



## *Riverside County Foundation For Medical Care*

May 16, 2017

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The Riverside County Foundation for Medical Care (RCFMC), in cooperation with the Riverside County Medical Association (RCMA) and the County of Riverside, is the administrator of the Maddy/Emergency Medical Services Fund (EMSF) program. This fund reimburses physicians for unpaid emergency room based claims. During the last fiscal year, the fund paid out over 2.4 million dollars to Riverside County physicians.

The Maddy EMS program requires all participating providers to re-enroll every two years. The current enrollment period will begin on July 1, 2017 and expires on June 30, 2019. Claims with date of service after June 30, 2017 will require current enrollment for the claim to be considered for reimbursement.

If you are currently participating in the Maddy EMS program, or would like to enroll, attached is an enrollment packet. Forms are also available for download on RCMA's home page at, [www.rcmanet.org/maddy](http://www.rcmanet.org/maddy).

**Physicians Must complete Exhibits A, B & C and may e-mail to [nzepeda@rfasi.com](mailto:nzepeda@rfasi.com), mail to RCFMC at the address listed below or fax to (951) 686-1363.**

These forms must be received prior to claims being considered eligible. If you are a large group and would like to enroll as a group, please contact RCFMC for instructions.

If you have any questions regarding the Maddy EMSF program, please contact Nancy Zepeda at 951-686-9049 extension 307.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Lawrence E. Clark".

Lawrence E. Clark, M.D.  
President  
RCFMC

A handwritten signature in blue ink, appearing to read "Joseph E. Scherger".

Joseph E. Scherger, M.D.  
President  
RCMA

**RIVERSIDE COUNTY  
MADDY EMS FUND  
PHYSICIAN  
REIMBURSEMENT  
PROGRAM**

**PROVIDER ENROLLMENT FORM**

Physician enrollment is required every two years. This enrollment is valid for claim submission for dates of service **BEGINNING JULY 1, 2017** and **ENDING JUNE 30, 2019**. Enrollment is open and can be completed at any time during the enrollment period. Please notify RCFMC of any name, address or Tax ID changes which occur following enrollment.

PHYSICIAN:

LAST

FIRST

MI

PHYSICIAN ADDRESS: \_\_\_\_\_

CITY \_\_\_\_\_ ZIP CODE \_\_\_\_\_ E-MAIL ADDRESS \_\_\_\_\_

TELEPHONE NO: ( ) \_\_\_\_\_ CONTACT PERSON: \_\_\_\_\_

PRIMARY SPECIALTY: \_\_\_\_\_ STATE LICENSE NUMBER: \_\_\_\_\_

NPI NUMBER \_\_\_\_\_ PAYEE TAX I.D. # \_\_\_\_\_  
(If member of a group, tax i.d. needs only to be listed below in group section)

PAYEE ADDRESS: \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

IF PAYEE IS A PHYSICIAN GROUP, COMPLETE GROUP INFORMATION BELOW:

GROUP NAME: \_\_\_\_\_

PAYEE TAX I.D. # \_\_\_\_\_

IF USING A BILLING COMPANY, COMPLETE BILLING COMPANY INFORMATION BELOW:

COMPANY NAME: \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ ZIP CODE \_\_\_\_\_

TELEPHONE NO: ( ) \_\_\_\_\_ CONTACT PERSON \_\_\_\_\_

LIST ALL HOSPITALS IN RIVERSIDE COUNTY WHERE THE ENROLLED PHYSICIAN PROVIDES EMERGENCY MEDICAL SERVICES (If more room is needed, please list on separate page and send with completed enrollment):

HOSPITAL NAME: \_\_\_\_\_ ADDRESS \_\_\_\_\_

HOSPITAL NAME: \_\_\_\_\_ ADDRESS \_\_\_\_\_

HOSPITAL NAME: \_\_\_\_\_ ADDRESS \_\_\_\_\_

HOSPITAL NAME: \_\_\_\_\_ ADDRESS \_\_\_\_\_

If information on this form changes in any way, a new provider application must be submitted with the corrected information. Each physician providing services claimed under this program must complete this application.

As a condition of claiming reimbursement under the Emergency Medical Services Fund Program, I certify that the above information is true, and complete to the best of my knowledge.

