

AMENDMENT NUMBER EIGHT TO THE STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES/DENTAL BENEFIT MANAGEMENT, INC. DBA BENE CARE CONTRACT

DSS CONTRACT NUMBER 08DSS6602UF / 999DBM-DEN-01

ENTERED INTO NOVEMBER 18, 2008

FOR THE STATE OF CONNECTICUT'S DENTAL HEALTH PARTNERSHIP

WHEREAS, the State of Connecticut Department of Social Services ("State" or "Department") and Dental Benefit Management, Inc. d/b/a BeneCare ("BeneCare" or "Contractor") executed a contract on November 18, 2008 for the administrative planning, implementation, and oversight of Connecticut's Dental Health Partnership ("CTDHP"); and

WHEREAS, The Department and BeneCare have agreed to extend the contract for an additional five years and six months;

NOW THEREFORE, for and in consideration for the promises to each other set forth below, the parties agree as follows:

1. The end date of the contract shall be extended from 12/31/13 to 6/30/16. Any reference to 12/31/13 shall be altered to reflect 6/30/16.
2. The maximum contract value shall be increased by \$19,800,000 to be utilized in Years 7 through 9 at an operations budget of \$6,600,000 per year, and during these years adhere to a yearly budget as mutually negotiated by the Department and the Contractor. The maximum value shall be reflected as "\$24,854,297 + \$0.035 per Member per month" on invoices presented by the Contractor for payment.
3. All citations to SAGA, Medicaid, HUSKY A, and HUSKY B in the original contract and successive Amendments shall be revised to read (and be understood as) HUSKY HEALTH A, B, C, and D; and all citations to Medical Care Organization or MCO shall be revised to read (and be understood as) Medical Administrative Service Organization or Medical ASO.
4. All citations to Electronic Data Systems or EDS in the original contract and successive Amendments shall be revised to read (and be understood as) Hewlett Packard or HP.
5. The Key Position of "Project Manager" cited in Part I Section 3.5, Staffing and Department Approval on page 8 of the original contract is deleted and replaced by "Director of Operations and Compliance, and Director of Care Coordination and Outreach."
6. The following provision shall be appended to Part I, Section 4, Contractor Responsibilities on page 8 of the original contract:
 - h. The Contractor shall provide documentation of program management operations, including but not limited to a detailed disaster plan as requested by the Department.
7. Subsection d of Part II Section 3.01, Provision of Services, on page 25 of the original contract is deleted in its entirety and replace by the following subsection:
 - d. The Contractor shall ensure that members in need of urgent or emergent care can get referrals to qualified dental personnel during normal business hours.
8. In addition to the provisions of Part II, Section 3.03, Provider Network, on page 26 of the original contract, the Contractor shall facilitate provider enrollment arrangements with providers not excluded from participation in a Federal health program under either Section 1128 or 1128A of the Social Security Act.
9. The website address in the third paragraph of Part II Section 3.03, Provider Network – Introduction on page 26 and in Part II, Section 3.09.b.8 on page 34 of the original contract is changed to www.ctdssmap.com.

10. Subsections e and g of Part II Section 3.04, Network Adequacy, on page 28 of the original contract are deleted in their entirety and replaced by the following respective subsections:
 - e. Evaluate the adequacy of the dental network on a monthly basis, and report on a quarterly basis to the Department on the evaluation of the adequacy of the dental provider network on a monthly basis when the number of Members in a given county equals or exceeds ninety percent (90%) of the established capacity.
 - g. Report on a quarterly basis to the Department on the evaluation the adequacy of PCDP access within a 20 mile radius of member's town of residence and report to the Department monthly, on the same. The 20 mile requirement shall be measured from town line to town line.
11. The complaint ratio in in Part II Section 3.04 f.3.a, Network Adequacy, on page 28 of the original contract is changed from one complaint per 50,000 members to one complaint per 25,000 members.
12. Part II, Section 3.05.f of the Care Coordination and Care Management section on page 32 of the original contract is deleted in its entirety and replaced with the following section:
 - f. Report to the Department in a form, format and frequency as required by the Department, on the following Care Coordination and Case Management performance issues:
 - 1). Access difficulties for specific levels of care (PCDP or dental home, referral to specialist, ability to receive care in the Operating Room, etc.);
 - 2). Availability of services that are culturally sensitive;
 - 3). Gaps in services in local areas (may include ancillary services such as transportation, etc.);
 - 4). Successful and creative treatment interventions;
 - 5). Need for specialized treatments or interventions;
 - 6). Innovative and/or specialized programs that promote improved clinical outcomes; and
 - 7). Recommendations to resolve issues.
13. Part II, Section 3.07.b of the PCDP and Specialist Selection, Scheduling, and Capacity section on page 33 of the original contract is deleted in its entirety.
14. Part II, Section 3.07.c.5 of the PCDP and Specialist Selection, Scheduling, and Capacity section on page 33 of the original contract is deleted and replaced by the following section:
 - c. In accordance with current Departmental policies, monitor access and provide feedback and education to CMAP Dental Providers to educate providers about the following scheduling standards:
15. Part II, Sections 3.07.c.6 and 3.07.d of the PCDP and Specialist Selection, Scheduling, and Capacity section on page 33 of the original contract are deleted in their entirety.
16. The last sentence of the second paragraph of the Introduction to Part II, Section 3.09, Preventive Care and Services for Children, on page 34 of the original contract is deleted and replaced by the following sentence:

“Prior authorization cannot be required for either a periodic or inter-periodic screening examination, except when it exceeds the prevailing standards of care promulgated by the AAPD and ADA.”
17. The Contractor's responsibility in Part II, Section 3.09.a, Preventive Care and Services for Children, on page 34 of the original contract is deleted in its entirety and replaced by the following section:

The Contractor shall:

 - a. Propose a prevention and intervention strategy to reduce poor oral health habits and prevent oral disease such as dental decay and periodontal disease for identified members and their families, including at a minimum:

1. Identifying and coordinating services to address the oral health needs of children and their parents / caregivers;
 2. Promoting family involvement; and
 3. Outreach and education strategies.
- b. Propose a strategy to meet the EPSDT performance standards.
18. Effective July 1, 2013, the following provisions shall be appended to Part II, Section 3.09, Preventive Care and Services for Children on page 36 of the original contract:

Performance Standards:

The Department shall withhold ten percent (10%) of each month's payment (the "Annual Withhold"), which will be released to the Contractor as incentive payments based on meeting annual performance standards as follows:

- a. During the first, second and third years, one-fourth (1/4) of the Annual Withhold will be reimbursed for increasing pediatric (under 21 year old) Member participation as described in this subsection (a), such determination to be made, and such sum paid, within sixty (60) days after each State fiscal year end.
 - i. Year 1: The Contractor will strive to attain, by the end of the Federal Fiscal Year 2013, at least a one percent (1.0%) increase over the previous Federal Fiscal Year's utilization rate as reported on the CMS 416 report and using the CMS 416 1b count of members as the denominator for calculating the change in utilization rate.
 - ii. Year 2: The Contractor will strive to attain, by the end of the Federal Fiscal Year 2014, at least a one percent (1.0%) increase over the previous Federal Fiscal Year's utilization rate as reported on the CMS 416 report and using the CMS 416 1b count of members as the denominator for calculating the change in utilization rate.
 - iii. Year 3: The Contractor will strive to attain, by the end of the Federal Fiscal Year 2015, at least a one percent (1.0%) increase over the previous Federal Fiscal Year's utilization rate as reported on the CMS 416 report and using the CMS 416 1b count of members as the denominator for calculating the change in utilization rate.
- b. During the first, second and third years, one-fourth (1/4) of the Annual Withhold will be reimbursed for maintaining provider network capacity equal to:
 - i. Primary Care Dentist (General and Pediatric Dentists) to Member Ratio of 1:2,000; and
 - ii. Specialist to Member Ratio of 1:2,400.
- c. During the first, second and third years, one-fourth (1/4) of the Annual Withhold will be reimbursed for increasing early childhood Member participation as described in this subsection (c), such determination to be made, and such sum paid, within sixty (60) days after each State fiscal year end.
 - i. Year 1: The Contractor will strive to attain, by the end of the Federal Fiscal Year 2013, at least a five percent (5.0%) increase in utilization among members ages 1 to 4 over the previous Federal Fiscal Year's utilization rate as reported on the CMS 416 report and using the CMS 416 1b count of members as the denominator for calculating the change in utilization rate.
 - ii. Year 2: The Contractor will strive to attain, by the end of the Federal Fiscal Year 2014, at least a five percent (5.0%) increase in utilization among members ages 1 to 4 over the previous Federal Fiscal Year's utilization rate as reported on the CMS 416 report and using the CMS 416 1b count of members as the denominator for calculating the change in utilization rate.
 - iii. Year 3: The Contractor will strive to attain, by the end of the Federal Fiscal Year 2015, at least a five percent (5.0%) increase in utilization among members ages 1 to 4 over the previous Federal Fiscal Year's utilization rate as reported on the CMS 416 report and using the CMS 416 1b count of members as the denominator for calculating the change in utilization rate.

