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STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF LONG TERM SUPPORTS AND SERVICES

Lori A. Weaver
Commissioner

Melissa A. Hardy
Director

105 PLEASANT STREET, CONCORD, NH 03301
603-271-5034 1-800-852-3345 Ext. 5034
Fax: 603-271-5166 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

January 27, 2025

Her Excellency, Governor Kelly A. Ayotte
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Long Term Supports and Services, to amend an existing contract, which was originally competitively bid, with Keystone Peer Review Organization, LLC (VC# 166973), Harrisburg, PA, for continued administration of a Pre-Admission Screening Resident Review and Nursing Facility Level of Care Services, by exercising an available contract renewal option by increasing the price limitation by $2,556,768 from $4,929,540 to $7,486,308 and extending the completion date from June 30, 2025 to June 30, 2027, effective July 1, 2025, upon Governor and Council approval. 75% Federal Funds. 25% General Funds.

The original contract was approved by Governor and Council on June 30, 2021, item #39, and amended on May 31, 2023, item #13.

Funds are anticipated to be available in the following account in State Fiscal Years 2026 and 2027, upon the availability and continued appropriation of funds in the future operating budget, with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

05-95-48-482010-21640000 HEALTH AND SOCIAL SVS, HEALTH AND HUMAN SVS DEPT, HHS: DLTSS-ELDERLY & ADULT SVS, WAIVER & NURSING FACILITIES, CFI WAIVER PROGRAM ELIGIBILITY

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2022	074-500589	Welfare Assistance	48130242	$1,205,004	$0	$1,205,004
2023	074-500589	Welfare Assistance	48130242	$1,205,004	$0	$1,205,004
2024	074-500589	Welfare Assistance	48130242	$1,241,148	$0	$1,241,148
2025	074-500589	Welfare Assistance	48130242	$1,278,384	$0	$1,278,384
2026	074-500589	Welfare Assistance	48130242	$0	$1,278,384	$1,278,384

2027	074-500589	Welfare Assistance	48130242	$0	$1,278,384	$1,278,384
			Total	**$4,929,540**	**$2,556,768**	**$7,486,308**

EXPLANATION

The purpose of this request is to exercise an available contract renewal option to continue the administration of the Pre-Admission Screening Review process for individuals who are seeking admission to, or currently reside in a nursing facility, and medical eligibility assessments for individuals who are seeking Medicaid payment for their continued stay in a nursing facility, or those who are seeking home and community-based services through the Choices for Independence 1915(c) Medicaid waiver. Individuals receiving either of these services must continue to meet Nursing Facility Level of Care.

Approximately 10,404 individuals statewide will be served through June 30, 2027.

The Contractor will continue to determine if individuals meet medical eligibility for nursing facility admission or home and community-based services provided through the Choices for Independence 1915(c) waiver, in accordance with federal and state laws, rules and regulations.

The Department will continue monitoring contracted services by the:

- Length of time from application to determination for all initial Nursing Facility Level of Care determinations.
- Number of Nursing Facility Level of Care determinations and redeterminations completed each month.

As referenced in Exhibit A of the original agreement, the parties have the option to extend the agreement for up to four (4) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and Governor and Council approval. The Department is exercising its option to renew services for two (2) years of the two (2) years available.

The Department originally selected the Contractor through a competitive bid process using a Request for Applications (RFA) that was posted on the Department's website from 2/26/2021 through 4/1/2021 and received two (2) responses.

Should the Governor and Council not authorize this request, individuals seeking admission to, or individuals residing in Medicaid-certified nursing facilities who request a pre-admission screening or resident review, may not be able to receive one, and as result, may not have access to Medicaid-certified nursing facility services. Likewise, individuals seeking medical eligibility for the Choices for Independence waiver may not have access to necessary home and community-based services for them to remain at home. Lastly, the Department would be out of compliance with Medicare and Medicaid requirements for long term care facilities, 42 CFR §483 and NH Administrative Rule He-M 1302.

Area served: Statewide

Source of Federal Funds: Assistance Listing Number 93.778.

In the event that the Federal Funds become no longer available, additional General Funds will not be requested to support this program.

Respectfully submitted,

Lori A. Weaver
Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
27 Hazen Dr., Concord, NH 03301
Fax: 603-271-1516 TDD Access: 1-800-735-2964
www.nh.gov/doit

Denis Goulet
Commissioner

December 9, 2024

Lori A. Weaver, Commissioner
Department of Health and Human Services
State of New Hampshire
129 Pleasant Street
Concord, NH 03301

Dear Commissioner Weaver:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a contract amendment with Keystone Peer Review Organization, LLC, as described below and referenced as DoIT No. 2021-078B.

The purpose of this request is for continued administration of a Pre-Admission Screening Resident Review and Nursing Facility Level of Care Services.

The Total Price Limitation shall increase by $2,556,768 for a New Total Price Limitation of $7,486,308, effective July 1, 2025, upon Governor and Council approval, through June 30, 2027.

A copy of this letter should accompany the Department of Health and Human Services' submission to the Governor and Executive Council for approval.

Sincerely,

Denis Goulet

DG/jd
DoIT #2021-078B

cc: Ken Gagne, IT Manager, DoIT

State of New Hampshire
Department of Health and Human Services
Amendment #2

This Amendment to the Pre-Admission Resident Review and Nursing Facility Level of Care Services contract is by and between the State of New Hampshire, Department of Health and Human Services ("State" or "Department") and Keystone Peer Review Organization, LLC. ("the Contractor").

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on June 30, 2021 (Item #39), as amended on May 31, 2023 (Item #13), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract as amended and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, the Contract may be amended upon written agreement of the parties and approval from the Governor and Executive Council; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

1. Form P-37, General Provisions, Block 1.4., Contractor Address, to read:

   777 East Park Drive, Harrisburg, PA 17111

2. Form P-37, General Provisions, Block 1.5., Contractor Phone Number, to read:

   (717) 564-8288

3. Form P-37, General Provisions, Block 1.6., Account Number, to read:

   TBD

4. Form P-37, General Provisions, Block 1.7., Completion Date, to read:

   June 30, 2027

5. Form P-37, General Provisions, Block 1.8., Price Limitation, to read:

   $7,486,308

6. Modify Exhibit C, Payment Terms, Section 3, to read:

   3. Payment shall be made monthly in accordance with the fixed-monthly rates in the Rates Table below for services provided in Exhibit B, Scope of Services:

Rates Table		
State Fiscal Year	**Rate per Month**	**Not to Exceed Amount**
2022	$100,417	$1,205,004
2023	$100,417	$1,205,004
2024	$103,429	$1,241,148
2025	$106,532	$1,278,384
2026	$106,532	$1,278,384
2027	$106,532	$1,278,384
	TOTAL	**$7,486,308**

All terms and conditions of the Contract and prior amendments not modified by this Amendment remain in full force and effect. This Amendment shall be effective July 1, 2025, upon Governor and Council approval.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

State of New Hampshire
Department of Health and Human Services

12/13/2024
Date

DocuSigned by:
Melissa Hardy
1123A24040DE495...
Name: Melissa Hardy
Title: Director, DLTSS

Keystone Peer Review Organization, LLC.

12/11/2024
Date

Signed by:
7BCF0EC2F93F4F6...
Name: Meghan Harris
Title: COO

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

12/16/2024
Date

DocuSigned by:
Robyn Guarino
748734844941460...
Name: Robyn Guarino
Title: Attorney

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:
Title:

State of New Hampshire

Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that KEYSTONE PEER REVIEW ORGANIZATION, LLC is a Pennsylvania Limited Liability Company registered to transact business in New Hampshire on April 04, 2006. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: **554911**

Certificate Number: **0006808178**

IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 15th day of November A.D. 2024.

David M. Scanlan

Secretary of State

CERTIFICATE OF AUTHORITY

I, Melissa Leigh, hereby certify that:
(Name of the elected Officer of the Corporation/LLC; cannot be contract signatory)

1. I am a duly elected Clerk/Secretary/Officer of Keystone Peer Review Organization, LLC.
(Corporation/LLC Name)

2. The following is a true copy of a vote taken at a meeting of the Board of Directors/shareholders, duly called and held on 1st of February, 20 23, at which a quorum of the Directors/shareholders were present and voting.
(Day, Month) (Year)

VOTED: That Meghan Harris, President and Chief Operations Officer (may list more than one person)
(Name and Title of Contract Signatory)

is duly authorized on behalf of Keystone Peer Review Organization, LLC to enter into contracts or agreements with the State of New Hampshire and any of its agencies or departments and further is authorized to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, which may in his/her judgment be desirable or necessary to affect the purpose of this vote.

3. I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the date of the contract/contract amendment to which this certificate is attached. This authority **remains valid for thirty (30)** days from the date of this Certificate of Authority. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person(s) listed above currently occupy the position(s) indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein.

Dated: December 12, 2024

Signature of Elected Officer
Name: Melissa Leigh
Title: Secretary, EVP, Chief Legal and Compliance Officer

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY): 11/14/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Aon Risk Services Northeast, Inc.
Connecticut Office
800 Connecticut Ave
Norwalk CT 06854 USA

CONTACT NAME:
PHONE (A/C. No. Ext): (866) 283-7122 **FAX (A/C. No.):** (800) 363-0105
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	The Continental Insurance Company	35289
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

INSURED
Keystone Peer Review Organization, LLC
777 East Park Drive
Harrisburg PA 17111 USA

COVERAGES **CERTIFICATE NUMBER:** 570109422396 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS.

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			7063974982	05/01/2024	05/01/2025	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE [X] OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$100,000
							MED EXP (Any one person)	$15,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	POLICY [X] PRO-JECT [X] LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:							
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	
	ANY AUTO						BODILY INJURY (Per person)	
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	
	DED / RETENTION							
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			7063981141 Workers Comp (CA)	05/01/2024	05/01/2025	X PER STATUTE / OTH-ER	
A	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER (Mandatory in NH) Y/N: N — N/A			WC763981480 Workers Comp (AOS)	05/01/2024	05/01/2025	E.L. EACH ACCIDENT	$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE-EA EMPLOYEE	$1,000,000
							E.L. DISEASE-POLICY LIMIT	$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

State of New Hampshire
Department of Health and Human Services
129 Pleasant Street
Concord NH 03301 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services Northeast Inc.

Holder Identifier :

Certificate No : 570109422396

ARC

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STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF LONG TERM SUPPORTS AND SERVICES

105 PLEASANT STREET, CONCORD, NH 03301
603-271-5034 1-800-852-3345 Ext. 5034
Fax: 603-271-5166 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

Lori A Weaver
Interim Commissioner

Melissa A. Hardy
Director

March 16, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Long Term Supports and Services, to amend an existing contract with Keystone Peer Review Organization, LLC. (VC#166973), Nashville, TN, for Pre-Admission Screening Resident Review & Nursing Facility Level of Care Services, by exercising a contract renewal option by increasing the price limitation by $2,519,532 from $2,410,008 to $4,929,540 and extending the completion date from June 30, 2023 to June 30, 2025, effective July 1, 2023 upon Governor and Council approval, whichever is later. 75% Federal Funds. 25% General Funds.

The original contract was approved by Governor and Council on June 30, 2021, item #39.

Funds are anticipated to be available in State Fiscal Years 2024 and 2025, upon the availability and continued appropriation of funds in the future operating budget, with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

05-95-48-482010-21640000 HEALTH AND SOCIAL SVS, HEALTH AND HUMAN SVS DEPT, HHS: DLTSS-ELDERLY & ADULT SVS, WAIVER & NURSING FACILITIES, CFI WAIVER PROGRAM ELIGIBILITY

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Modified Budget
2022	074-500589	Welfare Assistance	48130242	$1,205,004	$0	$1,205,004
2023	074-500589	Welfare Assistance	48130242	$1,205,004	$0	$1,205,004
2024	074-500589	Welfare Assistance	48130242	$0	$1,241,148	$1,241,148
2025	074-500589	Welfare Assistance	48130242	$0	$1,278,384	$1,278,384
			Total	$2,410,008	$2,519,532	$4,929,540

EXPLANATION

The purpose of this request is for the continued administration of a Pre-Admission Screening Resident Review process for individuals statewide who are seeking admission to or currently residing in a nursing facility or seeking home and community based services through the Choices for Independence 1915(c) Medicaid Waiver. Individuals receiving these services must meet nursing facility level of care.

