCA.
- 13.8.7 Reporting of Adverse Benefit Determinations shall include all medical necessity determinations but will not include denials of payment to providers unless the Enrollee is liable for payment in accordance with WAC 182-502-0160 and the provisions of this Contract.
- 13.8.8 The Contractor shall provide information to HCA regarding denial of payment to providers upon request.
- 13.8.9 Reporting of Grievances shall include all expressions of Enrollee dissatisfaction not related to an Adverse Benefit Determination. All Grievances are to be recorded and counted whether the Grievance is remedied by the Contractor immediately or through its Grievance and Quality of Care service procedures.

13.9 Available Resources Exhausted

When GFS funding for a requested service is exhausted, any Appeals process, independent review, or agency Administrative Hearing process will be terminated since services cannot be authorized without funding regardless of medical necessity.

14. HEALTH CARE COORDINATION

The Contractor shall develop policies that promote quality and efficient healthcare for the Enrollee. The Contractor's Health Care Coordination policies shall include integration of GFS funded services into the IAH-FC program. Considerations shall include use of GFS funds to care for Enrollees in alternative settings such as homeless shelters, permanent supported housing, nursing homes or group homes.

14.1 Health Care Coordination: Filing of a No-Bed Report

- 14.1.1 The Contractor will coordinate with the BH-ASO to engage an Enrollee in appropriate treatment services following a notification from a Designated Crisis Responder (DCR) that an individual met ITA detention criteria and there was no bed available in an Evaluation and Treatment center, psychiatric unit, or under a single bed certification, and they were not able to arrange for a less restrictive alternative for this individual.

14.2 Medicaid Funded Personal Care and related services

- 14.2.1 HCS uses the (CARE) tool to determine personal care needs.
 - 14.2.1.1 Personal care and related services authorized by HCS must not duplicate services the Contractor is required to provide.
- 14.2.2 Requests for Information:
 - 14.2.2.1 The Contractor or its designee must respond to requests from HCS within five (5) business days of the request.
 - 14.2.2.2 The Contractor and the local HCS office or its designee may mutually agree in writing to extend the five (5) business day requirement.
 - 14.2.2.3 The Contractor must establish agreements with HCS of ALTSA or its designee(s) that identify processes and procedures related to shared clients.
- 14.2.3 Authorization decisions must be based on the following:
 - 14.2.3.1 A review of the request to determine if the Individual is currently authorized to receive Behavioral Health services in the Contractor's Service Area.
 - 14.2.3.2 A verification that the need for personal care and related services is related to a psychiatric disability; services shall not be denied should the CARE assessment include other diagnosis unrelated to the need for personal care.
 - 14.2.3.3 A review of the requested services to determine if the Individual's personal care and related services or other needs

could be met through provision of other available Behavioral Health services.

14.2.3.4 Services may include but are not limited to: personal care, relief care, behavior supports and related services.

14.2.3.5 The Contractor may not have or implement authorization policies that inhibit enrollees from obtaining medically necessary personal care or related services. Authorizations for personal care and related services are needed on an ongoing basis and shall not be required any more frequently than every year for if there is a significant change in condition that changes the level of need for personal care for related services.

14.2.4 Authorization denials:

14.2.4.1 If the Contractor denies authorization for personal care or related services, and the individual's diagnosis is psychiatric, a written response must be provided to HCS or its designee and must include the reason for the determination and alternative services authorized that will be used to meet the personal care needs identified in the CARE assessment.

14.2.4.2 When the Contractor denies authorization based on provision of other services, a plan (e.g., Individual Service Plan) must be developed by the Contractor and implemented to meet the service needs identified in the CARE assessment.

14.2.5 Billing and Payment for contractor covered personal care or related services:

14.2.5.1 ALTSA will authorize services in ProviderOne, upon receipt of the DSHS Personal Care Transmittal form.

14.2.5.2 ALTSA will bill the Contractor monthly for the GFS cost of Medicaid Personal Care authorizations for individuals that the Contractor has authorized to receive Medicaid Personal Care, and who are determined to have personal care needs, as per the CARE assessment, due solely to a psychiatric disability.

14.2.5.3 The Contractor shall review the invoice provided by ALTSA for accuracy. If the Contractor does not agree with any billed costs, it must provide a written dispute to ALTSA within fifteen (15) days of each monthly billing.

14.2.5.3.1 ALTSA will respond to a Contractor dispute within fifteen (15) days.

14.2.5.4 The Contractor shall provide a copy of the final ALTSA invoice to HCA with a copy to ALSTA within fifteen (15) days of

agreement between ALTSA and the Contractor on the billed cost.

- 14.2.5.5 HCA will deduct the amount on the invoice from the Contractor's next monthly GFS payment.

14.2.6 Reporting:

- 14.2.6.1 The Contractor must provide the following documentation to DSHS, HCS or its designee on request:

- 14.2.6.1.1 The original referral from HCS or its designee and request for authorization.