\_\_\_\_\_  
SIGNATURE OF PHYSICIAN

\_\_\_\_\_  
DATE

**IMPORTANT:** For prompt processing, return this form to:  
RIVERSIDE COUNTY FOUNDATION FOR MEDICAL CARE (RCFMC), MADDY EMS FUND  
3993 JURUPA AVE. RIVERSIDE, CA 92506 – or - Fax to: (951) 686-1363

**RIVERSIDE COUNTY  
MADDY EMERGENCY MEDICAL SERVICES FUND (EMSF)**

**CONDITIONS OF PARTICIPATION AGREEMENT**

- I must ask the patient if there is a responsible private or public third-party source of payment which provides emergency services reimbursement.
- I must document 3 attempts to collect payment from the patient or the responsible private or public third-party.
- If there is a responsible private or public third-party source of payment reported by the patient, I must make a reasonable effort to collect payment and receive a rejection due to an exclusion of emergency services benefits.
- I must contact the hospital prior to submitting a claim to verify that the patient has not become eligible for any government sponsored programs (physicians are not responsible for determining eligibility).
- I will repay this program in full upon receiving payment from any other source.
- I understand that reimbursements are issued quarterly.
- I have read and agree to abide by the Maddy EMSF Billing Procedures in **Exhibit D**.
- I have read and agree to abide by the Business Associates Agreement in **Exhibit G**.
- I agree to participate in the Riverside County Medical Association’s dispute resolution program for resolving disputes relating to claims for reimbursement from the fund.
- **DISCLAIMER: In order to accept reimbursement from the Maddy EMSF program, I agree to abide by the program rules and any other regulations that may be required, including audit requests. By signing below I acknowledge and accept the Conditions of Participation and understand that any failure to comply with these rules could result in financial penalties and possible removal from program participation.**

PHYSICIAN'S NAME (TYPE OR PRINT)	GROUP NAME
PHYSICIAN'S SIGNATURE	DATE
SPECIALTY	TAX IDENTIFICATION NUMBER
NPI NUMBER	STATE LICENSE NUMBER

Please submit claims to:      Riverside County Foundation for Medical Care (RCFMC)  
    Maddy EMS Fund  
    3993 Jurupa Ave, Riverside CA 92506

Exhibit C

Return this form to RCFMC

**AUTHORIZATION AGREEMENT FOR DIRECT DEPOSITS (ACH CREDITS)**

Provider/Group Name \_\_\_\_\_ TAX ID Number \_\_\_\_\_

I (we) hereby authorize the **Riverside County Foundation for Medical Care**, hereinafter called COMPANY, to initiate credit and, if necessary, debit entries and adjustments for any credit entries in error to my (our) select one:

Checking Account      or       Savings Account

Indicated below, at the depository Financial Institution named below, and to credit or debit the same from such account. I (we) acknowledge that the authority will remain in effect until I (we) have cancelled it in writing and that the origination of ACH transactions to my (our) account must comply with the provisions of U.S. law.

Account Number:

No change to the above account information       Above account information has changed  
(Please skip financial institution information and sign below)      (Please complete below to update information)

Change in E-mail address Only (Financial Institution information not required)

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**FINANCIAL INSTITUTION INFORMATION  
PLEASE COMPLETE AND PRINT CLEARLY**

Financial Institution \_\_\_\_\_ Branch: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Account Name \_\_\_\_\_

Routing Number \_\_\_\_\_ Account Number \_\_\_\_\_  
(The first 9 numbers from the left at the bottom of your check is the Bank Routing Number)

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This authorization is to remain in full force and effect until COMPANY has received written notification from me (us) of its termination in such time, and in such manner as to afford COMPANY and Financial Institution a reasonable opportunity to act on it.

Name(s) \_\_\_\_\_ TAX ID Number \_\_\_\_\_  
Authorized Signee (Please Print)

Signature \_\_\_\_\_ Date \_\_\_\_\_

Telephone Number \_\_\_\_\_

E-Mail Address to send Remittance Advice (RA) \_\_\_\_\_

Return Form to:                      Maddy EMSF Program  
Riverside County Foundation for Medical Care  
3993 Jurupa Avenue  
Riverside CA 92506

**Please Note:**                      **Any changes to your account must be reported immediately to the Maddy EMSF Program for proper reimbursement.**

## RIVERSIDE COUNTY MADDY EMERGENCY MEDICAL SERVICES FUND (EMSF) BILLING PROCEDURES

### I. INTRODUCTION

This document defines the procedures which must be followed by any physician seeking reimbursement under the Maddy EMSF Program. Submission of a claim by a physician under these procedures establishes (1) a contractual relationship between the County of Riverside and the enrolled physician covering the services provided and (2) signifies physician's acceptance of all terms and conditions herein.

### II. PHYSICIAN ELIGIBILITY

- A. Physicians must complete and return the following forms:
1. Exhibit A, the **Program Enrollment Provider Form**,
  2. Exhibit B, the **Conditions of Participation Agreement** and
  3. Exhibit C, the **Authorization Agreement for Direct Deposits**
- B. The required forms outlined above must be presented to Riverside County Foundation for Medical Care (RCFMC) before reimbursement can be made. Claims with a date of service after **July 1, 2017** will be denied or rejected if said agreement is not on file with RCFMC at the time of submission.
- C. Physicians who provide emergency services to eligible patients at a hospital in Riverside County (excluding Riverside County Regional Medical Center.)
- D. Physicians must maintain records regarding all transactions submitted to RCFMC for a period of **three (3) years** from the date of service.

