

DATA SHARING AGREEMENT
Between
OKLAHOMA HEALTH CARE AUTHORITY
And

WITNESSETH:

Based upon the following recitals, the **Oklahoma Health Care Authority** (hereinafter referred to as OHCA) and the _____ (hereinafter referred to as "Part D Plan"), FEI # _____, enter into this data sharing agreement.

ARTICLE I. PURPOSE

The Centers for Medicare and Medicaid Services (CMS) has issued correspondence to Medicare Part D plans on the policies and procedures for initiating corrections to CMS' low-income subsidy data for plan enrollees for whom the plan has documentation about their SoonerCare eligibility or residence in an institution under a Medicaid-covered stay. The purpose of this data sharing agreement is to provide the "best available evidence" (BAE) of Medicaid eligibility to the Part D plans through access to the Oklahoma Medicaid Management Information System (MMIS), while protecting the confidentiality of the data which is transferred.

ARTICLE II. THE PARTIES

1.0 OKLAHOMA HEALTH CARE AUTHORITY

- (a) OHCA states that it is the single state agency that the Oklahoma Legislature has designated through 63 O.S. § 5009(B) to administer Oklahoma's Medicaid Program, known as "SoonerCare".
- (b) OHCA has authority to enter into this Agreement pursuant to 63 O.S. § 5006(A) and 74 O.S. § 581. OHCA's Chief Executive Officer has authority to execute this Agreement on OHCA's behalf pursuant to 63 O.S. 5008(B).
- (c) OHCA states that its mailing address for purposes of this Agreement is as follows:

Oklahoma Health Care Authority
P. O. Box 54015
Oklahoma City, OK 73154
Attention: Peggy Hansen
(405) 522-7370

2.1 PART D PLAN

- (a) _____ states that it has authority to enter into this Agreement pursuant to its contractual arrangement with the CMS for the purpose of determining dual eligibility and nursing home level of care status of persons qualifying for the Medicare, Part D prescription drug program.

_____ states that its mailing address for purposes of this Agreement is as follows:

Name: _____

Attention: _____

Address: _____

City, State, Zip: _____

ARTICLE III. TERMS

3.0 TERM OF THE AGREEMENT

The terms of this Agreement shall begin on _____. This agreement shall end on _____ or upon termination of the Part D Plan's contract with CMS, whichever is first.

3.1 MODIFICATIONS

This Agreement contains all the agreements of the parties and no oral representation by either party is binding. Any modifications to this Agreement must be in writing and signed by both parties prior to the effective date of the modification.

3.2 ASSIGNMENT

Neither party shall assign or transfer any rights or obligations under this Agreement without the prior written consent of the other party.

ARTICLE IV. SCOPE OF WORK – DATA SHARING

4.0 OHCA shall allow the Part D Plan access to the MMIS via the SoonerCare secure website. Upon execution of this Agreement, OHCA will send Part D Plans a welcome letter containing a provider number, and a separate letter containing a pin number, both of which will allow the Part D Plan access to the secure website for the purpose of verifying client eligibility.

ARTICLE V. CONFIDENTIALITY, PRIVACY and SECURITY

5.0 The Part D Plan agrees that SoonerCare recipient information is confidential and is not to be released to the general public under 42 U.S.C. § 1396a(7), 42 C.F.R. § 431:300-306 and 63 Okla. Stat. § 5018 (Supp. 1996). The Part D Plan agrees not to release the information governed by these SoonerCare recipient requirements to any other state agency or public citizen without the approval of OHCA. The use or disclosure of information concerning recipients shall be limited to purposes directly connected with the administration of the state's SoonerCare program. This restriction shall also apply to the

disclosure of information in summary, statistical, or other form which does not identify particular individuals.

- 5.1 Part D Plan agrees that SoonerCare recipient and provider information cannot be re-marketed, summarized, distributed, or sold to any other organization without the express written approval of OHCA.
- 5.2 Part D Plan agrees to comply with the Federal Privacy Regulations and the Federal Security Regulations as contained in 45 C.F.R. Parts 160 through 164 that are applicable to such party as mandated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and 42 U.S.C. §§ 1320d -1320d-8.
- 5.3 Part D Plan must report a known breach of confidentiality, privacy, or security, as defined under HIPAA, to the OHCA Privacy and Confidentiality Officer within 48 hours of knowledge of an unauthorized act. Failure to perform may constitute immediate termination of contract.
- 5.4 Part D Plan agree to report potential known violations of 21 Okla. Stat. §1953 to the OHCA Legal Division within 48 hours of knowledge of an unauthorized act. In general, this criminal statute makes it a crime to willfully and without authorization gain access to, alter, modify, disrupt, or threaten a computer system.

ARTICLE VI. AUDIT AND INSPECTION

- 6.0 Part D Plan shall keep such records as are necessary to disclose fully the extent of service provided under this Agreement, and shall furnish records and information regarding any claim for providing such service to OHCA, the Oklahoma Attorney General's Medicaid Fraud Control Unit (MFCU), and the U.S. Secretary of the Department of Health and Human Services (hereinafter referred to as Secretary) for six years from the date of service. Part D Plan shall not destroy or dispose of records, which are under audit, review or investigation when the six-year limitation is met. Part D Plan shall maintain such records until informed in writing by the auditing, reviewing or investigating agency that the audit, review or investigation is complete.
- 6.1 Pursuant to 74 O.S. § 85.41, OHCA and the Oklahoma State Auditor and Inspector shall have the right to examine Part D Plan's records, documents, accounting procedures, practices, or any other items relevant to this Agreement.

ARTICLE VII. LAWS APPLICABLE

- 7.0 The parties agree to abide by all federal and state statutes applicable to this Agreement.
- 7.1 The explicit inclusion of some statutory and regulatory duties in this Agreement shall not exclude other statutory or regulatory duties.
- 7.2 All questions pertaining to validity, interpretation and administration of this Agreement shall be determined in accordance with the laws of the State of Oklahoma, regardless of where any service is performed.
- 7.3 The venue for civil actions arising from this Agreement shall be Oklahoma County, Oklahoma. For the purpose of rightful federal jurisdiction, in any action in which the State

of Oklahoma is a party, venue shall be United States District Court for the Western District of Oklahoma.

7.4 If any portion of this Agreement is found to be in violation of federal or state statutes, that portion shall be stricken from this Agreement and the remainder of the Agreement shall remain in full force and effect.

ARTICLE VIII. TERMINATION

8.0 This Agreement may be terminated by either party for cause with a thirty (30) day written notice to the other party. Either party may terminate without cause with a sixty (60) day written notice to the other party. All notices of termination must be in writing.

8.1 In the event funding of the SoonerCare program from the state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to the anticipated Agreement expiration date, this Agreement may be terminated immediately by OHCA.

8.2 Violation of the confidentiality provisions of this Agreement, as outlined in Article V, shall be grounds for immediate termination.

EXECUTED BY:

Name and title of signee

Date

Part D Plan

Michael Fogarty, Chief Executive Officer
Oklahoma Health Care Authority

Date