

# **SOUTH DAKOTA MEDICAID TRADING PARTNER AGREEMENT** **FOR BILLING AGENTS AND CLEARINGHOUSES**

The following Trading Partner Agreement (the “Agreement” hereinafter), is executed by an entity that is not enrolled as a SD Medicaid provider but who desires to participate as a Trading Partner and be enrolled as a billing agent or clearinghouse, (“Trading Partner” hereinafter), and the State of South Dakota, acting by and through its Department of Social Services, Division of Medical Services (“Medical Services” hereinafter). Collectively, the Trading Partner and Medical Services are known as the “Parties.”

## **1. Electronic Data Interchange (EDI).**

- a. The Trading Partner agrees that this Agreement constitutes a trading partner agreement as defined by 45 C.F.R. § 160.103 and governs the exchange of electronic health information between the Parties by Health Insurance Portability and Accountability Act of 1996 (HIPAA) standard transactions and permits appropriate disclosure and use of such information as permitted by law.
- b. The Trading Partner agrees to comply with all State and federal laws, rules, regulations and applicable policies, including without limitation the HIPAA (as amended), Sections 1171 through 1180 of the Social Security Act, Title 45 of the Code of Federal Regulation including Parts 160, 162, and 164, all applicable federal regulations, the electronic data transaction standards and code sets, the HIPAA Implementation Guides, and Medical Services’ Companion Guides.
- c. Prior to EDI and throughout the life of the Agreement, the Trading Partner’s electronic enrollment record will correctly indicate their desire to participate in EDI and the standard transactions authorized.
- d. The Trading Partner must require any entity with whom it contracts, and any subcontractors thereof, to comply with all applicable requirements and terms of this Agreement.
- e. The Trading Partner will obtain satisfactory assurance and documentation of the satisfactory assurance, as required under 45 C.F.R. § 164.502 (e), from any business associate with whom it contracts, and any subcontractors thereof, that it will appropriately safeguard the protected health information covered by this Agreement.
- f. The Trading Partner agrees and represents that its submitter ID number, password, and any other means that enable data to be transmitted to or received from Medical Services will only be disclosed to intermediaries with whom it has such trading partner agreements or to members of its workforce, who the Trading Partner has authorized to receive and transmit data on its behalf.
- g. Each party is responsible for all costs, charges, or fees it may incur by transmitting electronic transactions to, or receiving electronic transactions from, the other party.
- h. The Trading Partner shall not change the definition, data condition, meaning, intent or use of a data element or segment in a standard transaction.
- i. The Trading Partner shall not add any data elements or segments to the maximum defined data set, or use any code or data elements that are not in the standard transactions or are marked as “not used.”
- j. Each party is solely responsible for the preservation, confidentiality, and security of data exchanged as well as data in its possession, including data in transmissions received from the other party and will establish processes to limit access to those who need it to perform their duties and safeguard unauthorized access.
- k. The Trading Partner agrees and understands that there exists the possibility that Medical Services or others may request an exception from the Transaction and Code Set Regulations in whole or in part. If this occurs the Trading Partner agrees that it will cooperate and fully participate in the testing, verification, and implementation of a modification to the standard.
- l. The Trading Partner understands that the transaction standards and code sets may be modified and agrees that it will cooperate and fully participate in modifying, testing, verifying, and implementing the modifications or changes.
- m. The Trading Partner understands that it is responsible for following the Implementation Guides and Addendums as well as the DSS Companion Guides which are subject to change and will ensure that prior to initiating any EDI, the format specifications in the most current Guides are met. Failure to comply with the format specifications will result in the electronic claim or transaction being rejected and Medical Services will not be obligated to respond to the transaction.
- n. The data shall be and remain the property of Medical Services and the Trading Partner agrees that it acquires no title, rights, or interest to the data furnished by Medical Services, including de-identified information, as a result of the Agreement.
- o. Medical Services shall not be liable to the Trading Partner for any damage or expenses for damages in any amount incurred as a result of inaccuracies in any of the information, data, electronic files, or documents supplied.

## **2. Security.**

- a. Trading Partner agrees to use appropriate safeguards, and comply with Subpart C of 45 C.F.R. § 164 with respect to electronic protected health information, to prevent the use or unnecessary or unlawful disclosure of protected health information.

- b. Trading Partner agrees to report unnecessary or unlawful use or disclosure of protected health information of which it becomes aware, including breaches of unsecured protected health information, as specified at 45 C.F.R. § 164.410, and any security incident as defined by 45 C.F.R. § 164.304 of which it becomes aware within five (5) business days of receiving knowledge of such use, disclosure, breach, or security incident by contacting the Department of Social Services' Privacy Officer at [DSSprivacyofficer@state.sd.us](mailto:DSSprivacyofficer@state.sd.us).

### **3. Ownership and Control.**

- a. At the time the Trading Partner enters into this Agreement, the Trading Partner certifies that Trading Partner and any person or entity who holds a five percent or greater ownership or controlling interests in Trading Partner, as well as any general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operations of the Trading Partner:
  - i. Has never been convicted, including any form of suspended sentence or settlement in lieu of conviction of any crime related to fraud, theft, embezzlement, breach of fiduciary responsibility, or unlawful kickback arrangements; and
  - ii. Is not currently, and has never been, suspended, debarred, proposed for debarment, declared ineligible, or voluntarily or otherwise excluded from participation by any state Medicaid program or any Federal department or agency.
- b. At all times during the course of this Agreement, the Trading Partner agrees to update their electronic enrollment record or required supplemental documentation whenever there is a change to five percent or greater ownership or controlling interests, as well as any changes to the general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operations of the Trading Partner.
- c. At all times during the course of this Agreement, the Trading Partner agrees to notify Medical Services by certified mail within ten (10) days should the Trading Partner or any of its owners, employees, agents, contractors, or any person or entity with five percent or greater ownership or controlling interest become debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or otherwise excluded from participating in Medicare or another state Medicaid program during the term of this Agreement.
- d. Trading Partner agrees to provide at least thirty (30) days advance written notice to Medical Services at [SDMEDXGeneral@state.sd.us](mailto:SDMEDXGeneral@state.sd.us) of a five percent or greater change of ownership.

### **4. Termination.** This Agreement can be terminated for:

- a. Failure to comply with any portion of this Agreement, conditions of participation, or requirements and limits of applicable rules and regulations;
- b. Improper submission of claims, or actions deemed an abuse of the SD Medicaid Program, or actions involving SD Medicaid Program abuse which result in administrative, civil or criminal liability;
- c. Conviction (including any form of suspended sentence) of any crime determined to be detrimental to the best interests of the SD Medicaid Program;
- d. Suspension or "for cause" termination from participation in Medicare or another state's Medicaid program;
- e. The ownership, assets, or control of the Trading Partner's entity are sold or transferred;
- f. A change in federal tax identification number;
- g. Thirty days elapse since Medical Services provided notice to the Trading Partner of its intent to terminate the Agreement; or
- h. The convenience of the Trading Partner upon thirty days of advance written notice.

### **5. Governing Law and Venue.** This Agreement shall be governed and construed in accordance with the laws of the state of South Dakota. Venue for any lawsuit pertaining to or affecting this Agreement shall be in the Circuit Court, Sixth judicial Circuit, Hughes County, South Dakota.

### **6. Electronic Signatures.** The Trading Partner and Medical Services agree that each may treat executed faxes, scanned images, or photocopies as original documents.

### **7. Signature Block.** The person signing the Agreement on behalf of the Trading Partner warrants that he/she has legal authority to bind Trading Partner.