Approximately 10,404 individuals will be served July 1, 2023 to June 30, 2025.

The Contractor will continue to provide services to determine if individuals meet medical eligibility for nursing facility admission or home and community based services provided by the Choices for Independence (CFI) 1915(c) waiver in accordance with federal and state laws, rules and regulations.

The Department will monitor services by reviewing the:

- Length of time from application to determination for all initial Nursing Facility Level of Care determinations.
- Number of Nursing Facility Level of Care determinations and redeterminations completed each month.

As referenced in Exhibit A, Revisions to Standard Agreement Provisions, of the original agreement, the parties have the option to extend the agreement for up to four (4) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and Governor and Council approval. The Department is exercising its option to renew services for two (2) of the four (4) years available.

Should the Governor and Council not authorize this request, individuals seeking admission to, or residing in, Medicaid-certified nursing facilities who request a pre-admission screening or resident review may not be able to receive one, which will mean that individuals may not be able to access services. Additionally, individuals seeking medical eligibility for the CFI waiver would not be able to access home and community based CFI waiver services. The Department may not be able to comply with the Medicare and Medicaid Services Requirements for Long Term Care Facilities, 42 CFR §483 and NH Administrative Rule He-M 1302.

Area served: Statewide

Source of Federal Funds: Assistance Listing Number #93.778, FAIN #NH20164

In the event that the Federal Funds become no longer available, additional General Funds will not be requested to support this program.

Respectfully submitted,

Lori A. Weaver
Interim Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
27 Hazen Dr., Concord, NH 03301
Fax: 603-271-1516 TDD Access: 1-800-735-2964
www.nh.gov/doit

Denis Goulet
Commissioner

May 3, 2023

Lori Weaver, Commissioner
Department of Health and Human Services
State of New Hampshire
95 Pleasant Street
Concord, NH 03301

Dear Commissioner Weaver:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a contract amendment with Keystone Peer Review Organization, LLC, as described below and referenced as DoIT No. 2021-078A.

The purpose of this request is for the continued administration of a Pre-Admission Screening Resident Review process for individuals statewide, seeking admission to or currently residing in a nursing facility.

The Total Price Limitation will increase by $2,519,532, for a New Total Price Limitation of $4,929,540, effective upon Governor and Council approval from July 1, 2023 through June 30, 2025.

A copy of this letter must accompany the Department of Health and Human Services' submission to the Governor and Executive Council for approval.

Sincerely,

Denis Goulet

DG/jd
DoIT #2021-078A

cc: Mike Williams, IT Manager

State of New Hampshire
Department of Health and Human Services
Amendment #1

This Amendment to the Pre-Admission Resident Review & Nursing Facility Level of Care Services contract is by and between the State of New Hampshire, Department of Health and Human Services ("State" or "Department") and Keystone Peer Review Organization, LLC. ("the Contractor").

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on June 30, 2021, (Item #39), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 17, and Exhibit A, Revision to Standard Agreement Provisions, the Contract may be amended upon written agreement of the parties and approval from the Governor and Executive Council; and

WHEREAS, the parties agree to extend the term of the agreement and increase the price limitation to support continued delivery of these services; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

1. Form P-37 General Provisions, Block 1.7, Completion Date, to read:

   June 30, 2025

2. Form P-37, General Provisions, Block 1.8, Price Limitation, to read:

   $4,929,540

3. Form P-37, General Provisions, Block 1.3, Contractor Name, to read:

   Keystone Peer Review Organization, LLC.

4. Form P-37, General Provisions, Block 1.9, Contracting Officer for State Agency, to read:

   Robert W. Moore, Director.

5. Modify Exhibit C, Payment Terms, Section 3, to read:

   3. Payment shall be on a fixed monthly rate of $103,429 per month for an amount not to exceed $1,241,148 for SFY24 and $106,532 per month for an amount not to exceed $1,278,384 for SFY25 for services provided in accordance with Exhibit B, Scope of Services.

DS MH
5/8/2023

DS DA
5/9/2023

All terms and conditions of the Contract not modified by this Amendment remain in full force and effect. This Amendment shall be effective July 1, 2023, upon Governor and Council approval.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below.

State of New Hampshire
Department of Health and Human Services

5/9/2023
Date

DocuSigned by:
Melissa Hardy
Name: Melissa Hardy
Title: Director, DLTSS

Keystone Peer Review Organization, LLC.

5/8/2023
Date

DocuSigned by:
Meghan Harris
Name: Meghan Harris
Title: Coo

5/9/2023

DocuSigned by:
David Adams
5D7805417EB048D...
David Adams
CFO

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

DocuSigned by:
Robyn Guarino

5/11/2023
Date

Name: Robyn Guarino
Title: Attorney

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

_____
Date

Name:
Title:

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STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF LONG TERM SUPPORTS AND SERVICES

Lori A. Shibinette
Commissioner

Deborah D. Scheetz
Director

105 PLEASANT STREET, CONCORD, NH 03301
603-271-5034 1-800-852-3345 Ext. 5034
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www.dhhs.nh.gov

June 3, 2021

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Long Term Supports and Services, to enter into a contract with Keystone Peer Review Organization, Inc. (VC#166973), Nashville, TN in the amount of $2,410,008 for Pre-Admission Resident Review & Nursing Facility Level of Care Services, with the option to renew for up to four (4) additional years, effective July, 1, 2021 or upon Governor and Council approval, whichever is later, through June 30, 2023. 75% Federal Funds. 25% General Funds.

Funds are anticipated to be available in State Fiscal Years 2022 and 2023, upon the availability and continued appropriation of funds in the future operating budget, with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

05-95-48-482010-2164 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVCS, WAIVER AND NURSING FACILITIES, CFI WAIVER PROGRAM ELIGIBILITY

State Fiscal Year	Class / Account	Class Title	Job Number	Total Amount
2022	074-500585	Community Grants	48130242	$1,205,004
2023	074-500585	Community Grants	48130242	$1,205,004
			Total	**$2,410,008**

EXPLANATION

The purpose of this request is for the administration of a Pre-Admission Screening Resident Review (PASRR) process for all individuals statewide seeking admission to or currently residing in a nursing facility; to provide medical, psychological, and/or psychiatric consultant services for evaluating claims of disability; and to conduct nursing facility Level of Care (LOC) determinations for Medicaid payments to nursing facilities and home and

community-based care agencies, in accordance with federal and state laws, rules and regulations.

The Contractor will provide services to assist placement for individuals seeking admission to a Medicaid Certified Nursing Facility, and Nursing Facility Level of Care determinations for individuals applying for Medicaid home and community-based care through the Choices for Independence Medicaid Waiver and nursing home care.

Approximately 5,600 individuals will be served from July 1, 2021 to June 30, 2023.

The Contractor will provide the following services statewide:

- Level I Pre-Admission Screening Resident Reviews (PASRR Level I).
- Level II Pre Admission Screening Resident Evaluations (PASRR Level II Evaluations).
- Nursing Facility Level of Care (NF LOC) determinations for Medicaid payments using the Medical Eligibility Assessment (MEA) tool.

Pre Admission Screening and Resident Review, as described in Centers for Medicare and Medicaid Services Requirements for Long Term Care Facilities, 42 CFR §483 and NH Administrative Rule He-M 1302, are requirements mandating processes to identify evidence of mental illness or intellectual disabilities or related conditions in individuals seeking admission to, or residing in, Medicaid-certified nursing facilities. These requirements were implemented to eliminate the practice of inappropriately placing individuals in Medicaid-certified nursing facilities. The Pre-Admission Screening and Resident Review process assists with determining whether an individual being evaluated through a Level I Pre-Admission Screen process is suspected to have a mental illness, intellectual disability or a related condition. If so, then further evaluation is required through a Level II evaluation. If evidence of mental illness, intellectual disability, or a related condition exists, further evaluations must be performed to determine whether the individual requires nursing facility level of care and whether the individual has a need for specialized services. Nursing facilities are prohibited from admitting individuals with mental illnesses, intellectual disabilities, or related conditions before the appropriate level of care is determined.

The Level I Pre-Admission Screening is a tool used to identify whether mental illness, intellectual disability, or related condition is suspected for an individual. Hospitals, nursing facilities, and other referring agents complete a Level I Pre-Admission Screening for all individuals who apply to a Medicaid-certified nursing facility, regardless of payment source. If the results are positive for potential mental illness, intellectual disability, or a related condition, the individual is referred to the Pre-Admission Screening and Resident Review Office to schedule a face-to-face Level II Evaluation.

The Level II Evaluation is a comprehensive evaluation required as a result of a positive Level I Screening. A Level II Evaluation is necessary to confirm the indicated diagnosis noted in the Level I Screening and to determine whether placement or continued stay in a Nursing Facility is appropriate. The results of this evaluation result in a determination of need, determination of appropriate setting, and a set of recommendations for services to inform the individual's plan of care.

Nursing facility level of care determination services are mandated by NH RSA 151:3, I (a) and NH Administrative Rules He-E 801 and He-E 802, whenever individuals are seeking Medicaid as the payment source for long-term care services, such as nursing home care or community based care.

The Department will monitor contracted services using monthly reports from the Contractor that must include:

- Demographic information for Level I Preadmission Screenings.
- Demographic information for Level II Evaluations.
- Payment status for Level I Preadmission Screenings and Level II Evaluations.
- Referral status that includes turnaround time from referral date to completion of Level II Evaluations.
- The number of Level II Evaluation determinations.
- Number of Nursing Facility Level of Care determinations and redeterminations completed each month.
- Length of time from application to determination for all initial Nursing Facility Level of Care determinations.
- Number of Nursing Facility Level of Care redeterminations completed prior to the end of the last month of eligibility.
- Number of Nursing Facility Level of Care redeterminations not completed prior to the end of the last month of eligibility.
- Number of each type of individuals' places of residence.
- Number of Nursing Facility Level of Care determinations and redeterminations that result in denials.
- Number of Nursing Facility Level of Care determinations and redeterminations denials appealed and the status of each one.

The Department selected the Contractor through a competitive bid process using a Request for Applications (RFA) that was posted on the Department's website from 2/26/2021 through 4/1/2021. The Department received two (2) responses that were reviewed and scored by a team of qualified individuals. The Scoring Sheet is attached.

As referenced in Exhibit A, Revisions to Standard Agreement Provisions, Section 1, 1.Revisions to Form P-37, General Provisions, subsection 1.1 of the attached contract, the parties have the option to extend the agreement for up to four (4) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and Governor and Council approval.

Should the Governor and Council not authorize this request, individuals seeking admission to, or residing in, Medicaid-certified nursing facilities who request a pre-admission screening or resident review may not be able to receive one, and the

Department may not be able to comply with the Medicare and Medicaid Services Requirements for Long Term Care Facilities, 42 CFR §483 and NH Administrative Rule He-M 1302.

Area served: Statewide

Source of Funds: 75% Federal Funds CFDA 93.778, FAIN NH20164; 25% General funds.

In the event that the Federal Funds become no longer available, additional General Funds will not be requested to support this program.

