



Contract Number «Medicaid\_Contract\_»

**AMENDMENT TO  
STATE OF OREGON - OREGON HEALTH PLAN  
HEALTH PLAN SERVICES CONTRACT  
COORDINATED CARE ORGANIZATION**

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This is amendment number «Next\_M\_amend\_» (“**Amendment**”) to Contract Number «Medicaid\_Contract\_» (the “**Contract**”) between the State of Oregon, acting by and through its Oregon Health Authority, hereinafter referred to as “OHA” and

**«Registered\_Name»  
«Registered\_ABN»  
«Physical\_AddressStreet»  
«Physical\_AddressCityStateZip»  
Telephone: «PhonePrimary»  
Facsimile: «FaxPrimary»  
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hereinafter referred to as “Contractor.”

This Amendment is effective on the effective date of Commercialization as such term is defined in Para. 1 below of this Amendment provided: (i) it has been approved in writing for legal sufficiency on or before such date, (ii) all other approvals that may be required by applicable law have been obtained, and (iii) it has been executed by all parties (“Amendment Effective Date”). Capitalized terms not defined in this Amendment have the meanings assigned to them in the 2023 Contract (as such term is defined in Para. A).

This Amendment shall continue through September 30, 2024, provided: (i) the 2023 Contract is not terminated earlier in accordance with its terms, (ii) OHA offers, and Contractor accepts, the Contract for January 1, 2024, through December 31, 2024, (“the 2024 Contract”), and (iii) the 2024 Contract is not terminated earlier in accordance with its terms. This Amendment will remain in force for the duration of the Contract, notwithstanding any future amendment to, including restatement of, the Contract, unless modified or terminated by an amendment specifically referring to this Amendment.

## RECITALS

- A. **WHEREAS**, OHA and Contractor (the “Parties”) entered into Amendment No. «M\_2023\_M\_restatement» to the Medicaid Services Contract, which was amended and restated for the 2023 calendar year (the “2023 Contract”);
- B. **WHEREAS**, the Parties have previously amended the Contract three different times for the purpose of including terms and conditions related to administration of the COVID-19 Vaccine. The three previous amendments were effective for the following time periods:
- I. **WHEREAS**, the first such amendment, which was effective from December 15, 2020, through December 31, 2021, amended the Contract to add a new Sec. 11 (“COVID-19 Vaccine Administration Non-Risk Payment”) to Ex. C, “Consideration,” with the attendant terms and conditions related thereto and making associated changes elsewhere in the Contract;
- II. **WHEREAS**, the second such amendment, which was effective from January 1, 2022, through December 31, 2022, amended the first amendment to update COVID-19 Vaccine Administration Non-Risk Payment and other related provisions to align with changes applicable to the 2022 calendar year; and
- III. **WHEREAS**, the third such amendment, which was effective from January 1, 2023, through December 31, 2023, amended the second amendment to COVID-19 Vaccine Administration Non-Risk Payment and other related provisions to align with changes applicable to the 2022 calendar year (the “2023 Amendment”);
- C. **WHEREAS**, the Secretary of HHS declared the end of the COVID-19 Emergency effective May 11, 2023, and pronouncements from the federal government indicate that the effective date for Commercialization is anticipated to occur in the fourth quarter of calendar year 2023;
- D. **WHEREAS**, pursuant to the American Rescue Plan Act of 2021 (“ARPA”), CMS has been directed to match OHA’s Medicaid COVID-19 Vaccine and Administration Expenses at a rate of one hundred percent (100%) through September 30, 2024;
- E. **WHEREAS**, in order to adjust to the updated circumstances, the Parties wish to extend the term and update the terms and conditions of the COVID-19 Vaccine Administration Non-Risk Payment arrangement described in the 2023 Amendment; and
- F. **WHEREAS**, the terms and conditions of the 2023 Amendment remain in full effect until the effective date of Commercialization, at which point this Amendment shall become effective immediately.