- 14.2.6.1.2 Any information provided by HCS or its designee including the CARE assessment.

- 14.2.6.1.3 A copy of the Contractor's determination and written response provided to HCS or its designee.

- 14.2.6.1.4 A copy of the plan developed and implemented to meet the Individual's needs through provision of other services when the personal care or other related services request has been denied based on the Contractor's determination.

15. GENERAL REQUIREMENTS

15.1 Second Opinions

- 15.1.1 The Contractor must authorize a second opinion regarding the Enrollee's health care from a qualified Health Care Professional within the Contractor's network, or provide authorization for the Enrollee to obtain a second opinion outside the Contractor's network, if the Contractor's network is unable to provide for a qualified Health Care Professional. The appointment for a second opinion must occur within thirty (30) days of the request. The Enrollee may request to postpone the second opinion to a date later than thirty (30) days.
- 15.1.2 This Section shall not be construed to require the Contractor to cover unlimited second opinions, nor to require the Contractor to cover any services other than the professional services of the second opinion provider.

15.2 Special Provisions for Substance Use Disorder Benefits

All Enrollees are entitled to an assessment of need for SUD services. The Contractor shall ensure use of ASAM level of care criteria to make medical necessity decisions for all SUD services.

15.3 Special Provisions Regarding Behavioral Health Benefits

The Contractor's administration of Behavioral Health benefits also shall comply with the following provisions:

- 15.3.1 Unless otherwise noted, Essential Behavioral Health Administrative Functions and required Behavioral Health personnel shall be located in Washington State and available during Business Hours.
- 15.3.2 Outside of Business Hours, information, crisis triage, referral services and prior authorization may be conducted out-of-state. Any Contractor staff that work outside of Washington State must be trained and have knowledge of Washington State-specific Behavioral Health Covered Services, Managed Care rules, UM protocols and level of care guidelines.
- 15.3.3 The Contractor must maintain an adequate complement of qualified and trained staff located in Washington State to accomplish AH-FIMC program goals and to meet the needs of individuals with serious emotional disturbance, serious mental illness and SUDs, including services funded through state general funds covered by this Contract. The Contractor shall have Behavioral Health resources sufficient to meet all Contract requirements and performance standards and shall require that all staff have the required education, experience, credentials, orientation and training to perform assigned job duties.
- 15.3.4 The Contractor shall designate employees who fulfill the following Behavioral Health key functions:

- 15.3.4.1 A Behavioral Health Medical Director.
- 15.3.4.2 A Behavioral Health Clinical Director.
- 15.3.5 The Contractor shall designate managerial positions with the following Behavioral Health responsibilities:
 - 15.3.5.1 A Behavioral Health Children's System Administrator.
 - 15.3.5.2 An Addictions Administrator.
 - 15.3.5.3 A Behavioral Health Utilization/Care Management Administrator.
 - 15.3.5.4 A Behavioral Health network development manager.
 - 15.3.5.5 A Behavioral Health provider relations manager.
- 15.3.6 In addition to the key and managerial staff, the Contractor shall have a sufficient number of qualified operational staff to meet its responsibilities under this Contract.
 - 15.3.6.1 The Contractor shall locate a sufficient number of Provider Relations staff within the state to meet requirements under this Contract for provider education and training, provider profiling, and provider performance improvement or problem resolution.
 - 15.3.6.2 The Contractor shall ensure that one or more Data Management and Reporting Specialists shall have experience and expertise in BH data analytics and Behavioral Health data systems, to oversee all data interfaces and support the Behavioral Health specific reporting requirements under this Contract. This position can be located outside of Washington State.
 - 15.3.6.3 The Contractor shall ensure a sufficient number of qualified staff including the following functions: administrative and support, member services, Grievance and Appeal, claims, encounter processing, data analysts, and financial reporting analysts.
 - 15.3.6.4 The Contractor may administer claims out-of-state. If claims are administered in another location, provider relations staff shall have access to the claims payment and reporting platform during Business Hours.
- 15.3.7 The Contractor shall develop and maintain a human resources and staffing plan that describes how the Contractor will maintain adequate staffing.

- 15.3.7.1 The Contractor shall hire employees for the key and required Behavioral Health functions specified in the Contract. Consultants must be prior approved by the state.
- 15.3.7.2 The Contractor may propose a staffing plan, with prior approval by the state, which combines positions and functions with other positions.
- 15.3.7.3 The Contractor shall develop and implement staff training plans that address how all staff will be trained on the requirements of this Contract.
- 15.3.8 The Contractor must ensure development and implementation of training programs for network providers that deliver, coordinate, or oversee Behavioral Health services to Enrollees. The individual(s) responsible for Behavioral Health training must have at least two (2) years' experience and expertise in developing training programs related to Behavioral Health systems comparable to those under the Contract.

