

Fiscal Year 2007-08

Drug Medi-Cal
Direct Contract
Boilerplate

FINAL

EFFECTIVE 7-1-07

TERMS AND CONDITIONS

**STATE GENERAL FUNDS and FEDERAL MEDICAID FUNDS
For
DRUG MEDI-CAL SUBSTANCE ABUSE TREATMENT SERVICES**

ARTICLE I. GENERAL PROVISIONS

This Contract between the Department of Alcohol and Drug Programs (hereafter referred to as the Department or the State) and the Drug Medi-Cal (hereafter referred to as DMC) provider referenced in the Standard Agreement (hereafter referred to as Contractor) is for the purpose of furnishing allowable DMC services to eligible Medi-Cal beneficiaries at the Contractor's DMC certified substance abuse treatment program site. The Contract consists of the Standard Agreement, a Budget, the Terms and Conditions, and the Documents identified in the List of Documents Incorporated by Reference.

A. Contract Term

This Contract will cover the cost of all allowable DMC services to Medi-Cal beneficiaries for the period commencing from July 1, 2007, through June 30, 2008. The Department has funds currently appropriated and available for encumbrance only to cover costs through June 30, 2008.

B. Unenforceable Provisions

In the event that any provision of this Contract is held invalid or unenforceable by any court of competent jurisdiction, the holding will not invalidate or render unenforceable any other provision hereof.

C. Contract Amendments

In the event of changes in law that affect provisions of this Contract, the parties agree to amend the affected provisions to conform to the changes in law retroactive to the effective date of such changes in law. The parties further agree that the terms of this Contract are severable and in the event of changes in law as described above, the unaffected provisions and obligations of this Contract will remain in full force and effect. The Department may amend this Contract, as it deems necessary by submitting the proposed amendment in writing to the Contractor. Unless the Contractor objects in writing within 30 days, or, at the discretion of the Department an earlier date stated in the notice of amendment, such amendment(s) shall automatically become part of this Contract. If the Contractor objects to the amendment and the parties cannot reach agreement, Department shall have the right, in its sole discretion, to terminate this Contract.

D. Termination

1. This Contract may be terminated by either party by delivering written notice of termination to the other party at least thirty (30) days prior to the effective date of termination. The notice of termination shall state the effective date of and reason for the termination.
2. When ADP has a reasonable belief that the provider: engaged in abuse of the Drug Medi-Cal system; committed fraud; or failed to pay a debt due and owing; ADP may immediately terminate the contract without providing 30 days notice.
 - a. "Abuse of the Drug Medi-Cal system" means either of the following:
 - (1) Practices that is inconsistent with sound fiscal or business practices and result in unnecessary cost to the Drug Medi-Cal program, or other health care programs operated, or financed in whole or in part, by the federal government or any state or local agency
 - (2) Practices that is inconsistent with sound medical practices and result in reimbursement by the Drug Medi-Cal program or other health care programs operated, or financed in whole or in part, by the federal government or any state or local agency in this state or any other state, for services that are unnecessary or for substandard items or services that fail to meet professionally recognized standards for health care.
 - (A) "Unnecessary or substandard items or services" means: those that are either substantially in excess of the provider's usual charges or costs for the items or services; or services furnished, or caused to be furnished, to patients, which are substantially in excess of the patient's needs, or of a quality that fails to meet professionally recognized standards of health care.
 - b. "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person. It includes any act that constitutes fraud under applicable federal or state law. Fraud shall have the same meaning as used in Title 42, CFR, Part 433, Section 433.304, and in Section 14043.1 of the Welfare and Institutions Code.
 - c. "Debt due and owing" means 60 days have passed since a notice or demand for repayment of an overpayment or other amount resulting from an audit or examination, for a penalty assessment, or

for any other amount due the department was sent to the provider, regardless of whether an appeal is pending.

Notwithstanding any other provision of law, any provider whose contract is terminated without notice pursuant to this section may appeal this action by submitting a written appeal, including any supporting evidence, to the Department's director or the director's designee. The appeal procedure shall not include a formal administrative hearing under the Administrative Procedure Act and shall not result in reactivation of the contract during any portion of the appeal. A provider that files an appeal pursuant to this section shall submit the written appeal along with all pertinent documents and all other relevant evidence to the director or to the director's designee within 60 days of the date of notification of the department's termination of the contract. The director or the director's designee shall review all of the relevant materials submitted and shall issue a decision within 90 days of the receipt of the appeal. The decision may provide that the action taken should be upheld, continued, or reversed, in whole or in part. The decision of the director or the director's designee shall be final. Any further appeal shall be required to be filed in accordance with Section 1085 of the Code of Civil Procedure.

3. Upon termination, Contractor shall immediately cease all DMC services and the Department shall not be obligated to pay the Contractor for services performed subsequent to the termination date. This payment obligation will cease notwithstanding the Contractor's appeal of the termination under any administrative proceedings or legal remedy. Contractor hereby waives all requests and claims for the continuation of payment pending the outcome of any and all of these appeals.
4. Contractor shall continue to provide services to beneficiaries until the termination or expiration of the Contract.
5. In the event of termination, Contractor shall cooperate with the Department in arranging for the transfer of Medi-Cal beneficiaries to other DMC certified programs. Medically necessary substance abuse services must be continued without interruption for Medi-Cal beneficiaries in protected populations. The protected populations are:
 - (1) Early and Periodic Screening, Diagnosis and Treatment (EPSDT)-eligible youth under age 21; and,
 - (2) pregnant and postpartum women; by transferring the beneficiaries in the protected population to a Medi-Cal physician for fee-for-service, through a supplemental provider (EPSDT-eligible beneficiaries only), or if the beneficiaries are in a managed care health plan to a Health Maintenance Organization (HMO).

In the event that Narcotic Treatment Program (NTP) patients cannot be transferred without a break in service, they must be provided a humane

detrification in accordance with Title 9 of the California Code of Regulations (hereafter referred to as CCR), Section 10415(f).

6. Department may terminate performance of work under this contract in whole, or in part, for any reason the Department determines is in the best interest of the Department, State of California, the individuals in the Contractor's program, and/or for any violation of federal and state regulation(s) and statute(s). If the Department determines the health and welfare of beneficiaries receiving covered services are jeopardized by continuation of this Contract, the Contract will be immediately terminated.
7. In the event this Contract is terminated, Contractor shall deliver all of its fiscal and program records pertaining to the performance of this Contract to the Department, which will retain the records for the required retention period.

ARTICLE II. PROGRAM PROVISIONS

A. Confidentiality and Security of Information

1. Contractor shall conform to and monitor compliance with all applicable State and federal statutes and regulations regarding confidential information, including, but not limited to, the confidentiality and security of information requirements in the following:
 - 42 USC Section 290 dd-2
 - Title 42, CFR Part 2
 - Title 45, CFR Part 96, Sec. 96.132(e)
 - Title 42, USC 1320(a)
 - Title 42, USC 1320(d)-1320(d)(8)
 - Title 45, CFR Parts 160, 162 and 164 – the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules, P.L. 104-191, and related regulations
 - Welfare and Institutions Code (hereinafter referred to W&IC), Section 14100.2, which is specific to Medi-Cal
 - Section 11845.5 of the Health and Safety Code (hereinafter referred to as HSC)
 - Title 22, California Code of Regulations (hereinafter referred to as Title 22), Section 51009, which is specific to Medi-Cal
 - Civil Code Sections 56 through 56.37 – Confidentiality of Medical Information Act
 - HSC Sections 123110 through 123149.5 – Patient Access to Health Records
 - Civil Code Section 1798.85 – Confidentiality of Social Security Numbers
 - Civil Code Sections 1798.80 through 1798.82 – Customer Records (breach of security)
2. Contractor agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of all confidential information that it creates, receives, maintains or transmits. Contractor will provide the State with information concerning such safeguards upon request.
3. Contractor shall monitor compliance with the above provisions on confidentiality and security and shall include the above provisions in all subcontracts.

