Department of Health Care Policy and Financing
UHA
Contract Routing Number: _____

PRIMARY CARE PHYSICIAN CONTRACT

THIS CONTRACT, made this 13th day of August 2003, by and between the State of Colorado for the use of the Department of Health Care Policy and Financing, 1570 Grant St., Denver, Colorado 80203, hereinafter referred to as the Department, and, Primary Care Provider _____ _____, hereinafter referred to as the Contractor.

FACTUAL RECITALS

WHEREAS, authority exists in the law and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment; and,

WHEREAS, required approval, clearance and coordination has been accomplished from and with appropriate agencies; and,

WHEREAS, the Department is the single agency responsible for the administration of the Colorado Medical Assistance Program (Medicaid);

NOW THEREFORE, the Department and the Contractor agree as follows:

I. DEFINITIONS

The terms used in this contract have the following definitions:

"Cold Call Marketing" means any unsolicited personal contact by the Contractor with a potential member for the purpose of marketing as defined below.

"Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following:

1. Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy.

2. Serious impairment to bodily functions.

3. Serious dysfunction of any bodily organ or part.

"Emergency services" means covered inpatient and outpatient services that are as follows:

1. Furnished by a provider that is qualified to furnish these services.

2. Needed to evaluate or stabilize an emergency medical condition.

"Marketing" means any communication, from the Contractor to a Medicaid member who is not enrolled with that Contractor, that can reasonably be interpreted as intended to influence the member to enroll with that particular Contractor, to not enroll in, or to disenroll from, another Contractor or managed care organization.

"Marketing Materials" means materials that are produced in any medium, by or on behalf of a Contractor or can reasonably be interpreted as intended to market to potential members.

"Member" means a Medicaid client who is currently enrolled in a managed care program.

"Potential member" means a Medicaid client who may voluntarily elect to enroll in a given managed care program, but is not yet a member of a specific Contractor's panel.

"**Primary Care Case Management**" means a system under which a primary care case manager (PCCM) contracts with the Department to furnish case management services (which include the location, coordination and monitoring of primary health services) to Medicaid members. The Department's primary care case management program is called the Primary Care Physician Program (PCPP).

"Primary Care Case Manager" (PCCM) means a physician, a physician group practice, or an entity that employs or arranges with physicians to furnish primary care case management services under the Department's PCPP.

"Primary Care Provider" (PCP) shall mean any doctor licensed to practice medicine or osteopathy enrolled in the PCPP to furnish primary care case management services. If the provider is a facility, the facility must have a licensed physician on staff.

II. PARTICIPATION IN PCPP

A. A physician or clinic participating in the PCPP shall be enrolled as a Medicaid provider and comply with the Department's credentialing program. Participating Contractors shall provide reasonable and adequate hours of operation, including 24-hour availability of information, and referral and treatment for emergency medical conditions. The Contractor shall serve as a member's Primary Care Provider and Primary Care Case Manager under the Department's PCPP and is responsible for authorizing, coordinating and monitoring all health care services available under Medicaid except for the following:

1. Emergency care.

2. Emergency and county transportation.

3. Anesthesiology services.

4. Dental and vision services including refractions.

5. Family planning services.

6. Podiatry and foot care services.

7. Radiology services.

8. Laboratory services.

9. Home and community based services.

10. Services rendered pursuant to a child abuse diagnostic code.

11. Obstetric care.

B. Contractor shall provide or refer members for all covered services when medically necessary. Contractor shall provide referrals to physicians and other practitioners to ensure that services under the contract can be furnished to members promptly and without compromise to quality of care.

C. Contractor shall restrict enrollment to members who reside sufficiently near their office to reach that site within a reasonable time using available and affordable modes of transportation.

D. Contractor may subcontract for the provision and continuation of all services under this Contract. All subcontracts must be in writing and approved by the Department, which approval shall not be unreasonably withheld. Subcontracts shall not terminate Contractor's legal responsibility for overall performance under this contract.

E. Contractor may not knowingly have a relationship with the following:

1. An individual who is debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued under Executive Order No.12549 or under guidelines implementing Executive Order No. 12549.

2. An individual who is an affiliate, as defined in the Federal Acquisition Regulation, of a person described above.

The relationships described above are as follows:

1. A director, officer, or partner of the Contractor.

2. A person with beneficial ownership of five percent or more of the Contractor's equity.

3. A person with an employment, consulting or other arrangement with the Contractor for the provision of items and services that are significant and material to the contractor's obligations under its contract with the Department.

F. Disclosures

1. Contractor must disclose the following information.

   a. The name and address of each person with an ownership or control interest in Contractor or in any subcontractor in which the Contractor has direct or indirect ownership of 5 percent or more;

   b. Whether any of the persons named, in compliance with paragraph a. of this section, is related to another as spouse, parent, child, or sibling.

   c. The name of any other disclosing entity in which a person with an ownership or control interest in the Contractor also has an ownership or control interest. This requirement applies to the extent that the Contractor can obtain this information by requesting it in writing from the person. The Contractor must:

      i. Keep copies of all these requests and the responses to them;

      ii. Make them available to the Secretary of Health and Human Services or the Department upon request; and

      iii. Advise the Department when there is no response to a request.