### III. CLAIM ELIGIBILITY/BILLING EFFORTS

- A. Reimbursement is limited to emergency services provided on the first calendar day, and on the immediately following two calendar days, not to exceed a 48-hour period of continuous service to the patient.
- B. Reimbursement is limited to services provided to a patient who **does not** have health insurance coverage for emergency services and cannot afford to pay for emergency services and care. Third-Party reimbursement includes:
1. Third Party Payor
  2. Workers Compensation
- OR**
3. Any other program funded in whole or in part by the federal government, including Medi-Cal, Medicare or MISP.
    - a. The **only exception** is for claims submitted through Section 1011 of the federal Medicare Prescription Drug, Improvement and Modernization Act
- C. Prior to submission of the bill to RCFMC, and for purposes of this claim process, reimbursement for unpaid physician billings shall be limited to the following:
1. Patients for whom physician has conducted reasonable inquiry to determine if there is a responsible private or public third-party source of payment; and
  2. Either of the following has occurred:
    - a) A period of **three (3) months** has passed from the date of service, during which time physician has made at least three (3) attempts to obtain reimbursement

from all possible payment sources and has not received payment for any portion of the amount billed. (With the exception of Section 1011)

- b) Physician has received actual notification from the patient or responsible third party, that no payment will be made for the services, due to an exclusion of emergency services benefits.
3. Upon receipt of reimbursement from RCFMC under this claims process, physician must cease any current, and waive all future, collection efforts to obtain reimbursement from the patient or responsible third-party. During the period after a claim has been submitted and prior to receipt of reimbursement, the physician may continue attempts to collect from the patient. However, once the physician receives reimbursement from RCFMC, further collection efforts must cease.
4. If, after receiving reimbursement from RCFMC hereunder, physician is reimbursed by a patient or a responsible third party, physician shall immediately notify RCFMC in writing of the payment, and reimburse RCFMC the full amount previously received from RCFMC.
5. A period of no greater than one (1) year has passed from the date of service.

**IV. INSTRUCTIONS FOR CLAIMS SUBMISSION (Please see Exhibit E)**  
**MAIL CLAIM(S) TO:**

Riverside County Foundation for Medical Care (RCFMC)  
Maddy EMS Fund  
3993 Jurupa Ave  
Riverside, CA 92506

**V. INFORMATION CONTACTS**

For status of claims and program/policy issues, call:  
Riverside County Foundation for Medical Care (951) 686-9049  
Please allow at least 30 days following the end of the quarter to inquire about claim status.

**VI. ELECTRONIC BILLING**

Large physician groups may submit claims electronically. Please contact RCFMC for further information.

**VII. APPEAL REQUESTS**

Appeal requests, must be received by RCFMC within six (6) months from the original denial date, and include a copy of the original Remittance Advice (RA). All appeal requests must be mailed to RCFMC Attn: Maddy EMSF Appeals, 3993 Jurupa Ave, Riverside, CA 92506.

**VII. REFUNDS**

All refunds for the Maddy EMS Program must include a copy of the Remittance Advice (RA) and a reason for the refund. Submit all refunds to RCFMC Attn: Maddy EMSF Refunds, 3993 Jurupa Ave, Riverside, CA 92506.

**VIII. REIMBURSEMENT VIA DIRECT DEPOSIT (ACH CREDITS)**

The Maddy EMS Program reimburses physicians via direct deposits (ACH Credits). Each physician/group is required to complete the Authorization Agreement for Direct Deposits (Exhibit C) in order to receive the ACH credits to your account. A Remittance Advice (RA) will be sent separately via secured email to the authorized email address listed on Exhibit C.

# RIVERSIDE COUNTY

## MADDY EMS FUND Services/Eligibility

**EMERGENCY SERVICES AND CARE DEFINED:** “Emergency services and care means medical screening, examination, and evaluation by a physician, or to the extent permitted by applicable law, by other appropriate personnel under supervision of a physician, to determine if an emergency medical condition or active labor exists, and if it does, the care, treatment, and surgery by a provider necessary to relieve or eliminate the emergency medical condition within the capability of the facility.”