B. Non-Discrimination in Services

1. By signing this Contract, Contractor certifies under the laws of the State of California that the Contractor shall not unlawfully discriminate in the provision of services because of race, color, creed, national origin, sex, age, physical, sensory, cognitive, or mental disability, as provided by State and federal law and in accordance with Title VI of the Civil Rights Act of

1964 [42 USC 2000(d)]; Age Discrimination Act of 1975 (42 USC 6101); Section 504 of the Rehabilitation Act of 1973 (as amended) (29 USC 794); Education Amendments of 1972 (20 USC 1681); Americans with Disabilities Act of 1990 (42 USC 12101); Title 45, CFR, Part 84; provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.); and regulations promulgated thereunder (Title 2, CCR, Section 7285.0 et seq.); Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135; and Chapter 6 of Division 4 of Title 9 of the CCR, commencing with Section 10800.

2. For the purpose of this Contract, discrimination on the basis of race, color, creed, national origin, sex, age, or physical, sensory, cognitive, or mental disability includes, but is not limited to, the following: denying an otherwise eligible individual any service or providing a benefit which is different, or is provided in a different manner or at a different time, from that provided to others under this Contract; subjecting any otherwise eligible individual to segregation or separate treatment in any matter related to the receipt of any service; restricting an otherwise eligible individual in any way in the enjoyment of any advantage or privilege enjoyed by other receiving any service or benefit; and/or treating any individual differently from others in determining whether such individual satisfied any admission, enrollment, eligibility, membership, or other requirement or condition which individuals shall meet in order to be provide any service or benefit.
3. Contractor shall, on a cycle of at least every three years, assess, monitor, and document compliance with the Section 504 of the Rehabilitation Act of 1973 (as amended) and Americans with Disabilities Act of 1990 to ensure that recipients/beneficiaries and intended recipients/beneficiaries of services are provided services without regard to physical, or mental disability. Contractor shall also monitor to ensure that beneficiaries and intended beneficiaries of service are provided services without regard to race, color, creed, national origin, sex, or age.

Contractor shall establish written procedures under which service participants are informed of their rights including their right to file a complaint alleging discrimination or a violation of their civil rights. Participants in programs funded hereunder shall be provided a copy of their rights that shall include the right of appeal and the right to be free from sexual harassment and sexual contact by members of the treatment, recovery, advisory, or consultant staff.

4. No State or federal funds shall be used by the Contractor for sectarian worship, instruction, or proselytization. No State funds shall be used by the Contractor or any of its Subcontractors to provide direct, immediate or substantial support to any religious activity.
5. Contractor shall keep records to document compliance with the provisions referenced in subdivisions 1 through 4 above and copies of the required

“Notice of Client’s Rights,” in order for the Department to determine compliance with Article II, Division B of this Contract. Upon request by the State, Contractor shall provide such records, which may include a valid and appropriate fire clearance for residential facilities, to the Department within thirty (30) calendar days.

6. Contractor’s noncompliance with Article II, Section B, subdivisions 1 through 5, may result in suspension of payments under this Contract, termination of the Contract, or both.

C. Non-Discrimination in Employment

1. During the performance of this Contract, Contractor and its Subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. Contractors and its Subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination. Contractors and its Subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Administrative Code, Title 2, Section 7285.0 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its Subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontractors to perform work under this Contract.

2. Contractor agrees to post, in conspicuous places, notices available to all employees and applicants for employment setting forth the provisions of the Equal Opportunity Act [42 USC 2000(e)] in conformance with Federal Executive Order No. 11246, Section 503 of the Rehabilitation Act of 1973 (as amended) and the affirmative action clause required by the Vietnam Era Veterans’ readjustment Assistance Act of 1974 (38 U.S.C. 4212). Contractor agrees to comply with the provisions of Section 503 of the Rehabilitation Act of 1973 (29 USC 794).

D. No Unlawful Use or Unlawful Use Messages Regarding Drugs

Contractor agrees that information produced through these funds, which pertains to drug- and alcohol-related programs, and/or clinics, shall contain a clearly written statement that there shall be no unlawful use of drugs or alcohol associated with the program and/or clinic. Additionally, no aspect of a drug- or alcohol-related treatment program, and/or clinic, shall include any message on

the responsible use, if the use is unlawful, of drugs or alcohol (HSC Section 11999). Contractor agrees to enforce these requirements by signing this Contract.

E. Smoking Prohibition Requirements

Contractor agrees to comply with Public Law 103-227, also known as the Pro-Children Act of 1994 (20 USC Sections 6081, et seq.), and with California Labor Code Section 6404.5, the California Smoke-free Workplace Law, which, in part, prohibits smoking within any portion of any indoor facility (enclosed structure) owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities and are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole source of applicable federal funds is Medicare or Medicaid, or facilities where the Women, Infants, and Children program's coupons are redeemed.

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

All DMC claims shall be submitted in electronic HIPAA format (837P) and shall be submitted through the Department of Mental Health's Informational Technology Web Service (ITWS) system. Refer to ADP Bulletin 05-10 for further details (Document 3F).

All submitted claims shall meet ADP HIPAA testing and certification requirements. When a Contractor completes their testing and certification process, only HIPAA compliant claims will be allowed for submission to ADP. Refer to ADP Bulletin 05-03 for further details (Document 3E).

The Department will return all non-HIPAA compliant DMC claims to the submitter (direct provider or direct provider vendor). Returned claims will not be processed until submitted in the HIPAA compliance format; therefore, reimbursement will not be issued.

If any of the work performed under this Contract is subject to HIPAA, Public Law 104-191, then Contractor shall perform the work in compliance with all applicable provisions of HIPAA. Refer to the HIPAA Business Associate Agreement (BAA) in which the Direct Contract Provider is the Business Associate of the Department (Document 3M), and the HIPAA BAA in which the Department is the Business Associate of the Direct Contract Provider (Document 3N). Contractor and the State will cooperate to: (1) determine what work, if any, may be impacted by HIPAA, and (2) amend this Contract if needed to assure compliance with HIPAA.

1. Trading Partner Requirements
 - a. No Changes. Contractor hereby agrees that for the personal health information (Information), it will not change any definition, data condition or use of a data element or segment as proscribed in the federal HHS Transaction Standard Regulation. (45 CFR Part 162.915.(a))
 - b. No additions. Contractor hereby agrees that for the Information, it will not add any data elements or segments to the maximum data set as proscribed in the HHS Transaction Standard Regulation. (45 CFR Part 162.915 (b))
 - c. No Unauthorized Uses. Contractor hereby agrees that for the information, it will not use any code or data elements that either are marked “not used” in the HHS Transaction’s Implementation specification or are not in the HHS Transaction Standard’s implementation specifications. (45 CFR Part 162.915 (c))
 - d. No Changes to Meaning or Intent. Contractor hereby agrees that for the Information, it will not change the meaning or intent of any of the HHS Transaction Standard’s implementation specification. (45 CFR Part 162.915 (d))
2. Concurrence for Test Modifications to HHS Transaction Standards. Contractor agrees and understands that there exists the possibility that ADP or others may request an extension from the uses of a standard in the HHS Transaction Standards. If this occurs, Contractor agrees that it will participate in such test modifications.
3. Adequate Testing. Contractor is responsible to adequately test all business rules appropriate to their types and specialties. If the Contractor is acting as a clearinghouse for enrolled providers, Contractor has obligations to adequately test all business rules appropriate to each and every provider type and specialty for which they provide clearinghouse services.
4. Deficiencies. Contractor agrees to cure transactions errors or deficiencies identified by the State, and transactions errors or deficiencies identified by an enrolled provider if the Contractor is acting as a clearinghouse for that provider. When Contractor is a clearinghouse, Contractor agrees to properly communicate deficiencies and other pertinent information regarding electronic transactions to enrolled providers for which they provide clearinghouse services.
5. Code Set Retention. Both Parties understand and agree to keep open code sets being processed or used in this Agreement for at least the current billing period or any appeal period, whichever is longer.