Respectfully submitted,

Lori Shibinette

Lori A. Shibinette
Commissioner

New Hampshire Department of Health and Human Services
Office of Business Operations
Contracts & Procurement Unit
Summary Scoring Sheet

Pre-Admission Resident Review and Nursing Facility Level of Care Services
RFA Name

RFA-2022-DLTSS-01-PREAD
RFA Number

Bidder Name	Pass/Fail	Maximum Points	Actual Points
1. AFMC		200	160
2. Kepro		200	184

STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
27 Hazen Dr., Concord, NH 03301
Fax: 603-271-1516 TDD Access: 1-800-735-2964
www.nh.gov/doit

Denis Goulet
Commissioner

June 3, 2021

Lori A. Shibinette, Commissioner
Department of Health and Human Services
State of New Hampshire
129 Pleasant Street
Concord, NH 03301

Dear Commissioner Shibinette:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a contract with Keystone Peer Review Organization, Inc. (VC#166973), Nashville, TN as described below and referenced as DoIT No. 2021-078.

This is a request to enter into an agreement for Keystone Peer Review Organization, Inc. to provide Pre-Admission Screening and Resident Reviews for the Department of Health and Human Services, which are federally mandated by 42CFR 483 and also by the NH Administrative Rule He-M 1302 to identify evidence of mental illness, intellectual disability and related conditions for all individuals seeking admission to or currently residing in a Medicaid-certified nursing facility.

The amount of the contract is not to exceed $2,410,008.00, and shall become effective upon the date of Governor and Executive Council approval through June 30, 2023.

A copy of this letter should accompany the Department of Health and Human Services' submission to the Governor for approval.

Sincerely,

Denis Goulet

DG/kaf
DoIT #2021-078
RID: N/A

cc: Michael Williams, IT Manager, DoIT

Subject: Pre-Admission Resident Review & Nursing Facility Level of Care Services (RFA-2022-DLTSS-01-PREAD)

Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name New Hampshire Department of Health and Human Services		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3857	
1.3 Contractor Name Keystone Peer Review Organization, Inc.		1.4 Contractor Address 424 Church Street, Suite 2200 Nashville, TN 37219	
1.5 Contractor Phone Number (717) 265-7036	1.6 Account Number 05-95-48-482010-2164-074-500585	1.7 Completion Date June 30, 2023	1.8 Price Limitation $2,410,008
1.9 Contracting Officer for State Agency Nathan D. White, Director		1.10 State Agency Telephone Number (603) 271-9631	
1.11 Contractor Signature DocuSigned by: Susan T. White, MD Date: 6/1/2021		1.12 Name and Title of Contractor Signatory Dr. Susan T. Weaver President	
1.13 State Agency Signature DocuSigned by: Deborah D. Scheetz Date: 6/2/2021		1.14 Name and Title of State Agency Signatory Deborah D. Scheetz Director Division of Long Term Supports and Services	
1.15 Approval by the N.H. Department of Administration, Division of Personnel *(if applicable)* By:		Director, On:	
1.16 Approval by the Attorney General (Form, Substance and Execution) *(if applicable)* By: DocuSigned by:		On: 6/2/2021	
1.17 Approval by the Governor and Executive Council *(if applicable)* G&C Item number:		G&C Meeting Date:	

Contractor Initials: DS SW
Date: 6/1/2021

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.17, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

Contractor Initials SJW (OS)

Date 6/1/2021

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

8.3. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.

10.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the

Contractor Initials SMW

Date 6/17/2021

Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than $1,000,000 per occurrence and $2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A *("Workers' Compensation").*

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

17. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

18. CHOICE OF LAW AND FORUM. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

19. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

Contractor Initials DS SM

Date 6/17/2021

New Hampshire Department of Health and Human Services
Pre-Admission Resident Review & Nursing Facility Level of Care Services

EXHIBIT A

Revisions to Standard Agreement Provisions

1. Revisions to Form P-37, General Provisions

   1.1. Paragraph 3, Effective Date/Completion of Services, is amended by adding subparagraph 3.3 as follows:

   3.3. The parties may extend the Agreement for up to four (4) additional years from the Completion Date, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.

   1.2. Paragraph 12, Assignment/Delegation/Subcontracts, is amended by adding subparagraph 12.3 as follows:

   12.3. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions. The Contractor shall have written agreements with all subcontractors, specifying the work to be performed and how corrective action shall be managed if the subcontractor's performance is inadequate. The Contractor shall manage the subcontractor's performance on an ongoing basis and take corrective action as necessary. The Contractor shall annually provide the State with a list of all subcontractors provided for under this Agreement and notify the State of any inadequate subcontractor performance.

EXHIBIT B

Scope of Services

1. Statement of Work

1.1. The Contractor shall provide services in this Agreement to individuals seeking admission to, or currently residing in a nursing facility, as directed by the Department and in accordance with timeframes established by the Department.

1.2. The Contractor shall ensure services are provided statewide.

1.3. For the purposes of this Agreement, all references to days shall mean days, defined as Monday through Friday each week, excluding state and federal holidays.

1.4. For the purposes of this Agreement, all references to business hours shall mean Monday through Friday from 8:00 AM to 4:00 PM, excluding state and federal holidays.

1.5. The Contractor shall ensure key staff providing services meet all requirements set forth by federal law, the Centers for Medicare and Medicaid Services (CMS), and applicable state law for scope of practice. All duties must be clearly defined, and responsibilities must be directly related to program operations.

1.6. The Contractor shall adjust delivery of services to comply with a state of emergency declaration, including adjustments for delivery of services during the current pandemic state of emergency, with approval from the Department.

1.7. The Contractor shall comply with the requirements in the Catalog of Federal Domestic Assistance (CFDA) # 93.778 U.S. Department of Health and Human Services, Medical Assistance Program, the Code of Federal Regulations 42 CFR §483, and all applicable state and federal rules, regulations, and laws, including but not limited to:

1.7.1. RSA 167: Public Assistance to Blind, Aged, or Disabled Persons and to Dependent Children;

1.7.2. RSA 151-E: Long Term Care;

1.7.3. He-E 801: Choices for Independence Program;

1.7.4. He-E 802: Nursing Facility Services;

1.7.5. He-M 1302: Nursing Facility Preadmission Screening and Resident Review;

1.7.6. He-W 504: Medicaid for Employed Adults with Disabilities;

1.7.7. Social Security Act Title II: Federal Old-Age, Survivors, and Disability Insurance Benefits, 42 USC 401-433;

1.7.8. Social Security Act Title XVI: Supplemental Security Income for the Aged, Blind and Disabled, 42 USC 1381-1383f;

1.7.9. CFR Appendix 2 to Subpart P of Part 404-Medical-Vocational Guidelines;

1.7.10. Section 209(b): PL 92-603 amending 42 USC Sec 1396(a)(f) The Public Health and Welfare-State Plans for Assistance; and

1.7.11. Section 1903(a) (2): 42 USC Sec 1396(a) (f) The Public Health and Welfare-Payments to States.

1.8. The Contractor shall provide the following services statewide:

1.8.1. Level I Pre-Admission Screening Resident Reviews (PASRR Level I).

1.8.2. Level II Pre Admission Screening Resident Evaluations (PASRR Level II Evaluations).

1.8.3. Nursing Facility Level of Care (NF LOC) determinations for Medicaid payments using the Medical Eligibility Assessment (MEA) tool.

1.9. Pre Admission Screening Resident Review (PASRR Level I):

1.9.1. The Contractor shall review the Level I Pre-Admission Screening (PAS) tool initiated by referrals from health care providers that assist individuals with long-term care (LTC) placement when individual applicants are seeking admission to a Medicaid Certified Nursing Facility (NF), regardless of payment source. The Contractor is not required to complete Level I PAS on individuals transferring from NF to NF, or on individuals re-admitted to NFs after hospital stays.

1.9.2. The Contractor shall work with the referral source to obtain information necessary to identify a suspected mental illness (MI) or intellectual disability (ID) or related condition.

1.9.3. The Contractor shall accept an individual applicant's referral information from the referral source by fax, telephone, or electronic submission in a manner that is consistent with Exhibit K, DHHS Information Security Requirements, and HIPAA requirements.

1.9.4. The Contractor shall complete the review of the Level I PAS and provide the results to the individual's referring health care provider within five (5) business hours of receiving the Level I PAS document.

1.9.5. Upon completion of the Level I PAS, the Contractor shall:

1.9.5.1. Abide by all confidentiality and HIPAA laws and regulations when notifying the referral source of the Level I PAS results by fax, telephone, or electronic notification; and

1.9.5.2. Provide the referral source with consent to immediately proceed with the individual's NF placement; or

1.9.5.3. Advise the referral source that a NF LOC determination is necessary for Medicaid payment purposes and recommend

contact with the local Department of Health and Human Services (DHHS) District Office to initiate the application (Form 800) or the local ServiceLink Resource Center for long-term care options, counseling, and referrals.

1.9.6. The Contractor shall ensure:

1.9.6.1. Level I PAS occurs prior to admission to a Medicaid-Certified NF, regardless of payment source.

1.9.6.2. No more than sixty (60) calendar days expire between the completion of a Level I PAS and placement of an individual into a NF.

1.9.6.3. If an individual's placement is delayed beyond sixty (60) days, a Level I PAS is repeated prior to NF placement.

1.9.6.4. When a Level I PAS identifies evidence of MI, ID or a related condition, a Level II Evaluation is completed, regardless of the individual's payment source, unless the individual meets criteria in Paragraph 1.10.14, Exemptions, Exclusions and Categorical Determinations.

1.9.6.5. The content and documentation of the Level I PAS meets federal regulations and is in Department approved format.

1.10. Pre Admission Screening Resident Review (PASRR Level II Evaluations)

1.10.1. The Contractor shall complete all Level II Evaluations within seven (7) business days when a MI or ID or a related condition has been indicated by Level I Pre-Admission Screenings.

1.10.2. The Contractor shall complete a Level II Evaluation, which must include a face-to-face evaluation in accordance with Subsections 1.5, 1.6, and 1.7. for persons identified as having a MI, ID or a related condition, as the result of a Level I Pre-Admission Screening (PAS), prior to an individual's admission to a NF.

1.10.3. The Contractor shall explain the Level II Evaluation process and determinations to a NF resident, family or resident's representative when requested.

1.10.4. The Contractor shall complete a Resident Review (RR) Level II Evaluation on individuals residing in a NF when there are significant changes that signify the need for first time or updated Level II Evaluation. The Contractor shall:

1.10.4.1. Schedule the Level II evaluation in conjunction with the NF. The Contractor shall:

1.10.4.1.1. Conduct on-site face-to-face evaluations in accordance with Subsections 1.5, 1.6, and 1.7 during

the nursing facility's normal daytime business hours, unless the Contractor and the NF agree to other arrangements, including any adjustments to the provision of services required by COVD-19 protocols or other State Emergency declarations;

1.10.4.1.2. Provide nursing facilities with a minimum of twenty-four (24) hours advance notice for scheduling of evaluations; and

1.10.4.1.3. Exercise flexibility in scheduling in order to avoid conflict with NF schedules.

1.10.4.2. Obtain the minimum data requirements established in 42 CFR § 483 to complete a Level II Evaluation.

1.10.5. The Contractor shall make Level II Evaluation recommendations and determinations on an individualized basis; ensuring the content and documentation of a Level II Evaluation:

1.10.5.1. Meets current federal rules and regulations with evaluative criteria specified in 42 CFR §483 of the final rules for PASRR; and

1.10.5.2. Is in a Department approved format.

1.10.6. The Contractor shall ensure all final Level II Evaluation determinations for individuals with:

1.10.6.1. MI are made and signed by a Qualified Mental Health Professional (QMHP).

1.10.6.2. ID, or a related condition, are made and signed by a Qualified Mental Retardation Professional (QMRP).

1.10.7. The Contractor shall ensure the QMHP and/or QMRP completes a comprehensive summary of findings report, which complies with all elements in 42 CFR § 483.128(i). The Contractor shall ensure:

1.10.7.1. Reports include the name and professional title of the staff member who compiled the report.

1.10.7.2. Reports include the date that the determination was performed.

1.10.7.3. A typed copy of the evaluation report is forwarded to all applicable parties specified in 42 CFR § 483.128 (l).