- d. During the first, second and third years, one-fourth (1/4) of the Annual Withhold will be reimbursed for reducing health disparities as described in this subsection (d), such determination to be made, and such sum paid, within sixty (60) days after each State fiscal year end.
 - i. Year 1: The Contractor will develop an action plan for reducing health disparities among and between different demographic cohorts of members. The action plan shall detail the approach, methodology/ies to be used, and collaborations necessary to effectuate reductions in health disparities. The action plan shall be due to the Department by the end of SFY 2014.
 - ii. Year 2: The Contractor will strive to attain, by the end of the Federal Fiscal Year 2014 (9/30/2015), at least a five percent (5.0%) increase in utilization among pediatric (under 21 year old) Members who are identified within a cohort exhibiting health disparities in accessing dental care.
 - iii. Year 3: The Contractor will strive to attain, by the end of the Federal Fiscal Year 2015 (9/30/2016)), at least a five percent (5.0%) increase in utilization among pediatric (under 21 year old) Members who are identified within a cohort exhibiting health disparities in accessing dental care.
19. The items listed under Part II, Section 3.11.a, Services to Members, on page 37 of the original contract are deleted and replaced by the following items:
 1. Call Center;
 2. A Member Brochure;
 3. Website;
 4. Annual Newsletter to members; and
 5. Other Member materials.
 20. The first sentence in of Part II, Section 3.11.g, Services for Members, on page 37 of the original contract is deleted in its entirety and replaced with the following sentence: "At the time of enrollment and at least annually hereafter the Contractor shall inform members of the applicable procedural steps for filing an appropriate appeal and requesting an administrative hearing for HUSKY Health A, B, C, and D or Community Health Network of CT, the Department's Medical ASO, for HUSKY B."
 21. Part II, Section 3.11.g.2 on page 38 of the original contract is deleted in its entirety and replaced with the following subsection:
 2. Inform Members of the appropriate appeal and administrative hearing processes applicable for HUSKY Health A, B, C, and D or HUSKY B;
 22. The second sentence in of Part II, Section 3.11.j, Services for Members, on page 37 of the original contract beginning "The operational procedures..." is deleted in its entirety.
 23. Part II, Section 3.12.c, Telephone Call Management, on page 39 of the original contract is deleted in its entirety and replaced by the following subsection:
 - c. Provide sufficient staff available during core business hours of 8:00 am to 5:00 pm on Mondays through Fridays, except for seven (7) State holidays (New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day) and days when State offices are closed due to inclement weather.
 24. The time threshold in subsections f.6 and f.7 in Part II, Section 3.12, Telephone Call Management, on page 40 of the original contract is changed from thirty (30) to forty-five (45) seconds.
 25. Part II, Section 3.12.g, Telephone Call Management, on page 40 of the original contract is deleted in its entirety and replaced by the following subsection:
 - g. The phone statistics shall be maintained daily, and reported to the Department on a monthly basis, in accordance with a fixed schedule and format. The Department reserves the right to change the timeframe for these reports with reasonable notice to the Contractor.

26. The second Sanction listed under subsection h of Part II, Section 3.12 on page 40 of the original contract is deleted in its entirety and replaced by the following subsections:

Sanction: For each documented and validated instance of failure to provide appropriate linguistic accessibility (including, but not limited to providing oral interpreter services and toll free numbers with TTY/TID and interpreter capability), the Department may impose a strike towards a Class A sanction pursuant to Section 6.04, Monetary Sanctions.

Sanction: If a grievance involves a denial of expedited review of an appeal or some other TTY/TID services to Members, the Department may impose a strike towards a Class A sanction pursuant to Section 6.04, Monetary Sanctions.

27. The following subsection shall be appended to Part II, Section 3.12 on page 40 of the original contract:

- i. The Contractor shall develop and submit to the Department a Disaster Recovery Plan for telecommunications which shall include but not be limited to:
 - a. A plan to respond to phone calls seamlessly in the event of local power failures, phone system failures, or other emergencies; and
 - b. A plan to provide operator response to calls when the number of calls exceeds the anticipated call demand.

28. Part I, Section 3.14.e.1, Website for Members and Providers, on page 41 of the original contract is deleted in its entirety.

29. In subsections d.6 and e.2 of Part II, Section 3.14, Website for Members and Providers, on page 41 of the original contract, "e-mail box" is deleted and replaced by "method."

30. Part II, Section 3.17.b.2, Provider Relations, on page 42 of the original contract, is deleted and replaced by the following subsection:

2. Targeted technical assistance for those providers who, during the course of normal business, are identified as needing further assistance and education regarding the Connecticut Dental Health Partnership's parameters and goals.

31. Part II, Section 3.18.m, Internal and External Quality Assurance, on page 44 of the original contract is deleted in its entirety.

32. Part I, Section 3.18.h, Internal and External Quality Assurance, is deleted and replaced by the following subsection:

- h. At the discretion of the Department in consultation with the Contractor, the results of the QAPI activities shall be reported in writing

33. The following sentences shall be appended to subsection i of Part II, Section 3.20, Clinical Data and Other Reporting, on page 46 of the original contract:

For each report the Department will consider using any HEDIS standards promulgated by the NCQA that cover the same or similar subject matter. The Department reserves the right to modify HEDIS standards, or not to use them at all, if in the Department's judgment, the objectives of Medicaid, HUSKY Health A, B, C, and D can be better served using other methods.

34. In addition to the provisions in Part II, Section 3.20, Clinical Data and Other Reporting on pages 45 through 47 of the original contract, the Contractor shall adhere to the reporting schedules in Exhibit A of this Amendment.

35. The Section Title and subsection a of Part II, Section 4.03, Grievances (Medicaid, HUSKY A, SAGA, and HUSKY B) on page 59 of the original contract are deleted and replaced with the following title and subsection:

4.03 Grievances (HUSKY Health A, B, C and D)

- a. The Contractor shall implement and maintain procedures to manage grievances for its Members. Grievances are expressions of dissatisfaction about any matter, other than those matters that qualify as an action as defined in Section 4.04, Notices of Action and Continuation of Benefits. The subject matters of grievances may include, but are not limited to, quality of care, rudeness by a provider or Contractor staff person, or failure to respect a Member's Rights as defined herein in Part II, Section 3.02.
36. The last sentence in Part II, Section 4.03.d on page 59 of the original contract is deleted in its entirety and replaced by the following sentence:

Each grievance shall be brought to conclusion within ninety (90) days or less.

37. The External Appeal Process provisions in Part II, Section 5.04 on page 73 of the original contract are deleted in their entirety and replaced with the following provisions:

5.04 External Appeal Process for HUSKY B

- a. The Department operates a program specific review process for an external review of appeals conducted by the Contractor. If a HUSKY B member has exhausted the Contractor's internal appeals process and has received a final written determination from the Contractor upholding the Contractor's original denial of the service, the Member may file an external appeal with the Department within thirty (30) days of the receipt of the final written appeal determination.
- b. The Department will assign the appeal to the appropriate clinician within the agency who had no involvement in the underlying appeal or determination.
- i. The Contractor will provide copies of its determination and all clinical documentation necessary to the Department's consideration of the External Appeal.
- ii. The Department will complete its External Appeal in no more than 30 days from the date it was requested by the Member.
- iii. The Contractor shall comply with the Department's External Appeal determination and issue notification of the same to the Department.
- iv. The Department shall conduct expedited External Appeals.
1. If the Contractor conducts the internal appeal on an expedited basis, the Contractor will scan and e-mail its final determination along with the supporting clinical information to the Department on the same day the Contractor makes its determination.
2. If the Contractor did not conduct an expedited internal appeal, but the Department determines that an expedited external appeal is warranted, or the Member's provider certifies that an expedited external appeal is warranted, the Contractor shall provide the clinical/supporting information electronically on the same day that the Department requests this information.
3. The Department will issue a determination within 48 hours. If the Department reverses the Contractor's internal decision, the determination will direct the Contractor to authorize or otherwise implement the decision on a timely basis and may specify a date for implementation.
38. The timeframe for written notification set forth in Subsection c, of Part II, Section 6.02.a.1 of Monetary Sanctions, on page 74 of the original contract, is reduced from 45 days to 30 days.