**NOW, THEREFORE**, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to the following:

## AMENDMENT

1. Ex. A, “Definitions”, is amended to add the following definitions:
- “COVID-19 Vaccine”** means any vaccine for COVID-19 that is licensed or

approved by the FDA on a non-experimental basis or emergency use authorization for use in Oregon.

**“COVID-19 Vaccine Administration”** means administering COVID-19 Vaccine to a Member, by injection or otherwise. COVID-19 Vaccine Administration excludes Contractor’s services and excludes Provider’s services except for injecting or otherwise administering a COVID-19 Vaccine.

**“COVID-19 Vaccine Administration Expenses”** are Contractor’s payments to Participating Providers for administration of COVID-19 Vaccines. COVID-19 Vaccine Administration Expenses exclude costs of the Participating Provider visit for services other than COVID-19 Vaccine Administration, costs included in Alternative Payment Methodologies, costs for medical treatment of any side effects of COVID-19 Vaccine, and costs of the COVID-19 Vaccine itself.

**“COVID-19 Vaccine and Administration”** means COVID-19 Vaccine and COVID-19 Vaccine Administration, collectively.

**“COVID-19 Vaccine and Administration Expenses”** are Contractor’s payments to Participating Providers for COVID-19 Vaccines and for administration of COVID-19 Vaccines. COVID-19 Vaccine and Administration Expenses exclude costs of the Participating Provider visit for services other than COVID-19 Vaccine Administration, costs included in Alternative Payment Methodologies, and costs for medical treatment of any side effects of COVID-19 Vaccine, and costs of the COVID-19 Vaccine itself to the extent supplied and paid for by the federal government.

**“Commercialization”** means the transition of COVID-19 medical countermeasures, including vaccines, treatments, and test kits previously purchased by the federal government, to established pathways of procurement, distribution, and payment by both public and private payers. The effective date for Commercialization will be determined by the federal government and is anticipated to be in the fourth quarter of calendar year 2023. Among the COVID-19 medical countermeasures affected by Commercialization, only Commercialization of COVID-19 Vaccines is applicable to this Amendment.

**“Non-Risk Non-Medical Load Percentage”** means 4.6%.

**“Reimbursable COVID-19 Vaccine and Administration Expenses”** are Contractor’s allowable COVID-19 Vaccine and Administration Expenses, plus the Non-Risk Non-Medical Load Percentage applied only to allowable COVID-19 Vaccine Administration expenses and an amount to cover the cost of the managed care organization assessment applied to allowable COVID-19 Vaccine and Administration Expenses.

2. Ex. C, “Consideration”, is amended to add a new Sec. 11 as follows:

**11. COVID-19 Vaccine and Administration Non-Risk Payment**

**a. COVID-19 Vaccine and Administration Generally**

Notwithstanding any other restriction on experimental medications, Contractor is authorized to pay for COVID-19 Vaccine and Administration to

its Members. Contractor shall provide access to COVID-19 Vaccine and Administration to its Members as rapidly as feasible, consistent with COVID-19 Vaccine supplies, Provider availability, Member consent, and OHA guidelines as to priorities.

**b. CY 2023-2024 COVID-19 Vaccine and Administration Period**

The “CY 2023-2024 COVID-19 Vaccine and Administration Period” is the period commencing on the effective date of Commercialization and continuing through September 30, 2024. Use of the foregoing phrase pertains only to the payment and management arrangements in this Sec. 11 and is not intended to imply that Contractor’s responsibility for COVID-19 Vaccine and Administration will cease after the CY 2023-2024 COVID-19 Vaccine and Administration Period ends. During the CY 2023-2024 COVID-19 Vaccine and Administration Period, the following provisions apply:

- (1) OHA will reimburse Contractor for COVID-19 Vaccine and Administration Expenses as described in this Sec. 11. Such expenses are removed from consideration in the development of capitation rates under Ex. C of the Contract.
- (2) For Members receiving COVID-19 Vaccines from Participating Providers for dates of service during the CY 2023-2024 COVID-19 Vaccine and Administration Period:
  - (a) Contractor shall submit timely and accurate Encounter Data to OHA for all COVID-19 Vaccine and Administration, as described in Ex. B, Pt. 8 of the Contract. Encounter Data, including Encounter Data Requiring Correction, for the COVID-19 Vaccine and Administration Period must be successfully submitted to OHA no later than the last Friday in April 2024 for dates of service through December 31, 2023, in order to qualify for reimbursement from OHA under this Sec. 11. Similarly, such Encounter Data for dates of service from January 1, 2024, through September 30, 2024, must be successfully submitted to OHA no later than the last Friday in January 2025.
  - (b) Contractor shall submit Encounter Data in accordance with Sub. Para. (2)(a) above for Members with Other Primary Insurance or Medicare in effect, except that no Contractor-paid amount shall be reported. Contractor will not be eligible for reimbursement for claims for such Members.
  - (c) If COVID-19 Vaccine and Administration occurred as part of another service, such as an office visit, then Encounter Data will show the COVID-19 Vaccine and Administration and the other services separately.
- (3) Contractor’s Members may receive COVID-19 Vaccinations from any Provider enrolled with OHA as a Medicaid Provider. If that Provider is not a Participating Provider with Contractor, such Provider will bill

OHA directly for COVID-19 Vaccine and Administration and will be paid under Oregon's Fee-for-Service program. OHA refers to this approach as the "No Wrong Door Policy." In the event OHA revokes this policy as provided for in Sub.Para. (9) below of this Para. b, Contractor shall be responsible for paying all Providers for COVID-19 Vaccine and Administration as of the date of revocation, without regard to whether the Provider is a Participating Provider with Contractor. However, in the event of such revocation, the conditions of payment by Contractor for Non-Participating Providers providing the COVID-19 Vaccine and Administration to Contractor's Members shall be subject to Sub.Para. (5)(a) below of this Para. b.

- (4) Nothing in this Sec. 11 alters Contractor's duties under the Contract and OHA rules relating to:

  - (a) Members' Care Coordination, health education, Non-Emergent Medical Transportation Services, Culturally and Linguistically Appropriate Services, and spoken, signed, and written language needs including translation, in connection with COVID-19 Vaccine and Administration;
  - (b) Medical treatment of any side effects of a COVID-19 Vaccine;
  - (c) Providing its Members the opportunity to receive COVID-19 Vaccines in accordance with guidelines announced by OHA, unless COVID-19 Vaccine Administration is contraindicated by the Member's age, medical condition, or other factors; and
  - (d) Assuring that Participating Providers (1) are providing equitable access for Members and (2) can provide services safely, including access to COVID-19 Vaccines to the extent within Contractor's control.
- (5) Subject to the continuation of the "No Wrong Door Policy" as provided for in Sub.Para. (9) below of this Para. b, Contractor shall not require Prior Authorization for a COVID-19 Vaccine. Contractor shall, to the extent feasible, expand its Provider Network so that Members have the opportunity to receive COVID-19 Vaccine from Participating Providers.

  - (a) However, in the event that OHA revokes its "No Wrong Door Policy" in accordance with Sub.Para. (9) below of this Para. b, Contractor may, but is not obligated to, require a Non-Participating Provider to obtain Prior Authorization for administering COVID-19 Vaccinations to Contractor's Members.
- (6) OHA reimbursement of COVID-19 Vaccine and Administration Expenses is subject to the following provisions:

  - (a) The COVID-19 Vaccine must have been administered during the CY 2023-2024 COVID-19 Vaccine and Administration Period.