2. Any Contractor that is subject to periodic survey and certification of its compliance with Medicaid standards must supply the information specified in paragraph 1 above to the Department or its survey agency at the time it is surveyed. The Department or its survey agency must

promptly furnish the information to the Secretary of Health and Human Services and the Department.

3. Any Contractor that is not subject to periodic survey and certification and has not supplied the information specified in paragraph 1 above to the Secretary of Health and Human Services within the prior 12-month period, must submit the information to the Department before entering into a contract or agreement to participate in the PCPP. The Department must promptly furnish the information to the Secretary of Health and Human Services.

4. Updated information must be furnished to the Secretary of Health and Human Services, the Department or its survey agency at intervals between contract renewals, within 35 days of a written request.

5. Before the Department enters into or renews a PCP agreement, or at any time upon written request by the Department, Contractor must disclose to the Department the identity of any person who:

   a. Has ownership or control interest in the Contractor, or is an agent or managing employee of the Contractor; and

   b. Has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the Title XX services program since the inception of those programs.

III. CONTRACTOR RESPONSIBILITIES

A. Member Information Materials:

1. Contractor shall ensure that any member information materials provided by the Contractor's office are written in a manner and format that may be easily understood. Written materials shall be available in the prevalent non-English languages spoken in Contractor's service area and available in alternative formats to accommodate members with special needs. Contractor shall notify members that this written information is available in prevalent languages and alternative formats and how members can access those services/formats.

2. The Department, as administrator of the PCPP, shall provide potential members and members, informational materials as outlined in the federal managed care regulations. See Exhibit A, attached hereto.

B. Enrollment

The Department or its contractor shall enroll members into the PCPP per the Department enrollment process:

Enrollment in the PCPP shall be voluntary. Members shall remain assigned to the PCPP program for a period of twelve (12) months except as otherwise provided in 10 CCR 2505-10, Section 8.205.

Participating Contractors shall:

1. Accept individuals eligible for enrollment in the PCPP in the order in which they apply without restriction, up to the limits identified by Contractor.

2. Not discriminate against individuals eligible to enroll in the PCPP on the basis of race, color, or national origin, and shall not use any policy or practice that has the effect of discriminating on the basis of race, color, or national origin.

3. Not, on the basis of health status or need for health care services, discriminate against individuals eligible for enrollment, disenrollment or re-enrollment in the PCPP.

C. Contractor shall have written policies regarding member rights as set forth in Exhibit B.

D. Disenrollment

1. Members may make a request to the Department or its designee to be disenrolled from a Contractor according to the guidelines set forth in the federal managed care regulation, Member Disenrollment, as set forth in Exhibit B, attached hereto and incorporated herein.

2. Contractor may request disenrollment of a member for good cause as set forth below, by making a request to the Department or its designee. The request shall enumerate the Contractor's concerns and basis for a good cause disenrollment. The Department evaluates all requests and may elect to remove the member from the Contractor's care for good cause.

   Good cause means:

   a. Contractor is relocating from the service area.

   b. Contractor is no longer participating in the PCPP.

   c. Contractor no longer wishes to see a member for the following reasons:

      i. Member repeatedly fails to follow medical instructions.

      ii. Member repeatedly fails to keep appointments.

iii. Member repeatedly fails to show Medicaid Authorization Card.

iv. Member is abusive to Contractor and/or Contractor's staff.

3. Contractor may not request disenrollment because of a change in the member's health status, or because of the member's utilization of medical services, diminished mental capacity, or uncooperative or disruptive behavior resulting from his or her special needs (except when his or her continued enrollment seriously impairs the Contractor's ability to furnish services to either this particular member or other members).

4. Contractor shall assure the Department that it does not request disenrollment for reasons other than those permitted in this contract.

5. The effective date of an approved disenrollment shall be no later than the first day of the second month following the month in which the member or the Contractor files the request. If the Department fails to make the determination within the timeframes specified above, the disenrollment is considered approved.

6. The Department or its designee may approve or deny a request for disenrollment.

E. Reenrollment

A member shall be automatically reenrolled when he or she has been disenrolled solely because he or she loses Medicaid eligibility for a period of two (2) months or less.

F. Marketing

1. No marketing materials can be distributed without first obtaining Department approval.

2. Contractor shall specify methods assuring the Department that marketing, including plans and materials, is accurate and does not mislead, confuse, or defraud the members or the Department.

3. Contractor shall distribute the materials to his/her entire service area.

4. Contractor shall not seek to influence enrollment in conjunction with the sale or offering of any private insurance.

5. Contractor and any subcontractors shall not, directly or indirectly, engage in door-to-door, telephone, or other cold call marketing activities.

6. Marketing materials cannot contain any assertion or statement (whether written or oral) that the potential member must enroll in the PCPP to obtain benefits or not to lose benefits.

7. Marketing materials cannot contain any assertion or statement (whether written or oral) that Contractor is endorsed by the Centers for Medicare and Medicaid Services, the Federal or State government or similar entity.