1.10.7.4. A written summary report and notification letters explaining the report is issued:

1.10.7.4.1. Within forty-eight (48) hours of the QMHP's and/or QMRP's determination for PAS; or

1.10.7.4.2. Within seven (7) business days for all RR Level II Evaluations.

1.10.8. The Contractor shall communicate the findings in Paragraph 1.10.7 to the applicant, resident or guardian in an understandable manner and language, which must include but is not limited to, informing the applicant, resident or guardian of the appeal process through the Department's Administrative Appeals Unit.

1.10.9. The Contractor shall communicate, in a manner consistent with confidentiality and HIPAA requirements, all Level II Evaluation determinations that identify a need for specialized services to the facility or agency or referral source assisting the applicant or resident, within five (5) business days of the decision by telephone, or fax, or e-mail, or electronic submission and in a manner that is consistent with confidentiality and HIPAA requirements.

1.10.10. The Contractor shall document the Level II Evaluation results in the NH Easy on-line system, uploading all related documents.

1.10.11. The Contractor shall ensure that all applicable State of New Hampshire criteria are applied to out-of-state individuals transferring or applying to an in-state NF and that pertinent evaluative data is reviewed and summarized by the QMHP and/or QMRP.

1.10.12. The Contractor shall ensure interdisciplinary coordination among evaluators throughout a Level II Evaluation process.

1.10.13. The Contractor shall utilize a Department approved quality assurance (QA) process to ensure the quality and completeness of submitted data.

1.10.14. Exemptions, Exclusions and Categorical Determinations

1.10.14.1. The Contractor may determine a temporary NF admission should be permitted and determinations may be made that specialized services are not needed for individuals meeting certain conditions.

1.10.14.2. The Contractor may exempt or exclude individuals from Level II Evaluations in accordance with NH Administrative Rule He-M 1302.05, as follows:

1.10.14.2.1. A NF LOC determination is only necessary for individuals applying for a PASRR exemption, exclusion, or categorical determination when the individual is seeking Medicaid payment for the NF admission, unless the individual qualifies for presumptive eligibility under RSA 151-E:18 and He-W 619; and

1.10.14.2.2. The following NF admissions can be permitted following a Level I Pre-Admission Screening:

1.10.14.2.2.1. Admissions from hospitals after receiving acute care; and

1.10.14.2.2.2. Admissions of individuals whose primary diagnosis is dementia.

1.10.14.2.3. Exempted hospital admissions are temporary stays and federally allowed without a Level II Evaluation, provided all of the following conditions are met as set forth in NH Administrative Rule He-M 1302.05.

1.10.14.2.4. The Contractor shall communicate with Medicaid eligibility staff when a NF has not complied with regulations under this provision so that the Department can determine if Medicaid payment should be withheld for stays beyond thirty (30) days that were not reported to the Contractor.

1.10.14.2.5. If at any time it appears that a convalescent care stay may exceed thirty (30) calendar days, the receiving facility must perform updated Level I Pre-Admission Screenings with the Contractor.

1.10.14.2.6. The Contractor shall determine whether the individual continues to require NF care and whether Level II Evaluation may be necessary.

1.10.14.2.7. The Contractor shall perform a Level II evaluation and determination before the fortieth (40th) day from the individual's admission to the nursing facility when one is determined to be necessary.

1.10.14.2.8. Stays extending beyond the approved thirty (30) days must be reported to the Department as they occur.

1.10.14.2.9. Categorical Determinations – The Contractor shall comply with NH Administrative Rule He-M 1302.06 regarding Categorical Determinations as follows:

1.10.14.2.9.1. The Contractor shall communicate with Medicaid eligibility staff when a NF has not complied with regulations under this provision so that the Department can determine if Medicaid payment should be withheld for stays beyond the allowed number of days that were not reported to the Contractor;

1.10.14.2.9.2. If at any time it appears that a convalescent care stay may exceed the allowed number of days, the receiving facility must perform updated Level I Pre-Admission Screenings and ensure that NF LOC is determined for individuals with Medicaid or who are seeking Medicaid as their payment source.;

1.10.14.2.9.3. The Contractor shall determine whether the individual continues to require NF care and whether a Level II Evaluation may be necessary; and

1.10.14.2.9.4. Stays extending beyond the allowed number of days must be reported to the Department as they occur.

1.10.14.2.10. Admission under a Categorical Decision stay may include one of the following scenarios:

1.10.14.2.10.1. In the event of a terminal illness;

1.10.14.2.10.2. A severe physical condition that has resulted in extreme impairment, such as coma, ventilator dependence, or functioning at the brain stem level;

1.10.14.2.10.3. Provisional admission not to exceed thirty (30) days in cases of delirium allows for a temporary admission of individuals whose cognitive status could not be evaluated until the delirium clears;

1.10.14.2.10.4. Convalescent and rehabilitative care admissions from acute care hospitals not to exceed ninety (90) days;

1.10.14.2.10.5. Provisional Emergency applies to NF applicants residing in the community who have evidence of a MI, ID or a related condition and require temporary NF admission of no more than seven (7) days in an emergency protective services situation; or

1.10.14.2.10.6. Respite for the caregiver of the applicant with MI or DD shall be eligible for a stay of twenty (20) days or less within a one-year period. Stays beyond twenty (20) days shall undergo

a level II evaluation and determination prior to the end of the allowed timeframe.

1.10.15. Tracking, Reporting and Service Area

1.10.15.1. The Contractor shall meet all applicable information technology requirements for information technology systems in order to collect, store, and distribute client data. Any new Information Technology systems used or developed to support the PASSR or NF-LOC services in this scope of services must conform to the requirements in Exhibit B-1, Information Technology Requirements, and in Exhibit K, DHHS Information Security Requirements, when implemented.

1.10.15.2. The Contractor shall utilize an internal tracking process for ongoing identification and monitoring of the location of NF residents identified as having MI or ID or related conditions, as defined by 42 CFR § 435 .009.

1.10.15.3. The Contractor shall utilize an internal tracking process of all PASRR Level I Pre-Admission Screening and Level II Evaluation processes from initiation to completion to ensure accurate reporting to the Department.

1.10.15.4. The Contractor shall respond to all questions from the Department and providers regarding the status of reviews and determinations not yet completed.

1.10.15.5.

1.10.15.6. The Contractor shall ensure its New Hampshire customer base has access to a telephone number to reach them when customers have questions regarding PASRR requirements and information. The Contractor shall ensure:

1.10.15.6.1. The telephone number, is included in all correspondence with individuals and providers;

1.10.15.6.2. Sufficient incoming telephone lines are available to prevent the possibility of the receipt of busy signals; and

1.10.15.6.3. Any telephone/e-mail messages requesting a Screening or inquiries regarding Screenings receive a response within six (6) business hours.

1.10.15.7. The Contractor shall have a method to receive medical documentation from its New Hampshire customer base, twenty-four (24) hours a day, seven (7) days per week.

1.10.15.8. The Contractor shall allow providers to choose the method in which to submit information, within confidentiality and HIPAA requirements.

1.10.16. Nursing Facility (NF) Level of Care (LOC) Determinations

1.10.16.1. The Contractor shall complete all Nursing Facility (NF) Level of Care (LOC) determinations for individuals applying for Medicaid home and community-based care through the Choices for Independence Medicaid Waiver (CFI), in accordance with RSA 151-E, Administrative Rules He-E 801 and He-E 802, and, with NF LOC rules and policy requirements for NF LOC determinations established by the Department.

1.10.16.2. The Contractor shall participate in New Heights and NH Easy on-line system training from the Department, which is necessary to complete Nursing Facility (NH) Level of Care (LOC) determinations.

1.10.16.3. The Contractor shall make NF LOC determinations in accordance with NF LOC rules and policy requirements for NF LOC determinations established by the Department.

1.10.16.4. The Contractor shall be sensitive to the needs, preferences and circumstances of:

1.10.16.4.1. Individuals seeking admittance to, or currently residing in, a NF.

1.10.16.4.2. Individuals seeking community-based care.

1.10.16.4.3. Families and supports of individuals who are:

1.10.16.4.3.1. Seeking admittance to a NF;

1.10.16.4.3.2. Currently residing in a NF; or

1.10.16.4.3.3. Seeking community based care services.

1.10.16.5. The Contractor shall initiate a NF LOC determination using criteria established in RSA 151-E, Administrative Rules He-E 801 and He-E 802, and the Medical Eligibility Assessment (MEA) tool, when an application for NF LOC has been assigned by the Department. The Contractor shall ensure documentation for determination includes, but is not limited to:

1.10.16.5.1. Clock drawing.

1.10.16.5.2. Medication lists.

1.10.16.5.3. Authorization forms/releases.

1.10.16.5.4. Medical Eligibility Assessment (MEA).

1.10.16.6. The Contractor shall access the NH Easy on-line system in order to receive notification of:

1.10.16.6.1. New applicants requiring a NF LOC determination. The Contractor shall:

1.10.16.6.1.1. Attempt to contact the applicant a minimum of three (3) times, which must include attempts completed on three (3) different days at three (3) different times when a client would normally receive telephone calls;

1.10.16.6.1.2. Send a letter to the client requesting contact be made if contact has not been made during three (3) attempts;

1.10.16.6.1.3. Record the activity of contacting the client as 'MEA – Unable to Contact,' if all attempts in Line 1.2.5.7.1 are unsuccessful; and

1.10.16.6.1.4. Contact the case manager to coordinate the client's attendance to their redetermination appointment with their support system, which may include, but is not limited to a:

1.10.16.6.1.4.1. Durable Power of Attorney (DPOA) for Health Care.

1.10.16.6.1.4.2. Guardian.

1.10.16.6.1.4.3. Representative form Adult Protective Services.

1.10.16.6.1.4.4. Community provider.

1.10.16.6.1.4.5. Friend.

1.10.16.6.1.4.6. Family member.

1.10.16.6.2. NF LOC determinations due for the annual redetermination for CFI Medicaid Waiver participants, which must be completed seven (7) days prior to the end of the current eligibility period.

1.10.16.7. The Contractor shall generate and provide standard reports to the Department, which include, but are not limited to, monthly reports on:

1.10.16.7.1. The number of individuals reviewed for NF LOC (PASRR and MEA) both new and redeterminations, which must include places of residence.

1.10.16.7.2. The number of individuals for whom NF LOC determinations have been completed, including the length of time to completion of the determinations.

1.10.16.7.3. The outcomes of the NF LOC.

1.10.16.7.4. Demographics of individuals in need of specialized services.

1.10.16.8. The Contractor shall ensure face-to-face nursing facility level of care (NF LOC) determinations are conducted by, at minimum, skilled professional medical personnel as defined in NH RSA 151-E:3, or registered nurses based on criteria established by the Department in accordance with RSA 151-E, Administrative Rules He-E 801 and 802 and the Medical Eligibility Assessment (MEA) tool, and in accordance with Section 1 Request for Services, Subsection 1.2. Requirements. The Contractor shall:

1.10.16.8.1. Access information through the Department to identify:

1.10.16.8.1.1. Individuals who are due for an annual NF LOC redetermination as identified in the Choices for Independence (CFI) Medicaid Waiver Report, currently available on a weekly basis; and

1.10.16.8.1.2. New applicants requiring NF LOC determinations as identified in New HEIGHTS, which must be accessed on a daily basis.

1.10.16.8.2. Complete NF LOC new applicant determinations within seven (7) business days of receiving notification of the new applications.

1.10.16.8.3. Complete NF LOC redeterminations no less than seven (7) days prior to the anniversary date of the most recent NF LOC determination.

1.10.16.8.4. Document NF LOC determination and redetermination results in the New HEIGHTS computer system on a daily basis.

