

Agency or Department Name:
Colorado Department of Health Care Policy and Financing

Department or Agency Number:
UHA, FAA

UHA Contract Routing Number: 2105-2007
FAA Contract Routing Number: _____

INTERAGENCY AGREEMENT

THIS Interagency Agreement, made this 1st day of July 2004, by and between the State of Colorado acting by and through the Department of Health Care Policy and Financing, 1570 Grant St., Denver, CO 80203 hereinafter referred to as the Department, and the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, CO 80246, hereinafter referred to as CDPHE.

WHEREAS, authority exists in the Law and Funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for encumbering and subsequent payment of this Interagency Agreement under Encumbrance Number PO UHA 2105-2007 in Fund Number 100, Appropriation Accounts 450 and 460 and Organization Number 4111; and,

WHEREAS, the Department is the state agency responsible for the administration of the Colorado Medical Assistance Program (Medicaid) pursuant to Title XIX of the Social Security Act; and

WHEREAS, CDPHE is the single state agency responsible for the administration of the Health Care Program for Children with Special Needs in Colorado pursuant to Title V of the Social Security Act; and

WHEREAS, family planning services are authorized as part of the Medicaid program pursuant to the provisions of Section 26-4-202, C.R.S., as amended; and

WHEREAS, the Family Planning Program is a State of Colorado program administered and monitored by CDPHE, which provides family planning services, through its delegate agencies, to eligible Medicaid clients and to those individuals in their reproductive years who have need of such services;

WHEREAS, CDPHE is the Title XV grantee of the National Breast and Cervical Cancer Early Detection Program as authorized by the Center for Disease Control, pursuant to Section 1902(a)(10)(A)(ii)(XVIII) of Title XIX of the Social Security Act; and

WHEREAS, the Department is authorized to provide enhanced prenatal services through the Medicaid Prenatal Plus Program as specified in the Medicare Catastrophic Coverage Act: OBRA 1987; and

WHEREAS, CDPHE is the state agency responsible for the administration of the federal pediatric vaccine distribution program, also known as the Vaccine for Children Program pursuant to Section 1928 of the Social Security Act Omnibus Budget Reconciliation Act (OBRA) of 1993, Section 13631; and

WHEREAS, CDPHE is the state agency responsible for the administration of the Infant Immunization Program in Colorado pursuant to Section 25-4-1701 *et seq.*, C. R. S.; and

WHEREAS, CDPHE is the state agency responsible for the administration of the Nurse Home Visitor Program in Colorado pursuant to 25-31-101 *et seq.*, C.R.S.; and

WHEREAS, CDPHE is the state agency responsible for the determination of qualified developmental evaluation clinics, family planning clinics, Prenatal Plus sites, sites and early interventionists for Colorado Home Intervention Program, including credentialing and certification of these entities pursuant to Title V of the Social Security Act; and

WHEREAS, all required approvals, clearances and coordination have been accomplished from and with all appropriate agencies.

NOW THEREFORE, it is hereby agreed that:

1. DEFINITIONS

- A. Certified Health Agency means a county/district health department, regional health department or local board of health 10 C.C.R. 2505-10, Section 8.560 – 8.567.
- B. Department’s Designated Entity means an agency whose function is to reimburse, coordinate, provide or prior authorize Early and Periodic Screening Diagnosis and Treatment (EPSDT) services for Medicaid- enrolled children.
- C. Developmental Evaluation Clinic Service means an EPSDT related service provided to Medicaid clients, upon referral from the primary care physician or a qualified Medicaid provider. The service involves comprehensive testing and evaluation of children with developmental delays/disabilities that have been identified as an abnormal finding on the EPSDT medical screening service.
- D. Early Childhood Connections for Infants, Toddlers and Families means the statewide, coordinated system of services made available through the Individual Disabilities Education Act, Infant and Toddler Section, as governed by the Colorado Department of Education. Services include an early intervention system of supports and services that are directed at meeting the needs of infants and toddlers with disabilities and their families.
- E. Immunization Program means the program providing state purchased vaccines that are distributed by CDPHE to participating public and private practitioners. Infant

Immunization Program vaccines may be administered to any Medicaid-enrolled child or infant under the age of 19 years, when vaccine is not available through the VFC Program and to any Medicaid-enrolled child age 19 or 20.

