

THIS COOPERATIVE AGREEMENT ("Agreement"), dated as of this ~~December 2010~~ <sup>6<sup>th</sup></sup> day of ~~December~~ <sup>January</sup> 2010, between the Department of Social Services of the Human Resources Administration of the City of New York ("HRA" of "the Department"), with offices located at 180 Water Street, New York, New York 10038, and the Department of Health and Mental Hygiene ("DOHMH"), with offices located at 125 Worth Street, New York, New York 10013, (each a "Party", collectively, the "Parties")

**WITNESSETH:**

WHEREAS, DOHMH is the official administrator of the Children with Special Health Care Needs/Physically Handicapped Children's Program ("PHCP") designed to provide eligible New York City children up to age 21 with severe physical disabilities, including handicapping dental conditions, with the opportunity for appropriate diagnosis and treatment through an approved provider network; and

WHEREAS, DOHMH provides direct administrative services including, approving initial financial and clinical eligibility for PHCP Medicaid patients ("Clients") which includes authorizing the initiation of orthodontic treatment and billing by New York State Medicaid approved orthodontic providers for over 16,000 new cases yearly ("Program"); and

WHEREAS, DOHMH employs skilled professional medical/dental personnel that have professional education and training in the field of medical care or appropriate medical/dental practice and are in positions that have duties and responsibilities that require those professional medical/dental knowledge and skills for the Program; and

WHEREAS, DOHMH employs direct supporting staff who are directly supervised by the skilled professional medical/dental staff and provide clerical services that are directly necessary for the completion of the professional medical/dental responsibilities and functions of the skilled professional medical/dental staff for the Program; and

WHEREAS, HRA desires to provide funding for direct administrative services including, oversight, quality control and processing of the Program; and

NOW, THEREFORE, the parties hereto agree as follows:

**ARTICLE 1. TERM OF PERFORMANCE**

- 1.1 The term of this Agreement shall be for the period from July 1, 2010 through June 30, 2013, (the "Term") unless sooner terminated as provided herein and subjected to the availability of funds.
- 1.2 This Agreement shall be automatically renewed annually as of July 1, 2013 for three (3) additional one (1) year terms, subject to appropriations, upon the same terms and conditions as set forth herein, unless sooner terminated by either party.

- 1.3 Either party may terminate this Agreement in accordance with Article 6 herein.
- 1.4 Unless stated otherwise, all terms and conditions of this Agreement shall only apply to DOHMH's determinations of the eligibility of Clients based on the referrals, as clinically approved by and received from New York State designated clinical Screening and Review Institutions ("SRI").

## ARTICLE 2. RESPONSIBILITIES

- 2.1 DOHMH Responsibilities.
  - 2.1.1 DOHMH via its PHCP staff shall perform quality assurance reviews for Medicaid enrolled children as received from the SRI.
  - 2.1.2 DOHMH shall review case referrals using New York State Medicaid orthodontic coverage criteria for Medicaid and clinical eligibility.
  - 2.1.3 DOHMH shall assign treating orthodontist and notify provider.
  - 2.1.4 DOHMH shall make determinations, on cases referred to DOHMH, regarding a person's eligibility to participate in the Program in accordance with all New York State Department of Health rules and regulations including, but not limited to, Title 10 of the New York Code, Rules and Regulations, Section 85.37 as amended (which is annexed hereto as Attachment B and incorporated herein) and only as they pertain to determinations made by DOHMH upon completion of the screening process. DOHMH shall respond to all administrative fair hearing appeals relating to such determinations.
  - 2.1.5 DOHMH shall issue Medicaid authorization case number for initial treatment and maintain a database that includes patient, provider and authorization number to track and reference patients for quality control and administration purposes.
  - 2.1.6 DOHMH shall provide special clinical assessments to review and coordinate Medicaid orthodontic treatment progress for problem cases, patient transfers and provider reassignments within and outside New York City.
  - 2.1.7 DOHMH shall maintain a system for handling inquires and/or complaints from patients, providers, the public and state and local agencies about program services and eligibility requirements.
  - 2.1.8 DOHMH shall coordinate the review of complex cases including those involving surgery. The orthodontic director shall Chair the Advisory

Committee and monitor its recommendations. The Committee consists of recognized orthodontists and oral and maxillo-facial surgeons in the New York metropolitan area.