**EMERGENCY MEDICAL CONDITION DEFINED:** “Emergency medical condition means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

- a) Placing the patient’s health in serious jeopardy
- b) Serious impairment to bodily functions
- c) Serious dysfunction of any bodily organ or part
- d) ‘Active labor’, which means labor at a time at which either of the following would occur:
  - 1) There is inadequate time to safely transfer the patient to another hospital prior to delivery;
  - 2) A transfer may pose a threat to the health and safety of the patient or the unborn child.”

**THE FOLLOWING SERVICES ARE NOT PAYABLE BY THE EMSF PROGRAM;**

- |   |                             |                          |
|---|-----------------------------|--------------------------|
| 1. Prescriptions/Refills                        | 3. Physical Exams           | 5. Substance Abuse/Detox |
| 2. Psych evaluations with CPT codes 90801-90911 | 4. Well Care/ Immunizations |                          |

**PROGRAM CRITERION FOR PAYMENT ELIGIBILITY**

1. **Only hospital-based emergency services** are compensable and only on the calendar day on which the services were rendered and on the immediately following two calendar days (**not to exceed a 48-hour period of continuous service**). Services must be performed by a physician or in conjunction with a nurse practitioner or physician’s assistant under the direct supervision of a physician. All services, including radiology and pathology, must be rendered on-site where the patient is being treated.
2. **Services rendered following stabilization** are not reimbursable. Stabilization is at the point when the patient no longer requires emergency medical services and care as defined above.
3. **The physician must make a reasonable effort** to collect for services from all possible payment sources. This requires a minimum of (3) requests for payment. A claim is deemed rejected or denied, if notifications are received from the third party and/or patient stating that emergency care is not a plan benefit or the patient was not eligible during the date of service.
  - a) If a patient has emergency room benefits, and the third-party rejects or denies payment, the claim is rendered ineligible for filing with this program. The physician should contact the hospital prior to submitting the claim to ensure the patient has not already become eligible for any government-sponsored programs (MediCal, Medicare). Physicians are not responsible for determining actual eligibility.
4. **Medicare Eligible.** If the patient is eligible for Medicare, physician must bill Medicare and reimburse the Maddy EMSF program if any funds are received.
5. **Each claim submitted** should be on a CMS-1500 (02-12) claim form and include the **emergency room “face” (cover) sheet**. If the claim and/or the face sheet states there is a responsible third-party, a rejection or denial should also accompany the claim.
6. **The current RBRVS fee schedule** will be the basis for compensation, with a percentage applied based on funding. **Reimbursements under the program are issued quarterly.**
7. **Payment to the physician**, in any amount, from any other source renders the claim ineligible for filing with this program.
  - a) **Exception:** The only exception is for claims submitted through Section 1011 of the federal Medicare Prescription Drug, Improvement and Modernization Act of 2003. Reimbursement can never exceed billed charges in any event.
8. **Physicians must maintain records** regarding these transactions for a period of three (3) years from the date of service. Such records must be available for audit by the RCFMC or other appointed agencies. If records do not support the claim, a fifty (50) percent penalty may be applied to any amount due back to the program.
9. **A Remittance Advice (RA)** will be sent when processing is complete and payment is made. The RA will show all payments and denials for the quarter the claims were received. All payments are based on adequate funds in the Maddy EMSF program.
10. **Claims are to be submitted to:** RCFMC, Maddy EMS Fund, 3993 Jurupa Ave, Riverside, CA 92506.
11. **All claims must be submitted within one year of the date of service.**
12. **Ineligible claims include but are not limited to:**
  - a) **Non-emergent pediatric and obstetrical services rendered in the physician’s office**, such as well baby exams, immunizations, routine exams, and sterilizations.
  - b) **Services rendered in a free standing urgent care center or a physician’s office.**
  - c) **Services rendered at Riverside County Regional Medical Center.**

## RIVERSIDE COUNTY MADDY EMS FUND INSTRUCTIONS FOR COMPLETING CLAIMS FORM

### Completion of CMS-1500 (02-12) Form

All applicable fields on the CMS-1500 (02-12) form **must** be completed, including information specifically required by the Maddy program, listed below:

- ✓ Box 1: Information should be from the Hospital Admitting Information Sheet
  - The CMS-1500 section at the top of the form indicating *Medicare, Medicaid, Champus, Group Health Plan, Other*, will only be accepted when “Other” is checked or the section is left blank.
    - **If any other box is checked (*Medicare, Medicaid, Group Health Plan, etc.*) the claim will be rejected.**
- ✓ Box 1a: Social Security Number, if available. If no social security number is available a random identifier will be assigned by payor.
- ✓ Box 9c/11b: Employment information from Hospital Emergency Room Face Sheet.
- ✓ Box 9d/11c: Insurance information from Hospital Emergency Room Face Sheet.
- ✓ Box 23: **Time of admit to ER from Hospital Emergency Room Face Sheet.**
- ✓ Box 24: Please use all 6 line items for services, if necessary, before submitting a second form for the same encounter.
- ✓ Box 24J: Enter Physician NPI number
- ✓ Box 32: Name and address of facility from Hospital Emergency Room Face Sheet

### **Attachments and Form order:**

1. CMS-1500 (02-12)
2. **Hospital Emergency Room Face Sheet (required)**
3. Explanation of Benefits from Health Plan or Third Party (if applicable)
4. Medical records (You do not need to submit medical records unless you feel either the diagnosis submitted or the coding for services rendered require additional documentation.)

