

428



**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FORM APPROVED COUNTY COUNSEL  
DATE 7/11/11  
BY: JINNY R. YANG

**FROM:** Executive Office

**SUBMITTAL DATE:**  
July 14, 2011

**SUBJECT:** Third Party Administrator Agreement with Inland Empire Health Plan for the Low Income Health Program

**RECOMMENDED MOTION:** That the Board of Supervisors:  
Ratify and authorize the Chairman of the Board to execute the Third Party Administration Agreement with Inland Empire Health Plan for the Low Income Health Program, as recommended by the Health Care Governance Committee, for an amount not to exceed \$450,000 annually, effective June 1, 2011 through December 31, 2013.

**BACKGROUND:**

Health care reform is a collaborative effort between the Riverside County Executive Office, Riverside County Regional Medical Center (RCRMC), the Community Health Agency/Department of Public Health (DOPH), Department of Mental Health, Department of Public Social Services (DPSS) and the Office on Aging. In addition, Inland Empire Health Plan (IEHP) participates as a strategic partner. The Health Care Governance Committee recommends that IEHP provide administrative services on  
Continued on page 2

Departmental Concurrence

*Debra Cournoyer*

Debra Cournoyer, Principal Management Analyst

<b>FINANCIAL DATA</b>	<b>Current F.Y. Total Cost:</b>	\$ 450,000.00	<b>In Current Year Budget:</b>	Yes
	<b>Current F.Y. Net County Cost:</b>	\$ 0	<b>Budget Adjustment:</b>	No
	<b>Annual Net County Cost FY:</b>	\$ 225,000.00	<b>For Fiscal Year:</b>	11/12

<b>SOURCE OF FUNDS:</b> Federal	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
	<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:** APPROVE

*Christopher M. Hans*

BY: Christopher M. Hans  
**County Executive Office Signature**

Policy Policy  
 Consent  Consent  
 Consent  Consent

Dep't Recomm.:  
Per Exec. Ofc.:

Prev. Agn. Ref.: District: All Agenda Number:

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

3.2

**SUBJECT:** Third Party Administrator Agreement with Inland Empire Health Plan for the Low Income Health Program

**Page 2**

**BACKGROUND:**

a contractual basis in support of the Low Income Health Program (LIHP) implementation. Contracted services to be provided by IEHP include: claims adjudication, member services, credentialing, member appeals, inpatient utilization management, 24/7 Nurse Advice Line services, member identification card production and issuance, information technology support and data reporting.

A budget has been prepared based on agreed upon services IEHP will provide as the Third Party Administrator to Riverside County's LIHP. It is anticipated that costs through December 2013, are not expected to exceed \$1.2 million, including variable costs that will be directly passed through to the County.

LIHP is a component of the State's recently renewed Section 1115 Comprehensive Demonstration Project Waiver and expands health care coverage to low income, uninsured adults who are not eligible for MediCal or other public programs. As a component of the Demonstration Project Waiver, there is a 50% Federal match for medical and administrative expenditures incurred by the County for the LIHP program. One component of the LIHP is the Medicaid Coverage Expansion, which will be available to qualified individuals with incomes up to 133 percent of the Federal Poverty Level (FPL). In addition, coverage may be available through Health Care Coverage Initiative (HCCI) for qualified individuals with income between 134 and 200 percent FPL.

On February 8, 2011 item 3.27 the Board authorized submission of the LIHP application to the California Department of Health Care Services (DHCS). The county received initial approval from DHCS on April 11, 2011. The approval by DHCS initiated the concurrent authorization, allocation and contract process, which continues until all program requirements are met and program terms are finalized.

The State has prioritized applications for authorization starting with those counties with existing health care coverage initiative programs first. Based on the State's progress, the County has requested an implementation date of June 29, 2011. Requested information has been provided to DHCS to insure timely implementation of LIHP.

The Health Care Governance Committee recommends the Board ratify and authorize the Chairman of the Board to execute the Third Party Administration Agreement with IEHP to facilitate full implementation of the LIHP.

No additional general fund support is necessary for cost associated with this agreement.

2  
3 RESOLUTION NO. 11-163

4 APPROVAL OF THE AGREEMENT FOR PROFESSIONAL SERVICES WITH  
5 COUNTY OF RIVERSIDE

6 WHEREAS, Provisions of the Patient Protection and Affordable Care Act allow counties  
7 to begin providing health care coverage to uninsured adults through the Department of Health Care  
8 Services ("DHCS") administered Low Income Health Programs ("LIHP"); and

9 WHEREAS, county participation in the LIHP provides an opportunity to use available  
10 increased federal support and ensure a seamless transition to expanded federal Medicaid implementation  
11 in 2014;

12 WHEREAS, the County of Riverside (the "County") plans to participate through its Low  
13 Income Health Program, Riverside County HealthCare ("RCHC"), and thus requires the services of the  
14 Inland Empire Health Plan ("IEHP") to assist the County in the performance of third party administrator  
15 services, which shall include claims adjudication, member services, credentialing, member appeals,  
16 inpatient utilization management, 24/7 Nurse Advice Line services, member identification card  
17 production and issuance, information technology support, and data reporting (hereinafter referred to as  
18 "TPA Services"), for the efficient operation of RCHC; and

19 WHEREAS, the County desires to engage IEHP to provide TPA Services, and IEHP, by  
20 reason of its interest in participating in the County's LIHP and providing a smooth transition to  
21 expanded federal Medicaid implementation in the coming years, as well as its qualifications and  
22 experience for doing this type of work, has offered to provide the required TPA Services on the terms set  
23 forth under the Agreement for Professional Services; and

24 WHEREAS, IEHP's participation in this Agreement will begin once the Department of  
25 Health Care Services (DHCS) has deemed the county approved to start, and will require the approval of  
26  
27  
28

1 an IEHP budget to address the costs and staffing positions required to provide the TPA Services; now,  
2 therefore,

3 BE IT RESOLVED, DETERMINED AND ORDERED by the Governing Board of  
4 Inland Empire Health Plan, at its special meeting, assembled on June 20, 2011, that the Agreement  
5 for Professional Services with County of Riverside for TPA Services and corresponding TPA  
6 Services budget, which includes annual fees, a staffing budget, and start-up costs, are approved.  
7

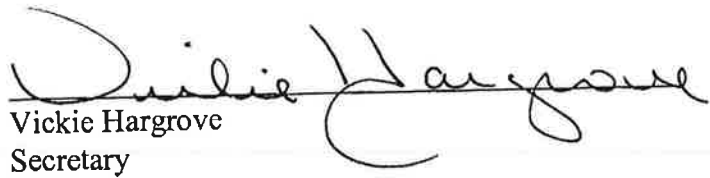
8 BE IT FURTHER RESOLVED, DETERMINED AND ORDERED that the addition  
9 of positions required for the provision of TPA Services are approved and the Chief Executive Officer  
10 of IEHP is authorized to hire these additional positions without requiring further Board authorization  
11 and/or approval.  
12

13  
14 State of California )  
County of San Bernardino )

15 I, Vickie Hargrove, Secretary of the Inland Empire Health Plan, do hereby certify  
16 that the foregoing resolution was duly and regularly adopted by the Governing Board of the  
17 Inland Empire Health Plan.

18 Ayes: Anderson, Buster, Mitzelfelt, Ovitt, Tavaglione, Williams, Zorn  
19 Noes: 0  
20 Abstain: 0  
21 Absent: 0  
22 Vacant: 0

23 Date: June 20, 2011

  
Vickie Hargrove  
Secretary

24  
25  
26  
27  
28

**AGREEMENT FOR PROFESSIONAL SERVICES  
INDEPENDENT CONTRACTOR  
(County of Riverside – Inland Empire Health Plan)**

**This Agreement for Professional Services** (the “Agreement”) is made and entered into this **1st** day of **June, 2011** by and between the County of Riverside, a political subdivision of the state of California (hereinafter “County”), through its Low Income Health Program, Riverside County HealthCare (hereinafter “RCHC”), and Inland Empire Health Plan, a joint powers agency (hereinafter “IEHP”).