IV. GENERAL PROVISIONS

A. Order of Precedence

In the event of conflicts or inconsistencies between this contract and its exhibits or attachments, such conflicts or inconsistencies shall be resolved, except as otherwise set forth in this contract, by reference to the document in the following order of priority:

Colorado Special provisions, pages 23 and 24.
Contract, pages 1 to 22.
Exhibit A
Exhibit B

B. Performance Period

The contract shall be effective on August 13th 2003, or upon approval by the State Controller or designee, whichever is later and shall remain in effect until terminated by either party. The contract performance contemplated herein shall commence as soon as practicable after the effective date of this contract, and shall be undertaken and performed in the sequence and manner set forth in the scope of work.

C. Federal Funding

This contract is subject to and contingent upon the continuing availability of federal funds for the purpose hereof. The parties hereto expressly recognize that the Contractor is to be paid, reimbursed, or otherwise compensated with funds provided to the Department for the purpose of contracting for the services provided herein; therefore, the Contractor expressly understands and agrees that all its rights, demands and claims to compensation arising under this contract are contingent upon receipt of such funds by the Department. In the event that the Department does not receive such funds or any part thereof, the Department may immediately terminate this contract without liability, including liability for termination cost.

D. Legal Authority

The Contractor warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and to bind the Contractor to its terms. The person(s) executing this contract on behalf of the Contractor warrant(s) that such person(s) have full authorization to execute this contract.

E. Proprietary Information

Unless otherwise provided for in this contract, neither party shall use or disclose directly nor indirectly without prior written authorization, any proprietary information concerning the other party obtained as a result of this contract. Proprietary information is information relating to research, development, trade secrets, business affairs, internal operation and management procedures and like information of a party's customers and clients, but does not include information lawfully obtained from third parties, information in the public domain, or information required to be delivered to the Department pursuant to the terms of this Contract.

F. Notices

All notices required to be given by the parties hereunder shall be hand delivered or given by certified or registered mail to the individuals at the addresses set forth below. Either party may from time to time designate in writing substitute addresses or persons to whom such notices shall be sent.

For the Department:

Department and Division:	Medical Assistance Office Department of Health Care Policy and Financing
Address:	1570 Grant Street, 3rd Floor Denver, Colorado 80203

For the Contractor:

Individuals Name:	_____
Individual's Title:	_____
Company Name:	_____
Address:	_____
	_____

G. Force Majeure

Neither the Contractor nor the Department shall be liable to the other for any delay in, or failure of performance of, any covenant or promise contained in this contract, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to the extent that, such delay or failure is caused by force majeure. As used in this contract "force majeure" means acts of God; acts of the public enemy; acts of the State and any governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather.

H. Third Party Beneficiaries

It is expressly understood and agreed that the enforcement of the terms and conditions of this contract and all rights of action relating to such enforcement, shall be strictly reserved to the Department and the named Contractor. Nothing contained in this contract shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Department and the Contractor that any such person or entity, other than the Department or the Contractor, receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

I. Sovereign Immunity

Notwithstanding any other provision of this contract to the contrary, no term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, *et seq*. C.R.S., as now or hereafter amended. The parties understand and agree that liability for claims for injuries to persons or property arising out of negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of Section 24-10-101, *et seq*., C.R.S., as now or hereafter amended and the risk management statutes, Section 24-30-1501, *et seq*., C.R.S., as now or hereafter amended.

J. Severability

To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

K. Waiver

The waiver of any breach of a term, provision, or requirement of this contract shall not be construed or deemed as waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision, or requirement.

L. Integration Clause

This contract is intended as the complete integration of all understandings between the parties concerning the Contractor's participation in the Primary Care Physician Program. This Contract does not supercede any other contracts, applications or agreements between the Department and the Contractor governing the Contractor's relationship as a provider in the Medicaid program including but not limited to agreements concerning billing, payment, and claims. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or affect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a writing executed by both parties and approved pursuant to the State fiscal rules.

M. Survival of Certain Contract Terms

Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this contract and the exhibits and attachments hereto which may require continued performance, compliance, or effect beyond the termination date of the contract shall survive such termination date and shall be enforceable by the Department as provided herein in the event of such failure to perform or comply by the Contractor.

N. Modifications and Amendment

This contract is subject to such modifications as may be required by changes in Federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this contract on the effective date of such change as if fully set forth herein. Except as provided above, no modification of this contract shall be effective unless agreed to in writing by both parties in an amendment to this contract that is properly executed and approved in accordance with applicable law.

O. Compliance With Applicable Law

The Contractor must comply with any applicable Federal and State statutes and regulations pertaining to member rights and ensure that its staff and affiliated providers take those rights into account when furnishing services to members.