16. BENEFITS

16.1 Scope of Services

- 16.1.1 The Contractor is responsible for covering medically necessary Behavioral Health services to Enrollees sufficient in amount, duration or scope to reasonably be expected to achieve the purpose for which the services are furnished. The Contractor is responsible for meeting the medical necessity needs of all Enrollees, and is responsible for providing clinically appropriate non-Medicaid services to Enrollees in the event that the Contractor has Available Resources to provide GFS services under this Contract. Within Available Resources, the Contractor shall cover services related to the following:
 - 16.1.1.1 The prevention, intervention, treatment, and after-care of Behavioral Health conditions.
 - 16.1.1.2 The ability for an Enrollee to achieve of age-appropriate growth and development.
 - 16.1.1.3 The ability for an Enrollee to maintain or regain of functional capacity.
- 16.1.2 This Contract does not in any manner delegate coverage decisions to the Contractor. The Contractor makes the decision whether or not a contracted non-Medicaid service is medically necessary. Medical necessity decisions are to be made based on an individual Enrollee's healthcare needs by a Health Care Professional with expertise appropriate to the Enrollee's condition. The Contractor is allowed to have guidelines, developed and overseen by appropriate Health Care Professionals, for approving services. All retrospective denials of Contracted Services are to be individual medical necessity decisions made by a Health Care Professional.
- 16.1.3 Except as specifically provided in the provisions of the Authorization of Services Section, the requirements of this Section shall not be construed to prevent the Contractor from establishing utilization control measures as it deems necessary to assure that services are appropriately utilized, provided that utilization control measures do not deny medically necessary Contracted Services to Enrollees nor unduly burden providers or Enrollees. For specific Contracted Services, the requirements of this Section shall also not be construed as requiring the Contractor to provide the specific items provided by the Health Care Authority under its fee-for-service program, but shall rather be construed to require the Contractor, at a minimum, to provide the same scope of services.
- 16.1.4 The Contractor may limit the provision of Contracted Services to Participating Providers except as specifically provided in this Contract; and the following provisions of this subsection:

- 16.1.4.1 Emergency services;
 - 16.1.4.2 Services outside of the service areas as necessary to provide Medically Necessary Services; and
 - 16.1.4.3 Coordination of Benefits, when an Enrollee has other primary comparable Behavioral Health coverage as necessary to coordinate benefits.
- 16.1.5 Within the Service Areas
- 16.1.5.1 Within the Contractor's service areas, as defined in the service areas provisions of the Enrollment Section of this Contract, the Contractor shall cover Enrollees for all Behavioral Health Medically Necessary Services included in the scope of services covered by this Contract.
- 16.1.6 Outside the Service Areas
- 16.1.6.1 For the Enrollees who are temporarily outside of the service areas or who have moved to a service area not served by the Contractor, the Contractor shall cover the following services:
 - 16.1.6.1.1 Emergency and post-stabilization services.
 - 16.1.6.1.2 Urgent care services associated with the presentation of Behavioral Health conditions that require immediate attention, but are not life threatening.
 - 16.1.6.1.3 Services that are neither emergent nor urgent, but are medically necessary and cannot reasonably wait until Enrollee's return to the service area. The Contractor is not required to cover non-symptomatic (i.e., preventive care) out of the service area.
 - 16.1.6.1.4 The Contractor is not responsible for coverage of any services when an Enrollee is outside the United States of America and its territories and possessions.

16.2 General Description of Contracted Services

- 16.2.1 The Contractor shall ensure services are paid through Medicaid when the service is a covered Medicaid service. GFS funding shall be used for Medicaid Enrollees only when the service is not covered by Medicaid. GFS funds shall be used to cover the following services within Available Resources. The Contractor must utilize GFS funds in accordance with funding allowances provided in Exhibit A. The Contractor shall establish criteria, policies and procedures to determine the provision or denial of the following services:

- 16.2.1.1 Room and board: With funds provided under this Agreement the Contractor is expected to prioritize payment for expenditures associated with providing medically necessary residential services to Medicaid Enrollees that are not included in the Medicaid State Plan or 1915(b) Waiver, this includes, but is not limited to, Room and Board in hospital diversion settings, SUD and mental health residential settings or freestanding Evaluation and Treatment facilities.
- 16.2.1.2 Urinalysis Testing.
- 16.2.1.3 Therapeutic Interventions for Children
- 16.2.1.4 High Intensity Treatment such as PACT Teams.
- 16.2.1.5 Sobering Services.
- 16.2.1.6 Expanded Community Services.
- 16.2.2 Within available resource, the contractor may also provide any other appropriate services to Medicaid Enrollees that are not included in the Medicaid State Plan or the 1915(b) Waiver, such as, but not limited to:
 - 16.2.2.1 Interim Services
 - 16.2.2.2 Opiate Dependency/HIV Services Outreach.
 - 16.2.2.3 Childcare Services.
 - 16.2.2.4 Rehabilitation Case Management.
 - 16.2.2.5 Recovery support services.
 - 16.2.2.6 Outreach and Engagement.
 - 16.2.2.7 Assistance with transportation that would not otherwise be covered by Medicaid.
 - 16.2.2.8 Family Hardship services.
 - 16.2.2.9 Continuing Education and Training.
 - 16.2.2.10 Assistance with application for entitlement programs.
 - 16.2.2.11 Alcohol/Drug Information School.
 - 16.2.2.12 PPW Housing Support Services.
 - 16.2.2.13 Supported Employment.
 - 16.2.2.14 Jail Transition Services.