6. Data Transmission Log. Both Parties shall establish and maintain a Data Transmission Log, which shall record any and all Data Transmission taking place between the Parties during the term of this Contract. Each Party will take necessary and reasonable steps to ensure that such Data Transmission Logs constitute a current, accurate, complete, and unaltered record of any and all Data Transmissions between the Parties, and shall be retained by each Part for no less than twenty-four (24) months following the data of the Data Transmission. The Data Transmission Log may be maintained on computer media or other suitable means provided that, if it is necessary to do so, the information contained in the Data Transmission Log may be timely retrieved and presented in readable form.

G. Non-Compliance with Reporting Requirements

Contractor agrees that the Department has the right to withhold payments until the Contractor has submitted any required data and reports to the Department.

H. Child Support Compliance Act

Contractor acknowledges that it:

1. Recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
2. Complies to the best of its knowledge with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

I. Debarment and Suspension Certification

1. By signing this agreement, Contractor agrees to comply with federal suspension and debarment regulations found in Title 45, CFR, Part 76. "Debarred" means excluded or disqualified from contracting with the federal, state, or local government. (45 CFR 76.200 and 48 CFR 9.400).
2. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

- b. Will include without modification, the clause entitled, "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transaction," (i.e., transactions with subgrantees and/or contractors) and in all solicitations for lower tier covered transactions in accordance with 45 CFR Part 76.
- 3. If the Contractor is unable to certify to any of the statements in this certification, Contractor shall submit an explanation to the AOD program funding this Contract.
- 4. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the State may terminate this agreement for cause or default.

J. Union Organizing

Contractor, by signing this agreement, hereby acknowledges the applicability of California Government Code (Title 2, Division 4, Part 2, Chapter 6), Sections 16645 through Section 16649 to this Contract.

- 1. Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
- 2. No state funds received under this Contract will be used to assist, promote or deter union organizing.
- 3. Contractor will not, for any business conducted under this Contract, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing unless the state property is equally available to the general public for holding meetings.
- 4. If the Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that the Contractor shall provide those records to the State Attorney General upon request.

K. Disputes

Contractor shall continue to carry out its responsibilities under this Contract during any disputes.

L. Assignment

This Contract is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written agreement.

M. Indemnification

Contractor agrees to indemnify, defend and save harmless the Department and the State of California, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Contract and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Contract.

N. Independent Contractor

Contractor, and the agents and employees of the Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the state.

O. Adherence to computer Software Copyright Laws

Contractor certifies that it has appropriate systems and controls in place to ensure that State or federal funds available from this Contract will not be used for the acquisition, operation, or maintenance of computer software in violation of copyright laws. (Reference: Executive Order D-10-99 and Department of General Services Management Memo 00-02).

P. Timeliness

Time is of the essence in this Contract.

Q. Domestic Partners Act

Pursuant to Public Contract Code 10295.3, no state agency may enter into any contract executed or amended after January 1, 2007, for the acquisition of goods or services in the amount of \$100,000 or more with a contractor who, in the provision of benefits, discriminates between employees with spouses and employees with domestic partners, or discriminates between domestic partners and spouses of those employees.

R. Lobbying and Restrictions

By signing this agreement, the Contractor certifies that no part of any federal funds provided under this Contract shall be used by the Contractor or its Subcontractors to support lobbying activities to influence proposed or pending Federal or State legislation for appropriations. This prohibition is related to the use of Federal Grant funds and is not intended to offset the right, or the right of

any other organization, to petition Congress, or any other level of Government, through the use of other resources. (Reference 31 USC, Section 1352 and documents 1W and 1X)

S. Counselor Certification

Any individual providing intake, assessment of need for services, treatment or recovery planning, individual or group counseling to participants, patients, or residents in an ADP licensed or certified program are required to be certified as defined in CCR, Title 9, Division 4, Chapter 8. (Reference: Document 3H for a copy of the regulations pertaining to counselor certification.

T. Conflict of Interest

Contractor acknowledges that state laws on conflict of interests, found in the Political Reform Act, Public Contract Code Section 10365.5, and Government Code Section 1090, apply to this contract.

U. Force Majeure

Contractor shall not be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but not be limited to acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight, embargo, public related utility, or governmental statutes or regulations super-imposed after the fact. Except for defaults of Subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but not be limited to acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight, embargo, public related utility, or governmental statutes or regulations super-imposed after the fact. If a delay or failure in performance by the Contractor arises out of a default of its Subcontractor, and if such default of its Subcontractor, arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

V. Limited English Proficiency

To ensure equal access to quality care by diverse populations, the provider shall:

1. Promote and support the attitudes, behaviors, knowledge, and skills necessary for staff to work respectfully and effectively with clients and each other in a culturally diverse work environment.

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2. Have a comprehensive management strategy to address culturally and linguistically appropriate services, including strategic goals, plans, policies, procedures, and designated staff responsible for implementation.
3. Develop and implement a strategy to recruit, retain and promote qualified, diverse and culturally competent administrative, clinical, and support staff that are trained and qualified to address the needs of the racial and ethnic communities being served.
4. Require and arrange for ongoing education and training for administrative, clinical, and support staff in culturally and linguistically competent service delivery.
5. Provide all clients with limited English proficiency (LEP) access to bilingual staff or interpretation services.
6. Provide oral and written notices, including translated signage at key points of contact, to clients in their primary language informing them of their right to receive no-cost interpreter services.
7. Translate and make available signage and commonly-used written client educational material and other materials for members of the predominant language groups in the service area.
8. Ensure that interpreters and bilingual staff can demonstrate bilingual proficiency and receive training that includes the skills and ethics of interpreting, and knowledge in both languages of the terms and concepts relevant to clinical or non-clinical encounters. Family or friends are not considered adequate substitutes because they usually lack these abilities.
9. Ensure that the clients' primary spoken language and self-identified race/ethnicity are included in the provider's management information system as well as any client records used by provider staff.

ARTICLE III. FORMATION AND PURPOSE

A. Departmental Authority

The Department, by authority of an Interagency Agreement with DHCS, administers the DMC Program. This Contract is entered into for the purpose of identifying and providing covered DMC services for substance abuse and other drug treatment pursuant to Division 10.5, of the HSC and consistent with the Interagency Agreement between DHCS and the State. Such contracts are authorized and provided for by the provision of W&IC Section 14021.5(c).

B. Single State Agency Authority

It is understood and agreed that nothing contained in this Contract shall be construed to impair the single state agency authority of DHCS as set out in W&IC Section 14100.1.

C. Contract Objective

The objective of this Contract is to make substance abuse treatment services available to Medi-Cal eligible beneficiaries through utilization of Title XIX (Social Security Act) funds for reimbursable covered services offered by certified DMC service providers.