- F. Prenatal Plus Program means the health care program option that includes a package of enhanced Medicaid prenatal services addressing non-medical issues including nutritional and psychosocial behaviors that could affect pregnancy outcome.
- G. Prepaid Health Plan (PHP) means a commercial health care plan contracting with the Department to provide comprehensive health care services, coordination, and monitoring of patient utilization of services through the utilization of primary care physicians. The primary care physicians agree to serve as gatekeepers for comprehensive health services, including EPSDT services, as provided to Medicaid clients.
- H. Presumptive Eligibility (PE) means the temporary eligibility for benefits that begin on the date it is determined that a pregnant woman meets eligibility requirements for Medicaid and the client signs the presumptive eligibility form.
- I. Qualified Entities mean Colorado Woman's Cancer Control Initiative (CWCCI) providers contracted with CDPHE under a cooperative agreement with the Center's for Disease Control to support activities related to the National Breast and Cervical Cancer Early Detection Program and to provide breast and cervical cancer assessment services for the Colorado Women's Cancer Control Initiative.
- J. Sponsored Developmental Evaluation Clinic means a local community-based clinic that is a Title V grantee and has been determined by CDPHE as being qualified to provide the developmental evaluation services to Medicaid-enrolled clients.
- K. Vaccine for Children Program (VFC) means the Vaccine for Children Program that provides federally purchased vaccines distributed by CDPHE to participating public and private practitioners. VFC vaccines may be administered to any child under the age of 19 years, who is eligible for vaccination and enrolled under Medicaid.

2. **STATEMENT OF WORK AND RESPONSIBILITIES**

The scope of work for this Interagency Agreement shall include the following:

A. Family Planning

CDPHE shall certify Family Planning delegate agencies and submit a list to the Department by July 1, 2004.

B. Prenatal Plus

- 1) CDPHE shall certify Medicaid Prenatal Plus Program providers.

- 2) As part of the certification process, CDPHE shall ensure that the following Medicaid Prenatal Plus Program requirements are met:
 - a) Supervise contract functions necessary to provide training and technical assistance for the Prenatal Plus Program.
 - b) Review and approve applications from potential Prenatal Plus providers, verify successful completion of training and recommend to the Department eligible providers for the Medicaid Prenatal Plus Program.
 - c) In consultation with the Department, continue to develop service definitions, protocols, guidelines, procedures, and forms for the Medicaid Prenatal Plus Program.
 - d) Provide training and technical assistance to new and ongoing Medicaid Prenatal Plus Program service providers.
 - e) Collect, compile, and analyze birth outcome and evaluation data and provide periodic reports detailing the progress made in reducing the rate of low birth-weight babies as a result of the Medicaid Prenatal Plus Program.
 - f) Manage and monitor administrative expenditures for Medicaid training and technical assistance funds for the Prenatal Plus Program to ensure expenditures do not exceed the appropriation.
- 3) CDPHE shall provide an annual report to the Department on the program by December 31, 2004, reporting the progress made in reducing the rate of low birth-weight babies for the Prenatal Plus Project for calendar year 2003.
- 4) The Department shall ensure that the following Medicaid Prenatal Plus Program requirements are met:
 - a) Continue to inform Medicaid prenatal providers of the availability of Prenatal Plus Program services, client enrollment procedures, provider agency requirements, Medicaid billing requirements and ongoing program changes.
 - b) In cooperation with CDPHE, monitor the Prenatal Plus Program service expenditures and utilization to ensure compliance with applicable federal regulations, rules, and appropriation.

C. Health Care Program for Children with Special Needs (HCP)

- 1) CDPHE shall provide consultation information, technical assistance

through the state and local offices providing HCP and referral services to all families of children with special health care needs.

- 2) CDPHE shall certify Colorado Home Intervention Program early interventionists who shall directly bill the Department through the Department Designated Entity.
- 3) The HCP Medical Home Initiative shall promote use of EPSDT outreach activities to Primary Care Physicians for Medicaid-enrolled families.
- 4) The Department EPSDT Program staff shall participate in the Medical Home projects.
- 5) The Department shall collaborate via mutually agreed upon activities/conferences with CDPHE/HCP to identify data sources (i.e., CAHPS), which can supplement the measurement of outcomes for all children with special needs health care needs (CSHCNs) in Colorado.
- 6) CDPHE/HCP shall provide audiology, nutrition and speech pathology consultation on an annual basis or as needed to all families of children with CSHCNs.
- 7) HCP shall provide access to Specialty Medical Services through HCP clinics in rural and outlying areas for all CSHCNs including children enrolled in Medicaid.
- 8) HCP shall collaborate and plan to increase access to services for high-risk newborns.
- 9) The Department shall provide CDPHE with access to de-identified data as requested by HCP and agreed to by the Department.