1.10.16.8.5. Collaborate with the Department to implement workflow communication.

1.10.16.8.6. Request relevant medical records when additional information is needed to support NF LOC during the NF LOC determinations. The Contractor shall:

1.10.16.8.6.1. Complete NF LOC eligibility determinations within twenty (20) days;

1.10.16.8.6.2. Ensure reviewers making the NF LOC determinations participate in the Department Administrative Appeal hearings when NF LOC determinations are appealed, including providing written testimony and appearing at hearing as needed; and

1.10.16.8.6.3. Refer individuals determined eligible for NF LOC services who are interested in community-based services to the Department's Long Term Care (LTC) Office.

1.10.16.9. The Contractor shall develop and implement Department-approved Quality Assurance/Quality Improvement Plans to monitor and evaluate all components of the NF LOC program that includes strategies and timeframes for continuous quality improvement activities.

1.10.17. Additional Requirements

1.10.17.1. Within thirty (30) days of the Contract Effective Date The Contractor shall:

1.10.17.1.1. Collaborate with the Department to create transparency and open communication among key Contractor and Department staff in order to establish administrative presence.

1.10.17.1.2. Meet with the Department to ascertain the strengths and weaknesses of the current PASRR systems and resources in order to detail process changes.

1.10.17.1.3. Meet with the Department to acquire metrics relating to volume of records, related documentation and data elements, which include, but are not limited to:

1.10.17.1.3.1. PASRR tracking log and related data.

1.10.17.1.3.2. Data on individuals with SMI, ID or RC.

1.10.17.1.3.3. Demographic information such as NF of record, guardian information when applicable and prior RR evaluation dates.

1.10.17.1.3.4. Client files containing all prior Level II evaluations and related documents.

1.10.17.1.3.5. PASRR process training materials, policy and procedure manuals and notices.

1.10.17.1.4. Collaborate with the Department to develop a list of PASRR referral entities and other stakeholders requiring notification of change and/or training.

1.10.17.2. Within forty-five (45) days of the Agreement effective date, The Contractor shall:

1.10.17.2.1. Provide a communication plan for Department review and approval, including the distribution methods for notices to referral entities and stakeholders as well as responsible noticing entities.

1.10.17.2.2. Provide draft notices for Department review and approval.

1.10.17.2.3. Provide a plan for Department review and approval that details the timing and logistics for records, documentation and data transfers.

1.10.18. Conflict of Interest

1.10.18.1. The Contractor shall comply with the conflict of interest safeguards described in 42 CFR § 438.58, 42 CFR § 431 (c) (1) (vi), and with the prohibitions described in Section 1902(a)(4)(C) of the Social Security Act (42 U.S.C. §1396a(a)(4)(C)) applicable to Contract Officers, employees, or independent Contractors.

1.10.18.2. In accordance with 1902(a)(4)(C) and 1932(d)(3) of the Social Security Act (42 U.S.C. §1396a(a)(4)(C) and 42 U.S.C. §1396u-2(d)(3)), the Contractor shall comply with conflict of interest safeguards with respect to officers, Contract Officers, employees, and independent Contractors of DHHS having responsibilities relating to this Agreement.

1.10.18.3. The Contractor shall have no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor shall not employ any individual or entity having any such known interests, including subsidiaries or entities that could be misconstrued as having a joint relationship. The Contractor shall certify that no officer, director, employee or agent of the Contractor, any subcontractor or supplier and person with an ownership or control interest in the Contractor,

any subcontractor or supplier, is also employed by the State of New Hampshire or any of its agencies, the Department's Agent, or by the Department, CMS or is a public official of the State of New Hampshire.

1.10.18.4. The Contractor shall notify the Department of all actual, apparent, or potential conflicts of interest no later than five (5) calendar days of identifying an actual, apparent, or potential conflicts of interest, including, but not limited to employing an immediate family member of an employee of a Medicaid provider.

1.10.18.5. Notwithstanding paragraph 8, Event of Default, and paragraph 9, Termination, of the General Provisions (Form P-37) of this Agreement, the Contractor shall develop a mitigation plan when requested by the Department, which must be approved and accepted by the Department. The Department must approve any changes to the approved mitigation plan in advance.

1.10.18.6. The Contractor shall maintain one hundred percent (100%) compliance with the mitigation plan requirement in Subparagraph 1.10.18.5, above.

2. Exhibits Incorporated

2.1. The Contractor shall use and disclose Protected Health Information in compliance with the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule) (45 CFR Parts 160 and 164) under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and in accordance with the attached Exhibit I, Business Associate Agreement, which has been executed by the parties.

2.2. The Contractor shall manage all confidential data related to this Agreement in accordance with the terms of Exhibit K, DHHS Information Security Requirements.

2.3. The Contractor shall comply with all Exhibits D through K, which are attached hereto and incorporated by reference herein.

3. Reporting Requirements

3.1. The Contractor shall submit reports to the Department to ensure compliance with all requirements, which include, but are not limited to:

3.1.1. Annual state fiscal year reports by August 1 that include, but are not limited to the following:

3.1.1.1. The number of Level I PAS reviewed; results of the reviews; the number of Level II evaluations; and results of the evaluations delineated by regions of the State.

3.1.1.2. The number of Level II evaluations conducted due to significant changes in status, on-site medical reviews sorted by outcome and service determination with volume totals for each type and category.

3.1.1.3. Turnaround timeframes calculated from date of referral to completion with the total number of reviews and average/median turnaround time.

3.1.1.4. Demographic information sorted by determination and type.

3.1.2. Monthly PASRR reports for each month no later than the end of the following calendar month that include, but are not limited to, the following:

3.1.2.1. Client names.

3.1.2.2. Demographic information for Level I PAS.

3.1.2.3. Demographic information for Level II evaluations.

3.1.2.4. Payment status for Level I PAS and Level II evaluations.

3.1.2.5. Referral status that includes turnaround time from referral date to completion of Level II evaluations.

3.1.2.6. The number of Level II evaluation determinations.

3.1.2.7. Demographic information for persons in need of specialized services.

3.1.3. NF LOC reports that include, but are not limited to:

3.1.3.1. Monthly reports due by the end of each calendar month for activities during the previous month that include, but are not limited to, the:

3.1.3.1.1. Number of determinations and redeterminations completed for the month.

3.1.3.1.2. Length of time from application to determination for all initial determinations.

3.1.3.1.3. Number of redeterminations completed prior to the end of the last month of eligibility.

3.1.3.1.4. Number of redeterminations not completed prior to the end of the last month of eligibility.

3.1.3.1.5. Number of each type of individuals' places of residence.

3.1.3.1.6. Number of denials.

3.1.3.1.7. Number of denials appealed and status of those appeals.

3.1.3.1.8. Reason for each initial or redetermination requiring additional medical information not completed within twenty (20) days.

3.1.4. Ad-hoc reports, as requested by the Department, with the ability to reflect volumes of reviews; volumes of outcomes; percentages of outcomes of each review type; and average lengths of stay per category.

4. Performance Measures

4.1. The Contractor shall achieve the following performance measures:

4.1.1. Submit 95% of completed medical eligibility assessments using the NH Easy on-line system no later than seven (7) days prior to the end of the eligibility period.

4.1.2. Complete 95% of medical eligibility assessment no later than seven (7) business days after receiving the notification.

4.1.3. Complete 95% of PASRR I screenings no later than five (5) business hours after receiving the Level I PASRR document.

4.1.4. Complete 95% of PASSR II evaluations no later than seven (7) business days when a MI or ID or a related condition has been indicated by Level I Pre-Admission Screenings.

4.2. The Contractor shall actively and regularly collaborate with the Department to enhance contract management, improve results, and adjust program delivery and policy based on successful outcomes.

4.3. The Contractor may be required to provide other key data and metrics to the Department, including client-level demographic, performance, and service data.

4.4. Where applicable, the Contractor shall collect and share data with the Department in a format specified by the Department.

5. Additional Terms

5.1. Impacts Resulting from Court Orders or Legislative Changes

5.1.1. The Contractor agrees that, to the extent future state or federal legislation or court orders may have an impact on the Services described herein, the State has the right to modify Service priorities

and expenditure requirements under this Agreement so as to achieve compliance therewith.

5.2. Federal Civil Rights Laws Compliance; Culturally and Linguistically Appropriate Programs and Services

5.2.1. The Contractor shall submit, within ten (10) days of the Agreement Effective Date, a detailed description of the communication access and language assistance services to be provided to ensure meaningful access to programs and/or services to individuals with limited English proficiency; individuals who are deaf or have hearing loss; individuals who are blind or have low vision; and individuals who have speech challenges.

5.3. Credits and Copyright Ownership

5.3.1. All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the Agreement shall include the following statement, "The preparation of this (report, document etc.) was financed under an Contract with the State of New Hampshire, Department of Health and Human Services, with funds provided in part by the State of New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Health and Human Services."

5.3.2. All materials produced or purchased under the Agreement shall have prior approval from the Department before printing, production, distribution or use.

5.3.3. The Department shall retain copyright ownership for any and all original materials produced, including, but not limited to:

5.3.3.1. Brochures.

5.3.3.2. Resource directories.

5.3.3.3. Protocols or guidelines.

5.3.3.4. Posters.

5.3.3.5. Reports.

5.3.4. The Contractor shall not reproduce any materials produced under the Agreement without prior written approval from the Department.

6. Records

6.1. The Contractor shall keep records that include, but are not limited to:

6.1.1. Books, records, documents and other electronic or physical data evidencing and reflecting all costs and other expenses incurred by

the Contractor in the performance of the Contract, and all income received or collected by the Contractor.

6.1.2. All records must be maintained in accordance with accounting procedures and practices, which sufficiently and properly reflect all such costs and expenses, and which are acceptable to the Department, and to include, without limitation, all ledgers, books, records, and original evidence of costs such as purchase requisitions and orders, vouchers, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls, and other records requested or required by the Department.

6.1.3. Statistical, enrollment, attendance or visit records for each recipient of services, which records shall include all records of application and eligibility (including all forms required to determine eligibility for each such recipient), records regarding the provision of services and all invoices submitted to the Department to obtain payment for such services.

6.1.4. Medical records on each patient/recipient of services.

6.2. During the term of this Agreement and the period for retention hereunder, the Department, the United States Department of Health and Human Services, and any of their designated representatives shall have access to all reports and records maintained pursuant to the Agreement for purposes of audit, examination, excerpts and transcripts. Upon the purchase by the Department of the maximum number of units provided for in the Agreement and upon payment of the price limitation hereunder, the Agreement and all the obligations of the parties hereunder (except such obligations as, by the terms of the Agreement are to be performed after the end of the term of this Agreement and/or survive the termination of the Agreement) shall terminate, provided however, that if, upon review of the Final Expenditure Report the Department shall disallow any expenses claimed by the Contractor as costs hereunder the Department shall retain the right, at its discretion, to deduct the amount of such expenses as are disallowed or to recover such sums from the Contractor.

EXHIBIT B-1

Information Technology Requirements

APPLICATION REQUIREMENTS					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor		Comments
GENERAL SPECIFICATIONS					
A1.1	Ability to access data using open standards access protocol (please specify supported versions in the comments field).	M	Compliant	Integrated in Systems	Kepro systems utilize open data formats such as plain text and HTML for storage and data exchange. Any data stored in formats such as Microsoft SQL Server, Oracle, etc. are portable to an open format.
A1.2	Data is available in commonly used format over which no entity has exclusive control, with the exception of National or International standards. Data is not subject to any copyright, patent, trademark or orhter trade secret regulation.	M	Compliant	Integrated in Systems	Kepro systems utilize open data formats such as plain text and HTML for storage and data exchange. Any data stored in formats such as Microsoft SQL Server, Oracle, etc. are portable to an open format.
A1.3	Web-based compatible and in conformance with the following W3C standards: HTML5, CSS 2.1, XML 1.1	M	Compliant	Integrated in Systems	Kepro systems utilize modern web technologies such as HTML5 and CSS3.