**Submit Claims to: RCFMC – MADDY EMSF PROGRAM  
3993 Jurupa Ave, Riverside, CA 92506**

***Claims must be submitted within one year of the  
date of service to be considered eligible.***



**RIVERSIDE COUNTY FOUNDATION FOR MEDICAL CARE  
MADDY EMS FUND**

**BUSINESS ASSOCIATE AGREEMENT**

THIS BUSINESS ASSOCIATE AGREEMENT (the "Agreement"), supplements and is made a part of the Conditions of Participation Agreement and entered into effective as of the First day of July, 2017, is made by and between the Physician or Physician Group ("BUSINESS ASSOCIATE"), and Riverside County Foundation for Medical ("RCFMC"), with reference to the following:

WHEREAS, BUSINESS ASSOCIATE and RCFMC have each agreed that the parties must take certain actions to comply with applicable federal and state privacy, security and confidentiality laws; and

NOW, THEREFORE, for adequate consideration, the receipt and sufficiency of which are hereby acknowledged by each party, BUSINESS ASSOCIATE and RCFMC, intending to be legally bound, mutually agree to the following terms and conditions:

1. Intent of the Parties. RCFMC wishes to disclose certain information to BUSINESS ASSOCIATE pursuant to the terms of a services agreement previously entered into between the parties ("Master Services Agreement") and also pursuant to this Agreement (sometimes collectively referred to as, this "Agreement"), some of which may constitute Protected Health Information ("PHI"). Both parties intend to protect the privacy and provide for the security of PHI disclosed to BUSINESS ASSOCIATE pursuant to this Agreement in compliance with (a) HIPAA, Public Law 104-191, and the regulations promulgated thereunder by the U.S. Department of Health and Human Services ("HIPAA Regulations"), (b) the Health Information Technology for Economic and Clinical Health Act, Public Law 111-105 ("the HITECH Act") and (c) other applicable laws including, but not limited to, (i) Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations ("C.F.R."), (ii) Confidentiality of Medical Information Act of 1981, California Civil Code Sections 56 et seq. (General Patient Medical Records); (iii) California Welfare & Institutions Code Sections 5328.6 and 5328.7 (Mental Health Records); and (iv) 42 U.S.C. Sections 290dd-2; 42 C.F.R., Part 2, Section 2.31 (Alcohol and Drug Abuse Records), all as the same may be amended from time to time.

2. Definitions.

- a. Breach shall have the same meaning given to such terms under the HITECH Act, 42 U.S.C. Section 17921.
- b. Business Associate shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.

- c. Covered Entity shall have the same meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- d. Data Aggregation shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 165.501.
- e. Designated Record Set shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. Electronic Protected Health Information means Protected Health Information that is maintained in or transmitted by electronic media.
- g. Electronic Health Record shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
- h. Health Care Operations shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- i. Privacy Rule shall mean the HIPAA Regulation that is codified at 45 C.F.R. Part 160 and 164, Subparts A and E.
- j. Protected Health Information or PHI means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of any individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501 as well as the following patient identifiable information: (1) name; (2) address, including street address, city, county, zip code and equivalent geocodes; (3) names of relatives; (4) names of employers; (5) date of birth; (6) telephone numbers; (7) facsimile numbers; (8) electronic mail address(es); (9) social security number; (10) medical record number; (11) health plan beneficiary number; (12) account number; (13) certificate/license number(s); (14) any vehicle or other device serial number; (15) World Wide Web Universal Resource Number (WURL); (16) Internet Protocol (IP) address number; (17) finger or voice prints; (18) photographic images; and (19) any other unique identifying number, characteristic, or code that may be available to us (and our

employees and agents) which could be used, alone or in combination with other information, to identify an individual. Protected Health Information includes Electronic Protected Health Information.

- k. Protected Information shall mean PHI provided by RCFMC to BUSINESS ASSOCIATE or created and received by BUSINESS ASSOCIATE on RCFMC's behalf.
- l. Security Rule shall mean the HIPAA Regulation that is codified at 45 C.F.R. Part 160 and 164, Subparts A and C.
- m. Unsecured PHI shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).
- n. Required by Law shall have the same meaning given to the term "required by law" under HIPAA and the HIPAA Regulations, including, but not limited to, 45 C.F.R. Section 164.501.