ARTICLE IV. DEFINITIONS

As used in this Contract, the following definitions of terms will apply:

- A. **"Beneficiary"** means a person who has been determined eligible for Medi-Cal and is not prohibited from benefits under federal law by virtue of institutionalization. A beneficiary eligible for DMC services must have a substance-related disorder according to the "Diagnostic and Statistical Manual of Mental Disorders" (hereafter referred to as DSM), DSM-III-R, and/or DSM-IV criteria, and meet the admission criteria for the covered services in this part.
- B. **"Contractor"** means the direct service provider identified in the face sheet of this Contract.
- C. **"Covered Services"** means DMC services authorized by Title XIX of the Social Security Act and specified in Title 22, CCR, Section 51341.1; HSC Section 11758.46; the W&IC; and California's Medicaid State Plan. Covered services are Naltrexone treatment, outpatient drug free treatment, narcotic treatment, day care rehabilitative (for pregnant or postpartum beneficiaries and those receiving EPSDT services), and perinatal residential substance abuse treatment (excluding room and board).
- D. **"Day"** means calendar day.
- E. **"Department"** means the California Department of Alcohol and Drug Programs (ADP).
- F. **"Drug Medi-Cal (DMC) Program"** means the State system wherein eligible beneficiaries receive covered services from DMC certified substance abuse treatment providers that are reimbursed for the services with State General Funds (SGF) and federal Medicaid funds, also referred to as Federal Financial Participation (FFP).
- G. **"Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program"** means the federally mandated Medicaid benefit for full-scope Medi-Cal beneficiaries under 21 years of age that provides any Medicaid service necessary to correct or ameliorate a defect, or mental illness, or other condition, such as a substance-related disorder, discovered during a health examination. Refer also to Title 22, CCR, Sections 51340 through 51340.1.

"EPSDT Supplemental Service" means the supplemental individual outpatient drug-free (ODF) counseling services provided to a beneficiary under the age of 21 years who has full scope Medi-Cal coverage. Supplemental individual ODF counseling consists of any necessary individual alcohol and other drug (AOD) counseling not included in the ODF counseling modality under the DMC program.

- H. **"Final Settlement"** for providers other than Narcotic Treatment Programs (NTPs) means permanent settlement of actual allowable costs or expenditures as determined at the time of audit, which shall be completed within three (3) years of the date the cost report settlement was accepted for interim settlement by the Department. If the audit is not completed within three (3) years, the interim settlement shall be considered as the final settlement.

For NTPs, **"Final Settlement"** means the permanent settlement based on verification of approved units of service at the lower of per capita Uniform Statewide Monthly Reimbursement rate or the Contractor's usual and customary charge to non-DMC patients for the same or similar services.

- I. **"Interim Settlement"** means the temporary settlement of actual allowable costs or expenditures reflected in the year-end cost report settlement. For Narcotic Treatment Program providers, interim settlement consists of determining the total allowable reimbursement using approved units of service at the lower of the Uniform Statewide Monthly Reimbursement rate or the Contractor's usual and customary daily charge.
- J. **"Medical Necessity"** refers to the requirement that substance abuse treatment services are covered by DMC reasonable and necessary to protect life, prevent significant illness or disability, or alleviate severe pain through the diagnosis and treatment of a disease, illness or injury as determined by a physician.
- K. **"Minor Consent Drug Medi-Cal (DMC) Services"** means substance abuse treatment services and other services defined in Title 22, CCR, Section 50063.5, that may be provided to a person aged 12 through 20, without parental consent.
- L. **"Narcotic Treatment Program"** as defined in Title 22, CCR, Section 51341.1(b)(14), means an outpatient service licensed by the Department to provide replacement narcotic therapy using methadone, directed at stabilization and rehabilitation of persons who are opiate addicted and have a substance abuse diagnosis.
- M. **"Performance Report"** means an annual year-end cost settlement based on billing activity.
- N. **"Perinatal DMC Services"** means covered services as well as mother/child habilitative services; service access, i.e., provision or arrangement of transportation to and from medically necessary treatment; education to reduce harmful effects of alcohol and drugs on the mother and fetus or infant; and coordination of ancillary services (Title 22, CCR, Section 51341.1(c) (4)).

- O. **"Postpartum"** as defined for DMC purposes, means the sixty (60) day period beginning on the last day of pregnancy, regardless of whether other conditions of eligibility are met. Eligibility shall end on the last day of the calendar month in which the 60th day occurs.
- P. **"Post-Service Post-Payment (PSPP) Utilization Review"** means the review by the State of services for medical necessity and program coverage after service was rendered and the claim paid. The State may recover prior payments if such review determines that the services did not comply with the applicable statutes, regulations, or standards.
- Q. **"Projected Units of Service"** means the number of reimbursable DMC units of service, based on historical data, the Contractor expects to provide on an annual basis.
- R. **"Protected Populations"** means: (1) EPSDT eligible Medi-Cal beneficiaries under age 21; and (2) pregnant and postpartum women.
- S. **"Provider of DMC Services"** means any direct contract provider that provides substance abuse treatment services and is certified by the Department as meeting applicable standards for participation in the DMC Program set forth in the "DMC Certification Standards for Substance Abuse Clinics," Document 2E and "Standards for Drug Treatment Programs, October 21, 1981," Document 2F.
- T. **"Satellite site"** has the same meaning as defined in the Drug Medi-Cal Certification Standards for Substance Abuse Clinics.
- U. **"State"** means the State of California.
- V. **"Statewide Maximum Allowances (SMA) "** means the maximum amount authorized to be paid by DMC for each covered unit of service for outpatient drug free, day care rehabilitative, perinatal residential, and Naltrexone treatment services. The SMA's are subject to change annually. The SMA for FY 2007-08 are listed in the **"Unit of Service"** table.

W. **"Uniform Statewide Monthly Reimbursement (USMR) Rate"** for a Narcotic Treatment Program is a "unit of service" that is a calendar month of treatment service provided pursuant to Title 22, Section 51341.1, and Chapter 4 commencing with Section 10000 of Title 9, CCR (Document 3G). See Title 22, CCR, Section 51516.1, for NTP-specific services. The rates listed below are the FY 2007-08 rates. The USMR rate also includes rates for group and individual counseling for ten-minute increments. These rates are proposed only and are subject to change by DHCS and/or in the regulation process. Reimbursement for covered NTP services shall be limited to the lower of the Contractor's usual and customary charge to non-DMC patients for the same or similar services or the USMR.

Service	Type of Unit of Service (UOS)	Non-perinatal UOS (*)	Perinatal UOS (*)	Rate
NTP-Methadone	Daily	\$11.20 1.02(*)-	\$12.15 1.11(*)	Maximum
	Monthly	\$340.67	\$369.56	
NTP-Individual Counseling (**)	One 10 minute increment	\$14.96 1.37(*)-	\$21.22 1.94(*)	Maximum
NTP Group Counseling (**)	One 10 minute increment	\$3.51 0.32(*)	\$7.07 0.65(*)	Maximum

(*) Administrative Costs incorporated within the rate.

(**) If the services are necessary and appropriate, NTP providers may be reimbursed for a maximum of 200 minutes (20, 10-minute increments) of individual and/or group counseling per calendar month per beneficiary.

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- X. **"Unit of Service"** for outpatient drug free, day care rehabilitative, perinatal residential, and Naltrexone treatment services means a face-to-face contact on a calendar day. Only one face-to-face service contact per day is covered by DMC except emergencies when additional face-to-face contact may be covered for intake crisis intervention or collateral service. To count as a unit of service, the second contact shall not duplicate the services provided on the first contact, and each contact shall be clearly documented in the beneficiary's record. The rates listed below are the FY 2007-08 rates.