This document constitutes an amendment to the above numbered contract. All provisions of that contract, except those explicitly changed above by this amendment, shall remain in full force and effect.

SIGNATURES AND APPROVALS

999DBM-DEN-01 / 08DSS6602UF A⁸

The Contractor IS a Business Associate under the Health Insurance Portability and Accountability Act of 1996 as amended.

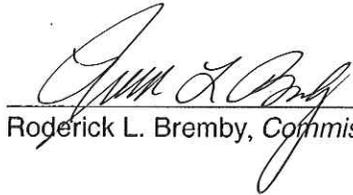
CONTRACTOR - DENTAL BENEFIT MANAGEMENT, INC. D/B/A BENECARE DENTAL PLANS



Lee Gerota, President

12/16/2013
Date

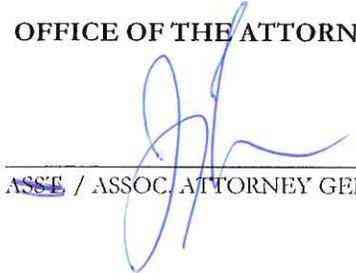
DEPARTMENT OF SOCIAL SERVICES



Roderick L. Bremby, Commissioner

12/10/2013
Date

OFFICE OF THE ATTORNEY GENERAL



~~ASST~~ / ASSOC. ATTORNEY GENERAL (*Approved as to form & legal sufficiency*)

ASSOC. ATTY. GENERAL

12/23/13
Date

AMENDMENT NUMBER SEVEN TO THE STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES/DENTAL BENEFIT MANAGEMENT, INC. DBA BENECARE CONTRACT

DSS CONTRACT NUMBER 08DSS6602UF / 999DBM-DEN-01

ENTERED INTO NOVEMBER 18, 2008

FOR THE STATE OF CONNECTICUT'S DENTAL HEALTH PARTNERSHIP

WHEREAS, the State of Connecticut Department of Social Services ("State" or "Department") and Dental Benefit Management, Inc. d/b/a BeneCare ("BeneCare" or "Contractor") executed a contract on November 18, 2008 for the administrative planning, implementation, and oversight of Connecticut's Dental Health Partnership ("CTDHP"); and

WHEREAS, The Department and BeneCare have agreed to extend the contract for three additional months;

NOW THEREFORE, for and in consideration for the promises to each other set forth below, the parties agree as follows:

1. The end date of the contract shall be extended from 9/30/13 to 12/31/13. Any reference to 9/30/13 shall be altered to reflect 12/31/13.
2. The HIPAA provisions as amended in Amendment 6 of this contract are deleted in their entirety and replaced by the following provisions effective September 23, 2013:

Health Insurance Portability and Accountability Act of 1996.

- (a) If the Contractor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as noted in this Contract, the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract ("Agency") is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor is a "business associate" of the Agency, as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor and the Agency agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), (Pub. L. 111-5, §§ 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, D and E (collectively referred to herein as the "HIPAA Standards").
- (f) Definitions
 - (1) "Breach" shall have the same meaning as the term is defined in section 45 C.F.R. 164.402 and shall also include an use or disclosure of PHI that violates the HIPAA Standards.
 - (2) "Business Associate" shall mean the Contractor.

- (3) "Covered Entity" shall mean the Agency of the State of Connecticut named on page 1 of this Contract.
 - (4) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
 - (5) "Electronic Health Record" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5)).
 - (6) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
 - (7) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
 - (8) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, and includes electronic PHI, as defined in 45 C.F.R. 160.103, limited to information created, maintained, transmitted or received by the Business Associate from or on behalf of the Covered Entity or from another Business Associate of the Covered Entity.
 - (9) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
 - (10) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
 - (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
 - (12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
 - (13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
 - (14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
 - (15) "Unsecured protected health information" shall have the same meaning as the term as defined in 45 C.F.R. 164.402.
- (g) Obligations and Activities of Business Associates.
- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
 - (2) Business Associate agrees to use and maintain appropriate safeguards and comply with applicable HIPAA Standards with respect to all PHI and to prevent use or disclosure of PHI other than as provided for in this Section of the Contract and in accordance with HIPAA standards.
 - (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.

- (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
- (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
- (6) Business Associate agrees, in accordance with 45 C.F.R. 502(e)(1)(ii) and 164.308(d)(2), if applicable, to ensure that any subcontractors that create, receive, maintain or transmit protected health information on behalf of the business associate, agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;
- (7) Business Associate agrees to provide access (including inspection, obtaining a copy or both), at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524. Business Associate shall not charge any fees greater than the lesser of the amount charged by the Covered Entity to an Individual for such records; the amount permitted by state law; or the Business Associate's actual cost of postage, labor and supplies for complying with the request.
- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner designated by the Covered Entity.
- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created, maintained, transmitted or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary investigating or determining Covered Entity's compliance with the HIPAA Standards..
- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner designated by the Covered Entity, information collected in accordance with subsection (g)(10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. §§ 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an individual requests that the Business Associate
 - (A) restrict disclosures of PHI;
 - (B) provide an accounting of disclosures of the individual's PHI;

- (C) provide a copy of the individual's PHI in an electronic health record; or
- (D) amend PHI in the individual's designated record set,

the Business Associate agrees to notify the Covered Entity, in writing, within five business days of the request.

- (15) Business Associate agrees that it shall not, and shall ensure that its subcontractors do not, directly or indirectly, receive any remuneration in exchange for PHI of an Individual without
 - (A) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and
 - (B) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations
- (16) Obligations in the Event of a Breach.
 - (A) The Business Associate agrees that, following the discovery by the Business Associate or by a subcontractor of the Business Associate of any use or disclosure not provided for by this section of the Contract, any breach of unsecured protected health information, or any Security Incident, it shall notify the Covered Entity of such breach in accordance with Subpart D of Part 164 of Title 45 of the Code of Federal Regulations and this Section of the Contract.
 - (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, or a subcontractor of the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to 45 C.F.R. 164.412. . A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate or its subcontractor. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
 - (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
 1. A description of what happened, including the date of the breach; the date of the discovery of the breach; the unauthorized person, if known, who used the PHI or to whom it was disclosed; and whether the PHI was actually acquired or viewed.
 2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
 3. The steps the Business Associate recommends that Individual(s) take to protect themselves from potential harm resulting from the breach.
 4. A detailed description of what the Business Associate is doing or has done to investigate the breach, to mitigate losses, and to protect against any further breaches.

5. Whether a law enforcement official has advised the Business Associate, either verbally or in writing, that he or she has determined that notification or notice to Individuals or the posting required under 45 C.F.R. 164.412 would impede a criminal investigation or cause damage to national security and; if so, contact information for said official.
- (D) If directed by the Covered Entity, the Business Associate agrees to conduct a risk assessment using at least the information in subparagraphs 1 to 4, inclusive of (g) (16) (C) of this Section and determine whether, in its opinion, there is a low probability that the PHI has been compromised. Such recommendation shall be transmitted to the Covered Entity within 20 business days of the Business Associate's notification to the Covered Entity.
 - (E) If the Covered Entity determines that there has been a breach, as defined in 45 C.F.R. 164.402, by the Business Associate or a subcontractor of the Business Associate, the Business Associate, if directed by the Covered Entity, shall provide all notifications required by 45 C.F.R. 164.404 and 45 C.F.R. 164.406.
 - (F) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed of a breach have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.
 - (G) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.
- (h) Permitted Uses and Disclosure by Business Associate.
- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the HIPAA Standards if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
 - (2) Specific Use and Disclosure Provisions
 - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
 - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

- (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- (i) Obligations of Covered Entity.
- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
 - (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual(s) to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
 - (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (j) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Standards if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.
- (k) Term and Termination.
- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with provision (g)(10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
 - (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
 - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
 - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
 - (3) Effect of Termination.
 - (A) Except as provided in (k)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with section (g)(10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This section shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

- (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.
- (l) Miscellaneous Sections.
- (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
 - (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
 - (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
 - (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
 - (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
 - (6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the sections of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
 - (7) Indemnification. The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, and the HIPAA Standards.