17. BUSINESS CONTINUITY AND DISASTER RECOVERY

17.1 Business Continuity and Disaster Recovery

- 17.1.1 The Contractor shall demonstrate a primary and back-up system for electronic submission of data requested by HCA. This must include the use of the Inter-Governmental Network (IGN); Information Systems Services Division (ISSD) approved secured virtual private network (VPN) or other ISSD-approved dial-up. In the event these methods of transmission are unavailable and immediate data transmission is necessary, an alternate method of submission will be considered based on HCA approval.
- 17.1.2 The Contractor shall create and maintain a business continuity and disaster Recovery plan that insures timely reinstitution of the Enrollee information system following total loss of the primary system or a substantial loss of functionality. The plan must be in written format, have an identified update process (at least annually) and a copy must be stored off site.
 - 17.1.2.1 The Contractor must submit an annual certification statement indicating there is a business continuity disaster plan in place for both the Contractor and all Subcontractors that manage or store data. The certification must be submitted by January 1 of each year of this Contract. The certification must indicate that the plans are up to date, the system and data backup and recovery procedures have been tested, and copies of the Contractor and Subcontractor plans are available for HCA to review and audit. The plan must address the following:
 - 17.1.2.1.1 A mission or scope statement.
 - 17.1.2.1.2 Identification of the information services disaster recovery staff.
 - 17.1.2.1.3 Provisions for back up of key personnel, identified emergency procedures and visibly listed emergency telephone numbers.
 - 17.1.2.1.4 Procedures for allowing effective communication, applications inventory and business Recovery priority and hardware and software vendor list.
 - 17.1.2.1.5 Confirmation of updated system and operations documentation and process for frequent back up of systems and data.
 - 17.1.2.1.6 Description and location of off -site storage of system and data back-ups and ability to recover data and systems from back up files.
 - 17.1.2.1.7 Designated Recovery options which may include use of a hot or cold site.

17.1.2.1.8 Documentation that disaster recovery tests or drills have been performed.

18. SPECIAL PROVISIONS FOR IHCP PROVIDERS AND AMERICAN INDIAN/ALASKA NATIVE ENROLLEES

18.1 Special Provisions for Subcontracts with IHCP Providers

- 18.1.1 If at any time during the term of this Contract an IHCP Provider submits a written request to the Contractor at the mailing address set forth on the cover page of this Contract indicating such IHCP Provider's intent to enter into a subcontract with the Contractor, the Contractor must negotiate in good faith with the IHCP Provider.
 - 18.1.1.1 Such subcontract must include the Special Terms and Conditions set forth in the Medicaid and Children's Health Insurance Program (CHIP) Managed Care Addendum for Indian Health Care Providers (the IHCP Addendum) issued by the Centers for Medicare and Medicaid Services (CMS). To the extent that any provision set forth in the subcontract between the Contractor and the IHCP Provider conflicts with the provisions set forth in the IHCP Provider Addendum, the provisions of the IHCP Provider Addendum shall prevail.
 - 18.1.1.2 Such subcontract may include additional Special Terms and Conditions that are approved by the IHCP Provider and the Contractor. Each party must provide the HCA Tribal Liaison with a complete copy of such additional Special Terms and Conditions, in the format specified by the Agency, and a written statement that both parties have agreed to such additional Special Terms and Conditions.
- 18.1.2 Any subcontracts with IHCP Providers must be consistent with the laws and regulations that are applicable to the IHCP Provider. The Contractor must work with each IHCP Provider to prevent the Contractor's business operations from placing requirements on the IHCP Provider that are not consistent with applicable law or any of the special terms and conditions in the subcontract between the Contractor and the IHCP Provider.
- 18.1.3 The Contractor may seek technical assistance from the HCA Tribal Affairs Office to understand the legal protections applicable to IHCP Providers and American Indian/Alaska Native Medicaid recipients.
- 18.1.4 In the event that:
 - 18.1.4.1 The Contractor and the IHCP Provider fail to reach an agreement on a subcontract within ninety (90) calendar days from the date of the IHCP Provider's written request (as described in Section 18.1); and
 - 18.1.4.2 The IHCP Provider submits a written request to HCA for a meeting to discuss the subcontract, the Contractor and the IHCP Provider shall meet in person with HCA in Olympia