D. Developmental Evaluation Clinic Services

- 1) CDPHE shall sponsor Developmental Evaluation (D&E) Clinics throughout the state, in accordance with 42 C.F.R. 431.615. CDPHE shall provide the Department an updated listing of CDPHE certified health agencies that are eligible as providers of clinic services. The listing shall be made available to the Department in April of each fiscal year that this Interagency Agreement is in effect. The Department acknowledges through this Interagency Agreement that any sponsored D&E Clinic and/or CDPHE certified health agency is eligible for enrollment in Medicaid as a clinic provider.
- 2) CDPHE shall accept through the sponsored D&E clinics, Medicaid eligible children for developmental evaluation services in accordance with the program rules, regulation, and guidelines. CDPHE shall determine which

D&E Clinics are Title V grantees, and are qualified to be and sponsored by CDPHE as D&E Clinics. The criteria utilized by CDPHE to

qualify the specific clinics shall be maintained in records as outlined in the Record Keeping Requirements, paragraph 14 below.

- 3) CDPHE shall work with Department EPSDT Program Outreach Coordinators to develop and maintain a mechanism whereby Medicaid-enrolled clients shall be informed of the availability of Title V funded services, and referred for these services as appropriate. CDPHE shall also work with Colorado Department of Education staff to develop and maintain a mechanism whereby Medicaid-enrolled clients shall be informed of the availability of Early Childhood Connection services and referred for the services, as appropriate, by the sponsored D&E Clinics.
- 4) CDPHE shall provide training and technical assistance, as needed, to newly enrolled and continuing sponsored D & E clinics regarding the participation as a vendor in the Colorado Medicaid Program, the potential for participation with the contracted Medicaid Prepaid Health Plan (PHP), the guidelines for the referral process from the physicians enrolled in the Primary Care Provider Program (PCPP) or the PHP, and guidelines for the billing process for the contracted prepaid health plan services or the fee-for-service developmental evaluation clinic services.
- 5) CDPHE shall submit to the Department, in June of each year that this Interagency Agreement is in effect, a current listing of the qualified D&E Clinics that are Title V grantees and sponsored by CDPHE. For additional D&E Clinics that become qualified throughout the fiscal year, CDPHE shall submit a letter of notification of the newly sponsored D&E Clinics to the Department. The Department shall submit to the Medicaid Designated Entity, in July of each year that this Interagency Agreement is in effect, the current listing of the qualified D&E Clinics sponsored by CDPHE. For additional D&E Clinics that become qualified throughout the fiscal year, the Department shall submit a letter of notification of the newly sponsored D&E Clinics to the Medicaid Designated Entity. The Department shall notify CDPHE of any changes to the established fee-for-service billing procedures as it relates to the developmental evaluation clinic services.
- 6) The Department shall inform Medicaid-contracted PHPs that developmental evaluation services are a PHP benefit and that sponsored D&E Clinics within their service area must arrange for the developmental evaluation services. The Department shall provide guidelines for referrals to the D&E Clinics.