This document constitutes an amendment to the above numbered contract. All provisions of that contract, except those explicitly changed above by this amendment, shall remain in full force and effect.

SIGNATURES AND APPROVALS

999DBM-DEN-01 / 08DSS6602UF A7

The Contractor IS a Business Associate under the Health Insurance Portability and Accountability Act of 1996 as amended.

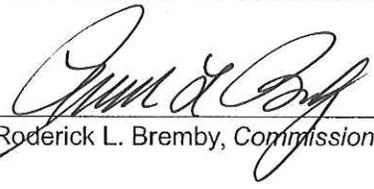
CONTRACTOR - DENTAL BENEFIT MANAGEMENT, INC. D/B/A BENECARE DENTAL PLANS



Lee Serota, President

9/27/13
Date

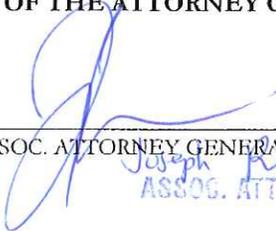
DEPARTMENT OF SOCIAL SERVICES



Roderick L. Bremby, Commissioner

9/30/2013
Date

OFFICE OF THE ATTORNEY GENERAL



ASST. / ASSOC. ATTORNEY GENERAL (Approved as to form & legal sufficiency)

10/8/13
Date

AMENDMENT NUMBER SIX TO THE STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES/DENTAL BENEFIT MANAGEMENT, INC. DBA BENECARE CONTRACT

DSS CONTRACT NUMBER 08DSS6602UF / 999DBM-DEN-01

ENTERED INTO NOVEMBER 18, 2008

FOR THE STATE OF CONNECTICUT'S DENTAL HEALTH PARTNERSHIP

WHEREAS, the State of Connecticut Department of Social Services ("State" or "Department") and Dental Benefit Management, Inc. d/b/a BeneCare ("BeneCare" or "Contractor") executed a contract on November 18, 2008 for the administrative planning, implementation, and oversight of Connecticut's Dental Health Partnership ("CTDHP"); and

WHEREAS, The Department and BeneCare have agreed to extend the contract for three additional months;

NOW THEREFORE, for and in consideration for the promises to each other set forth below, the parties agree as follows:

1. The end date of the contract shall be extended from 6/30/13 to 9/30/13. Any reference to 6/30/13 shall be altered to reflect 9/30/13.
2. In addition to the Confidentiality provisions in Part II, Section 3.33 on pages 53 and 54 of the original contract, the Contractor shall comply with the following provisions:

Protection of Confidential Information.

- a. **"Confidential Information"** shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential Information shall also include any information that the Department classifies as "confidential" or "restricted." Confidential Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.
- b. **"Confidential Information Breach"** shall mean, generally, an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to the client, the Contractor, the Department or State.
- c. Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Confidential Information Breach any and all Confidential Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.
- d. Each Contractor or Contractor Party shall develop, implement and maintain a comprehensive data - security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and

written policy of the Department or State concerning the confidentiality of Confidential Information. Such data-security program shall include, but not be limited to, the following:

- i. A security policy for employees related to the storage, access and transportation of data containing Confidential Information;
 - ii. Reasonable restrictions on access to records containing Confidential Information, including access to any locked storage where such records are kept;
 - iii. A process for reviewing policies and security measures at least annually;
 - iv. Creating secure access controls to Confidential Information, including but not limited to passwords; and
 - v. Encrypting of Confidential Information that is stored on laptops, portable devices or being transmitted electronically.
- c. The Contractor and Contractor Parties shall notify the Department and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Confidential Information which Contractor or Contractor Parties have come to possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Department and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Confidential Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Confidential Information Breach. The Contractors' costs and expenses for the credit monitoring and protection plan shall not be recoverable from the Department, any State of Connecticut entity or any affected individuals.
- d. The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in the same manner as provided for in this Section.
- e. Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to HIPAA or the provisions of this Contract concerning the obligations of the Contractor as a Business Associate of the Department.
3. The Freedom of Information provisions in Part II, Section 8.03 C.12 on page 91 of the original contract are deleted in their entireties and replaced by the following provision:
- Governmental Function.** In accordance with C.G.S. § 1-218, if the amount of this Contract exceeds two million five hundred thousand dollars (\$2,500,000), and the Contractor is a "person" performing a "governmental function", as those terms are defined in C.G.S. §§ 1-200(4) and (11), the Agency is entitled to receive a copy of the Records and files related to the Contractor's performance of the governmental function, which may be disclosed by the Agency pursuant to the FOIA.
4. The following provision shall be appended to Part II Section C of the original contract, Statutory and Regulatory Compliance:
16. **Summary of State Ethics Laws.** Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of the Contract as if the summary had been fully set forth in the Contract.

5. The Nondiscrimination provisions as amended in Amendment 1 of this contract are deleted in their entireties and replaced with the following provisions:

Non-discrimination.

(a) For purposes of this Section, the following terms are defined as follows:

- (1) "Commission" means the Commission on Human Rights and Opportunities;
- (2) "Contract" and "contract" include any extension or modification of the Contract or contract;
- (3) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
- (4) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.
- (5) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
- (6) "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
- (7) "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
- (8) "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
- (9) "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
- (10) "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

(b)

- (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability,

including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved;

- (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission;
 - (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment;
 - (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68c and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and
 - (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.
- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
- (g)
- (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;

- (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
 - (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and
 - (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.
- (h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
6. The HIPAA provisions as amended in Amendment 2 of this contract are deleted in their entirety and replaced by the following provisions:

Health Insurance Portability and Accountability Act of 1996.

- (a) If the Contractor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract ("Agency") is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor, on behalf of the Agency, performs functions that involve the use or disclosure of "individually identifiable health information," as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor is a "business associate" of the Agency, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Agency agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), (Pub. L. 111-5, §§ 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions
 - (1) "Breach" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. § 17921(1)).

- (2) "Business Associate" shall mean the Contractor.
 - (3) "Covered Entity" shall mean the Agency of the State of Connecticut named on page 1 of this Contract.
 - (4) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
 - (5) "Electronic Health Record" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. § 17921(5)).
 - (6) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
 - (7) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
 - (8) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
 - (9) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
 - (10) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
 - (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
 - (12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
 - (13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
 - (14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
 - (15) "Unsecured protected health information" shall have the same meaning as the term as defined in section 13402(h)(1)(A) of HITECH. Act. (42 U.S.C. §17932(h)(1)(A)).
- (h) Obligations and Activities of Business Associates.
- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
 - (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
 - (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.

- (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
- (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
- (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
- (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with subsection (h)(10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. §§ 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an individual requests that the Business Associate
 - (A) restrict disclosures of PHI;
 - (B) provide an accounting of disclosures of the individual's PHI; or
 - (C) provide a copy of the individual's PHI in an electronic health record,

- (D) the Business Associate agrees to notify the covered entity, in writing, within five (5) business days of the request.
- (15) Business Associate agrees that it shall not, directly or indirectly, receive any remuneration in exchange for PHI of an individual without
- (A) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and
 - (B) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations
- (16) Obligations in the Event of a Breach.
- (A) The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. § 17932(b)) and this Section of the Contract.
 - (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402(g) of HITECH (42 U.S.C. § 17932(g)). A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
 - (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
 1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
 2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
 3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.
 4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
 5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to individuals or the posting required under section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and; if so, include contact information for said official.
 - (D) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free

telephone number, an e-mail address, a posting on its Web site or a postal address. For breaches involving ten or more individuals whose contact information is insufficient or out of date to allow written notification under 45 C.F.R. § 164.404(d)(1)(i), the Business Associate shall notify the Covered Entity of such persons and maintain a toll-free telephone number for ninety (90) days after said notification is sent to the Covered Entity. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.