**Recitals**

**WHEREAS**, County is authorized, pursuant to Government Code sections 31000 and 53060, to contract for special services with individuals specially trained, experienced, expert and competent to perform those services; and

**WHEREAS**, County requires the services of IEHP to assist the County in the performance of certain administrative services for the efficient operation of RCHC, and other County departments, as such services are unavailable from County resources; and

**WHEREAS**, County desires to engage IEHP to provide said services, and IEHP, by reason of its qualifications and experience for doing the type of work herein contemplated, has offered to provide the required services on the terms set forth herein; and

**WHEREAS**, it is the intent of both County and IEHP that the terms and conditions of this Agreement, and the manner in which services are to be performed hereunder, fulfill and comply with all applicable requirements of any federal and state law and regulatory rule or regulation;

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions hereinafter set forth and incorporating by this reference the foregoing recitals, the parties hereto agree as follows:

1. **Term**. Performance by IEHP and County shall commence on **June 1, 2011** (the “Effective Date”), and shall end **December 31, 2013**, unless earlier terminated pursuant to other provisions of this Agreement.
2. **Obligations of IEHP**. IEHP shall be responsible to the County for the following:
  - 2.1 **Services**. IEHP will provide the services set forth in Exhibit “A,” attached hereto and incorporated herein by this reference.
  - 2.2 **Ownership of Reports, Records**. The County shall own and have the right to control all reports, records, including medical records, and supporting documents generated pursuant to this Agreement. To the extent permitted by law, IEHP shall be entitled to access all documents, reports, medical records, and supporting documents reasonably necessary to fulfill its duties hereunder.

2.3 HIPAA. IEHP warrants and agrees it will make every reasonable effort to ensure its provision of services rendered hereunder shall comply with requirements imposed by the Health Insurance Portability and Accountability Act of 1996, as amended (“HIPAA”), and with the County’s HIPAA compliance policies, and will take such actions as are necessary and appropriate in connection therewith, including, but not limited to the execution of a Business Associate Addendum in the form attached hereto and incorporated herein by reference as Exhibit “B.”

3. **Obligations of the County.** The County shall be responsible to IEHP for the following:

a. Control Retained in the County. In compliance with title 22, California Code of Regulations, section 70713 the County will retain professional and administrative responsibility for services rendered under this Agreement. IEHP shall apprise the County of recommendations, plans for implementation and continuing assessment through dated and signed reports which shall be retained by the County for follow-up action and evaluation of performance.

4. **Fee for Services.**

a. Administrative Fee. As consideration for the services rendered hereunder by IEHP, the County shall pay IEHP for the actual costs, direct and indirect, incurred by IEHP in performing services under this Agreement. All services are payable in arrears. Invoices for payment will be submitted on a form approved by County. Invoices will be sent to the County for review and processing on or before the 10<sup>th</sup> day of each month. The County will submit each claim for payment to the County Auditor-Controller for review and processing. IEHP will establish and maintain a direct deposit account with the Auditor-Controller, which IEHP will furnish to the County. The Auditor-Controller will direct deposit the amount of each approved claim for payment on or before the last day of the month.

b. Implementation Fee. Within thirty (30) days of the Effective Date, the County shall pay IEHP a fee in the amount of thirty thousand dollars (\$30,000) to cover all one time start up implementation costs and services incurred by IEHP.

c. Maximum Payable. The annual fee for services (fixed costs) will not exceed: (i) three hundred thirty thousand dollars (\$330,000) for the period June 1, 2011 through May 31, 2012; (ii) three hundred fifty thousand dollars (\$350,000) for the period June 1, 2012 through May 31, 2013; and (iii) two hundred and twenty thousand dollars (\$220,000) for the period June 1, 2013 through December 31, 2013. The annual fees for services are exclusive of vendor pass through costs, which IEHP shall bill to the County on a monthly invoice basis, in addition to the monthly fixed cost fee. The maximum annual fee for services (fixed costs) payable under this Agreement will not exceed nine hundred thousand dollars (\$900,000) over the 31 month term of this Agreement.

d. Taxpayer Identification. To ensure compensation is reported as paid to the proper party, IEHP will complete and execute IRS Form W-9 (Exhibit “C,” attached hereto and incorporated herein by this reference), which identifies the taxpayer identification number for IEHP.

5. **Access to Books and Records.** Until the expiration of four (4) years after the expiration or termination of this Agreement, RCHC and IEHP shall make available, upon written request of the Secretary of the United States Secretary of Health and Human Services (“Secretary”) or the Comptroller General of the United States General Accounting Office (“Comptroller General”), or any of their duly authorized representatives, a copy of this Agreement and such books, documents and records of either party as are necessary to certify the nature and extent of costs of the services IEHP provided under this Agreement. IEHP further agrees that if it carries out any of its duties under this Agreement through a subcontract with a value or cost of ten thousand dollars (\$10,000) or more over a twelve (12) month period with a related organization, that such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request if the Secretary or the Comptroller General, or any of their duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of such costs.

6. **Anti-referral Laws.** The parties expressly agree that nothing contained in this Agreement will require either the referral of any patients to, or order of any goods or services from IEHP or RCHC. Notwithstanding any unanticipated effect of any provision of this Agreement, neither party will knowingly or intentionally conduct itself in such a manner as to violate the prohibition against fraud and abuse in connection with the Medicare and Medicaid programs (42 U.S.C. section 1320a-7b).

7. **Assignment.** IEHP shall not assign or transfer this Agreement or its obligations hereunder, or any part thereof. IEHP shall not assign any money due or which becomes due to Inland Empire Health Plan under this Agreement without the prior written approval of County.

8. **Audits, Inspection and Retention of Records.** IEHP agrees to maintain and make available to County accurate books and records relative to all its activities under this Agreement. IEHP shall permit County to audit, examine and make excerpts and transcripts from such records, and to conduct audits or reviews of all invoices, materials, records or personnel or other data related to all other matters covered by this Agreement. Inland Empire Health Plan shall maintain such data and records in an accessible location and condition for a period of not less than four (4) years from the date of final payment under this Agreement, or until after the conclusion of any audit, whichever occurs last. The state of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon County herein.

9. **Authority to Bind County.** It is understood that IEHP, in its performance of any and all duties under this Agreement, has no authority to bind County to any agreements or undertakings, except as otherwise provided herein.

10. **Captions and Interpretation.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the parties.

11. **Change in Law.** In the event that a change in state or federal law or regulatory requirement (or the application thereof), any of which renders this Agreement illegal, impossible to perform, or commercially impracticable, the parties agree to negotiate immediately, in good faith, any necessary or appropriate amendments(s) to the terms of this Agreement. If the parties fail to reach a mutually agreeable amendment within thirty (30) days of such negotiation period, this Agreement shall automatically terminate at the end of such thirty (30) day period.

12. **Choice of Law/Venue.** The parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the state of California. Should any suit or action be commenced to enforce or interpret the terms of this Agreement or any claim arising under it, it is expressly agreed that proper venue shall be in the state or federal (if permitted by law and a party elects to file an action in federal court) courts located in the counties of San Bernardino or Riverside, state of California.

13. **Compliance with Law.** IEHP shall observe and comply with all applicable County, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which is hereby made a part hereof and incorporated herein by reference.