- 2.1.9 DOHMH shall, in cooperation and coordination with the New York State Department of Health, ensure that quality orthodontic treatment is both accessible through an approved provider network and consistent with statewide standards of care to Medicaid eligible enrolled children in New York City.
- 2.1.10 DOHMH shall maintain separate accounting and reports for the Medicaid orthodontic cases forwarded to DOHMH from the SRI for appropriate action.
- 2.1.11 DOHMH shall provide relevant materials for program audits relating to Medicaid orthodontic cases received by the Program from the SRI, including:
  - i. DOHMH's final disposition of referrals of such cases;
  - ii. Quality of care issues that are referred directly to the Program for administrative action.

2.2 HRA Responsibilities.

- 2.2.1 HRA shall pay DOHMH for the above referenced services in accordance with Article 4 below.
- 2.2.2 HRA shall provide reports, documents and other information that will enable DOHMH to perform its duties under this Agreement.

ARTICLE 3. STAFF REQUIREMENTS

- 3.1 All staff used by DOHMH in fulfillment of this Agreement shall be eligible for reimbursement in accordance with Chapters 11 and 12 of Volume 4 of the New York State Fiscal Reference Manual issued by the New York State Office of Temporary Disability Assistance, Bureau of Financial Services. Copies of which are annexed hereto, and incorporated herein, as Attachment C.
- 3.2 DOHMH, at a minimum, shall provide the following staff:
  - 3.2.1 One (1) program administrator shall supervise overall program operations including quality assurance;

- 3.2.2 Two (2) clinical staff shall assign orthodontists, address provider and patient inquiries and/or complaints about quality of care and perform clinical assessment for problem cases, patients transfers and provider reassignments,
- 3.2.3 Five (5) care coordinators shall process authorizations, answer telephone calls and triage information from patients and providers, produce and transmit case information to referring orthodontist
- 3.2.4 Five (5) administrative staff shall perform data entry and manage data base

#### ARTICLE 4. TERMS OF PAYMENT

- 4.1 DOHMH agrees to accept, as full payment for the services provided pursuant to this Agreement an amount not to exceed \$1,347,353.00 for the period July 1, 2010, through, June 30, 2011, based on a budget affixed hereto as Exhibit A-1 and incorporated herein.
- 4.2 DOHMH agrees to accept, as full payment for the services provided pursuant to this Agreement an amount not to exceed \$1,382,138.00 for the period July 1, 2011, through, June 30, 2012, based on a budget affixed hereto as Exhibit A-2 and incorporated herein.
- 4.3 DOHMH agrees to accept, as full payment for the services provided pursuant to this Agreement an amount not to exceed \$1,417,966.00 for the period July 1, 2012, through, June 30, 2013, based on a budget affixed hereto as Exhibit A-3 and incorporated herein.
- 4.4 DOHMH will forward to HRA documentation in support of Administrative expenses for PHCP including OTPS expenditures such as basic travel, supplies, equipment, informational material and overtime. The documentation should be submitted on a quarterly basis within forty-five (45) days following the end of the quarter. HRA will in turn submit a claim for these expenditures to NYS Office of Temporary Disability Assistance ("OTDA"). Reimbursement to DOHMH will be subject to NYS reimbursement. Upon receipt of reimbursement from NYS OTDA, HRA will forward, and DOHMH agrees to accept as full reimbursement the amount settled by NYS OTDA.
- 4.5 If claims for reimbursement are made by HRA on behalf of DOHMH pursuant to the Agreement, and such claims are disallowed, then DOHMH shall assume full responsibility for the cost of such services.
- 4.6 Quarterly Intra-City expenditure reports shall be submitted to:

NYC Human Resources Administration

Finance Office- Bureau of Claims and Reimbursement  
Attn: Director  
180 Water Street, 9<sup>th</sup> Floor- Room 907  
New York, NY 10038

- 4.7 The Intra-Agency report shall be signed by the Director of DOHMHs' fiscal department or designee and shall include the following typed language:

*" I hereby certify that this invoice is for articles received, services rendered or amounts expended on behalf of the City of New York, that this is correct as to the price and amount, that it is necessary for the proper transaction of the business of the Department, that it was incurred solely for the benefit of the City of New York, that no part of the amount claimed therein has been previously certified, and that the amount is solely for the operation of said Program described in this invoice."*

#### ARTICLE 5. SUPERVISION

In compliance with Administrative Directive 80 ADM-86 of the New York State Department of Social Services, the Commissioner of HRA or his/her designee may require the removal for cause of any employee who performed any work under this Agreement, and may request the retention, reinstatement, or reassignment of any employee who performed any work under this Agreement and who may have been removed. Any employee performing work under this Agreement must report to the Commissioner of HRA or his/her designee and receive all assignments from the Commissioner or his/her designee. For the purposes of this Article, the Commissioner of HRA has named the Commissioner of DOHMH his designee. Furthermore, all records pertaining to this Agreement shall be available for a period of six (6) years and shall be made available for audit by the New York State Department of Social Services, the New York State Audit and Control, and the United States Department of Health and Human Services, and all information pertaining to this Agreement that is exchanged between HRA and DOHMH shall be considered confidential and shall be used only for the intended purposes, with measures to be taken to safeguard the confidentiality of such information to the extent required by applicable State and Federal laws and regulations

#### ARTICLE 6. TERMINATION

- A. The parties shall have the right to terminate this Agreement, in whole or in part, without cause by giving a written notice to all parties within thirty (30) days.
- B. In the event the Federal, State or City reimbursement for this Agreement becomes unavailable or is terminated this Agreement shall be deemed terminated immediately.
- C. The parties shall have the right to terminate this Agreement, in whole or in part, for good cause by giving thirty (30) days written notice to all parties with opportunity to cure within said thirty (30) days.

- D. In the case of termination of this Agreement HRA shall pay all costs and all un-cancellable obligations up to and including the effective date of said termination.

ARTICLE 7. NOTICES

Any notice shall be made to the following or to such other representatives that the Parties designate in writing:

For HRA:

Executive Deputy Commissioner of Finance  
New York City Human Resources Administration  
180 Water Street Room 1107  
New York, New York 10038

With a copy to:

General Counsel  
New York City Human Resources Administration  
180 Water Street  
New York, New York 10038

For DOHMH:

Deputy Commissioner  
Health Care Access and Improvement  
New York City Department of Health and Mental Hygiene  
225 Broadway  
New York, NY 10007

With copy to:

General Counsel  
Department of Health and Mental Hygiene  
125 Worth Street  
New York, New York 10003

ARTICLE 8. APPLICABLE LAW

This Agreement shall be governed, construed, applied and enforced in accordance with the laws of the State of New York.

ARTICLE 9. MERGER CLAUSE

This Agreement constitutes the entire understanding of the Parties and merges all prior discussions, agreements or understandings into it. No prior agreement, oral

or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

#### ARTICLE 10. MODIFICATION

This Agreement may only be modified by a writing signed by authorized representatives of the Parties. It may not be altered, modified, rescinded or extended orally.

#### ARTICLE 11. NON-ASSIGNMENT CLAUSE

Each Party agrees that it shall not assign, transfer, convey or otherwise dispose of this Agreement except by operation of law, without the prior written consent of the other party.

#### ARTICLE 12. SUCCESSORS AND ASSIGNS; THIRD PARTY BENEFICIARY

This Agreement shall be binding upon and for the benefit of the Parties hereto and each of their respective successors and permitted assigns and shall be for the sole benefit of the parties hereto.