EXHIBIT B-1

	APPLICATION SECURITY				
A2.1	Verify the identity or authenticate all of the system client applications before allowing use of the system to prevent access to inappropriate or confidential data or services.	M	Compliant	Integrated in Systems	Kepro systems require all client applications to authenticate to access any system data or services
A2.2	Verify the identity and authenticate all of the system's human users before allowing them to use its capabilities to prevent access to inappropriate or confidential data or services.	M	Compliant	Integrated in Systems	Kepro systems require a unique username and password combination along with two factor authentication for human users
A2.3	Enforce unique user names.	M	Compliant	Integrated in Systems	Kepro systems require a unique username
A2.4	Enforce complex passwords for Administrator Accounts in accordance with DoIT's statewide User Account and Password Policy	M	Compliant	Integrated in Systems	Kepro systems require complex passwords that include all characteristics of strong passwords including upper and lower case letters, special characters, and numbers.
A2.5	Enforce the use of complex passwords for general users using capital letters, numbers and special characters in accordance with DoIT's statewide User Account and Password Policy.	M	Compliant	Integrated in Systems	Kepro systems require complex passwords that include all characteristics of strong passwords including upper and lower case letters, special characters, and numbers
A2.6	Encrypt passwords in transmission and at rest within the database.	M	Compliant	Integrated in Systems	Kepro systems operate over HTTPS/SSL/TLS and all databases are encrypted
A2.7	Establish ability to expire passwords after a definite period of time in accordance with DoIT's statewide User Account and Password Policy	M	Compliant	Integrated in Systems	Password expiration is controlled via system policy. Policies mandate password expiration every 60 days

EXHIBIT B-1

A2.8	Provide the ability to limit the number of people that can grant or change authorizations	M	Compliant	Integrated in Systems	Kepro employs role based access for all systems and grants access upon principle of least privilege
A2.9	Establish ability to enforce session timeouts during periods of inactivity.	M	Compliant	Integrated in Systems	Kepro systems track inactivity against a predefined limit, present warnings when approaching the limit, and automatically log out a user once the limit has been reached
A2.10	The application shall not store authentication credentials or sensitive data in its code.	M	Compliant	Integrated in Systems	Credentials are only stored as salted hashes in an encrypted database
A2.11	Log all attempted accesses that fail identification, authentication and authorization requirements.	M	Compliant	Integrated in Systems	All activity is logged to a database
A2.12	The application shall log all activities to a central server to prevent parties to application transactions from denying that they have taken place.	M	Compliant	Integrated in Systems	All activity is logged to a database
A2.13	All logs must be kept for 12 months.	M	Compliant	Integrated in Systems	
A2.14	The application must allow a human user to explicitly terminate a session. No remnants of the prior session should then remain.	M	Compliant	Integrated in Systems	Kepro systems have a log out procedure available to users that destroy the session
A2.15	Do not use Software and System Services for anything other than they are designed for.	M	Compliant	Integrated in Systems	
A2.16	The application Data shall be protected from unauthorized use when at rest	M	Compliant	Integrated in Systems	Kepro databases are encrypted
A2.17	The application shall keep any sensitive Data or communications private from unauthorized individuals and programs.	M	Compliant	Integrated in Systems	Kepro systems operate over encrypted channels, store all data in encrypted databases, and require authenticated access
A2.18	Subsequent application enhancements or upgrades shall not	M	Compliant	Integrated in Systems	Kepro employs software change control processes to assure proper review of changes

EXHIBIT B-1

	remove or degrade security requirements				to the code to ensure enhancements do not degrade security protections.
A2.19	Utilize change management documentation and procedures	M	Compliant	Integrated in Systems	Kepro current change control process manages all documentation and the procedures related to application changes.
A2.20	Web Services : The service provider shall use Web services exclusively to interface with the State's data in near real time when possible.	M	Compliant	Integrated in Systems	Kepro can utilize a variety of web service technologies and methodologies from our automated orchestration system.

New Hampshire Department of Health and Human Services
Pre-Admission Resident Review & Nursing Facility Level of Care Services

EXHIBIT C

Payment Terms

1. This Agreement is funded by:

   1.1. 75% Federal Funds from Medicaid, as awarded on October 1, 2020, by the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services, CFDA 93.778, FAIN NH20164.

   1.2. 25% General funds.

2. For the purposes of this Agreement:

   2.1. The Department has identified the Contractor as a subrecipient, in accordance with 2 CFR 200.331.

   2.2. The Department has identified this Agreement as NON-R&D, in accordance with 2 CFR §200.332.

   2.3. The de minimis Indirect Cost Rate of 10% applies in accordance with 2 CFR §200.414.

3. Payment shall be on a fixed monthly rate of $100,417 for services provided in accordance with Exhibit B, Scope of Services.

4. The Contractor shall submit an invoice in a form satisfactory to the Department by the fifteenth (15th) working day of the following month, which identifies and requests reimbursement for authorized expenses incurred in the prior month. The Contractor shall ensure the invoice is completed, dated and returned to the Department in order to initiate payment.

5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to dhhs.beasinvoices@dhhs.nh.gov or invoices may be mailed to:

   Financial Manager
   Department of Health and Human Services
   Bureau of Elderly and Adult Services
   1o5 Pleasant Street
   Concord, NH 03301

6. The Department shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available, subject to Paragraph 4 of the General Provisions Form Number P-37 of this Agreement.

7. The final invoice shall be due to the Department no later than forty (40) days after the contract completion date specified in Form P-37, General Provisions Block 1.7 Completion Date.

8. The Contractor must provide the services in Exhibit B, Scope of Services, in compliance with funding requirements.

9. The Contractor agrees that funding under this Agreement may be withheld, in whole or in part in the event of non-compliance with the terms and conditions of Exhibit B, Scope of Services.

10. Notwithstanding anything to the contrary herein, the Contractor agrees that funding under this agreement may be withheld, in whole or in part, in the event of non-compliance with any Federal or State law, rule or regulation applicable to the services provided, or if the said services or products have not been satisfactorily completed in accordance with the terms and conditions of this agreement.

11. Notwithstanding Paragraph 17 of the General Provisions Form P-37, changes limited to adjusting amounts within the price limitation and adjusting encumbrances between State Fiscal Years and budget class lines through the Budget Office may be made by written agreement of both parties, without obtaining approval of the Governor and Executive Council, if needed and justified.

12. Audits

12.1. The Contractor is required to submit an annual audit to the Department if any of the following conditions exist:

12.1.1. Condition A - The Contractor expended $750,000 or more in federal funds received as a subrecipient pursuant to 2 CFR Part 200, during the most recently completed fiscal year.

12.1.2. Condition B - The Contractor is subject to audit pursuant to the requirements of NH RSA 7:28, III-b, pertaining to charitable organizations receiving support of $1,000,000 or more.

12.1.3. Condition C - The Contractor is a public company and required by Security and Exchange Commission (SEC) regulations to submit an annual financial audit.

12.2. If Condition A exists, the Contractor shall submit an annual single audit performed by an independent Certified Public Accountant (CPA) to the Department within 120 days after the close of the Contractor's fiscal year, conducted in accordance with the requirements of 2 CFR Part 200, Subpart F of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards.

12.3. If Condition B or Condition C exists, the Contractor shall submit an annual financial audit performed by an independent CPA within 120 days after the close of the Contractor's fiscal year.

12.4. Any Contractor that receives an amount equal to or greater than $250,000 from the Department during a single fiscal year, regardless of the funding source, may be required, at a minimum, to submit annual

financial audits performed by an independent CPA if the Department's risk assessment determination indicates the Contractor is high-risk.

12.5. In addition to, and not in any way in limitation of obligations of the Contract, it is understood and agreed by the Contractor that the Contractor shall be held liable for any state or federal audit exceptions and shall return to the Department all payments made under the Contract to which exception has been taken, or which have been disallowed because of such an exception.

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The Vendor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE - CONTRACTORS

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691), and require certification by grantees (and by inference, sub-grantees and sub-contractors), prior to award, that they will maintain a drug-free workplace. Section 3017.630(c) of the regulation provides that a grantee (and by inference, sub-grantees and sub-contractors) that is a State may elect to make one certification to the Department in each federal fiscal year in lieu of certificates for each grant during the federal fiscal year covered by the certification. The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment. Contractors using this form should send it to:

Commissioner
NH Department of Health and Human Services
129 Pleasant Street,
Concord, NH 03301-6505

1. The grantee certifies that it will or will continue to provide a drug-free workplace by:
   - 1.1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
   - 1.2. Establishing an ongoing drug-free awareness program to inform employees about
     - 1.2.1. The dangers of drug abuse in the workplace;
     - 1.2.2. The grantee's policy of maintaining a drug-free workplace;
     - 1.2.3. Any available drug counseling, rehabilitation, and employee assistance programs; and
     - 1.2.4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
   - 1.3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
   - 1.4. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will
     - 1.4.1. Abide by the terms of the statement; and
     - 1.4.2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
   - 1.5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 1.4.2 from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency

has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

1.6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 1.4.2, with respect to any employee who is so convicted

1.6.1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

1.6.2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

1.7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6.

2. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant.

Place of Performance (street address, city, county, state, zip code) (list each location)

Check ☐ if there are workplaces on file that are not identified here.

Vendor Name:

DocuSigned by:
Susan T. Weaver, MD
[illegible]

6/1/2021
Date

Name: Dr. Susan T. Weaver
Title: President

CERTIFICATION REGARDING LOBBYING

The Vendor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE - CONTRACTORS

Programs (indicate applicable program covered):
*Temporary Assistance to Needy Families under Title IV-A
*Child Support Enforcement Program under Title IV-D
*Social Services Block Grant Program under Title XX
*Medicaid Program under Title XIX
*Community Services Block Grant under Title VI
*Child Care Development Block Grant under Title IV

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor).

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor), the undersigned shall complete and submit Standard Form LLL, (Disclosure Form to Report Lobbying, in accordance with its instructions, attached and identified as Standard Exhibit E-I.)

3. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Vendor Name:

6/1/2021
Date

DocuSigned by:
Susan T. Weaver
Name: Dr. Susan T. Weaver
Title: President

Vendor Initials DS SW
Date 6/1/2021

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Executive Office of the President, Executive Order 12549 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal (contract), the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the NH Department of Health and Human Services' (DHHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when DHHS determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, DHHS may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the DHHS agency to whom this proposal (contract) is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76. See the attached definitions.

6. The prospective primary participant agrees by submitting this proposal (contract) that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DHHS.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by DHHS, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or involuntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (of excluded parties).

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and

information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, DHHS may terminate this transaction for cause or default.

PRIMARY COVERED TRANSACTIONS

11. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
    - 11.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    - 11.2. have not within a three-year period preceding this proposal (contract) been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or a contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - 11.3. are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (l)(b) of this certification; and
    - 11.4. have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

12. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal (contract).

LOWER TIER COVERED TRANSACTIONS

13. By signing and submitting this lower tier proposal (contract), the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:
    - 13.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
    - 13.2. where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal (contract).

14. The prospective lower tier participant further agrees by submitting this proposal (contract) that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Contractor Name:

6/1/2021
Date

DocuSigned by:
Susan T. Weaver
Name: Dr. Susan T. Weaver
Title: President

CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS PERTAINING TO FEDERAL NONDISCRIMINATION, EQUAL TREATMENT OF FAITH-BASED ORGANIZATIONS AND WHISTLEBLOWER PROTECTIONS

The Contractor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

Contractor will comply, and will require any subgrantees or subcontractors to comply, with any applicable federal nondiscrimination requirements, which may include:

- the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. Section 3789d) which prohibits recipients of federal funding under this statute from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act requires certain recipients to produce an Equal Employment Opportunity Plan;

- the Juvenile Justice Delinquency Prevention Act of 2002 (42 U.S.C. Section 5672(b)) which adopts by reference, the civil rights obligations of the Safe Streets Act. Recipients of federal funding under this statute are prohibited from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act includes Equal Employment Opportunity Plan requirements;

- the Civil Rights Act of 1964 (42 U.S.C. Section 2000d, which prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin in any program or activity);

- the Rehabilitation Act of 1973 (29 U.S.C. Section 794), which prohibits recipients of Federal financial assistance from discriminating on the basis of disability, in regard to employment and the delivery of services or benefits, in any program or activity;

- the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12131-34), which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation;

- the Education Amendments of 1972 (20 U.S.C. Sections 1681, 1683, 1685-86), which prohibits discrimination on the basis of sex in federally assisted education programs;

- the Age Discrimination Act of 1975 (42 U.S.C. Sections 6106-07), which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. It does not include employment discrimination;

- 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Executive Order No. 13279 (equal protection of the laws for faith-based and community organizations); Executive Order No. 13559, which provide fundamental principles and policy-making criteria for partnerships with faith-based and neighborhood organizations;

- 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations); and Whistleblower protections 41 U.S.C. §4712 and The National Defense Authorization Act (NDAA) for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013) the Pilot Program for Enhancement of Contract Employee Whistleblower Protections, which protects employees against reprisal for certain whistle blowing activities in connection with federal grants and contracts.