(E) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.

(i) Permitted Uses and Disclosure by Business Associate.

(1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

(2) Specific Use and Disclosure Provisions

(A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

(B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

(j) Obligations of Covered Entity.

(1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

(2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

(3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and

management and administrative activities of Business Associate, as permitted under this Section of the Contract.

(l) Term and Termination.

- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with provision (h)(10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
 - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
 - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- (3) Effect of Termination.
 - (A) Except as provided in (l)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with section (h)(10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This section shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
 - (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Sections.

- (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

- (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the sections of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
- (7) Indemnification. The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

This document constitutes an amendment to the above numbered contract. All provisions of that contract, except those explicitly changed above by this amendment, shall remain in full force and effect.

SIGNATURES AND APPROVALS

999DBM-DEN-01 / 08DSS6602UF A6

The Contractor IS a Business Associate under the Health Insurance Portability and Accountability Act of 1996 as amended.

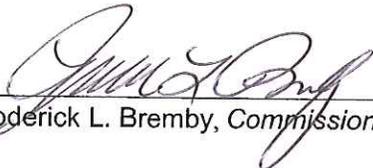
CONTRACTOR - DENTAL BENEFIT MANAGEMENT, INC. D/B/A BENECARE DENTAL PLANS



Lee Serota, *President*

June 28, 2013
Date

DEPARTMENT OF SOCIAL SERVICES

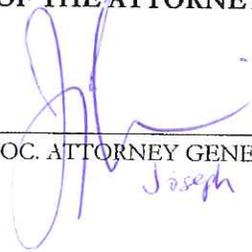


Roderick L. Bremby, *Commissioner*

6/28/2013

Date

OFFICE OF THE ATTORNEY GENERAL



ASST. / ASSOC. ATTORNEY GENERAL (*Approved as to form & legal sufficiency*)
Joseph Rubin

7/8/13

Date

**AMENDMENT NUMBER FIVE TO THE STATE OF CONNECTICUT DEPARTMENT OF SOCIAL
SERVICES/DENTAL BENEFIT MANAGEMENT, INC. DBA BENE CARE CONTRACT
ENTERED INTO ON NOVEMBER 18, 2008
FOR THE STATE OF CONNECTICUT'S DENTAL HEALTH PARTNERSHIP**

Whereas, the State of Connecticut Department of Social Services ("State" or "Department") and Dental Benefit Management, Inc. d/b/a BeneCare ("BeneCare" or "Contractor") executed a contract on November 18, 2008, for the administrative planning, implementation, and oversight of Connecticut's Dental Health Partnership ("CTDHP"); and

Whereas, the Department and BeneCare have agreed to extend the contract for two additional years; and

Whereas, the Department has reviewed and approved BeneCare's revised budget for this extension;

Now therefore, for and in consideration of the promises to each other set forth below, the parties agree as follows:

1. The end date of the contract shall be extended from 09/30/11 to 6/30/13. Any reference to 09/30/11 shall be altered to reflect 06/30/13.
2. The maximum contract value shall be increased by \$13,200,000 to be utilized in Years 4 and 5 at an operations budget of \$3,849,980.71 and \$3,937,951.71 respectively. Remaining funds shall be utilized to pay a \$.35 PMPM rate and for any additional initiatives not contemplated herein that require additional funding.
3. The current budget shall be supplemented with the approved budget attached.
4. The following initiatives shall be undertaken by BeneCare, at the direction and specification of the Department. The Department shall issue specifications associated with each initiative and BeneCare shall implement such initiatives in accordance with mutually agreed upon specifications and any approved change orders (see H below) necessary to effectuate such initiatives.

a. MEDICAL AND DENTAL HOME:

The Connecticut Dental Health Partnership's (CTDHP) Administrative Service Organization (ASO), the Contractor, shall follow the National Committee for Quality and Assurance (NCQA) Patient Centered Medical Home (PCMH) model standards to develop, and continue the establishment of, Patient Centered Dental Homes (Dental Home) for all of the Department of Social Services' (the Department) clients being served under the partnership. The dental ASO will also be responsible for the implementation, monitoring and reporting on Pay-for-Performance enhancement program(s) to be offered to enrolled CTDHP dental providers under the direction of the Department.

In order for CTDHP providers to identify and assess the patient population being served through the partnership, Contractor shall encourage providers to use a standardized comprehensive risk assessment screening (CRAS) tool to screen the children and adolescents served by the program. The CRAS tool(s) shall be based upon either the American Dental Association or the Academy of Pediatric Dentists CRAS tool based upon the selection and recommendation of the Contractor and the Department staff. The Contractor will encourage providers to use the CRAS outcomes as the baseline for development of the client's successive treatment plan. All willing providers will receive training on the use of the CRAS tool through a formalized instruction program to be developed by the Contractor.

If the CRAS screening is done by the client's Primary Care Provider (PCP) (or one of their qualified staff) Contractor will support referrals to an enrolled Primary Care Dental (PCD) provider; referrals and appointments may be facilitated through the Dental Health Care Specialist (DHCS) or the CTDHP Client Service Representatives (CRS). Contractor will encourage providers to submit a copy of the assessment form to the Contractor for tracking, data aggregation and follow up as necessary.

Contractor will support CTDHP Dental Home providers in collaborating with their patients / family / caregivers to develop individual care plans which will be based on the CRAS findings. Contractor will support the Dental Home, working as a team, to ensure compliance with each client's care plan goals. Contractor will encourage providers to offer the patients / families / care givers some educational resources, referrals to additional resources and service materials while working with them and supporting their efforts to establish self care practices.

The Contractor will systematically and objectively measure access to care, demand for services, quality of care, and outcomes and will analyze utilization data, satisfaction surveys, complaints and other sources of information which describe quality measures. This information will support the development of continuous quality improvement strategies by the Department, the Contractor and providers that are consistent with the vision and mission of the Department under this initiative.

The Contractor will be responsible not only for monitoring provider service provisions but will also use existing dental encounter and claims data to manage the patient population being served under the partnership. Management of the population will include, but not be limited to, the identification of non-utilizing individuals, pregnant women and individuals with special healthcare needs, outreach and preventive care services including reminders about specific inclusion of oral health services. The Contractor will also track referrals and follow up on the referrals by soliciting service reports from the providers and specialists to whom clients have been referred.

The Contractor's staff will report to and meet with the Department's Manager of the CTDHP and their staff at a minimum on a bi-monthly schedule as requested. These meetings will be held in order to discuss the status and progress of the development, implementation and maintenance of the relationship between the PCP and the PCD. This schedule will allow adequate time for additional ad hoc meetings as needed.

The Department shall monitor the Contractor's activities under this initiative to ensure that all individuals being treated by the partnership's enrolled providers receive appropriate, effective, medically necessary, and cost effective treatment in order to maximize positive health outcomes.

b. QUALITY RECOUPMENT OF DENTAL SERVICE ("PCAR")

The Contractor's dental consultants, in the course of their review of clinical documentation for prior authorization and/or post procedure review of dental services, that deem said services to have been performed below the prevailing community standard of care, incompletely, or that are thought to not benefit the client or provide useful diagnostic evidence (i.e. non-diagnostic quality radiographs) will be allowed to make recommendation, and have the Contractor make a referral to Hewlett Packard Enterprises, in order to re-coup any fee paid for the said service. The Contractor shall submit all Paid Claim Adjustment Requests (PCARs) electronically (which shall be detailed in a file layout specified by Hewlett Packard Enterprises). A process shall be mutually agreed upon between the Contractor, HP, and the Department as to how these findings will be submitted, the requirements for acting upon the consultants recommendations in each potential circumstance, and any further action required of the Contractor, HP Enterprises or the Department.