**14. Compliance Program.** The parties recognize the importance of maintaining compliance with federal and state laws, rules and regulations regulating the activities covered by the Agreement. In furtherance of that recognition, IEHP shall maintain a compliance program designed to promote compliance with those applicable laws, rules and regulations. IEHP will consider the policies and procedures recommended in compliance program guidance issued by the Office of the Inspector General of the Department of Health and Human Services for companies providing third-party billing and coding services. Such policies and procedures shall include, without limitation: (1) the distribution of written standards of conduct and policies and procedures relating to compliance; (2) the designation of a chief compliance officer and a committee authorized to operate the compliance program; (3) the provision of regular training and education programs and materials for IEHP's personnel and other employees; (4) the establishment of a communications channel for receiving on an anonymous basis allegations of violations; (5) a program to investigate and discipline IEHP's personnel who have violated IEHP's policies or applicable laws, rules or regulations; (6) use of audits and other risk evaluation techniques to monitor compliance; and (7) a program to investigate and correct errors and ensure that individuals excluded and/or sanctioned by the Medicare or Medi-Cal programs are not employed by or otherwise contracted with IEHP.

**15. Confidentiality.**

a. Use and Disclosure Restrictions. Neither party shall, without the written consent of the other, communicate confidential information of the other, designated in writing or identified in this Agreement as such, to any third party and shall protect such information from inadvertent disclosure to any third party in the same manner that the receiving party would protect its own confidential information. The foregoing obligations will not restrict either party from disclosing confidential information of the other party: (i) pursuant to applicable law; (ii) pursuant to the order or requirement of a court, administrative agency, or other governmental body, on condition that the party required to make such a disclosure gives reasonable written notice to the other party to contest such order or requirement; and (iii) on a confidential basis to its legal or financial advisors.

b. Medical Records. The parties agree to maintain the confidentiality of all medical records pertaining to the provision of services under this Agreement in accordance with applicable federal and state laws and regulations including, but not limited to, the California Confidentiality of Medical Information Act, codified at section 56, *et seq.*, of the California Civil Code and California Evidence Code sections 1156 and 1157.

c. Ownership of Records. All medical records and charts created by County departments pursuant to this Agreement shall be and remains the property of County departments; provided, however, IEHP shall be entitled to inspect or obtain copies of all such records upon request.

**16. Conflict of Interest.** The parties to this Agreement have read and are aware of the provisions of sections 1090 et seq. and sections 87100 et seq. of the Government Code relating to conflict of interest of public officers and employees. The parties each represent they are unaware of any financial or economic interest of any public officer or employee of their respective agencies relating to this Agreement. It is understood and agreed that if such financial interest does exist at the inception of this Agreement; either party may immediately terminate this Agreement by giving written notice thereof.

**17. Counterparts.** This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**18. Disqualified Persons.** IEHP represents and warrants that no person providing services under the terms of this Agreement (i) has been convicted of a criminal offense related to healthcare (unless such individual has been officially reinstated into the federal healthcare programs by the Office of Inspector General (“OIG”) and provided proof of such reinstatement to County), (ii) is currently under sanction, exclusion or investigation (civil or criminal) by any federal or state enforcement, regulatory, administrative or licensing agency or is ineligible for federal or state program participation, or (iii) is currently listed on the General Services Administration List of Parties Excluded from the Federal Procurement and Non-Procurement Programs. IEHP agrees that if any individual providing services under the terms of this Agreement becomes involved in a pending criminal action or proposed civil debarment, exclusion or other sanctioning action related to any federal or state healthcare program (each, an “Enforcement Action”), IEHP shall immediately notify RCHC and such individual shall be immediately removed by IEHP from any functions involving (i) the claims development and submission process, and (ii) any healthcare provider contact related to RCHC patients.

**19. Enforcement of Remedies.** No right or remedy herein conferred on or reserved to County is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or concurrently or from time to time.

**20. Indemnification and Hold Harmless.** Both parties to this Agreement agree to indemnify, defend and hold harmless the other party and their officers, agents and employees from any and all claims, demands, judgments, damages, costs, liabilities or losses arising from, or in any way relating to, their respective acts or omissions, and the acts or omissions of their officers, agents and employees, under this Agreement.

**21. Independent Contractor.** In the performance of the services under this Agreement, IEHP shall be, and acknowledges that it is in fact and law, an independent contractor and not an agent or employee of County. IEHP has and retains the right to exercise full supervision and control over the manner and methods of providing services to County under this Agreement. IEHP retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting IEHP in the provision of services under this Agreement. With respect to IEHP's employees, if any, IEHP shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employment taxes whether federal, state or local, and compliance with any and all other laws regulating employment.

**22. Informal Dispute Resolution.** Controversies between the parties with respect to this Agreement, or the rights of either party, or with respect to any transaction contemplated by this Agreement, shall be resolved, to the extent possible, by informal meetings and discussions among appropriate representatives of the parties.

**23. Insurance.** IEHP shall secure and maintain insurance as described below. IEHP shall not perform any work under this Agreement until IEHP has obtained all insurance required under this section and the required certificates of insurance have been filed with and approved by County. IEHP shall pay any deductibles and self-insured retentions under all required insurance policies.

- a. Workers' Compensation and Employer's Liability Insurance Requirement: In the event IEHP has employees who may perform any services pursuant to this Agreement, IEHP shall submit written proof that it is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the Labor Code.

IEHP shall require any subcontractors to provide worker's compensation for all of the subcontractors' employees, unless the subcontractors' employees are covered by the insurance afforded by IEHP. If any class of employees engaged in work or services performed under this Agreement is not covered by Labor Code section 3700, IEHP shall provide or require each subcontractor to provide adequate insurance for the coverage of employees not otherwise covered. IEHP shall maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

b. Liability Insurance Requirements:

- 1) IEHP shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance:
  - A) Commercial general liability insurance, including, but not limited to, contractual liability insurance, products-completed operations hazard, personal injury (including bodily injury and death), and property damage for liability arising out of IEHP's performance of work under this Agreement. The amount of said insurance coverage shall be the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.
  - B) Automobile liability insurance against claims of personal injury (including bodily injury and death) and property damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of services pursuant to this Agreement with County with coverage equal to the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence.

- 2) The commercial general liability insurance required in this subparagraph b shall include an endorsement naming County and County's board members, officials, officers, agents and employees as additional insured's for liability arising out of this Agreement and any operations related thereto.
- 3) If any of the insurance coverage required under this Agreement is written on a claims-made basis, IEHP, at its option, shall either (i) maintain said coverage for at least four (4) years following the termination of this Agreement with coverage extending back to the Effective Date, or (ii) purchase an extended reporting period of not less than four (4) years following the termination of this Agreement.
- 4) Prior to IEHP commencing any of its obligations under this Agreement, evidence of insurance in compliance with the requirements above shall be furnished to County by Certificate of Insurance. Receipt of evidence of insurance that does not comply with above requirements shall not constitute a waiver of the insurance requirements set forth above.

c. The above stated insurance coverage required to be maintained by IEHP shall be maintained until the completion of all of its obligations under this Agreement, and shall not be reduced, modified, or canceled without thirty (30) days prior written notice to County. IEHP shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

d. All insurance shall be issued by a company or companies admitted to do business in the state of California and listed in the current "Best's Key Rating Guide" publication with a minimum of an "A-; VII" rating. Any exception to these requirements must be approved by the County risk manager.

e. If IEHP is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, IEHP shall provide coverage equivalent to the insurance coverage and endorsements required above. County will not accept such coverage unless County determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by IEHP is equivalent to the above-required coverage.

f. All insurance afforded by IEHP pursuant to this Agreement shall be primary to and not contributing to any other insurance or self-insurance maintained by County.

g. Failure by IEHP to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by IEHP, and County, at its sole option, may terminate this Agreement immediately.