3. Security and Confidentiality of PHI. BUSINESS ASSOCIATE shall maintain the security and confidentiality of PHI as required by applicable laws and regulations, including HIPAA and the HIPAA Regulations. BUSINESS ASSOCIATE shall, relative to the Services, use PHI solely to perform the Services and as permitted by applicable law; provided that in no event shall BUSINESS ASSOCIATE be required to perform any work that would require BUSINESS ASSOCIATE to obtain unauthorized access to any PHI in violation of applicable federal or state laws governing such information.

Without limiting the generality of the foregoing:

- a. Use of PHI. BUSINESS ASSOCIATE shall not use or further disclose PHI otherwise than as Required by Law or as expressly permitted or required by this Agreement in accordance with the specifications set forth in the Master Services Agreement. Further, BUSINESS ASSOCIATE shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by RCFMC. BUSINESS ASSOCIATE may use PHI for purposes of (i) managing or administering its internal business processes related to its provision of the Services, (ii) carrying out the legal responsibilities of BUSINESS ASSOCIATE, or (iii) for Data Aggregation purposes for the Health Care Operations of RCFMC.
- b. Disclosure of PHI. Except as permitted under this Agreement, BUSINESS ASSOCIATE shall not disclose PHI to any other person or entity other than members of BUSINESS ASSOCIATE's workforce as reasonably necessary to perform the Services.

BUSINESS ASSOCIATE shall advise members of its workforce who have access to PHI of BUSINESS ASSOCIATE's obligations under the terms of this Agreement, including those relating to HIPAA, the HIPAA Regulations, the Privacy Rule, and the HITECH Act. BUSINESS ASSOCIATE shall take appropriate disciplinary action against any member of its workforce who uses or discloses PHI in violation of this Agreement. If BUSINESS ASSOCIATE discloses Protected Information to a third party, BUSINESS ASSOCIATE must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to notify BUSINESS ASSOCIATE of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach.

- c. Prohibited Uses and Disclosures. BUSINESS ASSOCIATE shall not use or disclose Protected Information for fundraising or marketing purposes. BUSINESS ASSOCIATE shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for health care item or service to which the PHI solely relates, in accordance with 42 U.S.C. Section 17935(a). BUSINESS ASSOCIATE shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of RCFMC and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2); however, this prohibition shall not affect payment by RCFMC to BUSINESS ASSOCIATE for services provided pursuant to the Contract.
- d. Safeguards. BUSINESS ASSOCIATE shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement. BUSINESS ASSOCIATE shall maintain a written information security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the BUSINESS ASSOCIATE's operations and the nature and scope of its activities. Such safeguards shall protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. BUSINESS ASSOCIATE shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316.

- e. Reporting of Improper Access, Use or Disclosures. BUSINESS ASSOCIATE shall report to RCFMC in writing of any access, use or disclosure of Protected Information not permitted by the Contract and Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than 10 calendar days after discovery. BUSINESS ASSOCIATE shall maintain a record of all disclosures of PHI made otherwise than for the purposes of this Agreement, including the related name, date of the disclosure, the address of the recipient of the PHI, a brief description of the PHI disclosed, and the purpose of the disclosure. BUSINESS ASSOCIATE shall make such record available to RCFMC upon request.
- f. Subcontractors. BUSINESS ASSOCIATE shall ensure that any agents, including subcontractors, to whom it provides PHI received from (or created or received by BUSINESS ASSOCIATE on behalf of) RCFMC agree to the same restrictions and conditions that apply to BUSINESS ASSOCIATE with respect to such PHI in this Agreement and implement the safeguards required by paragraph (n) below, with respect to Electronic PHI. BUSINESS ASSOCIATE shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see C.F.R. Sections 164.530(f) and 164.530(e)(1)).
- g. Disclosure to U.S. Department of Health and Human Services. BUSINESS ASSOCIATE shall make its internal practices, books, and records relating to the use and disclosure of PHI received from RCFMC (or created, received, and/or transferred by BUSINESS ASSOCIATE on behalf of RCFMC) available to the Secretary upon request, for purposes of determining RCFMC'S compliance with HIPAA and the HIPAA Regulations. BUSINESS ASSOCIATE shall provide to RCFMC a copy of any Protected Information that BUSINESS ASSOCIATE provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- h. Availability of Information to RCFMC. BUSINESS ASSOCIATE shall make Protected Information maintained by BUSINESS ASSOCIATE or its agents or subcontractors in Designated Record Sets available to RCFMC for inspection an copy within ten (10) days of a request by RCFMC to enable RCFMC to fulfill its obligations under Privacy Rule, including, but not limited to, 45 C.F.R. Sections 164.524 and 164.528. If BUSINESS ASSOCIATE maintains Electronic Health Record, BUSINESS ASSOCIATE shall provide such information in electronic format to enable RCFMC to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(c).