The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment.

In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, to the applicable contracting agency or division within the Department of Health and Human Services, and to the Department of Health and Human Services Office of the Ombudsman.

The Contractor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this proposal (contract) the Contractor agrees to comply with the provisions indicated above.

Contractor Name:

DocuSigned by:
Susan T. Weaver, ND

6/1/2021
Date

Name: Dr. Susan T. Weaver
Title: President

CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, 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 does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

The Contractor identified in Section 1.3 of the General Provisions agrees, by signature of the Contractor's representative as identified in Section 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this contract, the Contractor agrees to make reasonable efforts to comply with all applicable provisions of Public Law 103-227, Part C, known as the Pro-Children Act of 1994.

Contractor Name:

6/1/2021
Date

DocuSigned by:
Susan T. Weaver, MD
Name: Dr. Susan T. Weaver
Title: President

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT BUSINESS ASSOCIATE AGREEMENT

The Contractor identified in Section 1.3 of the General Provisions of the Agreement agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164 applicable to business associates. As defined herein, "Business Associate" shall mean the Contractor and subcontractors and agents of the Contractor that receive, use or have access to protected health information under this Agreement and "Covered Entity" shall mean the State of New Hampshire, Department of Health and Human Services.

(1) Definitions.

a. "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.

b. "Business Associate" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.

c. "Covered Entity" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.

d. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR Section 164.501.

e. "Data Aggregation" shall have the same meaning as the term "data aggregation" in 45 CFR Section 164.501.

f. "Health Care Operations" shall have the same meaning as the term "health care operations" in 45 CFR Section 164.501.

g. "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, TitleXIII, Subtitle D, Part 1 & 2 of the American Recovery and Reinvestment Act of 2009.

h. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160, 162 and 164 and amendments thereto.

i. "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.501(g).

j. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.

k. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR Section 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

l. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.103.

m. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.

n. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C, and amendments thereto.

o. "Unsecured Protected Health Information" means protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

p. Other Definitions - All terms not otherwise defined herein shall have the meaning established under 45 C.F.R. Parts 160, 162 and 164, as amended from time to time, and the HITECH
Act.

(2) **Business Associate Use and Disclosure of Protected Health Information.**

a. Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, Business Associate, including but not limited to all its directors, officers, employees and agents, shall not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.

b. Business Associate may use or disclose PHI:
   I. For the proper management and administration of the Business Associate;
   II. As required by law, pursuant to the terms set forth in paragraph d. below; or
   III. For data aggregation purposes for the health care operations of Covered Entity.

c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance with the HIPAA Privacy, Security, and Breach Notification Rules of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.

d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, the Business

Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.

e. If the Covered Entity notifies the Business Associate that Covered Entity has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional security safeguards.

(3) Obligations and Activities of Business Associate.

a. The Business Associate shall notify the Covered Entity's Privacy Officer immediately after the Business Associate becomes aware of any use or disclosure of protected health information not provided for by the Agreement including breaches of unsecured protected health information and/or any security incident that may have an impact on the protected health information of the Covered Entity.

b. The Business Associate shall immediately perform a risk assessment when it becomes aware of any of the above situations. The risk assessment shall include, but not be limited to:

- The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
- The unauthorized person used the protected health information or to whom the disclosure was made;
- Whether the protected health information was actually acquired or viewed
- The extent to which the risk to the protected health information has been mitigated.

The Business Associate shall complete the risk assessment within 48 hours of the breach and immediately report the findings of the risk assessment in writing to the Covered Entity.

c. The Business Associate shall comply with all sections of the Privacy, Security, and Breach Notification Rule.

d. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for purposes of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.

e. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section 3 (l). The Covered Entity shall be considered a direct third party beneficiary of the Contractor's business associate agreements with Contractor's intended business associates, who will be receiving PHI

pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard Paragraph #13 of the standard contract provisions (P-37) of this Agreement for the purpose of use and disclosure of protected health information.

f. Within five (5) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.

g. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.

h. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.

i. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.

j. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.

k. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.

l. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business

Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

(4) Obligations of Covered Entity

a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR Section 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI.

b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR Section 164.506 or 45 CFR Section 164.508.

c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(5) Termination for Cause

In addition to Paragraph 10 of the standard terms and conditions (P-37) of this Agreement the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(6) Miscellaneous

a. Definitions and Regulatory References. All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.

b. Amendment. Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity to comply with the changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.

c. Data Ownership. The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.

d. Interpretation. The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule.

Contractor Initials SW

Date 6/1/2021

e. Segregation. If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.

f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section (3) I, the defense and indemnification provisions of section (3) e and Paragraph 13 of the standard terms and conditions (P-37), shall survive the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit I.

Department of Health and Human Services	KEPRO
The State by:	Name of the Contractor
Deborah D. Scheetz	Susan T. Weaver, MD
Signature of Authorized Representative	Signature of Authorized Representative
Deborah D. Scheetz	Dr. Susan T. Weaver
Name of Authorized Representative	Name of Authorized Representative
Director Division of Long Term Supports and Services	President
Title of Authorized Representative	Title of Authorized Representative
6/2/2021	6/1/2021
Date	Date

CERTIFICATION REGARDING THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) COMPLIANCE

The Federal Funding Accountability and Transparency Act (FFATA) requires prime awardees of individual Federal grants equal to or greater than $25,000 and awarded on or after October 1, 2010, to report on data related to executive compensation and associated first-tier sub-grants of $25,000 or more. If the initial award is below $25,000 but subsequent grant modifications result in a total award equal to or over $25,000, the award is subject to the FFATA reporting requirements, as of the date of the award.

In accordance with 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), the Department of Health and Human Services (DHHS) must report the following information for any subaward or contract award subject to the FFATA reporting requirements:

1. Name of entity
2. Amount of award
3. Funding agency
4. NAICS code for contracts / CFDA program number for grants
5. Program source
6. Award title descriptive of the purpose of the funding action
7. Location of the entity
8. Principle place of performance
9. Unique identifier of the entity (DUNS #)
10. Total compensation and names of the top five executives if:
    - 10.1. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than $25M annually and
    - 10.2. Compensation information is not already available through reporting to the SEC.

Prime grant recipients must submit FFATA required data by the end of the month, plus 30 days, in which the award or award amendment is made.

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of The Federal Funding Accountability and Transparency Act, Public Law 109-282 and Public Law 110-252, and 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

The below named Contractor agrees to provide needed information as outlined above to the NH Department of Health and Human Services and to comply with all applicable provisions of the Federal Financial Accountability and Transparency Act.

Contractor Name:

DocuSigned by:
Susan T. Weaver, ND

6/1/2021
Date

Name: Dr. Susan T. Weaver
Title: President

FORM A

As the Contractor identified in Section 1.3 of the General Provisions, I certify that the responses to the below listed questions are true and accurate.

1. The DUNS number for your entity is: 15-542-1159

2. In your business or organization's preceding completed fiscal year, did your business or organization receive (1) 80 percent or more of your annual gross revenue in U.S. federal contracts, subcontracts, loans, grants, sub-grants, and/or cooperative agreements; and (2) $25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

   X NO _____ YES

   If the answer to #2 above is NO, stop here

   If the answer to #2 above is YES, please answer the following:

3. Does the public have access to information about the compensation of the executives in your business or organization through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

   _____ NO _____ YES

   If the answer to #3 above is YES, stop here

   If the answer to #3 above is NO, please answer the following:

4. The names and compensation of the five most highly compensated officers in your business or organization are as follows:

   Name: _____ Amount: _____

   Name: _____ Amount: _____

   Name: _____ Amount: _____

   Name: _____ Amount: _____

   Name: _____ Amount: _____

New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements

A. Definitions

The following terms may be reflected and have the described meaning in this document:

1. "Breach" means the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic. With regard to Protected Health Information, "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.

2. "Computer Security Incident" shall have the same meaning "Computer Security Incident" in section two (2) of NIST Publication 800-61, Computer Security Incident Handling Guide, National Institute of Standards and Technology, U.S. Department of Commerce.

3. "Confidential Information" or "Confidential Data" means all confidential information disclosed by one party to the other such as all medical, health, financial, public assistance benefits and personal information including without limitation, Substance Abuse Treatment Records, Case Records, Protected Health Information and Personally Identifiable Information.

   Confidential Information also includes any and all information owned or managed by the State of NH - created, received from or on behalf of the Department of Health and Human Services (DHHS) or accessed in the course of performing contracted services - of which collection, disclosure, protection, and disposition is governed by state or federal law or regulation. This information includes, but is not limited to Protected Health Information (PHI), Personal Information (PI), Personal Financial Information (PFI), Federal Tax Information (FTI), Social Security Numbers (SSN), Payment Card Industry (PCI), and or other sensitive and confidential information.

4. "End User" means any person or entity (e.g., contractor, contractor's employee, business associate, subcontractor, other downstream user, etc.) that receives DHHS data or derivative data in accordance with the terms of this Contract.

5. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder.

6. "Incident" means an act that potentially violates an explicit or implied security policy, which includes attempts (either failed or successful) to gain unauthorized access to a system or its data, unwanted disruption or denial of service, the unauthorized use of a system for the processing or storage of data; and changes to system hardware, firmware, or software characteristics without the owner's knowledge, instruction, or consent. Incidents include the loss of data through theft or device misplacement, loss or misplacement of hardcopy documents, and misrouting of physical or electronic

mail, all of which may have the potential to put the data at risk of unauthorized access, use, disclosure, modification or destruction.

7. "Open Wireless Network" means any network or segment of a network that is not designated by the State of New Hampshire's Department of Information Technology or delegate as a protected network (designed, tested, and approved, by means of the State, to transmit) will be considered an open network and not adequately secure for the transmission of unencrypted PI, PFI, PHI or confidential DHHS data.

8. "Personal Information" (or "PI") means information which can be used to distinguish or trace an individual's identity, such as their name, social security number, personal information as defined in New Hampshire RSA 359-C:19, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.

9. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.

10. "Protected Health Information" (or "PHI") has the same meaning as provided in the definition of "Protected Health Information" in the HIPAA Privacy Rule at 45 C.F.R. § 160.103.

11. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Part 164, Subpart C, and amendments thereto.

12. "Unsecured Protected Health Information" means Protected Health Information that is not secured by a technology standard that renders Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

I. RESPONSIBILITIES OF DHHS AND THE CONTRACTOR

A. Business Use and Disclosure of Confidential Information.

1. The Contractor must not use, disclose, maintain or transmit Confidential Information except as reasonably necessary as outlined under this Contract. Further, Contractor, including but not limited to all its directors, officers, employees and agents, must not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.

2. The Contractor must not disclose any Confidential Information in response to a

request for disclosure on the basis that it is required by law, in response to a subpoena, etc., without first notifying DHHS so that DHHS has an opportunity to consent or object to the disclosure.