Service	Type of Unit of Service (UOS)	Non-perinatal UOS	Perinatal UOS	Rate
Day Care Rehabilitative	Face-to-Face Visit	\$67.55 for EPSDT only	\$79.92	Statewide Maximum Allowance
Naltrexone Treatment	Face-to-Face Visit	\$21.19	N/A	Statewide Maximum Allowance
Outpatient Drug-Free Treatment	Face-to-Face Individual Group	\$74.79 \$31.56	\$106.08 \$63.62	Statewide Maximum Allowance
Perinatal Residential	Residential Day	N/A	\$96.81	Statewide Maximum Allowance

ARTICLE V. PROVISION OF SERVICES

A. Covered Services

1. Contractor shall provide covered substance abuse treatment services for eligible Medi-Cal beneficiaries in need of such services. Within the scope of the Contractor's facility license or certification, covered services may include:
 - a. Outpatient drug free treatment;
 - b. Narcotic treatment;
 - c. Naltrexone treatment;
 - d. Day care rehabilitative (pregnant or postpartum and EDPST only beneficiaries); and
 - e. Perinatal residential substance abuse treatment services (excluding room and board).
2. In the event of a conflict between the definition of services contained in Article I of this Contract and the definition of services in Title 22, CCR, the provisions of Title 22 shall govern.

B. Proposed Budget for DMC Services

Contractor shall submit, as part of the budget/contract application process, one or more of the following documents that is specifically related to the DMC certified program:

1. Exhibit A1, Proposed Budget – Non-Narcotic Treatment Program – Alcohol and Drug (referenced as Document 3A)
2. Exhibit A1, Proposed Budget – Non-Narcotic Treatment Program – Perinatal (referenced as Document 3B)
3. Exhibit A1, Proposed Budget – Narcotic Treatment Program – Alcohol and Drug (referenced as Document 3C)
4. Exhibit A1, Proposed Budget – Narcotic Treatment Program – Perinatal (referenced as Document 3D)

C. Federal and State Mandates

1. Contractor, to the extent applicable, shall comply with Document 2A, "Sobky v. Smoley Judgment", signed February 1, 1995, in "Sobky v. Smoley", 855 F. Supp. 1123 (E.D. Cal. 1994), incorporated by this reference.

2. Contractor shall comply with, and the Contract shall be amended to reflect, any additional legal requirements including any court-ordered requirements or statutory or regulatory amendments to existing law, including addition or reduction in covered services, that are imposed/enacted subsequent to the execution of this Contract. Contractor agrees that this Contract shall be amended to reflect such requirements, amendments, or changes.
3. When a request for covered services is made by an eligible beneficiary, Contractor shall require services to be initiated with reasonable promptness. Contractor shall:
 - a. Have a documented system for monitoring and evaluating accessibility of care, including a system for addressing problems that develop regarding waiting times and appointments.
 - b. Comply with Document 1K, Drug and Alcohol Treatment Access Report (DATAR) incorporated by this reference. Contractor shall submit DATAR records in an electronic format as provided and/or approved by the State, which complies with ADP requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and reporting method. Effective July 1, 2007, the format for submission shall be limited to electronic format only.
4. California Outcomes Measurement System - Treatment (CalOMS-Tx)

The following business rules for the electronic submission of CalOMS-Tx data are:

- a. If Contractor uses IT services provided by a vendor or the County alcohol and drug program administration for submission of CalOMS-Tx data, a Business Associate Agreement (BAA) must be established between the Contractor (direct provider) and the vendor or County alcohol and drug program administration. The BAA must allow ADP to return the processed CalOMS-Tx data to the vendor or the County alcohol and drug program administration.
- b. Participate in ongoing CalOMS informational meetings, trainings, and conference calls for collection of CalOMS-Tx data.
- c. Electronic CalOMS-Tx data is due 45 days from the end of the last day of the report month.

- d. If Contractor experiences system or service failure or other extraordinary circumstances that affect its ability to timely submit CalOMS-Tx and/or to meet other CalOMS-Tx data compliance requirements, the Contractor must report the problem in writing before the established data submission deadlines. The written notice must include a remediation plan that is subject to review by ADP. A grace period of up to 60 days may be granted at the State's sole discretion for the Contractor to resolve the problem before DMC payments are withheld.
 - e. If ADP experiences system or service failure, no penalties will be assessed to the Contractor for late data submission.
 - f. Contractor shall comply with the treatment data quality standards established by ADP. Failure to meet these standards on an ongoing basis may result in withholding DMC funds.
 - g. If Contractor submits data after the established deadlines, due to a delay or problem, Contractor is still responsible for collecting and submitting data from time of delay or problem.
- 5. Contractor shall provide covered services in the Contractor's service area to Medi-Cal beneficiaries without regard to the beneficiary's county of residence, except that satellite sites must provide these services in the same county as the clinic of which they are satellites.
 - 6. Contractor shall notify the Department of any intention to change the location for the provision of covered services, or to increase or reduce the availability of covered services, sixty (60) days prior to the proposed effective date. Failure to notify the Department of such changes could result in loss of DMC reimbursement.
 - 7. If the Contractor provides Perinatal DMC treatment services, it shall comply with the requirements contained in the Services for Pregnant and Postpartum Women Section of Title 22, CCR.
 - 8. Narcotic Treatment Programs shall prominently post a notice informing eligible DMC beneficiaries of the availability of narcotic treatment services under Medi-Cal. This notice shall include a listing of narcotic treatment services provided. Narcotic Treatment Programs shall include in the notice the method of applying for narcotic treatment services under Medi-Cal if the person is otherwise eligible for Medi-Cal services.
 - 9. Contractor shall comply with all terms and conditions of this Contract and all pertinent state and federal regulations. The State, DHCS, DHHS, Comptroller General of the United States, or other authorized State and federal agencies and representatives will be allowed to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services

performed under this Contract. Any and all books, records, and facilities maintained by the Contractor related to these services, may be audited at any time during normal business hours. Unannounced visits may be made by the State at its discretion.

10. In addition to termination of this Contract, if the Contractor fails to provide covered services in accordance with federal or State statutes and regulations or the provisions of this Contract, it shall be subject to forfeiture of the SGF, disallowance of the federal Medicaid reimbursement, and decertification proceedings, subject to the right of appeal.
11. Contractor shall not subcontract with any other person or entity for the provision of the services covered by this Contract.

D. Drug and Treatment Access Report (DATAR)

1. The Contractor shall:
 - a. Submit a monthly DATAR report in an electronic format as provided by the State.
 - b. Ensure that all DATAR reports are submitted to the State by the 10th of the month following the report activity month.
 - c. Enroll in the State's web-based DATAR Web program by July 1, 2007.
2. Noncompliance Provision
 - a. The Contractor shall be considered compliant if a minimum of 95% of required DATAR reports from the Contractor's treatment providers are received by the due date.

E. Contractor Participation, Certification, Recertification, and Transfer of Assets

1. The State shall review and certify the Contractors for participation in the DMC Program. Contractor may only provide those covered services for which it is DMC certified. Certification agreements will not be time limited. Recertification on-site visits will be conducted at clinics for circumstances identified in the "DMC Certification Standards for Substance Abuse Clinics" (Document 2E).
2. Contractor shall be licensed, registered, certified and approved as required by the appropriate agencies. Contractor shall comply with:
 - a. 21 CFR Parts 291 and 1300, et seq. and Title 9, CCR Sections 10000 et seq.;

- b. "DMC Certification Standards for Substance Abuse Clinics," Document 2E, incorporated by this reference;
- c. Title 22, CCR, Sections 51341.1, 51490.1, and 51516.1, Document 2C, incorporated by this reference; and
- d. "Standards for Drug Treatment Programs (October 21, 1981)," Document 2F, incorporated by this reference.
- e. Participating in DMC Orientation training sessions as prescribed by the Department.