- i. Amendment to PHI. Within ten (10) days of receipt of a request from RCFMC for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BUSINESS ASSOCIATE or its agents or subcontractors shall make RCFMC's PHI available to RCFMC, as RCFMC may require, to fulfill RCFMC's obligations to amend PHI pursuant to HIPAA and the HIPAA Regulations, including but not limited to 45 C.F.R. Section 164.526 and BUSINESS ASSOCIATE shall, as directed by RCFMC, incorporate any amendments to RCFMC's PHI into copies of such PHI maintained by BUSINESS ASSOCIATE. If any individual requests an amendment of Protected Information directly from BUSINESS ASSOCIATE or its agents or subcontractors, BUSINESS ASSOCIATE must notify RCFMC in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by BUSINESS ASSOCIATE or its agents or subcontractors shall be the responsibility of RCFMC.
- j. Accounting Rights. Within ten (10) days of notice by RCFMC of a request of an accounting of disclosures of Protected Information, BUSINESS ASSOCIATE and its agents or subcontractors shall make available to RCFMC the information required to provide an accounting of disclosures to enable RCFMC to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to, 42 U.S.C. Section 1935(c), as determined by RCFMC. BUSINESS ASSOCIATE agrees to implement a process that allows for an accounting to be collected and maintained by BUSINESS ASSOCIATE and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures for an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BUSINESS ASSOCIATE maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to BUSINESS ASSOCIATE or its agents or subcontractors, BUSINESS ASSOCIATE shall within five (5) days of the request forward it to RCFMC in writing. It shall be RCFMC's responsibility to prepare and deliver any such accounting requested. BUSINESS ASSOCIATE shall not disclose any

Protected Information except as set forth in Sections 3.b. of this Agreement. The provisions of this subparagraph i shall survive the termination of this Agreement.

- k. Minimum Necessary. BUSINESS ASSOCIATE (and its agents or subcontractors) shall request, use and disclose a “limited data set” unless a greater amount of PHI is the minimum necessary to accomplish the purposes of the use, disclosure or request. BUSINESS ASSOCIATE understands that the definition of “minimum necessary” is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes “minimum necessary.”
- l. Data Ownership. BUSINESS ASSOCIATE acknowledges that BUSINESS ASSOCIATE has no ownership rights with respect to the Protected Information.
- m. Breach Pattern or Practice by BUSINESS ASSOCIATE. Pursuant to 42 U.S.C. Section 17934(b), if the RCFMC knows of a pattern of activity or practice of the BUSINESS ASSOCIATE that constitutes a material breach or violation of the BUSINESS ASSOCIATE’S obligations under the Contract or Agreement or other arrangement, the RCFMC must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the RCFMC must terminate the Contract or any other arrangement if feasible. RCFMC shall provide written notice to BUSINESS ASSOCIATE of any pattern of activity or practice of the BUSINESS ASSOCIATE that RCFMC believes constitutes a material breach or violation of BUSINESS ASSOCIATE’S obligations under the Contract or Agreement or other arrangement within five (5) days of discovery and shall meet with BUSINESS ASSOCIATE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.
- n. HIPAA Security Standards for the Protection of Electronic Protected Health Information (the “HIPAA Security Rule”).
  - (1) Definitions. The parties agree that any capitalized terms shall have the same definition as given to them under HIPAA and the HIPAA Regulations.
  - (2) Security Safeguards. BUSINESS ASSOCIATE shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI that BUSINESS ASSOCIATE creates, receives, maintains, or transmits on behalf of RCFMC as required by the HIPAA Security Rule.

- (3) Reporting. BUSINESS ASSOCIATE shall report within five (5) days, in writing, to the Privacy Officer of RCFMC any Security Incident of which the BUSINESS ASSOCIATE becomes aware.
- (4) Agents and Subcontractors. BUSINESS ASSOCIATE shall insure that any of its agents or subcontractors to whom BUSINESS ASSOCIATE provides PHI shall implement reasonable and appropriate safeguards to protect the PHI. BUSINESS ASSOCIATE shall also ensure that each such agent or subcontractor agrees in writing to be bound by the same terms and conditions that apply to BUSINESS ASSOCIATE with respect to PHI. In addition, BUSINESS ASSOCIATE agrees that it shall not disclose any PHI to an agent or subcontractor located outside of the United States without the prior express written consent of RCFMC
- (5) Encryption. Electronic Protected Health Information transmitted or otherwise transferred between RCFMC and BUSINESS ASSOCIATE must be encrypted by a process that renders the Electronic Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals within the meaning of HITECH §13402 and any implementing guidance, including but not limited to 42 CFR 164.402.