c. CREDENTIALING COMMITTEE / PEER REVIEW COMMITTEE

The Contractor staff and the Dental Policy Advisory Council (DPAC) have been tasked with establishing a collaborative Credentialing and Peer Review Committee (CPRC). The CPRC will establish the criteria, structure and policies regarding the role and activities of the CPRC. The CPRC members will also be responsible for identifying the credentialing requirements for each dental provider specialty, ensuring that providers who are asking to be enrolled as specialists have the necessary training and certifications that qualify them in a particular area of service delivery, and for drafting the policies that will be used upon passage of authorizing legislation and review by the Department's Legal Unit prior to implementation.

d. ENROLLMENT AND RE-ENROLLMENT

The Contractor will be responsible for the pre-screening of each individual, group, institution or federally qualified health center provider application to verify that the application is fully and correctly completed, checking each applicant's CPRC credentials and gathering all information required for enrollment/re-enrollment into the Medicaid program. Once all required information is received and has been verified, and at such time as the CPRC is constituted and authorized to conduct credentialing reviews, complete and reviewed applications will be sent to the Department's contracted fiscal agent, Hewlett-Packard Enterprises, for statewide entry and subsequent review by the Department's Quality Assurance Unit.

e. PEER REVIEW

The Department, Contractor staff and DPAC members will be responsible for establishing the policies and procedures for the peer review committee and will act as the peer review team when there are concerns regarding a provider's compliance with the Medical Assistance Program Policies, standards of care or the treatment of a client or clients. The Peer Review Committee may make recommendations to the Department regarding any actions to be taken against the provider.

f. QUALITY ASSURANCE SPECIAL INVESTIGATIONS UNIT

The Department's Medical Care Administration Dental Unit's Manager, or her designee, must be included in all correspondence concerning all suspected fraud and/or abusive provider practices. The established procedures and documentation requirements in place to report all suspected fraud and abuse cases were developed by the Department's Quality Assurance Unit with the intent to establish a proactive and consistent reporting channel within the Department. This will ensure comprehensive and manageable monitoring and oversight of these cases. Through coordination of resources, direct communication and a standardized reporting process which consists of utilization profiles, laymen's description of the suspect activity and Quality Assurance Unit's referral form, the Department plans to strengthen the CT Dental Health Partnership's program and quality service delivery provisions.

The Contractor shall utilize the Department's referral forms when referring matters of suspected fraud, abuse and overpayments under the "Description of Suspect Activity" to the Department's Quality Assurance Unit and the Medical Care Administration Unit's Dental Manager. A detailed narrative along with supportive documentation will be required for each submission to the Quality Assurance Unit including the use of the Reporting Form. The suspect provider's actions will be closely monitored by the Department. The role of the Contractor in regard to the suspect provider will be to provide notice and guidance about altering behavior regarding inappropriate suspect activities in consultation with the Program Manager.

g. DELEGATIONS OF AUTHORITY

The State of Connecticut Department of Social Services (the Department) is the single state agency responsible for administering the Medicaid and SCHIP programs. Under this contract, the Department's Medical Care Administration/Dental Unit's Manager, or designee, is responsible for ensuring that the implementation and oversight of this contract are in compliance with appropriate Department policies and procedures. The Manager, or designee, is the only individual the Contractor is to communicate with and report to regarding all items herein. However, no delegation by either party shall relieve either party of responsibility for carrying out the terms of the contract. Nor shall any representative of the Contractor self initiate or seek out counsel from within the Department other than through the designated oversight Manager, or their designee, unless so directed by this contract. The Manager, in consultation with other Department staff, shall establish the protocols and final opinion on any/all matters of discussion and/or debate with the Contractor.

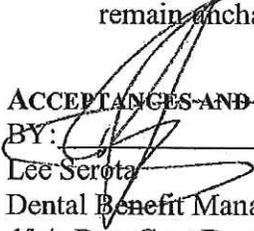
h. CHANGE ORDERS

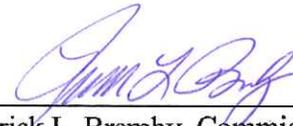
The Contractor and the Department may, from time to time, agree to minor modifications in the contract scope for a project in response to the Department's requests. If the requested changes are within the Scope of Work, the parties may agree to the process and arrangements in writing, email being sufficient.

If changes to an existing programmatic function are required because of factors outside of the Contractor's control or if a project or initiative not heretofore contemplated is requested by the Department, the Contractor shall submit to the Department a change order request documenting the scope of the change, the staffing levels and materials required to address the change, the hours needed to address the change and a cost to the Department. The Contractor shall not be authorized to work on any change order unless and until the Department provides the Contractor approval in writing. Approval of additional funds available for change order requests must be received from DSS' Division of Financial Management and Analysis before work may commence. Any change orders agreed to will be captured in a subsequent amendment.

- 5. All other terms and conditions of the Contract not specifically amended herein shall remain unchanged and in full force and effect.

ACCEPTANCES AND APPROVALS:

BY: 
Lee Serota
Dental Benefit Management, Inc.
d/b/a BeneCare Dental Plans
DATE: 9/28/2011

BY: 
Roderick L. Bremby, Commissioner
Department of Social Services
State of Connecticut
DATE: 9/29/2011

APPROVED AS TO FORM: 
BY: 
Associate Attorney General

**AMENDMENT NUMBER FOUR TO THE STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES/DENTAL BENEFIT MANAGEMENT, INC. DBA BENE CARE CONTRACT
ENTERED INTO ON NOVEMBER 18, 2008
FOR THE STATE OF CONNECTICUT'S DENTAL HEALTH PARTNERSHIP**

Whereas, the State of Connecticut Department of Social Services ("State" or "Department") and Dental Benefit Management, Inc. d/b/a BeneCare ("BeneCare" or "Contractor") executed a contract on November 18, 2008, for the administrative planning, implementation, and oversight of Connecticut's Dental Health Partnership ("CTDHP"); and

Whereas, the Department and BeneCare have agreed to extend the contract for two years; and

Whereas, the Department is still reviewing its budget for this extension and needs additional time to do so; and

Whereas, BeneCare is willing to offer that additional time to the Department;

Now therefore, for and in consideration of the promises to each other set forth below, the parties agree as follows:

1. The end date of the contract shall be extended from 8/31/11 to 9/30/11. Any reference to 8/31/11 shall be altered to reflect 9/30/11.
2. CTDHP expenditures for the period 9/1/2011 through 9/30/2011 shall not exceed one twelfth (1/12) of the prior period contract amount.
3. All other terms and conditions of the Contract not specifically amended herein shall remain unchanged and in full force and effect.

ACCEPTANCES AND APPROVALS:

BY: _____

Lee Scrota
Dental Benefit Management, Inc.
d/b/a BeneCare, Dental Plans

DATE: 8/19/2011

BY: _____

Claudette J. Beaulieu, Deputy Commissioner
Department of Social Services
State of Connecticut

DATE: 8/30/11

APPROVED AS TO FORM:

BY: _____
Associate Attorney General

**AMENDMENT NUMBER THREE TO THE STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES/DENTAL BENEFIT MANAGEMENT, INC. DBA BENE CARE CONTRACT
ENTERED INTO ON NOVEMBER 18, 2008
FOR THE STATE OF CONNECTICUT'S DENTAL HEALTH PARTNERSHIP**

Whereas, the State of Connecticut Department of Social Services ("State" or "Department") and Dental Benefit Management, Inc. d/b/a BeneCare ("BeneCare" or "Contractor") executed a contract on November 18, 2008, for the administrative planning, implementation, and oversight of Connecticut's Dental Health Partnership ("CTDHP"); and

Whereas, the Department and BeneCare have agreed to extend the contract for two years; and

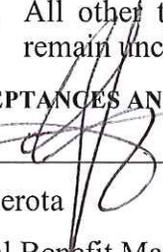
Whereas, the Department is still reviewing its budget for this extension and needs additional time to do so; and

Whereas, BeneCare is willing to offer that additional time to the Department;

Now therefore, for and in consideration of the promises to each other set forth below, the parties agree as follows:

1. The end date of the contract shall be extended from 7/31/11 to 8/31/11. Any reference to 7/31/11 shall be altered to reflect 8/31/11.
2. CTDHP expenditures for the period 8/1/2011 through 8/31/2011 shall not exceed one twelfth (1/12) of the prior period contract amount.
3. BeneCare may proceed with the mailing requested by the Department and is authorized to spend up to \$56,680.00 (260,000 adult households @21.8 cents per piece of mail).
4. This mailing project will be paid for using dollars currently available under the original contract amount.
5. All other terms and conditions of the Contract not specifically amended herein shall remain unchanged and in full force and effect.