#### ARTICLE 13. RECORDKEEPING

All Parties to this Agreement shall maintain for three (3) years from the termination of this Agreement any and all copies of all financial and work reports, and audits, which reflect the services rendered hereunder and fiscal accountability of all monies appropriated and spent thereby, make copies thereof available and submit such copies to any other party hereto upon request.

#### ARTICLE 14. CONFIDENTIALITY

- 14.1 All public releases and publications that contain confidential and/or protected information obtained pursuant to this Agreement, including but not limited to written press releases, prepared comments for press conferences or other oral presentations, conference presentations, letters, and analytic, journal, newspaper and magazine articles, shall be submitted to each Party's representative (the signatories of this Agreement) for review prior to dissemination or submission of the material. Should this review indicate the need for modifications, the Parties shall make the modifications and resubmit the documents for final approval. If the Parties are still unable to reach an agreement, the Parties will develop a mutually agreed upon disclaimer to include in the public release or publication.
- 14.2 The Parties agree to hold confidential all protected client specific information obtained pursuant to this Cooperative Agreement, and to abide by the provisions of New York State Social Services Law; New York State Public Health Law Article 27F; New York State Mental Health Laws; New York

State Public Officers Laws; and all applicable federal and state laws and regulations.

14.3 Any disclosure of HIV-related information shall have the following written statement accompany it:

*"This information has been disclosed to you from confidential records which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure."*

14.4 The provisions of this Article 12 shall remain in full force and effect following termination of this Cooperative Agreement.

#### ARTICLE 15. CIVIL RIGHTS

The Parties agree that, in the prosecution of this Agreement, they shall comply with the Civil Rights Act of 1964 as amended by Executive Order 11246, 41 C.F.R Part 60, Section 504 of the Rehabilitation Act of 1973 and 45 C.F.R. Parts 84 and 85.

This Cooperative Agreement may be executed in counterparts, all of which counterparts, when taken together, shall be deemed a fully executed instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Cooperative Agreement to be duly executed as of December \_\_, 2010.

**NEW YORK CITY DEPARTMENT OF  
HEALTH AND MENTAL HYGIENE**

**NEW YORK CITY HUMAN  
RESOURCES ADMINISTRATION**

By: [Signature]

By: [Signature]

Name: \_\_\_\_\_

Name: Vincent R. [Signature]

Title: Chief Operating Officer /  
Executive Deputy Commissioner

Title: AUC

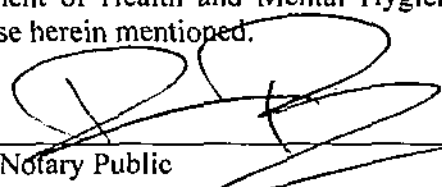




STATE OF NEW YORK )  
 : SS.:  
COUNTY OF NEW YORK )

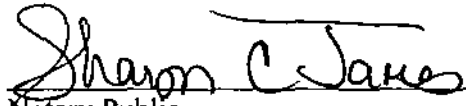


On this 21<sup>st</sup> day of December, 2010, before me personally came Patsy Yang, to me know and known to me to be the Chief Operating Officer of the New York City Department of Health and Mental Hygiene and the same person who executed the foregoing document, and he acknowledged that he executed the foregoing document on behalf of the City of New York and the Department of Health and Mental Hygiene pursuant to the authority vested in him for the purpose herein mentioned.

  
Notary Public

STATE OF \_\_\_\_\_ )  
 : SS.:  
COUNTY OF \_\_\_\_\_ )

On this 6<sup>th</sup> day of January, 2011, before me personally came Vincent Pullo, to me know and known to me to be the Acco of the City of New York Human Resources Administration and the same person who executed the foregoing document, and she/he acknowledged that she/he executed the foregoing document on behalf of the City of New York Human Resources Administration pursuant to the authority vested in her/him for the purpose herein mentioned.

  
Notary Public

SHARON C. JAMES  
Commissioner of Deeds  
City of New York No. 2-13026  
Commission Expires April 1, 2012

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