4. Notification and Report of Unauthorized Disclosures. BUSINESS ASSOCIATE shall notify RCFMC within five (5) days of any breach of security, intrusion or unauthorized disclosure of PHI and/or any disclosure of Data in violation of any applicable federal or state laws or regulations. BUSINESS ASSOCIATE shall take prompt corrective action to cure any such deficiencies and any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

5. Procedure Upon Termination. Within sixty (60) days of termination of this Agreement which term shall run concurrently with the Master Services Agreement, BUSINESS ASSOCIATE shall return or destroy all PHI received from, or created or received by BUSINESS ASSOCIATE or its agents or subcontractors on behalf of RCFMC that BUSINESS ASSOCIATE or its agents or subcontractors still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the provisions of this Section to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible. If RCFMC elects destruction of the PHI, BUSINESS ASSOCIATE shall certify in writing to RCFMC that such PHI has been destroyed. This paragraph shall survive termination of the Master Services Agreement.

- a. Material Breach. A breach by BUSINESS ASSOCIATE of any provision of this Agreement, as determined by RCFMC, shall



constitute a material breach of the Contract and shall provide grounds for immediate termination of the Contract, any provision in the Contract to the contrary notwithstanding.

- b. Judicial or Administrative Proceeding. RCFMC may terminate the Contract, effective immediately, if (i) BUSINESS ASSOCIATE is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, or the HIPAA Regulations or any other security or privacy laws or (ii) a finding or stipulation that the BUSINESS ASSOCIATE has violated any standard or requirement of HIPAA, the HITECH Act, or the HIPAA Regulations or any other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

6. Disclaimer. RCFMC makes no warranty or representation that compliance by BUSINESS ASSOCIATE with this Agreement, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for BUSINESS ASSOCIATE's own purposes. BUSINESS ASSOCIATE is solely responsible for all decisions made by BUSINESS ASSOCIATE regarding the safeguarding of PHI.

7. Amendment.

- a. Amendment to Comply with Law. The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Contract or Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such actions as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that RCFMC must receive satisfactory written assurance from BUSINESS ASSOCIATE that BUSINESS ASSOCIATE will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. RCFMC may terminate the Contract upon thirty (30) days written notice in the event (i) BUSINESS ASSOCIATE does not promptly enter into negotiations to amend the Contract or Agreement when requested by RCFMC pursuant to this Section or (ii) BUSINESS ASSOCIATE does not enter into an amendment to the Contract or Agreement providing assurances regarding the safeguarding of PHI that RCFMC, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

8. Assistance in Litigation or Administrative Proceedings. Each party (the "Assisting Party") shall make itself, and any subcontractors, employees or agents assisting it in the performance of its obligations under the Contract or Agreement, available to the other party, at no cost to other party, to testify as witness, or otherwise, in the event of litigation or administrative proceedings being commenced against the other party, its directors, officers or employees based upon a claimed violation of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where the Assisting Party or its subcontractor, employee or agent is a named adverse party.

9. Indemnification. Each party (the "Indemnifying Party") agrees to indemnify, defend and hold harmless the other party's (the Indemnified Party") employees, directors, officers, subcontractors, agents or other members of its Workforce from and against any claim, cause of action, liability, damage, cost or expense, including without limitation attorneys' fees and court or proceeding costs, consultants' fees, costs of delivering notice to individuals, cost of any notice published in the media, cost of services offered to affected individuals, and cost of responding to any audit triggered by arising out of or in connection with any non-permitted or violating use or disclosure of PHI or other breach of this Agreement by the Indemnifying Party or any subcontractor, agent, person or entity under the Indemnifying Party's control.

10. No Third-Party Beneficiaries. Nothing express or implied in the Contract or Agreement is intended to confer, nor shall anything herein confer, upon any person other than RCFMC, BUSINESS ASSOCIATE and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

11. Applicability; Conflicts. Except as specifically required to implement the purposes of this Agreement or to the extent inconsistent with this Agreement, all terms of the Master Services Agreement shall remain in force and effect. In the event of a conflict between a provision of this Agreement and a provision of the Master Services Agreement, the provisions of this Agreement shall govern and control.

12. Interpretation. The provisions of this Agreement shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Agreement. This Agreement and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and that is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

13. IN WITNESS WHEREOF, the parties have executed this Agreement by their signature on the Provider Program Enrollment Form, Exhibit A and the Conditions of Participating Exhibit B.