ACCEPTANCES AND APPROVALS:

BY:  _____

Lee Serota

Dental Benefit Management, Inc.

d/b/a BeneCare Dental Plans

DATE: 7/20/2011

BY:  _____

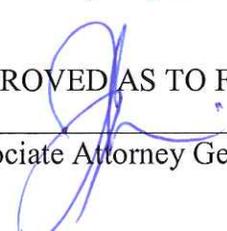
Claudette J. Beaulieu, Deputy Commissioner

Department of Social Services

State of Connecticut

DATE: 7/26/11

APPROVED AS TO FORM:

BY:  11/7/11

Associate Attorney General

**AMENDMENT NUMBER TWO TO THE STATE OF CONNECTICUT DEPARTMENT OF SOCIAL
SERVICES/DENTAL BENEFIT MANAGEMENT, INC. DBA BENE CARE CONTRACT
ENTERED INTO ON NOVEMBER 18, 2008
FOR THE STATE OF CONNECTICUT'S DENTAL HEALTH PARTNERSHIP**

Whereas, the State of Connecticut Department of Social Services ("State" or "Department") and Dental Benefit Management, Inc. d/b/a BeneCare ("BeneCare" or "Contractor") executed a contract on November 18, 2008, for the administrative planning, implementation, and oversight of Connecticut's Dental Health Partnership ("CTDHP"); and

Whereas, DSS desires to extend the current CTDHP dental service prior authorization and post procedure review (PA) protocols to Federally Qualified Health Center (FQHC) dental providers; and

Whereas, extending these protocols to FQHCs will increase the volume of PA requests received and processed by CTDHP personnel; and

Whereas, in order to maintain the current service levels and turn-around time of private practice and institutional dental provider PA requests, additional CTDHP staffing and dental consultant resources will be required;

Now therefore, for and in consideration of the promises to each other set forth below, the parties agree as follows:

1. In order to accommodate the 30% increase in prior authorization volume, BeneCare shall add 3 full time equivalent personnel to the CTDHP Provider Services Representative roster and 2 additional dental consultants to the CTDHP Quality Assurance Staff – Dental Consultants.
2. The addition of provider service representatives and dental consultants described above will result in additional CTDHP operational expenses of \$128,000.00 from February 1, 2011 through July 31, 2011 and the maximum contract value for Year 3 shall be increased from \$3,036,460.25 to \$3,164,460.00.
3. The Year 3 Budget shall be updated and attached hereto to reflect this increase. Budgets for Provider Services Representatives include wages, benefited time, non-healthcare insurance, employment expenses and fringe benefits. Dental Consultants are paid on a monthly retainer basis as independent contractors on a direct pass through basis. No expense additions are made to dental consultant retainer costs.
4. Section 3.22 of the contract shall be amended with the addition of the following language: "All protocols applicable herein shall be applied to Federally Qualified Health Centers."
5. Section 3.22, b. shall be deleted in its entirety.
6. Section 3.22, c. shall be amended to reflect a timely processing standard. The words "within timeframes no greater than those specified in state and federal UM licensing

regulations” shall be deleted and replaced with the following language: “. All fully documented (“clean claim”) requests must be processed within 5 business days of receipt and referred to consultants, as necessary within 10 business days of receipt. Written determinations must be issued back to the providers within 15 business days of receipt.”

7. Modifications to the current processing, data file formatting, data transmittal and other technical developments necessary to effectuate the extension of the current CTDHP PA protocols to FQHCs will be developed by DSS, HP and BeneCare, as needed.
8. Section 8.03, Standard Terms and Conditions section C.15. HIPAA shall be deleted and replaced in its entirety with the following language:

Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).

- (a) If the Contactor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract (hereinafter the “Department”) is a “covered entity” as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor, on behalf of the Department, performs functions that involve the use or disclosure of “individually identifiable health information,” as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor is a “business associate” of the Department, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Department agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act (hereinafter the HITECH Act), (Pub. L. 111-5, sections 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.

(g) Definitions

- (1) "Breach shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(1))
- (2) "Business Associate" shall mean the Contractor.
- (3) "Covered Entity" shall mean the Department of the State of Connecticut named on page 1 of this Contract.
- (4) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
- (5) "Electronic Health Record" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5))
- (6) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
- (7) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and parts 164, subparts A and E.
- (8) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
- (9) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
- (10) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
- (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.

(12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.

(13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.

(14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and parts 164, subpart A and C.

(15) "Unsecured protected health information" shall have the same meaning as the term as defined in section 13402(h)(1)(A) of HITECH. Act. (42 U.S.C. §17932(h)(1)(A)).

(h) Obligations and Activities of Business Associates.

(1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.

(2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.

(3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.

(4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.

(5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.

(6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and

conditions that apply through this Section of the Contract to Business Associate with respect to such information.

- (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with clause h. (10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. sections 164.504(e), 164.308, 164.310, 164.312, and 164.316.

(14) In the event that an individual requests that the Business Associate (a) restrict disclosures of PHI; (b) provide an accounting of disclosures of the individual's PHI; or (c) provide a copy of the individual's PHI in an electronic health record, the Business Associate agrees to notify the covered entity, in writing, within two business days of the request.

(15) Business Associate agrees that it shall not, directly or indirectly, receive any remuneration in exchange for PHI of an individual without (1) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and (2) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations

(16) Obligations in the Event of a Breach

- A. The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. 17932(b) and the provisions of this Section of the Contract.
- B. Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402 (g) of HITECH (42 U.S.C. 17932(g)). A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
- C. The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
 - 1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
 - 2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
 - 3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.

4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
 5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to individuals or the posting required under section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and; if so, include contact information for said official.
- D. Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.
- E. Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.
- (i) Permitted Uses and Disclosure by Business Associate.
- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
 - (2) Specific Use and Disclosure Provisions
 - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

(B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

(j) Obligations of Covered Entity.

(1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

(2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

(3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.

(l) Term and Termination.

(1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with clause h. (10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business

Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

(2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

(A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or

(B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or

(C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(3) Effect of Termination

(A) Except as provided in (1)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with clause h. (10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

(B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Provisions.

(1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.

- (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the provisions of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
- (7) Indemnification. The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

9. Section 8.03 Standard Terms and Conditions section C. 5 and 7 shall be deleted and replaced in their entirety with the following language:

Non-Discrimination

(a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:

(1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability

prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission; (3) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f; (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this section and section 46a-56.

- (b) If the Contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.
- (c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) Who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.
- (d) Determination of the Contractor's good faith efforts shall include but shall not be limited to the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (e) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
- (f) The Contractor shall include the provisions of sections (a) and (b) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means

of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the Contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:

(1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this section and section 46a-56.

(h) The Contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the Contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(i) For the purposes of this entire Non-Discrimination section, "Contract" or "contract" includes any extension or modification of the Contract or contract, "Contractor" or "contractor" includes any successors or assigns of the Contractor or contractor, "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced, and "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders. For the purposes of this section, "Contract" does not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

10. All other terms and conditions of the Contract not specifically addressed herein shall remain unchanged and in full force and effect.

ACCEPTANCES AND APPROVALS:

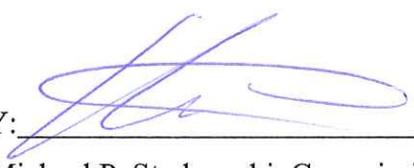
BY: _____

Lee Serota
Dental Benefit Management, Inc.
d/b/a BeneCare Dental Plans



BY: _____

Michael P. Starkowski, Commissioner
Department of Social Services
State of Connecticut



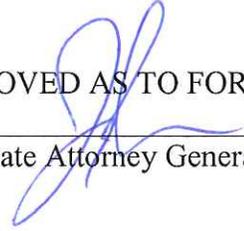
DATE: 3/1/2011

DATE: 3/8/11

APPROVED AS TO FORM:

BY: _____

Associate Attorney General 3/14/11



PERSONAL SERVICE AGREEMENT
STATE OF CONNECTICUT

CO-802A REV. 3/98 (Stock No. 6938-170-01)

Print or Type

DRAFT

OFFICE OF THE STATE COMPTROLLER
CENTRAL ACCOUNTS PAYABLE DIVISION

I, THE STATE AGENCY AND THE CONTRACTOR, AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO SUBJECT TO THE PROVISIONS

OF SECTION 4-98 OF THE C.G.S., AS APPLICABLE.