The Contractor shall at all times during the execution of this contract strictly adhere to, and comply with, all applicable Federal and State laws, and their implementing regulations, as they currently exist and may hereafter be amended, which are incorporated herein by this reference as terms and conditions of this contract. The Contractor shall also require compliance with these statutes and regulations in subcontracts and subgrants permitted under this contract. The Federal laws and regulations include, but are not limited to:

Age Discrimination Act of 1975	42 U.S.C. Sections 6101, *et seq.*
Age Discrimination in Employment Act of 1967	29 U.S.C. 621-634
Americans with Disabilities Act of 1990 (ADA)	42 U.S.C. 12101, *et seq.*
Equal Pay Act of 1963	29 U.S.C. 206(d)
Immigration Reform and Control Act of 1986	8 U.S.C. 1324b
Section 504 of the Rehabilitation Act of 1973	29 U.S.C. 794
Title VI of the Civil Rights Act of 1964	42 U.S.C. 2000d
Title VII of the Civil Rights Act of 1964	42 U.S.C. 2000e
Title IX of the Education Amendment of 1972	20 U.S.C. 1681, *et seq.*

Section 24-34-302, *et seq.*, Colorado Revised Statutes 1997, as amended

The Contractor also shall comply with any and all laws and regulations prohibiting discrimination in the specific program(s) which is/are the subject of this contract. In consideration of and for the purpose of obtaining any and all Federal and/or State financial assistance, the Contractor makes the following assurances, upon which the State relies.

The Contractor shall not discriminate against any person on the basis of race, color, national origin, age, sex, religion and handicap, including Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions, in performance of work under this contract.

At all times during the performance of this contract, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in, or denied benefits of the service, programs, or activities performed by the Contractor, or be subjected to any discrimination by the Contractor.

The Contractor shall take all necessary affirmative steps, as required by 45 CFR 92.36(e) and (Colorado Executive Order, Procurement Rules), to assure that small

and minority businesses and women's business enterprises are used, when possible, as sources of supplies, equipment, construction, and services purchased under this contract.

P. Litigation Reporting

Unless otherwise provided, the Contractor shall promptly notify the Department in the event that the Contractor learns of any actual litigation in which it is a party defendant. The Contractor, within ten (10) days after being served with a summons, Complaint, or other pleading in a case which involves services provided under this contract and which has been filed in any Federal or State court or administrative agency, shall deliver copies of such document to the representative designated in this contract, or in absence of such designation, to the chief executive officer of the Department, agency, or institution executing this contract on behalf of the Department.

Q. Federal Audit Provisions

All State and Local government and non-profit organizations receiving more than $300,000 from all funding sources, that are defined as federal financial assistance for single audit purposes, shall comply with the audit requirements of OMB Circular A-128 (audits of State and Local Governments) or A-133 (Audits of Institutions of Higher Education and Other Non-profit Organizations), whichever applies.

R. Federal Certifications

Certification Regarding Lobbying

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

No Federal appropriated funds have been paid or will be paid, by or on behalf of the Department, to any person for influencing or attempting to influence an officer or employee of an 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, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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 office or employee of any agency, a Member of Congress, an office or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the transaction was made or entered into. Submission of the certification is a requisite for making or entering into 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.

Federal Certification Regarding Disbarment, Suspension, Ineligibility and Voluntary Exclusion---Lower Tier Member

The prospective Lower Tier Member certifies, by submission of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Where the prospective Lower Tier Member is unable to certify to any of the statements in this certification, such prospective Member shall attach an explanation to this contract.

"Lower Tier Member" is defined to include the Contractor and its principals, agents and Subcontractors who are obligated to perform services pursuant to the terms of this contract.

Contractor agrees that it will include, without modification, the above Certification clause in any such subcontract it may enter.

S. Conflict of Interest

1. During the term of this contract, the Contractor shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the Contractor fully performing his/her obligations under this contract.

2. Additionally, the Contractor acknowledges that, in governmental contracting, even the appearance of a conflict of interest is harmful to the interests of the State and the Department. Thus, the Contractor agrees to refrain from any practices, activities or relationships which could reasonably be considered to be in conflict with the Contractor’s fully performing his/her obligations to the Department under the terms of this contract, without the prior written approval of the Department.

3. In the event that the Contractor is uncertain whether the appearance of a conflict of interest may reasonably exist, the Contractor shall submit to the Department a full disclosure statement setting forth the relevant details for the Department's consideration and direction. Failure to promptly submit a disclosure statement or to follow the Department's direction in regard to the apparent conflict shall be grounds for termination of the contract.

4. The Contractor (and subcontractors or subgrantees permitted under the terms of this contract) shall maintain a written code of standards governing the performance of its employees engaged in the award and administration of contracts. No employee, officer or agent of the Contractor, subcontractor, or subgrantee shall participate in the selection, or in the award or administration of a contract or subcontract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

   a. the employee, officer or agent;
   b. any member of the employee's immediate family;
   c. the employee's partner; or
   d. an organization which employs, or is about to employ, any of the above,

   has a financial or other interest in the firm selected for award. The Contractor's, subcontractor's, or subgrantee's officers, employees, or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from Contractors, potential Contractors, or parties to sub-agreements.

T. Medicaid Payment in Full

The Contractor agrees that in no event, including but not limited to non-payment by the Department, insolvency of the Contractor or breach of this contract, shall the Contractor or its Subcontractors bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against a Member or persons (other than the Contractor) acting on their behalf for services provided pursuant to this contract, with the exception of any Department approved copays.

