

## **Managed Care Organization Hospital Access Program Hospital Participation Agreement**

The undersigned hospital (“Hospital”) and the undersigned Medicaid Managed Care Organization (“MCO”) hereby agree to participate in the Managed Care Organization Hospital Access Program (the “Program”) as of September 1, 2014, as follows:

WHEREAS, the Illinois General Assembly has determined and authorized certain payments to preserve and improve access to hospital services for Medicaid beneficiaries, including those hospital access payments authorized under Sections 12.2 and 12.4 of Article V-A of the Illinois Public Aid Code (“Article V-A Hospital Access Payments”); and

WHEREAS, the Illinois General Assembly has determined that at least 50% of Medicaid beneficiaries are to be enrolled in risk based care coordination or managed care programs by January 1, 2015; and

WHEREAS, the Illinois General Assembly has articulated the importance of, and requested the cooperation of hospitals and the MCOs in preserving predictable sources of revenue to the state, including the federal funds generated through the Hospital Assessment Program, in order to preserve and assure access to hospital and other health care services for Medicaid beneficiaries as the Illinois Medicaid program increases the enrollment of beneficiaries in capitated managed care arrangements; and

WHEREAS, the Illinois General Assembly has determined pursuant to the enactment of **Public Act 98-651 as enacted on June 16, 2014 (the “Act”)**, that in order to assure continued access to hospital services that a portion of the access payments for hospitals, including those authorized under Article V-A of the Public Aid Code, shall be used to increase the capitation rates paid to MCOs for the purpose of increasing payments by MCOs for hospital services beginning in state fiscal year 2015; and

WHEREAS, the purpose of the Program is for MCOs to provide payment (the “MCO Hospital Access Payment”) to hospitals to assure access to hospital care to Medicaid beneficiaries in furtherance of the goals of the State of Illinois, as articulated by the General Assembly, to assure access to hospital services for Medicaid beneficiaries; and

WHEREAS, each MCO receives specified monthly capitation rates (for purposes of the Program, such increased capitation rates are referred to as “Enhanced Capitation”) from the Illinois Department of Healthcare and Family Services (“HFS”) specifically designated to be exclusively used by the MCOs to make the MCOs’ payments to hospitals as required by the Act and, in doing so, preserve and improve access to hospital services for Medicaid beneficiaries; and

WHEREAS, the Illinois Hospital Association (“IHA”) has agreed to help administer the Program and to receive payments from the MCOs on behalf of the hospitals that have designated IHA to do so by entering into a **Hospital Participation Agreement** with the MCO (the “Participating Hospitals”); and

WHEREAS, the MCO has determined that this Program would most effectively achieve the goals of the State of Illinois, as articulated by the Illinois General Assembly, to assure access to hospital services for Medicaid beneficiaries.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions hereinafter set forth and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

**Definitions.** For purposes of this Agreement, the following terms will have the definitions ascribed to them below.

**“Access Payment”** means the monthly payment made by MCO to IHA or Hospital (see Section 2) based on the methodology described in Paragraph 4 of this Agreement.

**“Article V-A Hospital Access Inpatient Payment Percentage”** means a fraction where:

- the numerator of which is the Article V-A Hospital Access Payments attributable to inpatient services for state fiscal year 2014 for Hospital; and
- the denominator of which is the Article V-A Hospital Access Payments attributable to inpatient services for state fiscal year 2014 for all hospitals in Hospital’s HFS managed care region.

**“Article V-A Hospital Access Outpatient Payment Percentage”** means a fraction where:

- the numerator of which is the Article V-A Hospital Access Payments attributable to outpatient services for the state fiscal year 2014 for a hospital; and
- the denominator of which is the Article V-A Hospital Access Payments attributable to outpatient services for state fiscal year 2014 for all hospitals in Hospital’s HFS managed care region.

**“Enhanced Capitation”** means that portion of MCO’s capitation payment received from HFS specifically attributable to the Access Payments as authorized under Sections 5A-12.2(s) and (t) of the Illinois Public Aid Code.

**“Existing Provider Contract”** means any contract between MCO and Hospital under which Hospital provides health care services to MCO’s enrollees in exchange for reimbursement from MCO.

