

APPENDIX A

NURSING FACILITY PROVIDER CONTRACT AND AGREEMENT

UTAH DEPARTMENT OF HEALTH
Division of Health Care Financing
NURSING FACILITY PROVIDER CONTRACT AND AGREEMENT
Title XIX

This agreement is between the Utah Department of Health (DOH), Division of Health Care Financing (DHCF), hereinafter referred to as the STATE, and the

(Facility Name)

(Address)

(City) (State) (Zip)

Individual Partnership Corporation

Medicaid Provider # _____

Other (specify) _____

Type: SF NF IMR

Hereinafter referred to as PROVIDER.

Purpose:

To provide nursing facility care and services as authorized by PROVIDER's license under the laws of the State of Utah, implementing Title XIX of the Social Security Act. PROVIDER shall be responsible to render nursing facility care and services in accordance with the most current versions of the aforementioned laws, as amended, which are in effect at the time such care and services are rendered. Said care and services shall be provided in accordance with all federal and State rules and regulations, standards, and guidelines promulgated and published in connection therewith by the United States Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services (CMS), and/or DHCF.

GENERAL PROVISIONS

A. The STATE agrees to:

1. Participation Approval and Term: Approve PROVIDER as a participant eligible to provide services in the Title XIX Medicaid Program to be effective on:
 - a. The date an on-site survey (including the Life Safety Code survey, if applicable) is completed; or
 - b. The day following the expiration of any current agreement,

whichever is later, if, on such date, PROVIDER meets:

- (1) All federal health and safety standards;
- (2) Any other requirements imposed by CMS and/or DHCF; and
- (3) If PROVIDER is also a Medicare participant, i.e., a Skilled Nursing Facility, all applicable terms and conditions as to participation in and certification for Medicare;

or

if, on the date a survey is completed the provider fails to meet any of the requirements in A.1.b(1), the Provider:

- (1) If an NF, is found to be in substantial compliance and submits to the State survey agency an approvable waiver request;
- (2) If an ICF/MR, is found to meet all conditions of participation and submits an acceptable plan of correction covering the remaining deficiencies or an approvable waiver request, or both;

in consideration for PROVIDER agreeing to all other terms and considerations herein described;

2. Payment Processing: Process payments to PROVIDER within a reasonable time after receipt of designated STATE reimbursement forms for services rendered the previous month.
3. Manuals: Furnish to PROVIDER, upon STATE'S acceptance and final execution of this agreement, current copies of relevant provider manuals in effect at the time of execution; and further, to furnish to PROVIDER, during the period of time this agreement is in effect, copies of relevant updates, information bulletins and other related materials thereto.
4. Payment Rates: Make payments to PROVIDER in accordance with the State Plan, for services rendered, which services will be subject to periodic review by STATE officials. The STATE also agrees to pay PROVIDER for services furnished to Medicaid recipients in accordance with the fee schedule in effect at the time the services are rendered as established under State law, regulations, methods and procedures; and, as appropriate, in accordance with the Social Security Act and federal implementation regulations and directives; with the term "Billed Charges" as used herein meaning the usual and customary charges to the general public for such services.
5. Bed Utilization: Allow utilization of beds certified as skilled for utilization of intermediate patients/residents when appropriate.
6. Hearings: Process appeals as set forth in the Code of Federal Regulations (42 CFR 431.151-154), Section 26-23-2 Utah Code Annotated and Sections 1:1-2 and 1:6-13 of the Medicaid Provider Manual; except in those instances where a federal hearing procedure is controlling and supersedes.
7. Ombudsman Information: Make available to PROVIDER updated and current lists of telephone numbers and addresses PROVIDER is required to make available upon request by patients/residents and visitors. See paragraph B-23 of this contract.

B. PROVIDER agrees to:

1. Services Provided: Provide nursing facility care and services as authorized by PROVIDER's license under the laws of the State of Utah, implementing Title XIX of the Social Security Act. PROVIDER shall be responsible to render nursing facility care and services in accordance with the most current versions of the aforementioned laws, as amended, which are in effect at the time such care and services are rendered. Said care and services shall be provided in accordance with all federal and State rules and regulations, standards, and guidelines promulgated and published in connection therewith by the United States Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services (CMS), and/or DHCF.