In the event of inconsistencies between this Contract and the requirements of Title 22, CCR, the provisions of Title 22, CCR, shall apply.

- 3. If at any time the Contractor's license, registration, certificate, or approval to operate a substance abuse treatment program, and/or clinic, is revoked, suspended, modified, or not renewed, the State may terminate this Contract immediately. Such termination shall be retroactive to the effective date of the revocation, suspension, modification, non-renewal or other action.
- 7. Contractor acknowledges that if it is under investigation by DHCS or any local, state or federal law enforcement agency for fraud or abuse, the State may temporarily suspend the Contractor from the DMC program pursuant to W&IC 14043.36(a).

Contractor shall notify the State, in writing, within fifteen (15) calendar days of their receipt of a notification of a fraud or an abuse investigation.

- 5. Contractor's certification to participate in the DMC program shall automatically terminate in the event that the provider or its owners, officers or directors are convicted of Medi-Cal or Medicare fraud, abuse or malfeasance. For purposes of this section, a plea of nolo contendere shall constitute a conviction.
- 6. Contractor shall notify the Department's Licensing and Certification Division, Residential and Outpatient Programs Compliance Branch, and the contract monitor in the Fiscal Management and Accountability Branch assigned to this Contract of any proposed change of ownership, whether by transfer of all or part of the Contractor's stock or sale of all or part of the Contractor's assets. Such notice shall be in writing and shall be submitted to the Department at least sixty (60) days prior to the effective date of the proposed change. Contractor acknowledges that a change of ownership will require provider to apply for and obtain re-certification as a DMC provider prior to the effective date of this change. This Contract shall not be assignable to a new owner.

ARTICLE VI. FISCAL PROVISIONS

A. Payments and Reimbursement

To the extent the Contractor provides the required services in a satisfactory manner, the State agrees to pay the Contractor SGF and federal Medicaid funds according to the procedures delineated in Article VII "Invoice/Claim and Payment Procedures" of this Contract.

1. Reimbursement for covered services shall be made in accordance with applicable provisions of Title 22, CCR, including but not limited to, Section 51516.1, and all other currently applicable policies and procedures. The Department shall reimburse the Contractor on the basis of the Contractor's actual allowable cost not to exceed the lower of the Statewide Maximum Allowance or the usual and customary charge for private clients. NTP services shall be reimbursed based at the lower of the uniform statewide monthly reimbursement rate or the Contractor's usual and customary charge for private clients.

2. It is understood and agreed that failure by the Contractor to comply with applicable federal and State requirements in rendering the covered services under this Contract shall be sufficient cause for the Department to deny and/or not issue payments to the Contractor. If the Department, DHCS, or DHHS disallows or denies payments made to the Contractor for any claim submitted by the Contractor, Contractor shall repay the State all federal Medicaid funds and SGF for any and all claims so disallowed or denied. The overpayment shall be recovered by any of the methods allowed in Title 22, CCR, Sections 51047(a) and (b). Before such denial, recoupment, or disallowances are made, the State shall provide the Contractor with written notice of its proposed action. Such notice shall include the reason for the proposed action and shall allow the Contractor sixty (60) days to submit additional information before the proposed action is taken, as required in Title 22, CCR, Section 51047(a). This requirement does not apply to the DMC PSPP Utilization Reviews.

The State shall refund to the Contractor any recovered Drug Medi-Cal overpayment that is subsequently determined to have been erroneously collected, together with interest, in accordance with Title 22, CCR, Section 51047(e).

3. If, during the term of this Contract, allowable DMC services for eligible Medi-Cal beneficiaries exceed the maximum amount of this Contract, Contractor shall submit a written request to amend the Contract to increase funding and justification acceptable to the State. Approval of the request will be subject to the availability of sufficient appropriated DMC SGF funding to meet the Contractor's request.

4. If, during the term of this contract, the Department determines the need for allowable DMC services for eligible Medi-Cal beneficiaries is less than the

maximum amount of this Contract, the State will initiate action to amend the Contract within sixty (60) days of determining the decreased utilization.

B. Excess Reimbursement for Services

Any federal Medicaid funds or SGF paid to the Contractor, that exceed the amount of the Contractor's approved and validly claimed units of service shall be returned to the Department.

C. Appropriation of Funds

For the mutual benefit of both parties, it is understood between the parties that this Contract may have been written before ascertaining the availability of congressional appropriation of funds, in order to avoid program and fiscal delays which would occur if the Contract were executed after that determination.

D. Availability of Funds

This Contract is valid and enforceable only if sufficient funds are made available to the Department by the United States Government for the FY 2006-07 for the purpose of this program. This Contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress, or any statute enacted by the Congress which may affect the provisions, terms, or funding of this Contract in any manner.

E. Reduction in Funds

It is mutually agreed that if the Congress or the State Legislature do not appropriate sufficient funds for the program, this Contract shall be amended to reflect any reduction in funds. The State has the option to void this Contract under the 30-day cancellation clause or to amend it to reflect any reduction of funds.

F. Exemptions

Exemptions to the provisions in Article VI, Sections C through E above, may be granted by the Department of Finance provided that the Director of DHCS certifies in writing that federal funds are available for the term of the Contract.

It is mutually agreed that if the State Budget Act does not appropriate sufficient funds for this Contract, this Contract shall be invalid and of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other consideration under this Contract and the Contractor shall not be obliged to perform any provisions of this Contract.

G. Applicable Provisions

The State and the Contractor agree that any claims and/or payments for covered services rendered pursuant to this Contract shall only be made pursuant to applicable provisions of Title XIX (Social Security Act); the W&IC; Division 10.5 of the Health and Safety Code, California's Medicaid State Plan; and Title 22, CCR.

H. Allowable Costs

Allowable costs, as used in Title 22, CCR Section 51516.1, shall be determined in accordance with 42 CFR, Parts 405 and 413, and Centers for Medicare and Medicaid Services (CMS), "Medicare Provider Reimbursement Manual," which can be obtained from the Centers for Medicare & Medicaid Services, Baltimore, Maryland, or www.cms.hhs.gov."

I. Audits

1. The State, DHCS, and the federal government may conduct financial audits of the Contractor to ensure payments are accurate and in conformance with State and federal laws, regulations, and policies. In addition, these audits may include, but not be limited to, any of the following:
 - a. A review of reported costs for validity, appropriate allocation methodology, and compliance with Medicaid laws and regulations;
 - b. A review of counseling claims to ensure that the appropriate group or individual counseling rate has been used and that counseling sessions have been billed appropriately;
 - c. A review of the number of clients in group sessions to ensure that sessions include no less than four and no more than ten clients at the same time, with at least one Medi-Cal client;
 - d. A review of the client records at a satellite site to ensure that the satellite site provides no more than 20 hours a week of substance abuse services;
 - e. Computation of the final settlement for DMC services, other than NTP services, based on the lower of actual allowable cost, the Contractor's usual and customary charge to the general public for the same or similar services, or the maximum allowance, in accordance with Title 22, Section 51516.1; or
 - f. Computation of the final settlement for NTP services based on the lower of the Contractor's usual and customary charge to the general public for the same or similar services or the maximum allowance, in accordance with Title 22, Section 51516.1.