Washington or an alternate location agreed upon by the parties involved

18.2 Special Provisions for American Indian/Alaska Native Enrollees

- 18.2.1 No later than April 30, the Contractor shall submit to the HCA Tribal Administrator a plan that describes various services, financing models, and other activities for the Contractor to:
- 18.2.2 Support the recommendations set forth in the Tribal Centric Behavioral Health Report to the Washington State Legislature under 2SSB 5732, Section 7, Chapter 388, Laws of 2013, issued on November 30, 2013.
- 18.2.3 Support and enhance the Health Care Coordination services provided by IHCP Providers for Enrollees, both American Indian/Alaska Native and non-American Indian/Alaska Native, including coordination with non-IHCP Provider:
 - 18.2.3.1 Mental health services;
 - 18.2.3.2 Substance use disorder treatment services;
 - 18.2.3.3 Crisis services;
 - 18.2.3.4 Voluntary inpatient services;
 - 18.2.3.5 Involuntary commitment evaluation services; and
 - 18.2.3.6 Inpatient discharge services.
- 18.2.4 Improve access for American Indian/Alaska Native Enrollees (including those who do not receive care at IHCP Providers) to receive:
 - 18.2.4.1 Behavioral Health prevention services;
 - 18.2.4.2 Physical and Behavioral Health care services for co-occurring disorders, and
 - 18.2.4.3 Culturally appropriate physical and Behavioral Health care.
- 18.2.5 In accordance with the Section 5006(d) of the American Recovery and Reinvestment Act of 2009, the Contractor is required to allow American Indians and Alaska Natives free access to and make payments for any participating and nonparticipating IHCP Providers for Contracted Services provided to American Indian/Alaska Native enrollees at a rate equal to the rate negotiated between the Contractor and the IHCP Provider. If such a rate has not been negotiated, the payment is to be made at a rate that is not less than what would have otherwise been paid to a Participating Provider who is not a IHCP Provider.
- 18.2.6 Health Care Coordination and Continuity of Care: Tribal Members

- 18.2.6.1 The Contractor must include, or attempt to include its Coordination Implementation Plan with each Tribe and non-tribal Indian Health Care Provider (IHCP) protocols for coordination of care, or transition of care for American Indian/Alaska Natives (AI/ANs) who lose eligibility or who are in need of GFS funded services. If requested by HCA, the Contractor must provide documentation of attempts to engage with a Tribe or non-tribal IHCP to include such protocols in the Coordination Implementation Plan with the Tribe or non-tribal IHCP.

THIS DOCUMENT REPRESENTS ALL INCORPORATED AMENDMENTS AND EXHIBITS FROM JANUARY 2019 THROUGH AMENDMENT #1. AMENDMENT #1 IS EFFECTIVE JULY 1, 2019.

Exhibit A-1: Non-Medicaid Funding Allocation

This Exhibit addresses Non-Medicaid General Fund State funds for the provision of behavioral health services to Foster Care populations covered under this contract for July 1, 2019, through December, 2019, of state fiscal year (SFY) 2020.

Table 1 depicts allocations for Coordinated Care.

Table 1: Coordinated Care July-Dec 2019 Non-Medicaid Foster Care Funding

Region	Non-Medicaid (monthly)	Total (six months)
Greater Columbia	\$9,700	\$58,200
King	\$28,015	\$168,090
North Central	\$3,445	\$20,670
North Sound	\$16,681	\$100,086
Pierce	\$11,662	\$69,972
Southwest	\$6,933	\$41,598
Spokane	\$8,231	\$49,386
Great Rivers	\$3,973	\$23,838
Salish	\$5,130	\$30,780
Thurston Mason	\$4,834	\$29,004
Total	\$98,604	\$591,624

All proviso dollars are GF-S funds. Outlined below, are explanations of the provisos and the designated marijuana account:

- **Expanded Community Services (ECS):** ECS funding is to assist in the provision of community support services for long term state hospital patients. The funding is provided for the operation of community residential and support services for persons whose treatment needs constitute substantial barriers to community placement and who no longer require active psychiatric treatment at an inpatient hospital level of care, no longer met the criteria for inpatient involuntary commitment, and who are clinically ready for discharge from a state psychiatric hospital.
- **WA - Program for Assertive Community Treatment (WA - PACT):** Funds received per the budget proviso for development and initial operation of high-intensity programs for active community treatment WA- PACT teams.
- **Assisted Outpatient Treatment:** Funds received to support Assisted Outpatient Treatment (AOT). AOT is an order for Less Restrictive Alternative Treatment for up to ninety days form the date of judgment. AOT shall not order inpatient treatment.

Exhibit B-1

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Exhibit D: List of Essential Behavioral Health Providers

List of Essential Behavioral Health Providers:

- Certified residential treatment providers¹
- DBHR Licensed Community MH Agencies
- DBHR-certified Substance Use Disorder Treatment Provider Agencies
- DOH-certified medication assisted treatment (e.g. buprenorphine)
- DBHR-certified opiate substitution providers (Methadone Treatment programs)
- Evaluation and Treatment in DOH-licensed and DBHR-certified free-standing inpatient, hospitals, or psychiatric inpatient facilities
- DOH-licensed and DBHR certified detox facilities (for acute and sub-acute)
- DOH licensed and DBHR certified residential treatment facility to provide crisis stabilization

¹ Certified residential treatment providers: residential programs must have Department of Health (DOH) Residential Treatment Facility (RTF) license and then can apply for DBHR Certification for a type of service such as, Evaluation and Treatment, Crisis Stabilization, Intensive Inpatient, Recovery House, Long Term and Detoxification.