2. Billings; Overpayment; Reimbursement:
 - (a) Submit billings for authorized nursing facility care and services in accordance with the rates set by the STATE and in compliance with instructions given in the Nursing Facility Provider Manual.
 - (b) Reimburse STATE in the event PROVIDER should receive payment for nursing facility care and services in an amount in excess of that authorized by STATE, whether as a result of PROVIDER's or STATE's error. PROVIDER must reimburse STATE within 30 days of receipt of written final verification, unless the STATE, at its option, agrees to allow PROVIDER to make repayment to STATE by paying monthly principal and interest installments, said interest to be computed at the rate of 10 percent per annum on the unpaid principal balance each month, and the repayment period shall not exceed 6 months.
 - (i) Should PROVIDER fail to make reimbursement as provided in 2(b) above, STATE may recoup said amount by withholding same from any future payment or payments to PROVIDER under this contract or any subsequent contract, and this Section 2 shall be executory until such overpayment has been fully recovered by STATE, together with any court costs or attorney's fees that may have been incurred by STATE.
3. Third-Party Liability: Assume the responsibility of seeking payment for services rendered from all available third party sources including legally responsible persons or entities, as required by law and STATE rules.
4. Hearings: Process appeals as set forth in the Code of Federal Regulations (42 CFR 431.151 - 154), Section 26-23-2, Utah Code Annotated and Sections 1:1-2 and 1:6-13 of the Medicaid Provider Manual; except in those instances where a federal hearing is controlling and supersedes state law.
5. Payment in Full; Patient/Resident Billing: Accept payment from STATE as payment in full and not bill or otherwise attempt to collect payments from the recipient, relatives or estate of recipients, or others for care and services which are benefits reimbursable under the Medicaid program. Non-covered services may only be charged to a patient/resident upon the prior written consent of the patient/resident, legal guardian or responsible party, after acknowledging and understanding that the service is not a reimbursable benefit.
6. Record Inspection: Make readily available to STATE any and all records required by STATE to be maintained in the normal course of business which will satisfy or confirm that payments were made for residents eligible under and as specified in this agreement.
7. Change in Level of Care: Document care and services appropriate to meet the medical, social and psychological needs of each patient/resident approved for placement and continued stay by the STATE. PROVIDER shall notify the STATE within ten (10) days when there is a change in the care and services which may affect the level of care or ability to provide such care and services. Willful withholding of such information may constitute grounds for termination of this contract.
8. Non-Discrimination: Abide by provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment or an applicant or recipient of services, on the basis of race, religion, color, national origin, age, or sex. In addition, PROVIDER agrees to abide by the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. Chapter 126, Section 12101 et seq.) which prohibits discrimination against disabled persons.
9. Advance Directives: Comply with the advance directives requirements for nursing facilities specified in 42 CFR, subpart I.
10. Surveys: Allow periodic inspection of care and certification surveys by a state-authorized medical review team, of any nursing facility, its patients/residents and the patients/residents' records, as provided in regulations of the U.S. Department of Health and Human Services, as amended, and pertinent portions of the Social Security Act, as amended, and in accordance with state statutes, rules and regulations as amended. It is understood that such inspections may be unannounced.
11. Record Maintenance: Maintain all records in accordance with provisions of 42 CFR 483.75 and R432-150, Utah Administrative Code, or until all audits, if any, are completed, whichever is later, that are necessary to disclose fully the extent of all services related to billed charges provided to individuals under Utah's Title XIX Medicaid program. Provider shall furnish any such information regarding payment claims for providing such services as the STATE and its designees, the Fraud Control Unit, or the Secretary of the United States Department of Health and Human Services may require. Where claimed services cannot be verified by records normally used to substantiate billings, such as patient medical records, any payments received by the PROVIDER for those services will be promptly refunded to the STATE. The PROVIDER will accept the burden of proof to substantiate all services provided to Title XIX Medicaid recipients. This agreement may be terminated if PROVIDER fails to keep adequate and complete records as determined by the STATE or if PROVIDER does not grant reasonable access to such records.
12. Inspection of Premises: Allow any duly authorized officer, employee or representative of the STATE, at any time, upon presentation of appropriate credentials, to enter the premises of PROVIDER without hindrance or delay, for the purpose of ascertaining compliance with this agreement, and to make available upon request any records or documents in PROVIDER's possession pertaining to the operation of the facility or the health care of the patient/resident.