2. All funds are subject to audit. The purpose of these audits will be to determine the amount of allowable DMC reimbursement. Audit procedures will include all tests of records and service documentation necessary to determine the lowest of actual allowable costs, the maximum allowance, or the usual and customary charge to the general public for the same or similar services. For NTP providers, the comparison shall be between the Uniform Statewide Monthly Reimbursement rate and the Contractor's usual and customary charges for same or similar services.
3. Contractor shall retain all business and accounting records and supporting documentation for a three (3) year period from the date of acceptance of the year-end expenditure settlement report. When an audit by the Federal Government, the State, or DHCS has been started before the expiration of the three-year period, the records shall be retained until the audit is completed and all audit issues have been resolved.
4. Audit reports by the Department and/or DHCS shall reflect any findings, recommendations, adjustments, and corrective action as appropriate as a result of its findings in any areas.
 - a. Contractor agrees to develop and implement any corrective action plans in a manner acceptable to the Department in order to comply with recommendations contained in the audit report. Such corrective action plans shall include time-specific objectives to allow for measurement of progress.
 - b. If differences cannot be resolved between the Department and/or DHCS and the Contractor regarding the terms of the final financial audit settlements for funds expended under Exhibit B, Contractor may request an appeal in accordance with the appeal process described in the "DMC Audit Appeal Process," Document 1J(b), incorporated by this reference.
5. Contractor shall be responsible for any disallowances taken by the federal government, the State, the Bureau of State Audits, or DHCS as a result of any audit exception, which is related to the Contractor's responsibilities herein. The State shall have the right to withhold amounts equal to the disallowances from subsequent reimbursement to Contractor.

ARTICLE VII. INVOICE/CLAIM AND PAYMENT PROCEDURES

A. Payments

1. The State shall reimburse the Contractor:
 - a. The federal Medicaid and DMC SGF amount upon approval by the DHCS of the monthly claims and reports submitted in accordance with Section B of this Article.
 - b. The federal Medicaid and DMC SGF:
 - i At either the USMR rate or the provider's usual or customary change to the general public for NTP's; and
 - ii At a rate that is the lesser of the projected cost or the maximum rate allowance for other DMC modalities.
2. The State will adjust subsequent reimbursements to the Contractor to actual allowable costs. Actual allowable costs are defined in the CMS Medicare Provider Reimbursement Manual (CMS-Pub.15), which can be obtained from the Centers for Medicare & Medicaid Services, Baltimore, Maryland, or www.cms.hhs.gov.
3. Contractors must accept, as payment in full, the amounts paid by the State in accordance with Title 22, CCR, Section 51516.1, plus any cost sharing charges (deductible, coinsurance, or copayment) required to be paid by the client. However, Contractors may not deny services to any client eligible for DMC services on account of the client's inability to pay. Contractors may not demand any additional payment from the State, client, or other third party payers.

B. DMC Claims and Reports

1. Contractors that invoice the Department for DMC covered services shall comply with Title 22, CCR, Section 51516.1, and are required to submit claims in accordance with the DMC Provider Billing Manual.

- a. With the exception of Conlan claims, all DMC claims shall be submitted electronically in the HIPAA 837P format as prescribed in Companion Guide for HIPAA 837P and 835 Transactions (Document 2Y). Conlan claims must be submitted in hard copy form using the ADP 1584 form.
- b. All claims shall be accompanied by a Drug Medi-Cal Monthly Summary Invoice (ADP 1592), Document 2H, incorporated by this reference.
- c. When applicable, claims shall be accompanied by the following forms, incorporated by this reference:
 - i. Provider Report of Drug Medi-Cal Claims Adjustment (ADP 5035C), Document 2J; and
 - ii. Multiple Billing Override Certification (ADP 7700), Document 2K.

Note: The following forms shall be prepared as needed and retained by the provider for review by State staff:

- i. Multiple Billing Override Certification (ADP 7700), Document 2K; and
 - ii. Good Cause Certification (ADP 6065), Document 2L.
2. Except for good cause as set forth on Document 2L, Good Cause Certification (ADP 6065), incorporated by this reference, failure to submit claims within 30 days of the end of the month of service shall result in the denial of such claims for payment.
3. Good cause shall be determined and approved by the Department in its discretion in accordance with Section 14115 of the W&IC and Title 22, CCR, Section 51008 and Section 51008.5.
4. Contractor agrees that reimbursement shall be reduced by an amount representing administrative costs of the Department in accordance with Title 22, CCR, Section 51516.1(g).

C. Year-End Expenditure Settlement Reports

1. Accurate fiscal records and supporting documentation shall be maintained by the Contractor to support total claims for reimbursement. All records must be capable of verification by qualified auditors.
2. No later than November 1 of each year, Contractor shall submit the following documents to the Department for services from the period ending the previous June 30:

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- a. Document 2P(a) and/or 2P(b) – Drug Medi-Cal Cost Report Forms – Day Care Rehabilitative (Alcohol and Drug, and/or Perinatal)
 - b. Document 2P (g) - Drug Medi-Cal Cost Report Forms – Residential – Perinatal
 - c. Document 2P(h) – Drug Medi-Cal Cost Report Forms – Naltrexone
 - d. Document 2Q – Direct Provider Certification – Year-End Claim for Reimbursement
 - e. Document 2Q(a) and/or 2Q(b) – Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Individual and Group Counseling – Direct Provider (Alcohol and Drug, and/or Perinatal)
 - f. Document 2Q(c) and/or 2Q(d) – Drug Medi-Cal Cost Report Forms – Narcotic Treatment Program – Direct Provider (Alcohol and Drug, and/or Perinatal)
3. Narcotic Treatment Programs providers billing the state exclusively for DMC services and providing services to a person subject to Penal Code Section 1210.1 and 2063.1 only, shall submit a year-end expenditure settlement report based on billing activity.
 4. Reimbursement for alcohol and drug treatment services is limited to the lowest of: (a) Contractor’s customary charges to the general public for the same or similar services; (b) Contractor’s actual allowable costs; or (c) DMC Statewide Maximum Allowances for the appropriate modality. The Department will adjust subsequent reimbursements to the Contractor to actual allowable costs. Actual allowable cost is defined in the CMS’s Medicare Provider Reimbursement Manual, which can be obtained from the Centers for Medicare & Medicaid Services, Baltimore, Maryland, or www.cms.hhs.gov.
 5. Reimbursement to Narcotic Treatment Programs that meet the Subsection 3 requirement shall be limited to the lower of either the Uniform Statewide Monthly Reimbursement rate, pursuant to HSC, Section 11758.42, or the provider’s usual and customary charge to the general public for the same or similar service.

ARTICLE VIII. POSTSERVICE POSTPAYMENT UTILIZATION REVIEW

- A. State shall conduct postservice postpayment utilization reviews in accordance with Title 22, CCR, Section 51341.1. Contractor shall cooperate with the Department. Contractor's failure to do so shall be a breach of this Contract. Any claimed DMC service may be reviewed for medical necessity and program coverage after services are rendered and the claim paid.
- B. State shall take appropriate steps in accordance with Title 22, CCR, Section 51341.1 to recover payments made if subsequent investigation uncovers evidence that the claim(s) should not have been paid or that DMC services have been improperly utilized, and/or shall take the corrective action as appropriate.

Contractor may appeal DMC dispositions concerning demands for recovery of payment and/or programmatic deficiencies of specific claims. Such appeals shall be handled pursuant to Title 22, CCR, Section 51015, in accordance with the Interagency Agreement between the State and DHCS. This section shall not apply to those grievances or complaints arising from the financial findings of an audit or examination made by or on behalf of the State pursuant to Article VI, Division I, of this **Contract**.

Comment [rb1]: [Note to Reader: The above is needed to specify the appeal process for utilization reviews. In addition, it should be made clear that this process is different from the appeal process for financial audits.]