**24. Modifications of Agreement.** This Agreement may be modified in writing only, and shall not be valid unless made in writing and signed by the respective boards of the parties hereto. No oral understanding or agreement not incorporated herein, shall be binding on any of the parties.

**25. Non-Appropriation.** County reserves the right to terminate this Agreement in the event insufficient funds are appropriated or budgeted for this Agreement in any fiscal year. Upon such termination, County will be released from any further financial obligation to IEHP, except for services performed prior to the date of termination or any liability due to any default existing at the time this clause is exercised. IEHP will be given ninety (90) days prior written notice in the event that County requires such an action.

**26. Non-Collusion Covenant.** IEHP represents and agrees that it has in no way entered into any contingent fee arrangement with any firm or person concerning the obtaining of this Agreement with County. IEHP has received from County no incentive or special payments, nor considerations, not related to the provision of services under this Agreement.

**27. Non-Discrimination.** Neither IEHP, nor any officer, agent, employee, servant or subcontractor of IEHP shall discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age or sex, either directly, indirectly or through contractual or other arrangements.

**28. Waiver.** Any waiver by County of any breach of any one (1) or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same term or of any other term herein.

**29. Notices.** All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below; notices delivered personally shall be deemed received upon receipt, mailed or expressed notices shall be deemed received four (4) days after their deposit in the United States mail, postage prepaid. A party may change the address to which notice is to be given by giving notice as provided above.

Notice to IEHP:

Inland Empire Health Plan  
303 East Vanderbilt Way  
San Bernardino, Ca 92408

Attn: Chief Executive Officer

Notice to County:

County of Riverside  
c/o Riverside County Regional Medical Center  
26520 Cactus Avenue  
Moreno Valley, CA 92555

Attn: Hospital Director/CEO

**30. Severability.** In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**31. Signature Authority.** Each party represents that they have full power and authority to enter into and perform this Agreement, and the person(s) signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement.

**32. Sole Agreement.** This Agreement, including all attachments hereto, contains the entire agreement between the parties relating to the services, rights, obligations and covenants contained herein and assumed by the parties respectively. No inducements, representations or promises have been made, other than those recited in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect.

**33. Termination.**

**a. Termination with Cause.** Either party may terminate this Agreement in the event of material breach by the other; provided, however, the termination for the breach of this Agreement will not become effective unless and until the party not in default, has given the other party written notice of breach, which notice shall state the general nature of the breach, and the party allegedly in default will thereafter have a period of ninety (90) days following the giving of said notice in which to remedy the default to the reasonable satisfaction of the other party.

**b. Termination without Cause.** Either party may terminate this Agreement, without cause, upon one hundred twenty (120) days prior written notice to the other party.

**c. Immediate Termination.** Notwithstanding the foregoing, County shall have the right to terminate this Agreement effective immediately after giving written notice to IEHP in the event that continuation by IEHP in the providing of services under this Agreement may result (i) in civil, criminal, or monetary penalties against County or County Departments, (ii) in IEHP's breach of any necessary condition of accreditation or certification, or (iii) in the loss of County's ability to participate in the Low Income Health Program (LIHP).

**d. Immediate Termination.** Notwithstanding the foregoing, IEHP shall have the right to terminate this Agreement effective immediately after giving written notice to County in the event that continuation by IEHP in the providing of services under this Agreement may result (i) in civil, criminal, or monetary penalties against IEHP, or (ii) loss of IEHP's ability to contract with

providers in IEHP's other lines of business as a result of RCHC payment practices or provider network limitations.

**34. Effect of Termination.**

a. Payment Obligations. In the event of termination of this Agreement for any reason, County shall have no further obligation to pay for any services rendered or expenses incurred by IEHP after the effective date of the termination, and IEHP shall be entitled to receive compensation for services satisfactorily rendered, calculated on a prorated basis up to the effective date of termination.

b. Documents and Records. IEHP agrees to deliver to the County all bills, records, files and documents concerning County business in IEHP's possession within ten (10) days of the termination of this Agreement unless otherwise agreed upon by the parties.

**35. Time of Essence.** Time is hereby expressly declared to be of the essence in this Agreement and of each and every provision hereof, and each such provision is hereby made and declared to be a material, necessary and essential part of this Agreement.

**[Signatures follow on next page]**



IN WITNESS TO THE FOREGOING, the parties have executed this Agreement as of the day and year first written above.

**COUNTY OF RIVERSIDE**

**INLAND EMPIRE HEALTHPLAN**

By: \_\_\_\_\_  
Chairman  
Board of Supervisors

APPROVED AS TO CONTENT:  
RIVERSIDE COUNTY HEALTHCARE

By: \_\_\_\_\_  
Chief Executive Officer

Attest: \_\_\_\_\_

APPROVED AS TO FORM:

PAMELA J. WALLS  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

By: Bradley P. Gilbert  
Bradley P. Gilbert, M.D.  
Chief Executive Officer

Date: 6/14/11

By: [Signature]  
Chairperson  
Inland Empire Health Plan  
Governing Board

Date: 6/20/11

Attest: [Signature]  
Secretary  
Inland Empire Health Plan

Date: 6-20-11

Approved as to Form And Content:

PAMELA J. WALLS  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel  
Attorney for Inland Empire Health Plan

Date: 6/20/11

**EXHIBIT "A"**  
**Description of Services**  
**Riverside County HealthCare**

IEHP will hire and maintain adequate staffing to perform the services listed below for Riverside County HealthCare ("RCHC").

A) Member Service

1. Member Service Representatives will answer calls from members during the hours of 8:00 a.m. – 5:00 p.m. Monday through Friday, excluding holidays.
2. Serve as first point of member contact for member questions. Member Services will direct member to appropriate county resource.
3. Answer member eligibility information.
4. Implement member requested PCP changes.
5. Implement member requested demographic changes.
6. Answer basic benefits questions.
7. Provide member materials as requested (ID card replacement, Member Handbook or program information)
8. Answer or direct member on appointment and referral inquiries.
9. Refer member complaints/grievances to RCHC.
10. Refer provider claims inquiries to RCHC.

B) Claims Department

1. Set up and maintain claims system configuration to handle claims adjudication processing.
2. Receive all RCHC claims (electronic and paper), and issue acknowledgement confirmations to provider.
3. Review and adjudicate all RCHC claims that are received within the required timeframe for contracted or non-contracted providers.
4. Transmit electronic pre-payment file listing of payable claims to RCHC for review, approval and check/remittance advice issuance.
5. Transmit electronic file listing of pended and denied claims to RCHC.

C) Information Technology

1. Establish a 800# and TTY # specific to RCHC
2. Develop and support RCHC website for:
  - a. Member eligibility
  - b. Claims status
  - c. Authorization status
3. Collaborate with RCHC technical team to facilitate bi-directional data exchange, or other technical issues, as necessary
4. Submit data feed to RCHC with claims, membership and utilization management data
5. Receive data from RCHC for paid claims

#### D) Credentialing

1. Credential new providers (all County and contracted PCPs), including queries and site audit, as applicable. (RCRMC and Mental Health providers are being credentialed by those respective departments).
2. Conduct Credentialing Committee to review and approve RCHC providers, as applicable.
3. Provide updates to RCHC on provider licensure and sanctions monitoring.

#### E) Utilization Management

1. The UM Nurse Reviewer and UM Coordinator will provide the listed UM services during the hours of 8:00 a.m. – 5:00 p.m. Monday through Friday, excluding holidays.
2. Provide utilization review of inpatient services at out of area acute care and SNF facilities to ensure appropriateness of stay and level of care.
3. Provide discharge planning to include arranging home health and DME for out of area facilities.
4. Coordinate and manage transfers back to network facility for out of area inpatient members.