13. Confidentiality: Make no disclosure of information concerning recipients of care and service for any purpose not connected with PROVIDER's responsibilities under this contract except upon written consent of the patient/resident or the responsible parent or legal guardian. PROVIDER also agrees to be bound by and comply with federal and state laws regarding confidentiality of records and recipient rights of privacy under Title XIX of the Social Security Act, and Utah Code Section 63-2-101.
14. Patient/Resident Funds: Maintain, subject to state/federal audit, accurate records of receipts and expenditures related to patients/residents' personal needs, funds and valuables entrusted to PROVIDER's care.
 - (a) PROVIDER agrees not to use patients/residents' monies or valuables for PROVIDER's benefit, nor to commingle patients/residents' property with facility funds or property.
 - (b) Within 30 days of the discharge or death of a patient/resident, the monies and valuables of said patient/resident shall be returned to the patient/resident or the legal representative of the deceased in exchange for a signed receipt.
 - (c) Upon change of ownership or Lessee of a facility, a written statement of all patients/residents' monies being transferred to the custody of the new owner or Lessee must be prepared and signed by the seller or Lessee, verified and signed by the new owner, filed with the facility records, and held available for audit.
 - (d) PROVIDER or any of its employees or agents may not levy a charge for administering or disbursing monies from a patient/resident's personal needs account.
15. Disclosure: Comply with the disclosure of information requirements by PROVIDER specified in 42 CFR Part 455, Subpart B, by completing the Form CMS-1513.
16. Alternative Care Review: Assure that attending physicians must review appropriate alternative care resources other than nursing facility care with the patient/resident and/or his/her family or representative (42 CFR 456.371).
17. Manual Maintenance: Designate the nursing facility administrator as the person responsible to maintain and organize all manuals, policies, bulletins, memorandums, etc., received from Title XIX.
18. Disallowances; PROVIDER Non-Compliance: Reimburse STATE the total amount paid for any services disallowed as a result of PROVIDER non-compliance with State or Federal Rules and Regulations.
19. Hold Harmless: Indemnify and hold harmless the STATE and its officers, agents and employees from and against any and all loss, damages, injury, inability and claims therefore, including claims for personal injury or death and damages to personal property as a result of the acts or omissions of any employee or person retained by PROVIDER, arising out of work performed by PROVIDER under authority of this contract. PROVIDER further agrees that the STATE under the terms of this agreement is acting solely in its capacity as a source of reimbursement and funding under the auspices of federal and state medical assistance programs. Therefore, PROVIDER understands that the STATE is in no way guaranteeing the level of and/or quality of services rendered by PROVIDER under the terms of this application and agreement. Further, PROVIDER agrees to bear its own reasonable attorney's fees and/or litigation expenses which may be incurred in conjunction with carrying out the terms of this entire agreement.
20. New Owner; Assignment To: Assign this agreement to the new owner in the event of a transfer of ownership. The new owner must (1) comply with civil rights requirements, (2) disclose ownership and financial interest information assuring financial solvency within 30 days after the legal transfer of ownership, and (3) comply with all terms and conditions contained in this present contract.
21. Medicaid Penalties: Abide by Title XI, Section 1128B of the Social Security Act and be bound thereby.
22. Patient/Resident Representatives: Permit the patient/resident's representative and representatives of any state/federal-mandated ombudsman or advocacy program access to the patient/resident at reasonable times. However, the patient/resident has the right to see or refuse to see anyone; it is the patient/resident who will ultimately determine just how accessible he/she will be.