E. Immunization Program

- 1) With the exception of immunizations provided through the VFC Program, CDPHE shall negotiate for, purchase, store and maintain adequate inventories of vaccines to distribute to Medicaid providers for administration to Medicaid children.
- 2) CDPHE shall negotiate for and purchase vaccines at the lower of federal contract or other contract source prices. Federal contract prices are available on the VFC homepage. http://www.cdc.gov/nip/vfc/cdc_vac_price_list.htm
- 3) CDPHE shall arrange for the storage and maintenance of adequate inventories of all vaccines necessary, dependent upon national manufacture availability, to meet the preventive medical needs of Medicaid recipients under the age of 21. These vaccines shall include, but are not limited to the following: Diphtheria-Tetanus-Acellular-Pertussis (DTaP); Inactivated Polio Vaccine (IPV); Measles-Mumps-Rubella (MMR); Haemophilus Influenza Type B Conjugate Vaccines (HIB); Hepatitis B (Hep B); Varicella Zoster (VAR); Hepatitis A (Hep A); and, Influenza (FLU).
- 4) CDPHE shall maintain a computerized vaccine order, shipping, and usage record system to monitor distribution of the vaccines to providers, and correlate and maintain information regarding amounts of vaccines distributed to each provider.
- 5) The Department shall provide CDPHE with a listing of Medicaid providers eligible to receive vaccine shipments under this Interagency Agreement and provide periodic written verification of new Medicaid providers who are eligible to order and receive vaccine under this Interagency Agreement. CDPHE shall notify the Department of Medicaid providers who have become ineligible to receive vaccines under this Interagency Agreement.
- 6) The Department and CDPHE shall cooperate in the preparation of informational materials to providers of immunization services and provide technical assistance regarding Medicaid billing procedures to local health departments and other Medicaid providers.
- 7) The Department shall process claims for immunizations through the Medical Management Information System (MMIS).
- 8) The Department shall provide CDPHE with access to de-identified data as requested by Immunization Program and agreed to by HCPF.

F. Lead Poisoning Prevention Program

- 1) The Department shall assist CDPHE Lead Poisoning Prevention Program staff in the development and implementation of training sessions concerning the mandated blood lead screening and treatment services for

children receiving Medicaid benefits.

- 2) The Department shall assist CDPHE Lead Poisoning Prevention Program staff in the development and implementation of state policy and/or guidelines to promote adherence to the CMS-mandated guidelines for blood lead screening and treatment services for children receiving Medicaid benefits.

G. Breast and Cervical Cancer Program

- 1) CDPHE in consultation with the Department shall provide public education and outreach on the Breast and Cervical Cancer Program (BCCP) to Qualified Entities, Medicaid providers and clients in language appropriate for the audience.
- 2) CDPHE shall contract with Qualified Entities within the State of Colorado to provide breast and cervical cancer assessment services through CWCCI; screening services including breast examinations, mammograms, pelvic examinations and Papanicolaou tests; and diagnostic services, surgical consultations and biopsies to women with abnormal screening results. CDPHE shall not change operations to significantly expand the number of women screened.
- 3) CDPHE shall notify the Department of providers participating in the CWCCI as Qualified Entities in July of each year.
- 4) CDPHE shall not change operations in such a way as to significantly expand the number of women screened. Any such change requires submission through the budget process and approval by the General Assembly.
- 5) CDPHE shall ensure the Department has been provided documented verification that a woman has been screened under the CWCCI program. This verification is to be provided on a regular basis, as needed or requested by the Department, and must be accompanied by a HIPAA-compliant Authorization signed by the presumptively eligible Medicaid client. This information is to be provided to the Department directly from the CWCCI sites.
- 6) CDPHE shall provide reports to the Department, quarterly on the following due dates, August 1, November 1, February 1 and May 1 of each year, sorted by county, the number of woman screened, the category of the treatment disease, identifying provider issues, identified trends and any transfers from out-of-state.
- 7) Upon request, CDPHE shall provide site review information on the CWCCI Qualified Entities.

- 8) In consultation with the Department, CDPHE shall provide CWCCI projections and program monitoring information to the BCCP Coordinator.
- 9) CDPHE shall contract with Qualified Entities to ensure the delivery of the following:
 - a) Provide breast and cervical cancer assessments according to the guidelines established by the CWCCI, as well as providing referrals, case management and developing care plans as stipulated by the entity's agreement with the CDPHE.
 - b) Complete PE determinations for clients who meet program eligibility requirements with a confirmed diagnosis of breast or cervical cancer under the CWCCI program.
 - c) Provide verification that a woman has been screened under the CWCCI program.
 - d) Inform PE clients of the benefits available to them under Medicaid and the requirements for submitting a completed Medicaid application on the same day as the BCCP/PE.
 - e) Instruct providers to provide signed consent for release of medical information in accordance with HIPAA.
 - f) Assist applicants in completing the application form, if necessary.
 - g) Forwarding all information to the Department's Designated Entity for a full eligibility determination within five (5) working days.
 - h) Send by mail or fax a copy of the following forms to the BCCP Coordinator at the Department within 5 days of a diagnosis:
 - i) Personal History Form
 - ii) Consent and Release of Medical Information
 - iii) Pathology Report
 - iv) PE Card
 - v) PE Form
- 10) The Department shall provide Medicaid coverage under its State Plan for eligible women screened and determined to be eligible through the CWCCI. The Department shall be responsible for establishing, operating and monitoring the BCCP, including training designated staff at Qualified Entities participating in the CWCCI to assist women in completing the application forms.
- 11) The Department and CDPHE shall share relevant data to manage the

treatment and follow-up process, which links Medicaid eligibility with screening and treatment results, as provided in the HIPAA Business Associate Addendum, Attachment A, attached hereto.