- (b)** Allowable COVID-19 Vaccine and Administration Expenses for each claim will be based on the reported paid amount on each claim limited to 100% of amount that OHA would pay the Provider if billed to OHA for a FFS Member, except as follows for Indian Health Care Providers (IHCPs) and Healthier Oregon Program (HOP) Members:
- i.** Allowable COVID-19 Vaccine and Administration Expenses for each claim from an IHCP will be based on the reported paid amount on each claim limited to 100% of the clinic-specific Indian Health Service or Prospective Payment System encounter rate that OHA would pay the IHCP if billed to OHA for a FFS Member.
  - ii.** Contractor will not be reimbursed for COVID-19 Vaccine and Administration Expenses incurred in administering COVID-19 Vaccines to individuals who receive CWM and CWX benefits under the 2023 Contract or 2024 Contract or both. Instead, such Vaccine and Administration Expenses will be included in the CCO Risk Corridor for CWM/CWX-eligible services described in Paras. h and i of Sec. 6 of Ex. C to this Contract.
- (c)** To calculate Contractor's Reimbursable COVID-19 Vaccine and Administration Expenses, OHA will increase Contractor's reimbursement for allowable COVID-19 Vaccine and Administration Expenses to reflect the following:
- i.** Non-Risk Non-Medical Load Percentage, applied only to allowable COVID-19 Vaccine Administration Expenses; and
  - ii.** The 2% managed care organization assessment, applied to allowable COVID-19 Vaccine and Administration Expenses.
- (7)** OHA will use its reasonable efforts to notify Contractor via Administrative Notice about the effective date of Commercialization, as determined by the federal government, at least five (5) Business Days prior to the effective date. However, in the event the date of the federal government's notice of the effective date does not permit OHA to provide such advance notice, the shorter notice period shall not constitute a breach of this Contract. Additionally, Contractor shall make reasonable efforts to monitor the federal government's publicly available resources about the effective date of Commercialization.
- (8)** OHA reserves the right to extend or shorten the CY 2023-2024 COVID-19 Vaccine and Administration Period. In the event that OHA exercises this right, it shall notify Contractor by Administrative Notice and shall identify in such notice any changes to due dates or other related requirements that are affected by such change. OHA will provide such notice at least twenty (20) Business Days prior to any modification(s) to the CY 2023-2024 COVID-19 Vaccine and Administration Period.

- (9) OHA reserves the right to revoke the “No Wrong Door Policy” described in Sub.Para. (3) above of this Para. b. The effect of such revocation is that, as of the effective date of revocation, this Sec. 11 shall be interpreted to apply to both Participating Providers and Non-Participating Providers as applicable. OHA will notify Contractor via Administrative Notice about the effective date of revocation at least thirty (30) Business Days prior to the effective date.

**c. COVID-19 Vaccine and Administration Payments**

- (1) OHA will tabulate and confirm the COVID-19 Vaccine and Administration Expenses using the Contractor’s paid amounts reported in Encounter Data for the CY 2023-2024 COVID-19 Vaccine and Administration Period.
  - (2) OHA will send Contractor periodic settlement reports with information about the calculation of Reimbursable COVID-19 Vaccine and Administration Expenses for review prior to payment.
  - (3) OHA will send periodic payments to Contractor not less than once every calendar year based on the Reimbursable COVID-19 Vaccine and Administration Expenses in the settlement reports.
  - (4) OHA may request additional information from Contractor for verification of COVID-19 Vaccine and Administration Expenses and regarding Member quality and access review, and Contractor shall promptly provide OHA with such requested information.
  - (5) The provisions of this Contract governing Overpayments apply to Overpayments of Reimbursable COVID-19 Vaccine and Administration Expenses.
  - (6) In consideration for the payments under this Sec. 11, OHA waives any requirement under this Contract that Contractor pay from its Global Budget for COVID-19 Vaccine and Administration Expenses during the CY 2023-2024 COVID-19 Vaccine and Administration Period.
3. Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to Contractor and the Contract. OHA’s performance under the Contract is conditioned upon Contractor's compliance with the obligations of contractors under ORS 279B.220, 279B.230 and 279B.235, which are incorporated by reference herein.
  4. Except as expressly amended above, all other terms and conditions of the Contract, which includes any previous amendments thereto, remain in full force and effect. Contractor certifies that the representations, warranties and certifications previously made in the Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.
  5. **Certification.** Without limiting the generality of the foregoing, by signature on this Contract Amendment, the undersigned hereby certifies under penalty of perjury that:
    - a. Contractor is in compliance with all insurance requirements in Exhibit F of the