23. Public Information; Availability: Have available upon request by patients/residents and visitors:
 - (a) The current address and telephone number of the Denver Regional Office of the Health Standards and Quality Bureau, Health Care Financing Administration, Department of Health and Human Services.
 - (b) The current address and telephone number of the Facility Survey Section, Department of Health;
 - (c) The current address and telephone number of the Facility Licensing Bureau, Department of Health.
 - (d) The current address and telephone number of the Bureau of Medicaid Fraud, Department of Public Safety.
24. Independent Contractor: Be an independent contractor, and, as such shall have no authorization, express or implied, to bind the STATE of Utah or the above STATE agency to any agreement, settlement, liability or understanding whatsoever, nor to perform any acts as agent for the STATE of Utah, except as herein expressly set forth. The compensation provided for herein, shall be total compensation payable hereunder by the STATE of Utah of the above designated STATE agency.
25. Deficiencies; Corrections: Perform those acts necessary to correct deficiencies, identified by STATE surveys, in meeting the requirements of the Title XIX Program.
26. Disclosure: Submit within thirty-five (35) days of the date on which the following circumstances come to PROVIDER's knowledge or reasonably should have come to PROVIDER's knowledge and/or of the request by the Secretary, Department of Health and Human Services, or the STATE agency, full and complete information about:
 - (a) The ownership of any subcontractor with whom PROVIDER has had business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request or knowledge; and,
 - (b) Any significant business transactions between PROVIDER and any wholly owned supplier or between PROVIDER and any subcontractor during the 5-year period ending on the date of the request or knowledge.
27. Criminal Disclosure: Disclose to the STATE any person who has ownership or controlling interest in PROVIDER or is an agent or managing employee of PROVIDER who has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the Title XX services program since the inception of those programs.
28. Automatic Cancellation: Take action to correct any deficiencies in meeting the requirements of the Medicaid Title XIX program during the term of this contract. Should the initial or annual state certification survey identify any such deficiencies, this agreement is subject to automatic cancellation on the 60th day after the completion of said survey, unless STATE finds and notifies the Secretary, Health and Human Services, that all required corrections have been satisfactorily completed or waivers granted, or that PROVIDER has made substantial effort and progress in correcting such deficiencies and has re-submitted in writing an amended acceptable plan of correction, including applicable waivers, if any, on acceptable plan.
29. F.C.P. File the Uniform Cost Report (Facility Cost Profile) for each facility fiscal year as required by 42 CFR 447.253(f).
30. Solvency: Upon initial request for admission to the Title XIX Program, to assure solvency, and during the performance of this agreement, to maintain solvency, in accordance with 42 CFR 442.12(d), and 42 CFR 489.12.

C. IT IS MUTUALLY AGREED:

1. This contract shall be in force:
 - (a) in the case of an NF, for an indefinite period, and may continue provided that annual survey conducted by the STATE agency documents and certifies PROVIDER's compliance with all federal and state requirements then in force and effect;
 - (b) in the case of an ICF/MR, for the same duration as the certification period set by the survey agency, not to exceed 12 months, with automatic renewal for a defined recertification period set by the state survey agency on an annual or more frequent basis.

In addition, this agreement as set forth above shall be subject to termination in accordance with paragraphs C-4, C-5 or by mutual written agreement, based on a different time frame than as set forth in said paragraphs, and shall be terminated in accordance with paragraph B-27 as concerns automatic cancellation based on survey deficiencies; on the terms and conditions as set forth therein.

2. Suspension: The STATE may, at any time during the term of this agreement suspend certification of PROVIDER for cause without terminating this agreement. PROVIDER will be advised of any such suspension in writing, which suspension shall remain in force until certification is reinstated by written communication from STATE. PROVIDER shall not receive payment for services rendered to STATE approved recipients during periods of suspension.
3. Modifications: No modifications or changes shall be made to this contract except in writing and signed by the parties hereto. The terms and conditions set forth in this contract constitute the total and complete terms, conditions and understandings of both parties with respect to this contract. No exception, modification, change or amendment to the terms or conditions of this contract shall be valid unless set forth in a written document that is signed by both parties to this contract.
4. PROVIDER Termination: PROVIDER shall have the right to terminate this agreement with or without cause upon sixty (60) days notice in writing to STATE. PROVIDER will promptly supply all information necessary for the reimbursement of any outstanding Medicaid claims. In the event of termination under this paragraph, payments shall be made for services rendered up to and including the date of termination.
5. STATE Termination: STATE shall have the right to terminate this agreement without cause upon thirty (30) days written notice to PROVIDER. If requested by PROVIDER, an extension of up to 30 days may be granted to allow adequate time for relocation of patients/residents. In the event of termination under this paragraph, payments shall be made for services rendered up to and including the date of termination.
6. Rates/Date of Service: Payment for care and services provided in accordance with the approved STATE PLAN shall be made with the provisions of the approved STATE PLAN in effect when the care and services were provided.
6. Superseding Effect: This agreement supersedes any and all previous agreements currently in force, which are hereby terminated.

IN WITNESS WHEREOF, the parties hereto sign this agreement.

STATE

PROVIDER

 Michael Hales, Director
 Division of Health Care Financing

 Name of Nursing Facility

Date: _____

 Name of Corporation

 Signature

 Title and Typed Name

Subscribed and sworn to before me this _____ day of
 _____, 20_____.

Certifies that he/she is duly authorized to execute
 this agreement on behalf of the PROVIDER.

Notary Public

 Signature

Residing at _____,
Utah

Date:

Commission Expires

Federal Employee I.D. No. _____