Contractor agrees to accept as payment in full, amounts paid in accordance with schedules established by the Department. No supplemental charges will be billed to the member, except for amounts designated as co-payments by the Department. Contractor will not bill the member for any covered items or services that are reimbursable under the rules and regulations of the Department, or for any items or services that are not reimbursable but would have been had the Contractor complied with the rules and regulations of the Department. All payments received or applied from any other sources will be recorded on the claim.

The Contractor agrees that this provision shall survive the termination of this contract, for authorized services rendered prior to the termination of this contract, regardless of the cause giving rise to termination and shall be construed to be for the benefit of the Contractor's Members. This provision is not intended to apply to Covered Services provided after this contract has been terminated.

U. Venue

The parties agree that venue for any action related to performance of this contract shall be in the City and County of Denver, Colorado.

V. HIPAA Compliance - Health Insurance Portability & Accountability Act of 1996 ("HIPAA").

Pursuant to federal law governing the privacy of certain health information, Contractor, to the extent applicable, must comply with the HIPAA requirements at 45 C.F.R. Parts 160 and 164.

W. Inspection and Acceptance

The Department reserves the right to inspect services provided under this contract at all reasonable times and places during the term of the contract. "Services" as used in this clause include services performed or tangible material produced or delivered in the performance of services. If any of the services do not conform with contract requirements, the Department may require the Contractor to perform the services again in conformity with contract requirements, with no additional payment. When defects in the quality or quantity of service cannot be corrected by reperformance, the Department may (1) require the Contractor to take necessary action to ensure that the future performance conforms to contract requirements and (2) equitably reduce the payment due the Contractor to reflect the reduced value of the services performed. These remedies in no way limit the remedies available to the State in the termination provisions of this contract, or remedies otherwise available at law.

X. Remedies

In addition to any other remedies provided for in this contract, and without limiting its remedies otherwise available at law, the Department may exercise the following remedial actions if the Contractor substantially fails to satisfy or perform the duties and obligations in this contract. Substantial failure to satisfy the duties and obligations shall be defined to mean significant insufficient, incorrect or improper performance, activities, or inaction by the Contractor. These remedial actions are as follows:

1. Suspend Contractor's performance pending necessary corrective action as specified by the Department without Contractor's entitlement to adjustment in price/cost or schedule; and/or

2. Withhold payment to Contractor until the necessary services or corrections in performance are satisfactorily completed; and/or

3. Request the removal from work on the contract of employees or agents of the Contractor whom the Department justifies as being incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued employment on the contract the Department deems to be contrary to the public interest or not in the best interest of the Department; and/or

4. Deny payment for those services or obligations which have not been performed and which, due to circumstances caused by Contractor, cannot be performed, or if performed would be of no value to the Department. Denial of the amount of payment must be reasonably related to the value of work or performance lost to the Department.

5. Terminate the contract for default.

The above remedies are cumulative and the Department, in its sole discretion, may exercise any or all of them individually or simultaneously.

Y. Termination for Convenience

The Department may terminate this contract at any time the Department determines that the purposes of the distribution of Department moneys under the contract would no longer be served by completion of the project. The Department shall effect such termination by giving written notice of termination to the Contractor and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Contractor under this contract shall, at the option of the Department, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory services and supplies delivered.

If the contract is terminated by the Department as provided herein, the Contractor will be paid an amount which bears the same ratio to the total compensation as the services satisfactorily performed bear to the total services of the Contractor covered by this contract, less payments of compensation previously made, provided, however, that if less than sixty percent (60%) of the services covered by this contract have been performed upon the effective date of such termination, the Contractor shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this contract) incurred by the Contractor during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract.

In no event shall reimbursement under this clause exceed the contract amount. If this contract is terminated for cause, or due to the fault of the Contractor, the Termination for Default/Cause provision shall apply.

The Contractor may terminate this contract at any time for convenience. The Contractor shall effect such termination by giving written notice of termination to the Department and specifying the effective date thereof, at least forty-five (45) days before the effective date of such termination. Contractor must make a good faith effort to notify affected members that it will no longer participate in the PCPP within 15 days after notifying the Department that it is terminating its participation in the PCPP.

Z. Termination for Default/Cause

The Department may terminate a Contractor and enroll that Contractor's members in other managed care organizations, or provide their Medicaid benefits through other options included in the State Medicaid plan if the Department determines that the Contractor has failed to carry out the substantive terms of its contracts or meet applicable requirements in sections 1932, 1903(m) and 1905(t) of the Social Security Act.

If, through any cause, the Contractor shall fail to fulfill, in a timely and proper manner, its obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the Department shall thereupon have the right to terminate this contract for cause by giving written notice to the Contractor of its intent to terminate and at least ten (10) days opportunity to cure the default or show cause why termination is otherwise not appropriate. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Contractor under this contract shall, at the option of the Department, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any services and supplies delivered and accepted. The Contractor shall be obligated to return any payment advanced under the provisions of this contract.