3. If DHHS notifies the Contractor that DHHS has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Contractor must be bound by such additional restrictions and must not disclose PHI in violation of such additional restrictions and must abide by any additional security safeguards.
4. The Contractor agrees that DHHS Data or derivative there from disclosed to an End User must only be used pursuant to the terms of this Contract.
5. The Contractor agrees DHHS Data obtained under this Contract may not be used for any other purposes that are not indicated in this Contract.
6. The Contractor agrees to grant access to the data to the authorized representatives of DHHS for the purpose of inspecting to confirm compliance with the terms of this Contract.

II. METHODS OF SECURE TRANSMISSION OF DATA

1. Application Encryption. If End User is transmitting DHHS data containing Confidential Data between applications, the Contractor attests the applications have been evaluated by an expert knowledgeable in cyber security and that said application's encryption capabilities ensure secure transmission via the internet.
2. Computer Disks and Portable Storage Devices. End User may not use computer disks or portable storage devices, such as a thumb drive, as a method of transmitting DHHS data.
3. Encrypted Email. End User may only employ email to transmit Confidential Data if email is encrypted and being sent to and being received by email addresses of persons authorized to receive such information.
4. Encrypted Web Site. If End User is employing the Web to transmit Confidential Data, the secure socket layers (SSL) must be used and the web site must be secure. SSL encrypts data transmitted via a Web site.
5. File Hosting Services, also known as File Sharing Sites. End User may not use file hosting services, such as Dropbox or Google Cloud Storage, to transmit Confidential Data.
6. Ground Mail Service. End User may only transmit Confidential Data via *certified* ground mail within the continental U.S. and when sent to a named individual.
7. Laptops and PDA. If End User is employing portable devices to transmit Confidential Data said devices must be encrypted and password-protected.
8. Open Wireless Networks. End User may not transmit Confidential Data via an open

wireless network. End User must employ a virtual private network (VPN) when remotely transmitting via an open wireless network.

9. Remote User Communication. If End User is employing remote communication to access or transmit Confidential Data, a virtual private network (VPN) must be installed on the End User's mobile device(s) or laptop from which information will be transmitted or accessed.
10. SSH File Transfer Protocol (SFTP), also known as Secure File Transfer Protocol. If End User is employing an SFTP to transmit Confidential Data, End User will structure the Folder and access privileges to prevent inappropriate disclosure of information. SFTP folders and sub-folders used for transmitting Confidential Data will be coded for 24-hour auto-deletion cycle (i.e. Confidential Data will be deleted every 24 hours).
11. Wireless Devices. If End User is transmitting Confidential Data via wireless devices, all data must be encrypted to prevent inappropriate disclosure of information.

III. RETENTION AND DISPOSITION OF IDENTIFIABLE RECORDS

The Contractor will only retain the data and any derivative of the data for the duration of this Contract. After such time, the Contractor will have 30 days to destroy the data and any derivative in whatever form it may exist, unless, otherwise required by law or permitted under this Contract. To this end, the parties must:

A. Retention

1. The Contractor agrees it will not store, transfer or process data collected in connection with the services rendered under this Contract outside of the United States. This physical location requirement shall also apply in the implementation of cloud computing, cloud service or cloud storage capabilities, and includes backup data and Disaster Recovery locations.
2. The Contractor agrees to ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.
3. The Contractor agrees to provide security awareness and education for its End Users in support of protecting Department confidential information.
4. The Contractor agrees to retain all electronic and hard copies of Confidential Data in a secure location and identified in section IV. A.2
5. The Contractor agrees Confidential Data stored in a Cloud must be in a FedRAMP/HITECH compliant solution and comply with all applicable statutes and regulations regarding the privacy and security. All servers and devices must have currently-supported and hardened operating systems, the latest anti-viral, anti-hacker, anti-spam, anti-spyware, and anti-malware utilities. The environment, as a

whole, must have aggressive intrusion-detection and firewall protection.

6. The Contractor agrees to and ensures its complete cooperation with the State's Chief Information Officer in the detection of any security vulnerability of the hosting infrastructure.

B. Disposition

1. If the Contractor will maintain any Confidential Information on its systems (or its sub-contractor systems), the Contractor will maintain a documented process for securely disposing of such data upon request or contract termination; and will obtain written certification for any State of New Hampshire data destroyed by the Contractor or any subcontractors as a part of ongoing, emergency, and or disaster recovery operations. When no longer in use, electronic media containing State of New Hampshire data shall be rendered unrecoverable via a secure wipe program in accordance with industry-accepted standards for secure deletion and media sanitization, or otherwise physically destroying the media (for example, degaussing) as described in NIST Special Publication 800-88, Rev. 1, Guidelines for Media Sanitization, National Institute of Standards and Technology, U. S. Department of Commerce. The Contractor will document and certify in writing at time of the data destruction, and will provide written certification to the Department upon request. The written certification will include all details necessary to demonstrate data has been properly destroyed and validated. Where applicable, regulatory and professional standards for retention requirements will be jointly evaluated by the State and Contractor prior to destruction.
2. Unless otherwise specified, within thirty (30) days of the termination of this Contract, Contractor agrees to destroy all hard copies of Confidential Data using a secure method such as shredding.
3. Unless otherwise specified, within thirty (30) days of the termination of this Contract, Contractor agrees to completely destroy all electronic Confidential Data by means of data erasure, also known as secure data wiping.

IV. PROCEDURES FOR SECURITY

A. Contractor agrees to safeguard the DHHS Data received under this Contract, and any derivative data or files, as follows:

1. The Contractor will maintain proper security controls to protect Department confidential information collected, processed, managed, and/or stored in the delivery of contracted services.
2. The Contractor will maintain policies and procedures to protect Department confidential information throughout the information lifecycle, where applicable, (from creation, transformation, use, storage and secure destruction) regardless of the media used to store the data (i.e., tape, disk, paper, etc.).

3. The Contractor will maintain appropriate authentication and access controls to contractor systems that collect, transmit, or store Department confidential information where applicable.

4. The Contractor will ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.

5. The Contractor will provide regular security awareness and education for its End Users in support of protecting Department confidential information.

6. If the Contractor will be sub-contracting any core functions of the engagement supporting the services for State of New Hampshire, the Contractor will maintain a program of an internal process or processes that defines specific security expectations, and monitoring compliance to security requirements that at a minimum match those for the Contractor, including breach notification requirements.

7. The Contractor will work with the Department to sign and comply with all applicable State of New Hampshire and Department system access and authorization policies and procedures, systems access forms, and computer use agreements as part of obtaining and maintaining access to any Department system(s). Agreements will be completed and signed by the Contractor and any applicable sub-contractors prior to system access being authorized.

8. If the Department determines the Contractor is a Business Associate pursuant to 45 CFR 160.103, the Contractor will execute a HIPAA Business Associate Agreement (BAA) with the Department and is responsible for maintaining compliance with the agreement.

9. The Contractor will work with the Department at its request to complete a System Management Survey. The purpose of the survey is to enable the Department and Contractor to monitor for any changes in risks, threats, and vulnerabilities that may occur over the life of the Contractor engagement. The survey will be completed annually, or an alternate time frame at the Departments discretion with agreement by the Contractor, or the Department may request the survey be completed when the scope of the engagement between the Department and the Contractor changes.

10. The Contractor will not store, knowingly or unknowingly, any State of New Hampshire or Department data offshore or outside the boundaries of the United States unless prior express written consent is obtained from the Information Security Office leadership member within the Department.

11. Data Security Breach Liability. In the event of any security breach Contractor shall make efforts to investigate the causes of the breach, promptly take measures to prevent future breach and minimize any damage or loss resulting from the breach. The State shall recover from the Contractor all costs of response and recovery from

the breach, including but not limited to: credit monitoring services, mailing costs and costs associated with website and telephone call center services necessary due to the breach.

12. Contractor must, comply with all applicable statutes and regulations regarding the privacy and security of Confidential Information, and must in all other respects maintain the privacy and security of PI and PHI at a level and scope that is not less than the level and scope of requirements applicable to federal agencies, including, but not limited to, provisions of the Privacy Act of 1974 (5 U.S.C. § 552a), DHHS Privacy Act Regulations (45 C.F.R. §5b), HIPAA Privacy and Security Rules (45 C.F.R. Parts 160 and 164) that govern protections for individually identifiable health information and as applicable under State law.

13. Contractor agrees to establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality of the Confidential Data and to prevent unauthorized use or access to it. The safeguards must provide a level and scope of security that is not less than the level and scope of security requirements established by the State of New Hampshire, Department of Information Technology. Refer to Vendor Resources/Procurement at https://www.nh.gov/doit/vendor/index.htm for the Department of Information Technology policies, guidelines, standards, and procurement information relating to vendors.

14. Contractor agrees to maintain a documented breach notification and incident response process. The Contractor will notify the State's Privacy Officer and the State's Security Officer of any security breach immediately, at the email addresses provided in Section VI. This includes a confidential information breach, computer security incident, or suspected breach which affects or includes any State of New Hampshire systems that connect to the State of New Hampshire network.

15. Contractor must restrict access to the Confidential Data obtained under this Contract to only those authorized End Users who need such DHHS Data to perform their official duties in connection with purposes identified in this Contract.

16. The Contractor must ensure that all End Users:

    a. comply with such safeguards as referenced in Section IV A. above, implemented to protect Confidential Information that is furnished by DHHS under this Contract from loss, theft or inadvertent disclosure.

    b. safeguard this information at all times.

    c. ensure that laptops and other electronic devices/media containing PHI, PI, or PFI are encrypted and password-protected.

    d. send emails containing Confidential Information only if encrypted and being sent to and being received by email addresses of persons authorized to receive such information.

e. limit disclosure of the Confidential Information to the extent permitted by law.

f. Confidential Information received under this Contract and individually identifiable data derived from DHHS Data, must be stored in an area that is physically and technologically secure from access by unauthorized persons during duty hours as well as non-duty hours (e.g., door locks, card keys, biometric identifiers, etc.).

g. only authorized End Users may transmit the Confidential Data, including any derivative files containing personally identifiable information, and in all cases, such data must be encrypted at all times when in transit, at rest, or when stored on portable media as required in section IV above.

h. in all other instances Confidential Data must be maintained, used and disclosed using appropriate safeguards, as determined by a risk-based assessment of the circumstances involved.

i. understand that their user credentials (user name and password) must not be shared with anyone. End Users will keep their credential information secure. This applies to credentials used to access the site directly or indirectly through a third party application.

Contractor is responsible for oversight and compliance of their End Users. DHHS reserves the right to conduct onsite inspections to monitor compliance with this Contract, including the privacy and security requirements provided in herein, HIPAA, and other applicable laws and Federal regulations until such time the Confidential Data is disposed of in accordance with this Contract.

V. LOSS REPORTING

The Contractor must notify the State's Privacy Officer and Security Officer of any Security Incidents and Breaches immediately, at the email addresses provided in Section VI.

The Contractor must further handle and report Incidents and Breaches involving PHI in accordance with the agency's documented Incident Handling and Breach Notification procedures and in accordance with 42 C.F.R. §§ 431.300 - 306. In addition to, and notwithstanding, Contractor's compliance with all applicable obligations and procedures, Contractor's procedures must also address how the Contractor will:

1. Identify Incidents;
2. Determine if personally identifiable information is involved in Incidents;
3. Report suspected or confirmed Incidents as required in this Exhibit or P-37;
4. Identify and convene a core response group to determine the risk level of Incidents and determine risk-based responses to Incidents; and

5. Determine whether Breach notification is required, and, if so, identify appropriate Breach notification methods, timing, source, and contents from among different options, and bear costs associated with the Breach notice as well as any mitigation measures.

Incidents and/or Breaches that implicate PI must be addressed and reported, as applicable, in accordance with NH RSA 359-C:20.

VI. PERSONS TO CONTACT

A. DHHS Privacy Officer:

DHHSPrivacyOfficer@dhhs.nh.gov

B. DHHS Security Officer:

DHHSInformationSecurityOffice@dhhs.nh.gov