H. Nurse Home Visitor Program

- 1) CDPHE shall fund Nurse Home Visitor Program (NHVP) sites throughout the state, in accordance with the Colorado Nurse Home Visitor Program Act, section 25-31-101, *et seq.*, C.R.S., as amended, (the "Act"), which is funded through the state's Master Tobacco Settlement Agreement. CDPHE shall provide the Department with a current list of NHVP providers and their respective Medicaid reimbursement rates, as set by CDPHE. The list shall be made available to the Department in July of each fiscal year that this Interagency Agreement is in effect. For additional NHVP providers that become qualified throughout the fiscal year, CDPHE shall submit a letter of notification of the newly sponsored NHVP providers to the Department. The Department shall submit to the Department's Designated Entity, in July of each year that this Interagency Agreement is in effect, the current listing of the qualified NHVP providers funded by CDPHE. For additional NHVP providers that become qualified throughout the fiscal year, the Department shall submit a letter of notification of the newly sponsored NHVP providers to the Department's Designated Entity.
- 2) CDPHE shall transfer Master Tobacco Settlement Agreement funds appropriated for the NHVP to the Department in the amount designated in the Long Bill. The Department shall use these NHVP funds as match to capture federal Medicaid funds on a dollar for dollar basis for Targeted Case Management (TCM) services provided and billed on a per client basis through the MMIS by NHVP Medicaid providers. The Department shall then directly reimburse the NHVP Medicaid providers the total combination of the Master Tobacco Settlement Agreement funds and the federal Medicaid funds based on the provider's Medicaid reimbursement rate.
- 3) CDPHE shall inform NHVP sites of their required enrollment and participation as an active state Medicaid provider and the process for billing the Department for TCM services provided to Medicaid eligible clients.
- 4) The Department and/or the Department's Designated Entity shall provide information, training and assistance to NHVP sites, as necessary, concerning enrollment in the state Medicaid program and utilization of the MMIS for TCM billing purposes.
- 5) The Department shall bill CDPHE only for the claims processing fee they

have agreed to contractually with the MMIS contractor. The Department shall notify CDPHE in writing of any changes in the MMIS contractor's programming or claims processing fees as soon as those changes are known to the Department.

3. PAYMENT AMOUNT AND BILLING PROCEDURE

- A. The Department shall intervene with the Department's Designated Entity to ensure payment of the correct rate for Medicaid covered services, as applicable.
- B. The Department shall bill the state match for Medicaid expenditures to CMS for program costs, which are related to the Medicaid program.
- C. CDPHE shall bill the Department no less than quarterly for the Prenatal Plus administration. Itemized expenditure reports shall be provided by CDPHE upon request from the Department, but no more often than annually, for all programs listed in this Interagency Agreement.
- D. In no case shall CDPHE submit a request for reimbursement for services provided during the term of this Interagency Agreement any later than 45 working days after the final state fiscal year information provided to CDPHE by the Department.
- E. Family Planning: Family planning client claims are paid directly out of MMIS
- F. Prenatal Plus: Payment pursuant to this Interagency Agreement shall be made as earned, in whole or in part, from available state funds encumbered in an amount not to exceed \$102,346, for the administrative costs of the Medicaid Prenatal Plus Program. Prenatal Plus client services are paid out of the MMIS and billed on a regular basis by participating Prenatal Plus providers. The amount needed for prenatal plus services from the medical services premium is projected as a part of premium by the Department Budget Division Office. CDPHE's spending authority for Prenatal Plus administrative expenditures is limited to the amount in the Long Bill. This amount can only be revised through the budget process. Rate increases must be approved through the budget process. Strategies for rate setting for Prenatal Plus client services shall be discussed between CDPHE and the Department at least annually.
- G. HCP specialty clinic providers are paid out of MMIS and billed on a regular basis.
- H. Developmental and Evaluation Clinic Services: HCP Developmental and Evaluation Clinic services are billed directly by Medicaid providers and paid as appropriate through the Department Designated Entity.
- I. Immunization Program: Immunizations and vaccines are paid out of the MMIS and billed on a regular basis.