Notwithstanding the above, the Contractor shall not be relieved of liability to the Department for any damages sustained by the Department by virtue of any breach of the contract by the Contractor, and the Department may withhold any payment to the Contractor for the purposes of mitigating its damages until such time as the exact amount of damages due to the Department from the Contractor is determined.

If after such termination it is determined, for any reason, that the Contractor was not in default, or that the Contractor's action/inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and

obligations of the parties shall be the same as if the contract had been terminated for convenience, as described herein.

If the Department finds that Contractor is not in compliance with Section II.E. of this contract, the Department:

1. Shall notify the Secretary of Health and Human Services of the noncompliance.

2. May continue an existing agreement with the Contractor unless the Secretary of Health and Human Services directs otherwise.

3. May not renew or otherwise extend the duration of an existing agreement with the contractor unless the Secretary of Health and Human Services provides to the Department and to Congress a written statement describing compelling reasons that exist for renewing or extending the agreement.

If this contract is terminated for any of the above causes, the contractor shall supply all information necessary for the reimbursement of any outstanding Medicaid claims.

AA. Insurance

1. The Contractor shall obtain, and maintain at all times during the term of this agreement, insurance in the following kinds and amounts:

a) Professional Liability minimum insurance coverage:

i. Combined single limit of $600,000 if written on an occurrence basis.

ii. Any aggregate limit will not be less than $1,000,000.

iii. Combined single limit of $600,000 for policies written on a claims-made basis. The policy shall include an endorsement, certificate, or other evidence that coverage extends two years beyond the performance period of the contract.

iv. If any aggregate limits are reduced below $1,000,000 because of claims made or paid during the required policy period, the Contractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish a certificate or other document showing compliance with this provision.

2. The insurance shall include provisions preventing cancellation without 45 days prior notice to the Department by certified mail.

3. The Contractor shall provide certificates showing adequate insurance coverage to the Department in the credentialing and re-credentialing process.

BB. Assignment and Successors

The Contractor agrees not to assign rights or delegate duties under this contract or subcontract any part of the performance required under the contract without the express, written consent of the Department which shall not be unreasonably withheld. Except as herein otherwise provided, this agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns. This provision shall not be construed to prohibit assignments of the right to payment to the extent permitted by Section 4-9-318, CRS, provided that written notice of assignment adequate to identify the rights assigned is received by the controller for the agency, department, or institution executing this contract. Such assignment shall not be deemed valid until receipt by such controller -- as distinguished from the State Controller -- and the Contractor assumes the risk that such written notice of assignment is received by the controller for the agency, department, or institution involved.

CC. Confidentiality of Records

The Contractor shall protect the confidentiality of all records and other materials containing personally identifying information that are maintained in accordance with the contract. Except as provided by law, no information in possession of the Contractor about any individual constituent shall be disclosed in a form including identifying information without the prior written consent of the person in interest, a minor's parent, or guardian. The Contractor shall have written policies governing access to, duplication and dissemination of, all such information. The Contractor shall advise its employees, agents and subcontractors, if any, that they are subject to these confidentiality requirements. The Contractor shall provide its employees, agents and subcontractors, if any, with a copy or written explanation of these confidentiality requirements before access to confidential data is permitted.

DD. Licenses, Permits, and Responsibilities

Contractor certifies that, at the time of entering into this contract, it has currently in effect all necessary licenses, certifications, approvals, insurance, permits, etc. required to properly perform the services and/or deliver the supplies covered by this contract. The Contractor warrants that it will maintain all necessary licenses, certifications, approvals, insurance, permits, etc. required to properly perform this contract, without reimbursement by the Department or other adjustment in contract price. Additionally, all employees of the Contractor performing services under this contract shall hold the required licenses or certification, if any, to perform their responsibilities. The Contractor further certifies that, if it is a foreign corporation or other entity, it currently has obtained and shall maintain

any applicable certificate of authority to do business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of necessary licenses, certifications, approvals, insurance, permits, etc. required for the Contractor to properly perform this contract, shall be grounds for termination of this contract by the Department for default.

EE. Maintenance of Records

The Contractor shall maintain a complete file and system for retrieval of all records, documents, communications, and other written materials which pertain to the operation of programs or the delivery of services under this contract, and shall maintain such records in accordance with applicable laws and regulations regarding medical information for a period no less than six (6) years after the date of termination of this contract or final payment hereunder, whichever is later, or for such further period as may be necessary to resolve any matters which may be pending, or until an audit has been completed with the following qualification: If an audit by or on behalf of the federal and/or state government has begun but is not completed at the end of the three (3) year period, or if audit findings have not been resolved after a three (3) year period, the materials shall be retained until the resolution of the audit findings. All such records, documents, communications and other materials shall be the property of the Department, and shall be maintained by the Contractor in a central location and the Contractor shall be custodian on behalf of the Department.