#### F) Quality Management

1. Manage member appeal process, including review of appeal, formulate decision, and provide written response to Member.
2. Provide all correspondences to Members regarding appeals using RCHC letterhead.
3. Provide reporting and trend data to RCHC as mutually agreed upon.
4. Provide 2<sup>nd</sup> level review of member grievances.

#### G) Operations

1. Produce and distribute permanent member identification cards upon enrollment, and issue replacement ID cards if requested.
2. Manage and upload daily membership information provided by RCHC.
3. Auto assignment of PCP if RCHC member does not select a primary care provider at time of enrollment.

#### H) Administrative Support

1. Weekly/ monthly joint operations meetings with key stakeholders
2. Liaison for daily trouble-shooting
3. Ongoing technical and operational resource support

**Description of Services (Optional)**

**24/7 Nurse Advice Line Services through KPOncall, LLC**

RCHC agrees to reimburse IEHP for 24/7 Nurse Advice Line services from KPOncall for the RCHC Low Income Health Program (as a vendor pass through cost) through IEHP's contract with KPOncall. IEHP shall pass through the monthly invoice costs associated with KPOncall services to RCHC in its monthly TPA service invoicing. RCHC will establish, at its own expense, a separate toll free phone line dedicated for nurse advice line services. KPOncall shall provide basic reporting TBD. The following rates apply to the RCHC program:

Start up Fee	\$10,119.25
<u>Nurse Triage Service Fee</u>	
Encounter Service Fee	\$ 34.73/per encounter
Minimum Monthly Service Fee*	\$ 2,000.00/monthly

\*If the encounter fees do not equal or exceed the monthly minimum, the monthly minimum fee will be charged.

**EXHIBIT "B"**  
**HIPAA BUSINESS ASSOCIATE ADDENDUM**

This HIPAA Business Associate Addendum (the "Addendum") is an Exhibit to the Agreement for Professional Services (the "Underlying Agreement") between the County of Riverside through its Low Income Health Program, Riverside County HealthCare ("COVERED ENTITY"), and the Inland Empire Health Plan ("BUSINESS ASSOCIATE") as of the date on Section 1 (the "Effective Date"), of the Underlying Agreement.

RECITALS

WHEREAS, COVERED ENTITY and BUSINESS ASSOCIATE entered into the Underlying Agreement pursuant to which BUSINESS ASSOCIATE provides services to COVERED ENTITY, and in conjunction with the provision of such services certain Protected Health Information ("PHI") and/or certain electronic Protected Health Information ("ePHI") may be made available to BUSINESS ASSOCIATE for the purposes of carrying out its obligations under the Underlying Agreement; and,

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act, Pub. L. No. 104-161 of 1996 ("HIPAA"), more specifically the regulations found at Title 45, C.F.R., Parts 160 and 164, Subparts A and E (the "Privacy Rule") and/or 45 C.F.R. Part 164, Subpart C (the "Security Rule"), as may be amended from time to time, which are applicable to the protection of any disclosure or use of PHI and/or ePHI pursuant to the Underlying Agreement; and,

WHEREAS, the provisions of Subtitle D entitled "Privacy" of the Health Information Technology for Economic and Clinical Health Act ("HITECH") of the American Recovery and Reinvestment Act of 2009 ("ARRA") and the implementing regulations adopted thereunder, as may be amended from time to time, impose certain requirements on Business Associates; and

WHEREAS, COVERED ENTITY is a Covered Entity, as defined in the Privacy Rule; and,

WHEREAS, BUSINESS ASSOCIATE, when a recipient of PHI and/or ePHI from COVERED ENTITY, is a Business Associate as defined in the Privacy Rule; and,

WHEREAS, the parties intend to enter into this Addendum to address the requirements of HIPAA, HITECH, Privacy Rule, and Security Rule as they apply to BUSINESS ASSOCIATE as a Business Associate of COVERED ENTITY, including the establishment of permitted and required uses and disclosures (and appropriate limitations and conditions on such uses and disclosures) of PHI and/or ePHI by BUSINESS ASSOCIATE that is created or received in the course of performing services on behalf of COVERED ENTITY, and to incorporate the Business Associate obligations set forth in HITECH; and,

WHEREAS, the parties agree that any disclosure or use of PHI and/or ePHI be in compliance with the Privacy Rule, Security Rule, HITECH, or other applicable law;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

**1. Definitions.**

A. Unless otherwise provided in this Addendum, or specifically defined in Paragraph B of this Section 1, the capitalized terms shall have the same meanings as set forth in the Privacy Rule, Security Rule, and/or HITECH as may be amended from time to time.

B. Specific Definitions

(1) "Breach" shall mean the acquisition, access, use or disclosure of unsecured Protected Health Information in a manner not permitted under HIPAA (45 CFR Part 164, Subpart E), which compromises the security or privacy of the Unsecured PHI, unless such acquisition, access, use or disclosure is otherwise excluded under 45 C.F.R. § 164.402. For this purpose, "compromises the security or privacy" of the Unsecured PHI means poses a significant risk of financial, reputational or other harm to the individual.

(2) "Discovered" means the first day on which such Breach is known to such Covered Entity or Business Associate, respectively, (including any person, other than the individual committing the Breach, that is an employee, officer or other agent of such entity or associate, respectively) or should reasonably have been known to such Covered Entity or Business Associate (or person) to have occurred.

(3) "Secretary" shall mean the Secretary of the U.S. Department of Health and Human Services ("DHHS") or his/her designee.

(4) "Unsecured PHI" shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary.

**2. Scope of Use and Disclosure by Business Associate of Covered Entity Disclosed PHI and/or ePHI.**

A. BUSINESS ASSOCIATE shall be permitted to use PHI and/or ePHI disclosed to it by COVERED ENTITY:

(1) On behalf of COVERED ENTITY, or to provide services to COVERED ENTITY for the purposes contained herein, if such use or disclosure would not violate the Privacy Rule, Security Rule, and/or HITECH;

(2) As necessary to perform any and all of its obligations under the Underlying Agreement.

B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Addendum or required by law, BUSINESS ASSOCIATE may:

- (1) Use the PHI and/or ePHI in its possession for its proper management and administration and to fulfill any legal obligations.
- (2) Disclose the PHI and/or ePHI in its possession to a third party for the purpose of BUSINESS ASSOCIATE's proper management and administration or to fulfill any legal responsibilities of BUSINESS ASSOCIATE. BUSINESS ASSOCIATE may disclose PHI and/or ePHI as necessary for BUSINESS ASSOCIATE's operations only if:
  - (a) The disclosure is required by law; or
  - (b) BUSINESS ASSOCIATE obtains written assurances from any person or organization to which BUSINESS ASSOCIATE will disclose such PHI and/or ePHI that the person or organization will:
    - (i) Hold such PHI and/or ePHI in confidence and use or further disclose it only for the purpose of which BUSINESS ASSOCIATE disclosed it to the third party, or as required by law; and,
    - (ii) The third party will notify BUSINESS ASSOCIATE of any instances of which it becomes aware in which the confidentiality of the information has been breached (42 U.S.C. § 17932; 45 C.F.R. 164.504(e)).
- (3) Aggregate the PHI and/or ePHI and/or aggregate the PHI and/or ePHI with that of other data for the purpose of providing COVERED ENTITY with data analyses related to the Underlying Agreement, or any other purpose, financial or otherwise, as requested by COVERED ENTITY.
- (4) De-identify any and all PHI and/or ePHI of COVERED ENTITY received by BUSINESS ASSOCIATE under this Addendum provided that the De-identification conforms to the requirements of the Privacy Rule and/or Security Rule and does not preclude timely payment and/or claims processing and receipt.