- J. Lead Poisoning Prevention Program: Medicaid covered Lead Poisoning Prevention Program benefits are paid out of MMIS and billed on a regular basis.
- K. BCCP: Benefits to BCCP clients are paid directly out of the MMIS and billed on a regular basis.
- L. NHVP: In consideration of the obligation of CDPHE to perform in accordance with paragraph one, the Department shall transfer \$3,019,388 total funds according to the schedule and purpose listed below. The liability of the Department, at any time for such payments shall be limited to the unspent amount remaining of such encumbered funds, which includes the matching federal Medicaid funds.

Payment pursuant to this Interagency Agreement shall be made to the NHVP providers as earned, in whole or in part, from available funds encumbered in an amount not to exceed \$3,010,000. CDPHE's spending authority for these services is limited to the amount in the Long Bill. This amount can only be revised through the budget process. NHVP Medicaid providers shall directly bill for TCM services provided to Medicaid eligible participants based on NHVP provider site-specific reimbursement rates set by CDPHE. TCM services shall be billed according to timely filing requirements and paid directly to the NHVP providers out of the MMIS on a per client basis.

The Department shall bill CDPHE claims processing fees for the NHVP no less than quarterly up to \$9,388. The Department shall provide CDPHE with monthly summary reports of claim payment activity by site and by program in a format and containing information agreed to by both parties. The Department shall notify CDPHE in writing of any changes in the MMIS contractor's programming or claims processing fees as soon as those changes are known to the Department.

4. TERM

The term of this Interagency Agreement is from July 1, 2004 through June 30, 2005.

5. AVAILABILITY OF FUNDS

Payment pursuant to this Interagency Agreement, if in any part federally funded, is subject to and contingent upon the continuing availability of federal funds for the purposes hereof. If any of said federal funds become unavailable, as determined by the Department, either party may immediately terminate or seek to amend this Interagency Agreement. Payment pursuant to this Interagency Agreement, if in any part funded by Tobacco Settlement funds, is subject to and contingent upon, the continuing availability of tobacco settlement funds for the purposes hereof. If any of said tobacco settlement

funds become unavailable, as determined by CDPHE, either party may immediately terminate or seek to amend this Interagency Agreement.

6. PERFORMANCE MONITORING

CDPHE shall permit the Department to monitor and audit records and activities that are or have been undertaken pursuant to this Interagency Agreement.

7. ASSIGNMENT

Except as otherwise provided, the duties and obligations of CDPHE shall not be assigned, delegated or otherwise transferred except with the express prior written consent of the Department. CDPHE is authorized by the Department to enter into contracts for the delivery of those services funded by this Interagency Agreement. All subcontractors shall be subject to the requirements of this Interagency Agreement.

8. BENEFIT

This Interagency Agreement shall inure to the benefit of and be binding only upon the parties hereto and their respective successors and assigns. No third party beneficiary rights or benefits of any kind are expressly or implicitly provided to the parties hereto and their respective successors and assigns. No third party beneficiary rights or benefits of any kind are expressly or implicitly provided for herein.

9. NOTICE

For the purpose of this Interagency Agreement, the persons named below are designated as the representatives of the parties. All notices which are required or permitted to be given under this Interagency Agreement shall be given by hand delivery, or by certified mail, return receipt requested, to the representatives named below. The parties may designate in writing a new or substitute representative:

Health Care Policy and Financing:

Phyllis Gervais-Voss
Manager, Acute Care Benefits

1570 Grant Street
Denver, CO 80203

Public Health and Environment:

Joan Eden
Deputy Director, Prevention Services
Division
4300 Cherry Creek Drive South
Denver, CO 80246

10. PROBLEM RESOLUTION

Any failure of either party to perform in accordance with the terms of this Interagency Agreement shall constitute a breach of this Interagency Agreement. Any dispute concerning the performance of a party to this Interagency Agreement, that cannot be resolved at the divisional level, shall be referred to superior departmental management staff designated by each department. Failing resolution at that level, disputes shall be presented to the executive directors of each department for resolution. Failing resolution by the executive directors, the dispute shall be submitted in writing by both parties to the State Controller, whose decision on the dispute shall be final.