FF. Audit, Inspection of Records, and Monitoring

The Contractor shall permit the State, Federal Government, or any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Contractor's records during the term of this contract and for a period of three (3) years following termination of this contract or final payment hereunder, whichever is later, to assure compliance with the terms hereof, or to evaluate the Contractor's performance hereunder. The Contractor shall also permit these same described entities to monitor all activities conducted by the Contractor pursuant to the terms of this contract. As the monitoring agency may in its sole discretion deem necessary or appropriate, such monitoring may consist of internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other reasonable procedure. All such monitoring shall be performed in a manner that will not unduly interfere with contract work.

GG. Reimbursement

The Department shall reimburse the Contractor for all covered services at the Medicaid allowable amount when billed as required pursuant to the provisions of the Colorado Medical Assistance Act, Title 26, Article 4, C.R.S. (2003), the

Statewide managed care system, Section 26-4-119, C.R.S. (2003) and the Colorado Department of Health Care Policy and Financing rules, 10 CCR 2505-10, Section 8. All payments shall be reduced to the extent that any third party coverage maintained by or for the member pays for part of the service.

SPECIAL PROVISIONS

(Not for Use with Inter-Governmental Contracts)

1. CONTROLLER'S APPROVAL. CRS 24-30-202 (1)

This contract shall not be deemed valid until it has been approved by the Controller of the State of Colorado or such assistant as he may designate.

2. FUND AVAILABILITY. CRS 24-30-202 (5.5)

Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

3. INDEMNIFICATION.

The Contractor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

4. INDEPENDENT CONTRACTOR. 4 CCR 801-2

THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID BY THE STATE PURSUANT TO THIS CONTRACT. CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKERS' COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUESTED BY THE STATE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.

5. NON-DISCRIMINATION.

The contractor agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.

6. CHOICE OF LAW

The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and State laws, rules, and regulations that have been or may hereafter be established.

7. VENDOR OFFSET. CRS 24-30-202 (1) &CRS 24-30-202.4

Pursuant to CRS 24-30-202.4 (as amended), the State Controller may withhold debts owed to State agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 21, Title 39, CRS; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) owed amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.

8. SOFTWARE PIRACY PROHIBITION GOVERNOR'S EXECUTIVE ORDER

No State or other public funds payable under this Contract shall be used for the acquisition, operation or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The Contractor hereby certifies that, for the term of this Contract and any extensions, the Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this Contract, including, without limitation, immediate termination of the Contract and any remedy consistent with United States copyright laws or applicable licensing restrictions.

9. EMPLOYEE FINANCIAL INTEREST. CRS 24-18-201 & CRS 24-50-507

The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

SPECIAL PROVISIONS

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

_____
Legal Name of Contracting Entity

_____
Social Security Number or FEIN

_____
Signature of Authorized Officer

_____
Print Name & Title of Authorized Officer

STATE OF COLORADO:

GOVERNOR

By_____
Executive Director

Department of_____

LEGAL REVIEW:

_____
ATTORNEY GENERAL

By _____

CORPORATIONS:
(A corporate seal or attestation is required.)

Attest (Seal) By_____
(Corporate Secretary or Equivalent, or Town/City/County Clerk)

(Place corporate seal here, if available.)

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

STATE CONTROLLER:

_____

By_____

Date_____

EXHIBIT A

DEPARTMENT RESPONSIBILITIES

A. The Department or its contracted representative must furnish information on Contractors to members when members first become eligible for Medicaid and within a timeframe that enables them to use the information in choosing among available contracted providers. The information and any changes to the information must include:

1. The names of and non-English languages spoken by the Contractor and the locations at which they furnish services.

2. Any restrictions on the member's choice of the listed contracted providers. The Department must restrict enrollment to members who reside sufficiently near one of the PCPP delivery sites to reach the site within a reasonable time.

3. Names, locations, telephone numbers of, and non-English languages spoken by current contracted providers in the member's service area, including identification of providers that are not accepting new patients.

4. Member rights and protections, as specified in 42 C.F.R. § 438.100.

5. The amount, duration, and scope of benefits available under the Medicaid program in sufficient detail to ensure that members understand the benefits to which they are entitled.

6. Procedures for obtaining benefits, including authorization requirements.

7. The extent to which, and how, members may obtain benefits, including family planning services, from out-of-network providers.

8. The extent to which, and how, after-hours and emergency coverage are provided.

   a. What constitutes emergency medical condition, emergency services, and poststabilization services, with reference to the definitions in 42 C.F.R. § 438.114(a).

   b. The fact that prior authorization is not required for emergency services.

   c. The process and procedures for obtaining emergency services, including use of the 911-telephone system or its local equivalent.

d. The locations of any emergency settings and other locations at which providers and hospitals furnish emergency services and poststabilization services covered under the contract.

e. The fact that, subject to the provisions of this section, the member has a right to use any hospital or other setting for emergency care.

9. The poststabilization care services rules set forth at 42 CFR Section 422.113(c). Poststabilization care services means covered services, related to an emergency medical condition that are provided after an member is stabilized in order to maintain the stabilized condition, or, under the circumstances described in paragraph 8.e above, to improve or resolve the member's condition.