**“HFS”** means the Illinois Department of Healthcare and Family Services or its successor.

**“Hospital”** means the undersigned hospital , a hospital facility participating in the Illinois Medicaid program.

“**IHA**” means the Illinois Hospital Association.

“**MCO**” means the undersigned managed care organization, an entity providing Medicaid benefits to beneficiaries under a contract with HFS.

“**MCO Hospital Access Inpatient Payment**” means the product determined by multiplying the MCO’s total Enhanced Capitation attributable to inpatient hospital services by Hospital’s Article V-A Hospital Access Inpatient Payment Percentage.

“**MCO Hospital Access Outpatient Payment**” means the product determined by multiplying the MCO’s total Enhanced Capitation attributable to hospital outpatient services by Hospital’s Article V-A Hospital Access Outpatient Payment Percentage.

1. **Access Payments.** MCO agrees to pay Access Payments to Hospital or its designated payee (see paragraph 2) on a monthly schedule. MCO’s payment of Access Payments is expressly conditioned on MCO’s receipt of Enhanced Capitation from HFS. The Parties agree that the Access Payments are for the purpose of ensuring continued access to hospital services for Illinois Medicaid beneficiaries. Access Payments do not replace or supplant any other amounts paid or payable to Hospital by MCO under any Existing Provider Contracts.
2. Hospital designates IHA to serve as its payee to receive payments under the Program from the MCO and directs the MCO to make such payments to IHA.

**To designate a Payee other than IHA, complete this paragraph:** Notwithstanding any other provision in this agreement, to reject the above designation of IHA as its payee to receive payments under this agreement from MCO, Hospital must initial here:\_\_\_\_\_. Hospital directs the MCO to make payments under this agreement to {insert Hospital or other designated payee}\_\_\_\_\_.  
\_\_\_\_\_. By selecting a payee other than IHA, Hospital agrees that IHA has no responsibility related to the issuance of payments to the Hospital under this agreement.

Such election may also be revoked only by written notice to MCO. If Hospital utilizes IHA as its payee, MCO’s liability for any given Access Payment is discharged in its entirety upon issuance of payment to IHA in accordance with this Agreement.

If Hospital elects to maintain IHA as the default payee, Hospital agrees that any contract it enters into with IHA regarding the Access Payments will contain terms that require IHA to abide by the terms of this Agreement to the same extent as Hospital with regard to its obligations hereunder.

3. Each month, HFS will publish an “Enhanced Capitation Rate Report.” The report will, at a minimum, provide the per member, per month Enhanced Capitation amount attributable to each plan; the proportion of the Enhanced Capitation attributable to inpatient and outpatient hospital services; the number of enrollees for which the Enhanced Capitation is being paid; and the total Enhanced Capitation for that month. Upon receipt of the “Enhanced Capitation Rate Report” and the Enhanced Capitation amount the MCO shall, by the 24<sup>th</sup> of each month or within three (3) business days of receiving the Enhanced Capitation Rate Report (whichever is later), review and notify IHA and HFS of any disagreements it has with the “Enhanced Capitation Rate Report”.
4. The IHA will be responsible for calculating the amount of the Access Payment payable by MCO to Hospital or its designated payee using the Enhanced Capitation Rate Report. The MCO will distribute the Access Payments to Hospital in a manner that replicates the distribution of hospital access payments under Article V-A of the Public Aid Code.

Therefore, upon receipt of the “Enhanced Capitation Rate Report” and the Enhanced Capitation amount IHA shall by the 26<sup>th</sup> of each month or within five (5) business days of receiving the Enhanced Capitation Rate Report, whichever is later, verify and notify in writing the chief executive officer of the MCO or his or her designee of the Hospital’s payment from the Enhanced Capitation (the “MCO Hospital Access Payment”) which shall consist of the sum of the MCO Hospital Access Inpatient Payment and the MCO Hospital Access Outpatient Payment as calculated for that given month.