11. CONTROLLER'S APPROVAL

This Interagency Agreement shall not be deemed valid until it shall has been approved by the State Controller or such assistant as s/he may designate.

12. HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT OF 1996 ("HIPAA")

Federal law governing the privacy of certain health information requires a "Business Associate Contract" between the Department and CDPHE. 45 C.F.R. Section 164.504(e). Attached as Exhibit C and incorporated herein by reference and agreed to by the Department and CDPHE is a HIPAA Business Associate Addendum. Terms of the Addendum shall be considered binding upon execution of this agreement and shall remain in effect during the term of the agreement including any extensions, unless/until the Department alters the Business Associate Addendum in a substantive way.

13. CONFIDENTIALITY

CDPHE shall protect the confidentiality of all applicant/client records and other materials that are owned/disclosed by the Department and in CDPHE's possession in accordance with this Interagency Agreement. Except for purposes directly connected with this Agreement, no information provided by the Department about or obtained from any the Department applicant/client shall be disclosed by CDPHE without the Department's approval. CDPHE shall advise its employees, agents, and subcontractors, if any, that they are subject to these confidentiality requirements before access to confidential data is permitted. Such requirements shall be subject to the Public (Open) Records Act, § 24-72-101, *et seq.*, C.R.S., as amended. CDPHE understands that federal law/regulation prohibits the disclosure of client/applicant data. If CDPHE receives a request made pursuant to the Public (Open) Records Act for the Department applicant/client data, CDPHE shall notify the Department of the request and CDPHE shall deny the request invoking the exception found in § 24-72-204 (1)(b), C.R.S. All protected health information used/disclosed shall meet the requirements of the HIPAA privacy regulations, as interpreted by the Department.

14. RECORD KEEPING REQUIREMENTS

CDPHE shall maintain a complete file of all records, documents, communications, and other materials, which pertain to this Interagency Agreement according to state record keeping guidelines, from the date of final payment under this Interagency Agreement, unless the Department requests that the records be retained for a longer period. Such files shall be sufficient to properly reflect all direct and indirect costs of labor, materials, health-related services, equipment, supplies, and services, and other costs for which a payment was made. These records shall be maintained according to generally accepted accounting principles, community medical record documentation standards, and shall be easily separable from other records of CDPHE. Copies of all such records, documents, communications, and other materials shall be the property of the Department and shall be maintained by CDPHE in a central location except for client/patient records, which shall be maintained by providers or vendors. If an audit by or on behalf of the federal and/or state government has commenced, but is not completed at the end of the period mandated by state record keeping guidelines, then the materials shall be retained until the resolution of the audit findings.

15. REMEDIAL ACTIONS

The Executive Director of the Department, or his/her designee, may exercise the following remedial actions if s/he finds that CDPHE substantially failed to satisfy the scope of work contained in this Interagency Agreement. "Substantially failed to satisfy the scope of work" shall be defined to mean incorrect or improper activities or inaction by CDPHE or the Department. These remedial actions are as follows:

- A. Withhold payment or data to CDPHE until the necessary service or corrections in performance are satisfactorily completed;
- B. Deny payment or recover reimbursement for those services or deliverables which have not been performed and which due to circumstances caused by CDPHE cannot be performed or if performed would be of no value to the Department. Denial of the amount of payment shall be reasonably related to the value of the work or deliverable lost to the Department;
- C. Subject to paragraph 9 above, terminate or amend this Interagency Agreement in whole or in part the Interagency Agreement upon thirty-days prior written notice to CDPHE; and

16. CDPHE REMEDIAL ACTIONS

The Executive Director of CDPHE, or his/her designee, may exercise the following remedial actions if s/he finds that the Department has substantially failed to satisfy the scope of work contained in this Interagency Agreement. "Substantially failed to satisfy the scope of work" shall be defined to mean incorrect or improper activities or inaction by the Department. These remedial actions are as follows:

- A. Stop work under this Interagency Agreement if the Department fails to provide CDPHE with all requested information or data CDPHE is entitled to as per the attached Business Associate Agreement, until such time as the Department provides all such necessary information or data;
- B. Stop work under this Interagency Agreement if the Department fails to pay CDPHE in a timely manner until such time as the Department makes payment to CDPHE;
- C. Subject to paragraph 9 above, terminate or amend this Interagency Agreement in whole or in part, upon thirty days prior written notice to the Department.