Exhibit E

DATA USE, SECURITY AND CONFIDENTIALITY

1. Definitions

The definitions below apply to this Exhibit:

- 1.1 “Authorized User” means an individual or individuals with an authorized business need to access HCA’s Confidential Information under this Contract.
- 1.2 “Breach” means the unauthorized acquisition, access, use, or disclosure of Data shared under this Contract that compromises the security, confidentiality or integrity of the Data.
- 1.3 “Data” means the information that is disclosed or exchanged as described by this Contract. For purposes of this Exhibit, Data means the same as “Confidential Information.”
- 1.4 “Disclosure” means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information.
- 1.5 “Hardened Password” means a string of characters containing at least three of the following character classes: upper case letters; lower case letters; numerals; and special characters, such as an asterisk, ampersand or exclamation point.
 - 1.5.1 Passwords for external authentication must be a minimum of 10 characters long.
 - 1.5.2 Passwords for internal authentication must be a minimum of 8 characters long.
 - 1.5.3 Passwords used for system service or service accounts must be a minimum of 20 characters long.
- 1.6 “HIPAA” means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as modified by the American Recovery and Reinvestment Act of 2009 (“ARRA”), Sec. 13400 – 13424, H.R. 1 (2009) (HITECH Act).
- 1.7 “HIPAA Rules” means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Parts 160 and Part 164.
- 1.8 “Portable/Removable Media” means any Data storage device that can be detached or removed from a computer and transported, including but not limited to: optical media (e.g. CDs, DVDs); USB drives; or flash media (e.g. CompactFlash, SD, MMC).
- 1.9 “Portable/Removable Devices” means any small computing device that can be transported, including but not limited to: handhelds/PDAs/Smartphones; Ultramobile PC’s, flash memory devices (e.g. USB flash drives, personal media players); and laptops/notebook/tablet computers. If used to store Confidential Information, devices should be Federal Information Processing Standards (FIPS) Level 2 compliant.
- 1.10 “Protected Health Information” or “PHI” means information that relates to the provision of health care to an individual; the past, present, or future physical or mental health or condition of an individual; or past, present or future payment for provision of health care to an individual. 45 C.F.R. §160 and 164. PHI includes demographic information that identifies the individual or about which there is reasonable basis to believe, can be used to identify

the individual. 45 C.F.R. § 160.103. PHI is information transmitted, maintained, or stored in any form or medium. 45 C.F.R. § 164.501. PHI does not include education records covered by the Family Educational Right and Privacy Act, as amended, 20 U.S.C. § 1232g(a)(4)(b)(iv).

- 1.11 “ProviderOne” means the Medicaid Management Information System, which is the State’s Medicaid payment system managed by HCA.
- 1.12 “Transmitting” means the transferring of data electronically, such as via email, SFTP, webservices, AWS Snowball, etc.
- 1.13 “Trusted System(s)” means the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service (“USPS”) first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.
- 1.14 “U.S.C.” means the United States Code. All references in this Exhibit to U.S.C. chapters or sections will include any successor, amended, or replacement statute. The U.S.C. may be accessed at <http://uscode.house.gov/>
- 1.15 “Use” includes the sharing, employment, application, utilization, examination, or analysis, of Data.

2. Data Classification

- 2.1 The State classifies data into categories based on the sensitivity of the data pursuant to the Security policy and standards promulgated by the Office of the state of Washington Chief Information Officer. (See Section 4, *Data Security*, of *Securing IT Assets Standards* No. 141.10 in the *State Technology Manual* at <https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets>. Section 4 is hereby incorporated by reference.)

The Data that is the subject of this Contract is classified as Category 4 – Confidential Information Requiring Special Handling. Category 4 Data is information that is specifically protected from disclosure and for which:

- 2.1.1 Especially strict handling requirements are dictated, such as by statutes, regulations, or agreements;
- 2.1.2 Serious consequences could arise from unauthorized disclosure, such as threats to health and safety, or legal sanctions.

3. Constraints on Use of Data

- 3.1 This Contract does not constitute a release of the Data for the Contractor’s discretionary use. Contractor must use the Data received or accessed under this Contract only to carry

out the purpose of this Contract. Any ad hoc analyses or other use or reporting of the Data is not permitted without HCA's prior written consent.

3.2 Any disclosure of Data contrary to this Contract is unauthorized and is subject to penalties identified in law.

3.3 The Contractor must comply with the *Minimum Necessary Standard*, which means that Contractor will use the least amount of PHI necessary to accomplish the Purpose of this Contract.