- C. State shall monitor the Contractor's compliance with postservice postpayment utilization review requirements in accordance with federal regulations and Title 22, CCR. DHCS and the federal government may also review the existence and effectiveness of State's utilization review system.
- D. Contractor shall implement and maintain compliance with the system of review described in Title 22, CCR, Section 51341.1, for the purposes of reviewing the utilization, quality, and appropriateness of covered services and ensuring that all applicable Medi-Cal requirements are met.
- E. Satellite sites must keep a record of the clients/patients being treated at that location. Contractor shall retain client records for a minimum of three (3) years from the date of the last face-to-face contact. When an audit by the Federal Government, the State, or DHCS has been started before the expiration of the three-year period, the client records shall be maintained until completion of the audit and the final resolution of all issues as a result of the audit.

ARTICLE IX. RECORDS RETENTION

A. Client Records Retention

Contractor shall retain client records for a minimum of three (3) years from the date of the last face-to-face contact. When an audit by the Federal Government, the State, or DHCS has been started before the expiration of the three-year period, the client records shall be maintained until completion of the audit and the final resolution of all audit issues.

B. Accounting Records Retention

Contractor shall retain accurate accounting records and supporting documentation for three (3) years from the date of acceptance of the year-end cost settlement report or, in the case of a Narcotic Treatment Program provider, finalization of the performance report, unless an audit is in process. When an audit by the Federal Government, the State, or DHCS has been started before the expiration of the three-year period, the accounting records shall be maintained until completion of the audit and the final resolution of all issues as a result of the audit.

C. Utilization Review Records Retention

Contractor shall retain records of utilization review activities required in Article VIII herein for a minimum of three (3) years.

D. Records Review

1. Contractor agrees that the State will have the right to review, obtain, and copy all records pertaining to the performance of this Contract. Contractor agrees to provide the Department with any relevant information requested and shall permit the Department access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this Contract.
2. Providers of DMC services shall, upon request, make available to the State its fiscal and other records to assure that such provider has adequate recordkeeping capability and to assure that reimbursement for covered DMC services are made in accordance with Title 22, CCR, Section 51516.1. These records include, but are not limited to, matters pertaining to:
 - a. Provider ownership, organization, and operation;
 - b. Fiscal, medical, and other recordkeeping systems;
 - c. Federal income tax status;

- d. Asset acquisition, lease, sale, or other action;
 - e. Franchise or management arrangements;
 - f. Patient service charge schedules;
 - g. Costs of operation;
 - h. Cost allocation methodology;
 - i. Amounts of income received by source and purpose; and
 - j. Flow of funds and working capital.
3. The refusal of the Contractor to permit access to and inspection of books, records, and facilities as described in this part constitutes an express and immediate breach of this Contract.

E. Departmental Responsibility to Retain Records

In the event that the Contractor ceases operations, Contractor shall deliver all of its patient, fiscal and program records pertaining to the performance of this Contract, to the State, which will retain the records for the required retention period.

**LIST OF DOCUMENTS INCORPORATED BY REFERENCE
FY 2007-08**

The following documents are hereby incorporated by reference regardless of whether or not they are actually attached to the contract.

Document 1J(b): DMC Audit Appeal Process

Document 1K: Drug and Alcohol Treatment Access Report (DATAR)

<http://www.adp.ca.gov/AOD/manuals/DATARmanual.pdf>

Comment [j2]: IMSD made this change to County BP, so JoAnn Auble made same change here.

Document 1P: Alcohol and/or Other Drug Program Certification Standards

Document 1W: Certification Regarding Lobbying

Document 1X: Disclosure of Lobbying Activities – Standard Form LLL

Document 2A: Sobky v. Smoley, Judgment, Signed February 1, 1995

Document 2C: California Code of Regulations, Title 22, Sections 51341.1, 51490.1, and 51516.1

<http://ccr.oal.ca.gov>

Document 2E: Drug Medi-Cal Certification Standards for Substance Abuse Clinics (Updated July 1, 2004)

http://www.adp.ca.gov/dmc/pdf/DMCA_Drug_Medi-Cal_Certification_Standards.pdf

Document 2F: Standards for Drug Treatment Programs (October 21, 1981)

http://www.adp.ca.gov/dmc/pdf/DMCA_Standards_for_Drug_Treatment_Programs.pdf

Document 2H: Drug Medi-Cal Monthly Summary Invoice (ADP 1592)

Document 2J: Provider Report of Drug Medi-Cal Claims Adjustments form and Instructions (ADP 5035C)

Document 2K: Multiple Billing Override Certification (ADP 7700)

Document 2L: Good Cause Certification (ADP 6065)

Document 2P(a): Drug Medi-Cal Cost Report Forms – Day Care Rehabilitative – Alcohol and Drug

Document 2P(b): Drug Medi-Cal Cost Report Forms – Day Care Rehabilitative – Perinatal

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- Document 2P(g): Drug Medi-Cal Cost Report Forms – Residential – Perinatal
- Document 2P(h): Drug Medi-Cal Cost Report Forms – Naltrexone – Alcohol and Drug
- Document 2Q: Direct Provider Certification - Year End Claim for Reimbursement
- Document 2Q(a): Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Individual and Group Counseling – Direct Provider – Alcohol and Drug
- Document 2Q(b): Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Individual and Group Counseling – Direct Provider – Perinatal
- Document 2Q(c): Drug Medi-Cal Cost Report Forms – Narcotic Treatment Program – Direct Provider – Alcohol and Drug
- Document 2Q(d): Drug Medi-Cal Cost Report Forms – Narcotic Treatment Program – Direct Provider – Perinatal
- Document 2W: ADP Letter 97-52, “New Minor Consent Aid Codes and Minor Consent Services to Pregnant/Postpartum Youth”
<http://www.adp.ca.gov/ADPLTRS/97-52.shtml>
- Document 2Y: Companion Guide (Version 2.1) for HIPAA 837P and 835 Transactions (October 18, 2007)
<http://www.adp.ca.gov/hp/pdf/835-837P%20NPI%20Comp%20Guide%20v2.1.pdf>
- Document 3A Exhibit A1, Proposed Budget – Non-Narcotic Treatment Program – Alcohol and Drug
- Document 3B Exhibit A1, Proposed Budget – Non-Narcotic Treatment Program – Perinatal
- Document 3C Exhibit A1, Proposed Budget – Narcotic Treatment Program – Alcohol and Drug
- Document 3D Exhibit A1, Proposed Budget – Narcotic Treatment Program - Perinatal
- Document 3E ADP Bulletin #05-03 – HIPAA Drug Medi-Cal Claims Submission Policy
<http://www.adp.ca.gov/adpltrs/05-03.shtml>

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- Document 3F ADP Bulletin #05-10 – Acceptable Drug Medi-Cal Claim Format for Processing
<http://www.adp.ca.gov/adpltrs/05-10.shtml>
- Document 3G California Code of Regulations, Title 9 – Rehabilitative and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 4 – Narcotic Treatment Programs

<http://ccr.oal.ca.gov>
- Document 3H: California Code of Regulations, Title 9 – Rehabilitative and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 8 – Certification of Alcohol and Other Drug Counselors

<http://ccr.oal.ca.gov>
- Document 3J: CalOMS Treatment Data Guide

http://www.adp.ca.gov/CalOMS/pdf/CalOMS_Data_Collection_Guide_2007-05.pdf
- Document 3M Business Associate Agreement: Direct Contract Provider is the Business Associate of the Department of Alcohol and Drug Programs
- Document 3N Business Associate Agreement: Department of Alcohol and Drug Programs is the Business Associate of the Direct Contract Provider