17. FEDERAL REQUIREMENTS

During the term of this Interagency Agreement, CDPHE shall follow all federal laws, regulations, and guidelines for the administration of that portion of the Colorado Medicaid Program for which CDPHE is directly responsible. CDPHE shall access through the internet a current copy of the Department regulations, 10 C.C.R. 2505-10, Sections 8.000 *et seq.* and 42 Code of Federal Regulations (C.F.R.) publications. If the federal government finds that the applicable laws, regulations, and guidelines have not been followed, and if CDPHE is determined to be solely responsible, then CDPHE shall seek any and all restoration of funds from the Colorado General Assembly for any loss of federal financial participation. Financial responsibility shall also include payment of any legal expense incurred in the defense of such an audit exception. The Department shall also have the right to implement other available remedial actions. CDPHE shall not be responsible for seeking this supplemental funding if any such violations of federal laws, regulations, and or guidelines are due to the direct mandates promulgated by the Department. CDPHE shall be responsible for requesting budgetary increases, such as Decision Items and Base Reductions, in collaboration with the Department, for the programs contained within this Interagency Agreement. A continuous improvement concept and self-audit process shall be utilized by CDPHE to ensure all Medicaid related programs are performed according to standard.

18. MUTUALITY

CDPHE shall provide full cooperation to the Department and its duly authorized agents in the administration of this Interagency Agreement. The Department shall provide full cooperation to CDPHE and its duly authorized agents in the administration of this Interagency Agreement. The Department shall consult with CDPHE on budget initiatives or in the development of Volume VIII regulations that may affect CDPHE's performance under this Interagency Agreement. CDPHE shall consult with the Department on budget initiatives or in the development of regulations that may affect the Department's performance under this Interagency Agreement. CDPHE and the Department shall designate representatives from each agency, which shall meet as often as necessary to resolve any problems that may arise under this Interagency Agreement. CDPHE and the Department shall each designate a primary contact for each activity under this

Interagency Agreement. CDPHE shall notify and involve the Department in state fiscal audits, draft audit findings, audit conferences, and final audit reports involving programs covered under this Interagency Agreement. CDPHE is responsible for change requests and base requests involving these programs. The Department shall assign a Budget Analyst to work with CDPHE on these matters.

19. WRITTEN MATERIAL

The Department shall provide CDPHE with internet access for materials that are relevant to the programs identified in this Interagency Agreement, including, monthly Medicaid Bulletins, the Department-generated brochures and flyers, relevant agency letters, and 10 C.C.R. 2505-10, Section 8.000 *et seq.* updates.

20. MEDICAID STATE PLAN AMENDMENTS

The Department, in consultation with CDPHE, shall draft proposed Medicaid State Plan amendments as applicable and as required by CMS for those CDPHE Medicaid programs and services that are covered by this Interagency Agreement. CDPHE shall submit a summary specifically identifying the basis for the proposed amendment to the Department for approval and transmission to CMS within federally required timeframes.

21. PROGRAM COORDINATION

The Department and CDPHE shall work together to provide program implementation and administration for all programs listed in this Interagency Agreement. This program coordination includes, but is not limited to: joint meetings when necessary, telephone conference calls, review of printed materials, assistance with billing concerns, assistance with provider questions and joint participation in program trainings.

22. AMENDMENTS TO THIS INTERAGENCY AGREEMENT

The Department and CDPHE may propose amendments to the Interagency Agreement or any Exhibits attached hereto during its term that are deemed necessary due to changed circumstances. No amendment shall be considered valid unless in writing and approved by both the Department and CDPHE Executive Directors or his/her designee.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS INTERAGENCY AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

STATE OF COLORADO
Bill Owens, Governor

STATE OF COLORADO
Bill Owens, Governor

COLORADO DEPARTMENT OF HEALTH
PUBLIC
CARE POLICY AND FINANCING

COLORADO DEPARTMENT OF
HEALTH AND ENVIRONMENT

Karen Reinertson
Executive Director

Douglas H. Benevento
Executive Director

APPROVAL

STATE CONTROLLER

Leslie M. Shenefelt