3.3.1 Contractor must identify:

3.3.1.1 Those persons or classes of persons in its workforce who need access to PHI to carry out their duties; and

3.3.1.2 For each such person or class of persons, the category or categories of PHI to which access is needed and any conditions appropriate to such access.

3.3.2 Contractor must implement policies and procedures that limit the PHI disclosed to such persons or classes of persons to the amount reasonably necessary to achieve the purpose of the disclosure, in accordance with this Contract.

4. Security of Data

4.1 Data Protection

4.1.1 The Contractor must protect and maintain all Confidential Information gained by reason of this Contract, information that is defined as confidential under state or federal law or regulation, or Data that HCA has identified as confidential, against unauthorized use, access, disclosure, modification or loss. This duty requires the Contractor to employ reasonable security measures, which include restricting access to the Confidential Information by:

4.1.1.1 Allowing access only to staff that have an authorized business requirement to view the Confidential Information.

4.1.1.2 Physically securing any computers, documents, or other media containing the Confidential Information.

4.2 Data Security Standards

4.2.1 Contractor must comply with the Data Security Requirements set out in this section and the Washington OCIO Security Standard, 141.10, which will include any successor, amended, or replacement regulation (<https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets>.) The Security Standard 141.10 is hereby incorporated by reference into this Contract.

4.2.2 Data Transmitting

4.2.2.1 When transmitting Data electronically, including via email, the Data must be encrypted using NIST 800-series approved algorithms

(<http://csrc.nist.gov/publications/PubsSPs.html>). This includes transmission over the public internet.

4.2.2.2 When transmitting Data via paper documents, the Contractor must use a Trusted System.

4.2.3 Protection of Data. The Contractor agrees to store and protect Data as described.

4.2.3.1 Data at Rest:

4.2.3.1.1 Data will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data. Access to the Data will be restricted to Authorized Users through the use of access control lists, a Unique User ID, and a Hardened Password, or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Systems that contain or provide access to Confidential Information must be located in an area that is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

4.2.3.2 Data stored on Portable/Removable Media or Devices

4.2.3.2.1 Confidential Information provided by HCA on Removable Media will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the Data.

4.2.3.2.2 HCA's Data must not be stored by the Contractor on Portable Devices or Media unless specifically authorized within the Contract. If so authorized, the Contractor must protect the Data by:

4.2.3.2.2.1 Encrypting with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data;

4.2.3.2.2.2 Controlling access to the devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics;

4.2.3.2.2.3 Keeping devices in locked storage when not in use;

4.2.3.2.2.4 Using check-in/check-out procedures when devices are shared;

4.2.3.2.2.5 Maintaining an inventory of devices; and

4.2.3.2.2.6 Ensuring that when being transported outside of a Secured Area, all devices containing Data are under the physical control of an Authorized User.

4.2.3.3 Paper Documents. Any paper records containing Confidential Information must be protected by storing the records in a Secured Area that is accessible only to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.

4.2.4 Data Segregation

4.2.4.1 HCA Data received under this Contract must be segregated or otherwise distinguishable from non-HCA Data. This is to ensure that when no longer needed by the Contractor, all of HCA's Data can be identified for return or destruction. It also aids in determining whether HCA's Data has or may have been compromised in the event of a security breach.

HCA's Data must be kept in one of the following ways:

- 4.2.4.1.1 On media (e.g. hard disk, optical disc, tape, etc.) which contains only HCA Data;
- 4.2.4.1.2 In a logical container on electronic media, such as a partition or folder dedicated to HCA's Data;
- 4.2.4.1.3 In a database that contains only HCA Data;
- 4.2.4.1.4 Within a database – HCA data must be distinguishable from non-HCA Data by the value of a specific field or fields within database records;
- 4.2.4.1.5 Physically segregated from non-HCA Data in a drawer, folder, or other container when stored as physical paper documents.

4.2.4.2 When it is not feasible or practical to segregate HCA's Data from non-HCA data, both HCA's Data and the non-HCA data with which it is commingled must be protected as described in this Exhibit.

4.3 Data Disposition

4.3.1 Upon request by HCA, at the end of the Contract term, or when no longer needed, Confidential Information/Data must be returned to HCA or disposed of as set out below, except as required to be maintained for compliance or accounting purposes.

Media are to be destroyed using a method documented within NIST 800-88 (<http://csrc.nist.gov/publications/PubsSPs.html>).

4.3.2 For Data stored on network disks, deleting unneeded Data is sufficient as long as the disks remain in a Secured Area and otherwise meet the requirements listed in

Section 4.2.3, above. Destruction of the Data as outlined in this section of this Exhibit may be deferred until the disks are retired, replaced, or otherwise taken out of the Secured Area.

5. Data Confidentiality and Non-Disclosure

5.1 Data Confidentiality.

5.1.1 The Contractor will not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this Contract for any purpose that is not directly connected with the purpose of this Contract, except:

5.1.1.1 (a) as provided by law; or

5.1.1.2 (b) with the prior written consent of the person or personal representative of the person who is the subject of the Confidential Information.