5. Within four (4) business days (except for the transfer month of February in which transfer shall occur no later than the third (3<sup>rd</sup>) business day of the month), of notification by IHA of the correct Access Payment amount, the MCO shall transfer to the account designated by the Hospital or its designated payee, the MCO Hospital Access Payment owed to the Hospital, as identified under paragraph 4. In the event MCO has a disagreement with respect to a portion of the Enhanced Capitation amount, the MCO shall not delay the issuance of the MCO Hospital Access Payment to the Hospital with respect to any undisputed portion of the Enhanced Capitation amount and shall inform the Hospital or its designated payee of the basis for any adjustment to the MCO Hospital Access Payment. In no event shall MCO be obligated to make more in total MCO Hospital Access Payments than the undisputed Enhanced Capitation amount it has received. In the event the undisputed Enhanced Capitation amount for a given month is insufficient for MCO to pay the entirety of the Access Payments as calculated by IHA for each Hospital, the Access Payment shall be reduced by an amount proportional to the aggregate deficiency in the Enhanced Capitation. MCO shall not be obligated to make the remainder of the Access Payment until such time as the dispute is resolved or MCO has received the entirety of the scheduled Enhanced Capitation for that month.
6. Notwithstanding the foregoing, in no circumstances will MCO be required to pay the Access Payment until at least seven (7) business days following MCO’s actual receipt of the Enhanced Capitation for the given month. By way of example, if MCO does not receive the Enhanced Capitation until the fourth business day following IHA notifying

MCO of the Access Payment amount, MCO will not be required to make the Access Payment until the eleventh business day following such notification.

7. The MCO agrees as follows:
  - a. The MCO agrees to provide, within 10 days of receipt of a written request by the Hospital, a separate accounting of its Enhanced Capitation describing in detail the receipt by region and expenditure by hospital of all such Enhanced Capitation. Nothing in this section requires either Party to maintain a separate account with a financial institution specifically for the holding of funds paid under this Agreement.
  - b. The MCO shall procure a surety bond in an amount determined by HFS to approximate one month's liability of its Enhanced Capitation authorized under Section 5A-12.2(s) of the Illinois Public Aid Code.
  - c. **Late Payments; Interest.** In the event that MCO does not make the Access Payment to Hospital or its designated payee within the timeframes described above, MCO shall pay interest on any past due amounts at the rate of 9% per annum. In the event that the rate of 9% per annum exceeds the maximum rate permissible by law, MCO shall pay the maximum rate of interest otherwise allowed by law.
8. Nothing in the Program shall be construed or used by the MCO or Hospital as justification for seeking changes to its provider agreement with hospitals. Nothing in this Agreement is intended to modify any Existing Provider Contracts between the Parties.
9. The Program shall be in effect beginning in state fiscal year 2015 and shall continue as long as it is authorized under Illinois law. This agreement shall continue as long as the Program is in effect, unless terminated by the Hospital or the MCO or as required by law. Any party may terminate this agreement by providing at least sixty (60) days prior written notice to the other party.
10. This agreement constitutes the entire understanding between the parties with respect to this subject matter. No party may assign this agreement to another party without the prior written consent of the other parties, which consent shall not be unreasonably withheld. Any notices required under this agreement shall be given in writing to the chief executive officer of each party, unless a party has provided a written designation of another representative to receive such notices. This Agreement may only be amended in writing signed by both Parties.
11. This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission in a Portable Document Format ("PDF") shall be equally effective as

manual or mail delivery. Each counterpart, whether delivered manually, by mail, by facsimile or PDF, or by other electronic transmission, shall be deemed an original.

12. **Disputes.** The Parties agree to negotiate in good faith in order to address discrepancies in the amount of the Access Payments. In the event that a dispute cannot be resolved through good faith negotiation, the Parties agree to submit the dispute to arbitration under the Commercial Arbitration Rules of the American Arbitration Association as the exclusive means of resolving the dispute. Judgment on the award rendered in any such arbitration may be entered in any court of competent jurisdiction.
13. Except as is otherwise specifically provided in this Agreement, the parties have not created and do not intend to create by this Agreement any rights in other parties as third party beneficiaries of this Agreement, including, without limitation, the state of Illinois or any member.

IN WITNESS WHEREOF, the parties have executed this agreement effective as of the date first written above.

HOSPITAL:

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

City: \_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

MANAGED CARE ORGANIZATION:

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

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_