C. BUSINESS ASSOCIATE shall not:

- (1) Use nor disclose PHI and/or ePHI it receives from COVERED ENTITY, nor from another Business Associate of COVERED ENTITY, except as permitted or required by this Addendum, or as required by law, or as otherwise permitted by law.
- (2) Disclose PHI and/or ePHI disclosed to BUSINESS ASSOCIATE by COVERED ENTITY not authorized by the Underlying Agreement or

this Addendum without patient authorization or De-identification of the PHI and/or ePHI as authorized in writing by COVERED ENTITY.

- (3) Use or disclose PHI for fundraising or marketing purposes. BUSINESS ASSOCIATE shall not disclose PHI and/or ePHI to a health plan for payment or healthcare operations purposes if the patient has requested this special restriction, and has paid out-of-pocket in full for the healthcare item or service to which the PHI solely relates (42 U.S.C. Section 17935(a) and 45 C.F.R. Section 164.522(a)(1)(i)(A)). BUSINESS ASSOCIATE shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of COVERED ENTITY and as permitted by HITECH (42 U.S.C. Section 17935(d)(2)); however, this prohibition shall not affect payment by COVERED ENTITY to BUSINESS ASSOCIATE for services provided pursuant to the Underlying Agreement.
- D. BUSINESS ASSOCIATE warrants that all employees who use, access or disclose PHI and/or ePHI shall be properly trained to comply with the Privacy Rule, Security Rule, HITECH, or other such applicable law.
- E. BUSINESS ASSOCIATE shall require sub-contractors or agents to whom BUSINESS ASSOCIATE provides PHI and/or ePHI to agree to the same restrictions and conditions that apply to BUSINESS ASSOCIATE pursuant to this Addendum.
- F. Notwithstanding the foregoing, in any instance where applicable state and/or federal laws and/or regulations are stricter in their requirements than the provisions of HIPAA and/or HITECH and prohibit the disclosure of mental health, and/or substance abuse records, the applicable state and/or federal laws and/or regulations shall control the disclosure of records.

### **3. Obligations of Covered Entity.**

- A. Notification of Restrictions to Use or Disclosure of PHI. COVERED ENTITY agrees that it will make its best efforts to promptly notify BUSINESS ASSOCIATE in writing of any restrictions, limitations, or changes on the use, access and disclosure of PHI and/or ePHI agreed to by COVERED ENTITY in accordance with 42 U.S.C. 17935(a), that may affect BUSINESS ASSOCIATE's ability to perform its obligations under the Underlying Agreement, or this Addendum.
- B. Proper Use of PHI. COVERED ENTITY shall not request BUSINESS ASSOCIATE to use, access, or disclose PHI and/or ePHI in any manner that would not be permissible under the Privacy Rule, Security Rule, and/or HITECH.



- C. Authorizations. COVERED ENTITY will obtain any authorizations necessary for the use, access, or disclosure of PHI and/or ePHI, so that BUSINESS ASSOCIATE can perform its obligations under this Addendum and/or the Underlying Agreement.
- D. Actions in Response to Business Associate Breach. COVERED ENTITY shall complete the following in the event that COVERED ENTITY has determined that BUSINESS ASSOCIATE has a Breach:
- (1) Determine appropriate method of notification to the patient/client(s) regarding a Breach as outlined under Section 13402(e) of HITECH.
  - (2) Send notification to the patient/client(s) without unreasonable delay but in no case later than sixty (60) days of Discovery of the Breach with at least the minimal required elements as follows:
    - a) Brief description of what happened, including the date of the Breach and the date of Discovery;
    - b) Description of the types of Unsecured PHI involved in the Breach (such as name, date of birth, home address, Social Security number, medical insurance, etc.);
    - c) Steps patient/client(s) should take to protect themselves from potential harm resulting from the Breach;
    - d) Brief description of what is being done to investigate the Breach, to mitigate harm to patient/client(s) and to protect against any further Breaches; and
    - e) Contact procedures for patient/client(s) to ask questions or learn additional information, which must include a toll-free telephone number, an E-Mail address, website or postal address.
  - (3) Determine if notice is required to the Secretary.
  - (4) If required, submit Breach information to the Secretary within the required timeframe, in accordance with 45 C.F.R. § 164.408(b).
- E. Breach Pattern or Practice by Business Associate. Pursuant to 45 C.F.R. § 164.504(e), if COVERED ENTITY 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 this Addendum, COVERED ENTITY must take reasonable steps to cure the Breach or end the violation. If the steps are unsuccessful, COVERED ENTITY shall terminate

the Addendum if feasible, or if termination is not feasible, report the problem to the Secretary.

**4. Obligations of Business Associate.**

- A. Permitted Uses. BUSINESS ASSOCIATE shall use, access, or disclose only the minimum amount of PHI and/or ePHI as permitted or required by this Addendum or as required by law.
- B. HITECH Provisions Applicable to Business Associate. The provisions of HITECH that apply to BUSINESS ASSOCIATE as a Business Associate and are required to be incorporated by reference in a Business Associate agreement are hereby incorporated into this Addendum as of their respective applicable effective dates, including, without limitation, those referenced in 42 U.S.C. §§ 17931(a) and 17934(a).
- C. Appropriate Safeguards. BUSINESS ASSOCIATE shall use reasonable and appropriate safeguards to prevent use or disclosure of PHI and/or ePHI other than as provided for by this Addendum. BUSINESS ASSOCIATE shall implement the following administrative, physical and technical safeguards in accordance with the Security Rule under 45 C.F.R. Sections 164.308, 164.310, 164.312 and 164.316:
- i. BUSINESS ASSOCIATE shall issue and change procedures from time to time to improve electronic data and file security as needed to comply with the measures that may be required by the Privacy Rule or the Security Rule, as applicable, and at all times use an HHS-Approved Technology for all PHI and/or ePHI that is in motion, stored or to be destroyed.
  - ii. BUSINESS ASSOCIATE shall extend such policies and procedures, if applicable, for the protection of physical PHI to prevent, detect, contain and correct security violations, as well as to limit unauthorized physical access to the facility or facilities in which the PHI is housed.
- D. Mitigation. BUSINESS ASSOCIATE shall have procedures in place to mitigate, to the extent practicable, any harmful effect that is known to BUSINESS ASSOCIATE of a use, access or disclosure of PHI and/or ePHI by BUSINESS ASSOCIATE in violation of this Addendum.
- E. Reporting of Improper Access, Use or Disclosure Breach. BUSINESS ASSOCIATE shall report to COVERED ENTITY any unauthorized use, access or disclosure of Unsecured PHI and/or ePHI or any other security incident with respect to PHI no later than fifteen (15) days after Discovery of the potential Breach (“Notice Date”). The Compliance Department of the COVERED ENTITY can be reached at (951) 486-5109/phone and (951) 486-6569/fax. Upon Discovery of the potential Breach, BUSINESS ASSOCIATE shall complete the following actions:

- i. Provide COVERED ENTITY's Compliance Department with the information required by 45 C.F.R. sections 164.410, 164.404, which shall include, but not be limited to:
  - a) The identification of each individual whose Unsecured PHI has been, or is reasonably believed by BUSINESS ASSOCIATE, to have been accessed, acquired, used or disclosed;
  - b) Date(s) of Breach: MM/DD/YYYY;
  - c) Date(s) of Discovery of Breach: MM/DD/YYYY;
  - d) Approximate number of individuals affected by the Breach;
  - e) Type of Breach, i.e., theft, loss, improper disposal, unauthorized access, hacking/IT incident (for additional selections, see U.S. Department of Health & Human Services, Health Information Privacy);
  - f) Location of breached information, i.e., laptop, desktop computer, network server, E-Mail, other portable electronic device (see U.S. Department of Health & Human Services, Health Information Privacy);
  - g) Type of PHI involved in the Breach, i.e., demographic information, financial information, clinical information (see U.S. Department of Health & Human Services, Health Information Privacy);
  - h) Safeguards in place prior to Breach, i.e., firewalls, packet filtering (router-based), encrypted wireless (see U.S. Department of Health & Human Services, Health Information Privacy);
  - i) Actions taken in response to Breach, i.e., mitigation, protection against any further Breaches, policies and procedures (see U.S. Department of Health & human Services, Health Information Privacy); and
  - j) Any steps individuals should take to protect themselves from potential harm resulting from the Breach.
- ii. Conduct and document a risk assessment by investigating, without reasonable delay and in no case later than twenty (20) calendar days of Discovery, the potential Breach to determine the following:
  - a) Whether there has been an impermissible use, acquisition, access or disclosure of PHI and/or ePHI under the Privacy Rule;

- b) Whether an impermissible use or disclosure compromises the security or privacy of the PHI and/or ePHI by posing a significant risk of financial, reputational or other harm to the patient/client; and
    - c) Whether the incident falls under one of the Breach exceptions.
  - iii. Provide the completed risk assessment and investigation documentation to COVERED ENTITY's Compliance Department within twenty-five (25) calendar days of Discovery of the potential Breach, and collaborates with COVERED ENTITY on making a decision on whether a Breach has occurred.
    - a) If a Breach has not occurred, notification to patient/client(s) is not required;
    - b) If a Breach has occurred, notification to the patient/client(s) is required and BUSINESS ASSOCIATE must provide COVERED ENTITY with affected patient/client(s) names and contact information, if known, so that COVERED ENTITY can provide notification.
  - iv. Make available to governing State and Federal agencies in a time and manner designated by such agencies, any policies, procedures, internal practices and records relating to a potential Breach for the purposes of audit; cooperate with COVERED ENTITY should COVERED ENTITY elect to conduct its own such investigation and analysis.
  - v. Should the Breach of Unsecured PHI be caused solely by BUSINESS ASSOCIATE's failure to comply with one or more of its obligations under this BAA, Privacy Rule, Security Rule and/or HITECH Provisions, BUSINESS ASSOCIATE shall pay for any and all costs associated with providing all legally required notifications to individuals, media outlets and the Secretary.
  - vi. Should the Breach of Unsecured PHI involve more than 500 residents of a single State or jurisdiction, BUSINESS ASSOCIATE shall provide to COVERED ENTITY, no later than the Notice Date, the information necessary for COVERED ENTITY to prepare the notice to media outlets as set forth in 45 C.F.R. § 164.406.
  - vii. Should the Breach of Unsecured PHI involve 500 or more individuals, BUSINESS ASSOCIATE shall provide to COVERED ENTITY, no later than the Notice Date, the information necessary for COVERED ENTITY to prepare the notice to the Secretary as set forth in 45 C.F.R. § 164.408.

- viii. Should the Breach of Unsecured PHI involve less than 500 individuals, BUSINESS ASSOCIATE shall maintain a log of such Breaches and provide such log to COVERED ENTITY, for submission to the Secretary, on an annual basis and not later than forty-five (45) days after the end of each calendar year.
- F. Breach Pattern or Practice by Covered Entity. Pursuant to 42 U.S.C. § 17934(b), if the BUSINESS ASSOCIATE knows of a pattern of activity or practice of COVERED ENTITY that constitutes a material Breach or violation of COVERED ENTITY's obligations under this Addendum, BUSINESS ASSOCIATE must take reasonable steps to cure the Breach or end the violation. If the steps are unsuccessful, BUSINESS ASSOCIATE shall terminate the Addendum, if feasible, or if termination is not feasible, report the problem to the Secretary.
- G. Access to Records. BUSINESS ASSOCIATE shall make internal practices, books, and records including policies and procedures, relating to the use, access, disclosure, and privacy protection of PHI received from COVERED ENTITY, or created or received by BUSINESS ASSOCIATE on behalf of COVERED ENTITY, available to the Secretary, for purposes of determining, investigating or auditing BUSINESS ASSOCIATE's and/or COVERED ENTITY's compliance with the Privacy and Security Rules and/or HITECH, subject to any applicable legal restrictions. BUSINESS ASSOCIATE shall also cooperate with COVERED ENTITY should COVERED ENTITY elect to conduct its own such investigation and analysis.
- H. Patient Confidentiality Laws and Regulations. BUSINESS ASSOCIATE further agrees to obtain and maintain knowledge of the applicable laws and regulations related to HIPAA and HITECH, as may be amended from time to time.

5. Access to PHI, Amendment and Disclosure Accounting. BUSINESS ASSOCIATE agrees to:

- A. Provide access, at the request of COVERED ENTITY, within five (5) days, to PHI in a Designated Record Set, to COVERED ENTITY, or to an individual as directed by COVERED ENTITY, as required by 45 C.F.R. 164.524.
- B. Make any amendment(s) to PHI in a Designated Record Set that COVERED ENTITY directs or agrees to, at the request of COVERED ENTITY or an individual, pursuant to 45 C.F.R. 164.526, within thirty (30) days of the request of COVERED ENTITY.
- C. Assist COVERED ENTITY in meeting its disclosure accounting under HIPAA:
  - (1) BUSINESS ASSOCIATE agrees to document such disclosures of PHI and information related to such disclosures, as would be required for COVERED ENTITY to respond to a request by an individual for an accounting of disclosures of PHI.

- (2) BUSINESS ASSOCIATE agrees to provide to COVERED ENTITY, within thirty (30) days, information collected in accordance with this section to permit COVERED ENTITY to make an accounting of disclosures of PHI by BUSINESS ASSOCIATE in accordance with 45 C.F.R. § 164.528 and HITECH.
  - (3) BUSINESS ASSOCIATE shall have available for COVERED ENTITY the information required by this section for the six (6) years preceding COVERED ENTITY's request for information.
- D. Not make any disclosure of PHI that COVERED ENTITY would be prohibited from making.

**6. Term and Termination.**

- A. Term. This Addendum shall commence upon the Effective Date and terminate upon the termination of the Underlying Agreement.
- B. Termination for Breach. COVERED ENTITY may terminate the Underlying Agreement, effective immediately, without cause, if COVERED ENTITY, in its sole discretion, determines that BUSINESS ASSOCIATE has breached a material provision of this Addendum. Alternatively, COVERED ENTITY may choose to provide BUSINESS ASSOCIATE with notice of the existence of an alleged material breach and afford BUSINESS ASSOCIATE with an opportunity to cure the alleged material breach. In the event BUSINESS ASSOCIATE fails to cure the breach to the satisfaction of COVERED ENTITY in a timely manner, COVERED ENTITY reserves the right to immediately terminate the Underlying Agreement.
  - (1) Effect of Termination. Upon termination of the Underlying Agreement, for any reason, BUSINESS ASSOCIATE shall return or destroy all PHI and/or ePHI received from COVERED ENTITY, or created or received by BUSINESS ASSOCIATE on behalf of COVERED ENTITY, no later than sixty (60) days after the date of termination. BUSINESS ASSOCIATE shall certify such destruction, in writing, to COVERED ENTITY. This provision shall apply to all PHI and/or ePHI which is in possession of subcontractors or agents of BUSINESS ASSOCIATE. BUSINESS ASSOCIATE shall retain no copies of the PHI and/or ePHI.
  - (2) Destruction not Feasible. In the event that BUSINESS ASSOCIATE determines that returning or destroying the PHI and/or ePHI is not feasible, BUSINESS ASSOCIATE shall provide written notification to COVERED ENTITY of the conditions which make such return or destruction not feasible. Upon determination by BUSINESS ASSOCIATE that return or destruction of PHI and/or ePHI is not feasible, BUSINESS ASSOCIATE shall extend the protections, limitations, and restrictions of this Addendum to such PHI and/or ePHI retained by

BUSINESS ASSOCIATE, its subcontractors, employees or agents, and to limit further uses and disclosures of such PHI and/or ePHI to those purposes which make the return or destruction not feasible, for so long as such PHI and/or ePHI is maintained.

