

## **Exhibit Four Performance Standards and Sanctions**

The Department will impose the following schedule of performance sanctions when the Broker or its subcontractors fail to perform according to the standards listed in this RFP:

### **A. Class A Performance Sanctions**

The Department will impose a Class A Sanction each time the Broker fails to comply with the contract on an issue warranting a Class A Sanction listed below. The Department will notify the Broker in writing in advance of imposing any sanction and will give the Broker up to five business days to present its position regarding the Department's determination of a violation warranting a Class A sanction. Said sanction will be no more than \$500 for the first three (3) sanctions of the same type. Thereafter violations of the same contractual provision will result in a sanction of no more than \$1,000.

In addition, the Department may assess a performance sanction of \$10,000 when the Department determines that the Broker has engaged in a pattern of noncompliance with Class A performance measures and requirements. When the Department determines that the Broker has exhibited a pattern of noncompliance with Class A measures and requirements, the Department shall notify the Broker of such determination and shall provide the Broker up to five business days from such notification to appeal the determination and offer a rationale why the Broker should not be assessed the sanction.

Violations warranting a Class A Sanction include:

- 1. Failure to maintain access to current policies,** (per six month review period).
- 2. Failure to provide recorded client service phone calls as requested,** (per six month review period).
- 3. Billing the Department for a trip that was not provided.**

### **B. Class B Performance Sanctions**

Each time the Broker (including a subcontractor) fails to comply with the contract on an issue warranting a Class B Sanction, the Department shall notify the Broker of its determination in writing and in advance of imposing any sanction. The Department may assess a performance sanction of up to \$5,000.00.

When the Department determines that the Broker has engaged in a pattern of non-compliance that warrant Class B Sanctions, the Department shall notify the Broker, in writing and, may assess a performance sanction of \$10,000.00.

The Broker will be notified, in writing, when the Department determines that a performance standard has not been met and a performance sanction will be imposed. The Department shall identify the performance standard that has not been met and the corresponding penalty. The Broker shall have five business days from the date of the letter to document to the Department, in writing, why

the performance sanction should not be imposed. The Department, through its Contract Administrator, shall render a decision on the imposition of the performance sanction within five business days of the date of the Broker's letter. The decision of the Contract Administrator shall be final.

- 1. Failure to transport clients in vehicles with applicable DMV licensure and DOT or DPH certification including sufficient liability insurance.** (Per incident)
- 2. Failure to transport clients utilizing appropriately certified and licensed drivers.** (Per incident)
- 3. Failure to issue a notice of action within time standards.** (Per incident)
- 4. Over writing valid client eligibility data which causes an unwarranted denial of NEMT for otherwise eligible clients requesting NEMT.** (Per incident)
- 5. Refusing to transport otherwise eligible clients or engaging in discriminatory practices.** (Per Incident)
- 6. Causing harm to a client or engaging in such behavior that a prudent person could reasonably expect would cause harm or injury to a client.** (Per Incident)
- 7. Failure to prevent confidentiality and data security breeches including, but not limited to, employee compliance with confidentiality requirements.** (Per Incident)
- 8. Failure to prevent a significant incident or accident in which the police and/or an ambulance are called to assist a transportation provider. Such incidents may include but are not limited to the failure to secure a wheelchair and/or a wheelchair client using an appropriate fastening device, which results in an injury or the need for medical intervention (ambulance, emergency department or follow-up medical care).** (Per incident).

### **C. Pattern of Noncompliance**

In the event that the Department identifies a pattern of non-compliance and has imposed more than one sanction for non-compliance in accordance with this section, the Department may, with notice to the Broker, invoke the provisions of § **2.36 Termination Provisions in the RFP** and categorize future occurrences of non-compliance as events of default.