CORE CT CONTRACT #08DSS1202UF/999DBM-MED-1

		8) ORIGINAL <input type="checkbox"/> AMENDMENT <input checked="" type="checkbox"/> 1	9) IDENTIFICATION NO.
CONTRACTOR	(3) CONTRACTOR NAME Dental Benefit Management, Inc. d/b/a BeneCare Dental Plans		(4) ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
		CONTRACTOR ADDRESS 615 Chestnut ST Suite 1001 Philadelphia, PA 19106 and, 195 Scott Swamp Rd Suite 101 Farmington, CT 06032	CONTRACTOR FEIN/SSN

STATE AGENCY	(5) AGENCY NAME AND ADDRESS Department of Social Services, 25 Sigourney Street, Hartford, CT 06106	(6) AGENCY NO. DSS6000
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CONTRACT PERIOD	(7) DATE (FROM) 8/1/2008 THROUGH 7/31/2011	(8) INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD <input type="checkbox"/> NO <input type="checkbox"/> NEITHER <input checked="" type="checkbox"/>
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CANCELLATION CLAUSE	This agreement shall remain in full force and effect for the entire term of the contract period stated above unless cancelled by the state agency, by giving the contractor written notice of such intention (required days notice specified at right).	(9) REQUIRED NO. OF DAYS WRITTEN NOTICE. 30 Days
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COMPLETE DESCRIPTION OF SERVICE	(10) CONTRACTOR AGREES TO: (Include special provisions – Attach additional blank sheets if necessary.) Utilize dollars as described for the purchase of laptop computers.	
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COST AND SCHEDULE OF PAYMENT	(11) Payment to be made under the following schedule upon receipt of properly executed and approved invoices.	
	Item	Expenditure
	Lap Tops for DHCS, Network Manager	\$8,378.00 + tax \$502.77
	Initial Set Up and Connectivity (1 year)	\$5,298.24
	Total BeneCare Costs)	\$14,179.01

(12) ACT CD C	(13) DOC TYP AA	(14) COM TY PS	(15) LSE TYP	(16) ORIG. AGENCY DSS6000	(17) DOCUMENT NO.	(18) COMMIT AGENCY DSS6000	(19) COMMIT. NO.	(20) VENDOR FEIN/SSN - SUFFIX
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(21) COMMITTED AMOUNT	(22) OBLIGATED AMOUNT	(23) CONTRACT PERIOD (FROM TO) 8/1/08 – 7/31/11
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Line No.	Budget Reference	Fund	Department	Program	SID	Account	Project/Grant	Chart		Amount
								Chart 1	Chart 2	

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

ACCEPTANCE AND APPROVALS	(34) STATUTORY AUTHORITY §§ 4- 8,	
(35) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE)	TITLE Lee Serota, Vice President	DATE 01/19/2010
(36) AGENCY AUTHORIZED OFFICIAL	TITLE Michael P. Starkowski, Commissioner	DATE 1/21/10
(37) OFFICE OF POLICY & MGMT. DEPT. OF ADMIN. SERV.	TITLE	DATE
(38) ATTORNEY GENERAL (APPROVED AS TO FORM)	ASSOC. ATTY. GENERAL	DATE 1/29/10

The contract between Dental Benefit Management, Inc. d/b/a BeneCare Dental Plans and the Department of Social Services (the Department), which was last executed by the Commissioner of the Department of Social Services on November 18, 2008 is hereby amended as follows:

1. The total maximum amount payable under this contract for Project Costs Year 2 is increased by \$14,179.01 from \$5,447,095.25 to \$5,461,274.26.
2. Part I, Section 3. General Matters of the original contract, number 08DSS1202UF/999DBM-MED-1 is hereby amended to include the purchase of eight (8) computers and support connectivity for them as well. One for the Network Manager and seven (7) for the dental health care specialists (DHCS).
3. These computers will be utilized to provide technical assistance to dental providers who are experiencing difficulties with existing vendor software packages and failure to read instructions or placing incorrect information in claims fields.
4. Payment of these additional monies shall be rendered as a one time only payment.
5. The Budget for Project Costs Year 2 of the original contract, is amended to include the addition of \$ 14,179.01 associated with this amendment to purchase eight (8) computers and connectivity.
6. Part II, Sections C.5. and C.7 of the original contract shall be deleted in their entirety and replaced with the following: (Note: For administrative ease, the numbering of the contract will not be altered)

Non-Discrimination

(a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:

(1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission; (3) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f; (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this section and section 46a-56.

(b) If the Contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

(c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) Who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and

additional or substituted efforts when it is determined that such initial efforts will be sufficient to comply with such requirements.

- (d) Determination of the Contractor's good faith efforts shall include but shall not be limited to the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (e) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
- (f) The Contractor shall include the provisions of sections (a) and (b) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the Contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.
- (g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:
 - (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this section and section 46a-56.
- (h) The Contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the Contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.
- (i) For the purposes of this entire Non-Discrimination section, "Contract" or "contract" includes any extension or modification of the Contract or contract, "Contractor" or "contractor" includes any successors or assigns of the Contractor or contractor, "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced, and "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders. For the purposes of this section, "Contract" does not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

7. Part II, Section C.15. shall be deleted and replaced in its entirety with the following:
Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).

- (a) If the Contactor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract (hereinafter the “Department”) is a “covered entity” as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor, on behalf of the Department, performs functions that involve the use or disclosure of “individually identifiable health information,” as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor is a “business associate” of the Department, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Department agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act (hereinafter the HITECH Act), (Pub. L. 111-5, sections 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions
 - (1) “Breach shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(1))
 - (2) “Business Associate” shall mean the Contractor.
 - (3) “Covered Entity” shall mean the Department of the State of Connecticut named on page 1 of this Contract.
 - (4) “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.
 - (5) “Electronic Health Record” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5))
 - (6) “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
 - (7) “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and parts 164, subparts A and E.
 - (8) “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
 - (9) “Required by Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.103.
 - (10) “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.

- (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
- (12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
- (13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
- (14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and parts 164, subpart A and C.
- (15) "Unsecured protected health information" shall have the same meaning as the term as defined in section 13402(h)(1)(A) of HITECH Act. (42 U.S.C. §17932(h)(1)(A)).

(h) Obligations and Activities of Business Associates.

- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
- (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
- (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
- (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
- (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
- (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.

- (11) Business Associate agrees to provide to Covered Entity, in a timely manner agreed to by the parties, information collected in accordance with clause h. (10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. sections 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an individual requests that the Business Associate (a) restrict disclosures of PHI; (b) provide an accounting of disclosures of the individual's PHI; or (c) provide a copy of the individual's PHI in an electronic health record, the Business Associate agrees to notify the covered entity, in writing, within two business days of the request.
- (15) Business Associate agrees that it shall not, directly or indirectly, receive any remuneration in exchange for PHI of an individual without (1) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and (2) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations
- (16) Obligations in the Event of a Breach
- A. The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. 17932(b)) and the provisions of this Section of the Contract.
- B. Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402 (g) of HITECH (42 U.S.C. 17932(g)). A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
- C. The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
 2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
 3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.
 4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
 5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to individuals or the posting required under

section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and; if so, include contact information for said official.

- D. Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.
 - E. Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.
- (i) Permitted Uses and Disclosure by Business Associate.
- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
 - (2) Specific Use and Disclosure Provisions
 - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
 - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
 - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- (j) Obligations of Covered Entity.
- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
 - (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
 - (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.
- (l) Term and Termination.

- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with clause h. (10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
 - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
 - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- (3) Effect of Termination
 - (A) Except as provided in (1)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with clause h. (10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
 - (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.
- (m) Miscellaneous Provisions.
 - (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
 - (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
 - (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
 - (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.

- (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
 - (6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the provisions of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
 - (7) Indemnification. The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.
8. This document constitutes an amendment to the above numbered contract. All terms and conditions not specifically amended herein shall remain in full force and effect.