#### **7. Hold Harmless/Indemnification**

With respect to the subject matter in this Addendum, the following shall be applicable:

BUSINESS ASSOCIATE shall indemnify and hold harmless COVERED ENTITY, its respective directors, officers, Governing Board, employees, agents and representatives from any liability whatsoever, based or asserted upon any services of BUSINESS ASSOCIATE, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Addendum, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever including fines, penalties or any other costs and resulting from any reason whatsoever arising from the performance of BUSINESS ASSOCIATE, its officers, agents, employees, subcontractors, agents or representatives from this Addendum. BUSINESS ASSOCIATE shall defend, at its sole expense, all costs and fees including but not limited to attorney fees, cost of investigation, defense and settlements or awards COVERED ENTITY, its respective directors, officers, Governing Board, elected and appointed officials, employees, agents and representatives in any claim or action based upon such alleged acts or omissions.

With respect to any action or claim subject to indemnification herein by BUSINESS ASSOCIATE, BUSINESS ASSOCIATE shall, at their sole cost, have the right to use counsel of their choice, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COVERED ENTITY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes BUSINESS ASSOCIATE's indemnification to COVERED ENTITY as set forth herein. BUSINESS ASSOCIATE's obligation to defend, indemnify and hold harmless COVERED ENTITY shall be subject to COVERED ENTITY having given BUSINESS ASSOCIATE written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at BUSINESS ASSOCIATE's expense, for the defense or settlement thereof. BUSINESS ASSOCIATE's obligation hereunder shall be satisfied when BUSINESS ASSOCIATE has provided to COVERED ENTITY the appropriate form of dismissal relieving COVERED ENTITY from any liability for the action or claim involved.

The specified insurance limits required in the Underlying Agreement shall in no way limit or circumscribe BUSINESS ASSOCIATE's obligations to indemnify and hold harmless COVERED ENTITY herein from third party claims arising from the issues of this Addendum.

In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the BUSINESS ASSOCIATE from indemnifying COVERED ENTITY to the fullest extent allowed by law.

In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement, this indemnification shall only apply to the subject issues included within this Addendum.

#### **8. General Provisions.**

- A. Amendment. The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for the parties to comply with the Privacy Rule, Security Rule, HITECH, and HIPAA generally.
- B. Survival. Notwithstanding Section 6. (A). of this Addendum, the respective rights and obligations of this Addendum shall survive the termination or expiration of this Addendum.
- C. Regulatory References. A reference in this Addendum to a section in the Privacy Rule, Security Rule, and/or HITECH means the section(s) as in effect or as amended.
- D. Interpretation. This Attachment shall be construed to be a part of the Underlying Agreement as one document. The purpose is to supplement the Underlying Agreement to include the requirements of HIPAA and HITECH. Any ambiguity in this Addendum and the Underlying Agreement shall be resolved to permit the parties to comply with the Privacy Rule, Security Rule, HITECH, and HIPAA generally.
- E. Ownership. The PHI shall be and remain the property of COVERED ENTITY. BUSINESS ASSOCIATE agrees that it acquires no title or rights to the PHI.
- F. Headings. Paragraph headings contained in this Addendum are for convenience only and shall not be interpreted to limit or otherwise affect the provisions of this Addendum.



**EXHIBIT "C"**

**IRS Form W-9**

## Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Print or type  
See Specific Instructions on page 2.

Name (as shown on your income tax return) <b>INLAND EMPIRE HEALTH PLAN</b>	
Business name, if different from above	
Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Other <b>Government</b> <input type="checkbox"/> Exempt from backup withholding	
Address (number, street, and apt. or suite no.) <b>PO BOX 19026</b>	Requester's name and address (optional)
City, state, and ZIP code <b>SAN BERNARDINO, CA 92423-9026</b>	
List account number(s) here (optional)	

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number								
OR								
Employer identification number								
3	3	0	7	0	4	3	0	4

### Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. person (including a U.S. resident alien).

**Certification Instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

<b>Sign Here</b>	Signature of U.S. person <b>Ronde Roberts, Finance Director</b>	Date <b>June 28, 2007</b>
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### Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

**U.S. person.** Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee.

In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

**EXHIBIT "D"**

**TPA Services Budget**



Island Empire Health Plan

Riverside County HealthCare  
TPA Services Budget

	Year 1		Year 2		Year 3		Three Year Totals
	June 1, 2011 - May 31, 2012	Per item charges	June 1, 2012 - May 31, 2013	Per item charges	June 1, 2013 - Dec. 31, 2013	Per item charges	
<b>Actual Members</b>	FTEs	22,000	22,000		22,000		22,000
<b>Fixed Costs</b>							
<b>Salaries and benefits<sup>1</sup></b>							
UM							
Coordinator	0.50	23,475	24,824		15,439		\$ 63,738
Registered Nurse reviewer	1.00	97,128	102,711		63,879		\$ 263,719
Credentialing Coordinator	0.25						
Grievance Triage & Review Nurse, L.V.N	0.50	39,106	41,354		25,720		\$ 106,180
Claims Processor	0.50	25,821	27,305		16,982		\$ 70,108
QA Specialist	0.50	23,475	24,824		15,439		\$ 63,738
IT							
Operations							
Member Services							
MSRS	2.00	103,284	109,221		67,928		\$ 280,433
HAR - Technical Analyst	0.25	17,562	18,571		11,550		\$ 47,683
<b>Total Salaries and Benefits Monthly</b>	5.50	\$ 329,851	\$ 348,812		\$ 216,937		\$ 895,601
		\$ 27,488	\$ 29,068		\$ 18,078		
<b>Other One Time Start Up Costs</b>							
KP On Call/ NAL Start Up Fee		\$ 10,119					\$ 10,119
ISG Copy Processor		\$ 4,800					\$ 4,800
TTY Service - initial fee		\$ 190					\$ 190
Website Fees (Server & Software)		\$ 13,706					\$ 13,706
<b>Total One Time Start Up Fees</b>		\$ 28,815					\$ 28,815
<b>Pass thru Costs</b>							
KP On Call - Nurse Advice line		\$ 24,000	\$ 24,000	\$ 34.73	\$ 14,000	\$ 34.73	\$ 62,000
Per call charge (\$2000/per mo/minimum)							
Credentialling - per provider query \$90							
Postage							
Claims processing per claim cost							
ID cards - per card							
800 # - Phone line							
TTY Service (\$158/monthly fee)		\$ 1,896	\$ 1,896	Per invoice	\$ 1,106	Per invoice	\$ 4,898
P.O. Box - annual fee		\$ 220	\$ 220		\$ 128		\$ 568
<b>Minimum Pass Thru Costs Monthly</b>		\$ 26,116	\$ 26,116		\$ 15,234		\$ 67,466
		\$ 2,176	\$ 2,176		\$ 1,270		\$ 5,622
<b>Total Minimum Costs</b>		\$ 384,782	\$ 374,928		\$ 232,172		\$ 991,882

<sup>1</sup>Each position includes salary and benefit costs