5.2 Non-Disclosure of Data

5.2.1 The Contractor will ensure that all employees or Subcontractors who will have access to the Data described in this Contract (including both employees who will use the Data and IT support staff) are instructed and aware of the use restrictions and protection requirements of this Exhibit before gaining access to the Data identified herein. The Contractor will ensure that any new employee is made aware of the use restrictions and protection requirements of this Exhibit before they gain access to the Data.

5.2.2 The Contractor will ensure that each employee or Subcontractor who will access the Data signs a non-disclosure of confidential information agreement regarding confidentiality and non-disclosure requirements of Data under this Contract. The Contractor must retain the signed copy of employee non-disclosure agreement in each employee's personnel file for a minimum of six years from the date the employee's access to the Data ends. The Contractor will make this documentation available to HCA upon request.

5.3 Penalties for Unauthorized Disclosure of Data

5.3.1 The Contractor must comply with all applicable federal and state laws and regulations concerning collection, use, and disclosure of Personal Information and PHI. Violation of these laws may result in criminal or civil penalties or fines.

5.3.2 The Contractor accepts full responsibility and liability for any noncompliance with applicable laws or this Contract by itself, its employees, and its Subcontractors.

6. Data Shared with Subcontractors

6.1 If Data access is to be provided to a Subcontractor under this Contract, the Contractor must include all of the Data security terms, conditions and requirements set forth in this Exhibit in any such Subcontract. However, no subcontract will terminate the Contractor's legal responsibility to HCA for any work performed under this Contract nor for oversight of any functions and/or responsibilities it delegates to any subcontractor.

7. Data Breach Notification

- 7.1 The Breach or potential compromise of Data must be reported to the HCA Privacy Officer at PrivacyOfficer@hca.wa.gov and to the Managed Care Contract Manager at hcamcprograms@hca.wa.gov within five (5) business days of discovery. If the Contractor does not have full details, it will report what information it has, and provide full details within 15 business days of discovery. To the extent possible, these reports must include the following:
- 7.1.1 The identification of each individual whose PHI has been or may have been improperly accessed, acquired, used, or disclosed;
 - 7.1.2 The nature of the unauthorized use or disclosure, including a brief description of what happened, the date of the event(s), and the date of discovery;
 - 7.1.3 A description of the types of PHI involved;
 - 7.1.4 The investigative and remedial actions the Contractor or its Subcontractor took or will take to prevent and mitigate harmful effects, and protect against recurrence;
 - 7.1.5 Any details necessary for a determination of the potential harm to Enrollees whose PHI is believed to have been used or disclosed and the steps those Enrollees should take to protect themselves; and
 - 7.1.6 Any other information HCA reasonably requests.
- 7.2 The Contractor must take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or HCA including but not limited to 45 C.F.R. Part 164, Subpart D; RCW 42.56.590; RCW 19.255.010; or WAC 284-04-625.
- 7.3 The Contractor must notify HCA in writing, as described in the *General Terms and Conditions* section, *Notices*, within two (2) business days of determining notification must be sent to enrollees.
- 7.4 At HCA's request, the Contractor will provide draft Enrollee notification to HCA at least five (5) business days prior to notification, and allow HCA an opportunity to review and comment on the notifications.
- 7.5 At HCA's request, the Contractor will coordinate its investigation and notifications with HCA and the Office of the State of Washington Chief Information Officer (OCIO), as applicable.

8. HIPAA Compliance

- 8.1 The Contractor must perform all of its duties, activities, and tasks under this Contract in compliance with HIPAA, the HIPAA Rules, and all applicable regulations as promulgated by the U.S. Department of Health and Human Services, Office for Civil Rights, as applicable. The Contractor and Contractor's subcontracts must fully cooperate with HCA efforts to implement HIPAA requirements.
- 8.2 Within ten business days, Contractor must notify the HCA Privacy Officer at PrivacyOfficer@hca.wa.gov, with a copy to the Managed Care Contract Manager at hcamcprograms@hca.wa.gov, of any complaint, enforcement, or compliance action initiated by the Office for Civil Rights based on an allegation of violation of HIPAA or the HIPAA Rules and must inform HCA of the outcome of that action. Contractor bears all responsibility for any penalties, fines, or sanctions imposed against Contractor for violations of HIPAA or

the HIPAA Rules and for any sanction imposed against its Subcontractors or agents for which it is found liable.

9. Inspection

- 9.1 HCA reserves the right to monitor, audit, or investigate the use of Personal Information and PHI of Enrollees collected, used, or acquired by Contractor during the terms of this Contract. All HCA representatives conducting onsite audits of Contractor agree to keep confidential any patient-identifiable information which may be reviewed during the course of any site visit or audit.

10. Material Breach

- 10.1 The Contractor must indemnify and hold HCA and its employees harmless from any damages related to the Contractor's or Subcontractor's unauthorized use or release of Personal Information or PHI of Enrollees.