Contract and notwithstanding any provision to the contrary, Contractor shall deliver to OHA's Contract Administrator, in accordance with Section 5 of the Contract, the required Certificate(s) of Insurance for any extension of the insurance coverage required by Exhibit F of the Contract, within 30 days of execution of this Contract Amendment. By certifying compliance with all insurance requirements set forth in the Contract, Contractor acknowledges it may be found in breach of the Contract for failure to obtain and maintain all required insurance throughout the term of the Contract. Contractor may also be in breach of the Contract for failure to provide Certificate(s) of Insurance as required therein;

- b.** Contractor acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the Contractor and that pertains to the Contract. Contractor certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Contractor further acknowledges that in addition to the remedies under the Contract, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General shall have the right to pursue any and all remedies provided by the Oregon False Claims Act against Contractor;
- c.** The undersigned is authorized to act on behalf of Contractor and represents and warrants that Contractor has complied with all applicable tax laws of the State of Oregon and the applicable tax laws of any political subdivision of the State of Oregon. Contractor shall, throughout the duration of this Contract and any extensions, comply with all tax laws of Oregon and all applicable tax laws of any political subdivision of the State of Oregon. For the purposes of this Section, "tax laws" includes: (i) All tax laws of Oregon, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) Any tax provisions imposed by a political subdivision of Oregon that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (iii) Any tax provisions imposed by a political subdivision of Oregon that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Contractor acknowledges that the Oregon Department of Administrative Services will report this Contract to the Oregon Department of Revenue. The Oregon Department of Revenue may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including (i) garnishing the Contractor's compensation under this Contract or (ii) exercising a right of setoff against Contractor's compensation under this Contract for any amounts that may be due and unpaid to the State of Oregon or its political subdivisions for which the Oregon Department of Revenue collects debts;

- d.** The information shown in "Contractor Data and Certification" of the Contract is Contractor's true, accurate and correct information;



- e. To the best of the undersigned’s knowledge, Contractor has not discriminated against and shall not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- f. Contractor and none of Contractor’s employees and agents are not included on the list titled “Specially Designated Nationals” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- g. Contractor is not listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal procurement or Non-procurement Programs” found at: <https://www.sam.gov/SAM/>;
- h. Contractor is not subject to backup withholding because:
  - (1) Contractor is exempt from backup withholding;
  - (2) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends; or
  - (3) The IRS has notified Contractor that Contractor is no longer subject to backup withholding; and
- i. Contractor hereby certifies that the FEIN or SSN provided to OHA is true and accurate. If this information changes, Contractor shall provide OHA with the new FEIN or SSN within 10 days of such change.

**6. Signatures.**

«Registered\_Name» «Registered\_ABN»

By:

\_\_\_\_\_

Authorized Signature

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Title

\_\_\_\_\_

Date

**Reviewed and approved by OHA Health Systems Division Medicaid Unit**

By:

\_\_\_\_\_

David Inbody, CCO Operations Director

\_\_\_\_\_

Date

**State of Oregon, acting by and through its Oregon Health Authority**

By:

\_\_\_\_\_  
Dana Hittle, Medicaid Director

\_\_\_\_\_  
Date

**Approved for Legal Sufficiency:**

**Electronic approval by Ellen D. Taussig Conaty, Senior Assistant Attorney General, Health and Human Services Section, on July 25, 2023; email in Contract file.**

Reference Copy