10. Policy on referrals for specialty care and for other benefits not furnished by the member's Primary Care Provider.

11. Cost sharing, if any.

12. How and where to access any benefits that are available under the State Medicaid plan but are not covered under the contract, including any cost sharing, and how transportation is provided. For a counseling or referral service that the Contractor does not cover because of moral or religious objections, the Contractor need not furnish information on how and where to obtain the service. The Department must provide information on how and where to obtain the service.

B. The information must be furnished to all members at least once a year in a comparative, chart-like format, within a timeframe that enables them to use the information in choosing among available contracted providers.

C. Written material shall be available in alternative formats and in an appropriate manner that takes into consideration the special needs of those who, for example, are visually limited or have limited reading proficiency. All members must be informed that information is available in alternative formats and how to access those formats.

D. Oral interpretation services in all non-English languages shall be available free of charge to each member. Members shall be notified that oral interpretation is available for any language and written information is available in prevalent languages and how to access those services.

E. Emergency Services

1. The Department may not deny payment for treatment obtained when Contractor or Contractor's representative instructs the member to seek emergency services.

2. The Department must cover and pay for emergency services regardless of whether the provider that furnishes the services has a contract with the Department.

3. The Department may not deny payment for treatment for an emergency medical condition, including cases in which the absence of immediate medical attention would not have had the outcomes specified in the definition of emergency medical condition in Section I of this contract.

4. The Department must allow members to obtain emergency services outside the system regardless of whether the member was referred to the Primary Care Provider for services.

EXHIBIT B

MEMBER RIGHTS, PROTECTIONS AND DISENROLLMENT

I. Member Rights and Protections

A. Each Contractor must comply with any applicable federal and state laws that pertain to member rights and ensure that its staff and affiliated providers take those rights into account when furnishing services to members.

B. Each member is guaranteed the right to be treated with respect and with due consideration for his or her dignity and privacy.

C. Each member is guaranteed the right to receive information on available treatment options and alternatives, presented in a manner appropriate to the member's condition and ability to understand.

D. Each member is guaranteed the right to participate in decisions regarding his or her health care, including the right to refuse treatment.

E. Each member is guaranteed the right to be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation.

F. Each member is guaranteed the right to request and receive a copy of his or her medical records, and to request that they be amended or corrected, as specified in 45 CFR Part 164.

G. Each member is free to exercise his or her rights, and that the exercise of those rights does not adversely affect the way the Contractor, subcontractors, providers or the Department treat the member.

II. Member Disenrollment

A. A member may request disenrollment from the Primary Care Physician Program without cause during the ninety (90) days following the date of their initial enrollment or the date the Department or its designee sends the notice of enrollment, whichever is later.

B. A member may request disenrollment without cause at least every twelve (12) months after the date of initial enrollment with a managed care provider. A member may request disenrollment upon automatic reenrollment if the temporary loss of eligibility has caused the member to miss the annual disenrollment opportunity.

C. A member may request disenrollment when the Department undertakes remedial actions under Section IV, X of this Contract with the Primary Care Provider.

D. A member may request disenrollment for cause at any time. The member (or his or her representative) must submit an oral or written request to the Department (or its agent) or the PCPP. Cause shall be defined as any of the following:

1. The member moves out of the Primary Care Provider's service area.

2. The Primary Care Provider moves out of the service area available to member.

3. The Primary Care Provider does not, because of moral or religious objections, cover the service the member needs.

4. The member needs related services (for example, a caesarian section and a tubal ligation) to be performed at the same time; not all related services are available within the network; and the member's Primary Care Provider or another provider determines that receiving the services separately would subject the member to unnecessary risk.

5. Administrative error on the part of the Department or its designee, the Managed Care Organization or the Primary Care Provider including, but not limited to, system error.

6. Poor quality of care, as documented by the Department.

7. Lack of access to covered services, as documented by the Department.

8. Lack of access to providers experienced in dealing with the member's health care needs, as documented by the Department.

9. The member enrolled in a Managed Care Organization with his/her physician and the physician leaves the Managed Care Organization.

10. Other reasons satisfactory to the Department.

E. A member may request disenrollment upon automatic reenrollment under 42 C.F.R. § 438.56(g) if the temporary loss of Medicaid eligibility has caused the member to miss the annual enrollment opportunity.

F. For members who are unable to make decisions for themselves, a family member, legal guardian or designated advocate shall be included in all decision-making concerning enrollment and disenrollment of the member.

G. Procedures for disenrollment

1. The member (or his or her representative) must submit an oral or written request to the Department (or its agent).

2. Cause for disenrollment is defined in Section D above.

H. Action on request

1. If no disenrollment determination is made so that the member can be disenrolled no later than the first day of the second month following the month in which the member files the request, the disenrollment is considered approved.

2. The Department shall take action to approve or disapprove the request based on the following:

a. Reasons cited in the request,

b. Information provided by the Contractor at the Department's request,

c. For cause as defined in section D above.

3. Notice and appeals. If the Department restricts disenrollment under this section it must take the following actions:

a. Provide that members and their representatives are given written notice of disenrollment rights at least 60 days before the start of each enrollment period.

b. Ensure access to a fair hearing for any member dissatisfied with the Department's determination that there is not good cause for disenrollment.