

THIRTY-FIFTH AMENDMENT TO THE PRIMARY HOSPITAL AND
OUTPATIENT LABORATORY SERVICES AGREEMENT

This Thirty-Fifth Amendment to the Primary Hospital and Outpatient Laboratory Services Agreement (“Amendment”) is made this ___ day of _____ {month/year}, by and between Santa Cruz-Monterey-Merced Managed Medical Care Commission, a California public entity, doing business as Central California Alliance for Health, hereinafter referred to as "PLAN", and Natividad Medical Center, a County Hospital, hereinafter referred to as "PROVIDER", with reference to the following facts:

WHEREAS, PLAN has been created by its County Boards of Supervisors to negotiate exclusive contracts with the California Department of Health Care Services (“State DHCS”) and to arrange for the provision of Medi-Cal health care services to qualifying individuals in Monterey County and PLAN is a public entity, created pursuant to Welfare and Institutions Code 14087.54 and County Code Chapter 7.58, County Code Chapter 2.45 and County Code Chapter 9.43;

WHEREAS, PROVIDER, an acute care medical center owned and operated by the County of Monterey (“County”), provides hospital services to PLAN enrollees pursuant to the Agreement, under which it is referred to as “Contractor,” as well as non-hospital services to PLAN enrollees pursuant to the Referral Physician Services Agreement and the Primary Care Physician Services Agreement (collectively "Other Agreements");

WHEREAS, PLAN and PROVIDER entered into the Primary Hospital and Outpatient Laboratory Services Agreement effective as of the Commencement Date (the “Agreement”), as amended, for the provision of health care services;

WHEREAS, PROVIDER will participate in the Voluntary Rate Range Program for the period of January 1, 2021 through December 31, 2021 ("Rate Range Program"), under which local government funding from governmental funding entities will be provided to State DHCS to maintain the availability of Medi-Cal health care services to Medi-Cal beneficiaries; and

WHEREAS, PLAN and PROVIDER desire to amend the Agreement to provide for Medi-Cal managed care rate payment increases to PROVIDER with respect to hospital and non-hospital services for PLAN enrollees;

WHEREAS, Section 9.5 of the Agreement provides for amending the Agreement;

WHEREAS, subject to any necessary approval by the State, this Amendment shall be effective on the commencement date set forth in Section 2 of the below new Section O; and

WHEREAS, references to Sections and Exhibits below are to Sections and Exhibits, respectively, of the Agreement.

NOW, THEREFORE, PLAN and PROVIDER hereby amend the terms of the Agreement as follows:

1. The following Section O, Medi-Cal Managed Care Capitation Rate Range Increases, is added to the end of Exhibit 2 and incorporated into the Agreement:

“O. MEDI-CAL MANAGED CARE CAPITATION RATE RANGE INCREASES

1. Capitation Rate Range Increases to PLAN

A. Payment

Should PLAN receive any Medi-Cal Managed Care Capitation Rate Range Increases from State DHCS with respect to rates specific to Medicaid Plan enrollees in Monterey County pursuant to the provisions of the Voluntary Rate Range Program authorized by State Law, including but not limited to California Welfare and Institutions Code Sections 14301.4 (“Rate Range Program”) that is effective for the period January 1, 2021 through December 31, 2021 (“MMCRRIs”), PLAN shall pay to PROVIDER no less than 76.77 percent of the total amount of the MMCRRIs received from State DHCS as Local Medi-Cal Managed Care Rate Range (“LMMCRR”) Payments. LMMCRR Payments paid to PROVIDER shall not replace or supplant any other amounts paid or payable to PROVIDER by PLAN.

Notwithstanding the foregoing, LMMCRR Payments to PROVIDER and other providers by PLAN from MMCRRIs for the relevant period and geographic specific rates shall be adjusted as appropriate to ensure that all such MMCRRIs received by PLAN are expended as payments to providers contracted to serve the relevant geographic enrollee population and participating in the Rate Range Program for the period, and in no case shall exceed the total amount of the MMCRRIs. PLAN payments shall be determined based on actual size of and total provider participation in the Rate Range Program contracted to serve the relevant geographic enrollee population, the actual member months per rate category, and the actual MMCRRIs received for the relevant period as reflected in the PLAN’s monthly capitation payment or as lump-sum payments received from State DHCS.

B. Health Plan Retention

Notwithstanding Paragraph 1.A., above, PLAN will retain a portion of the MMCRRIs received from the State DHCS as an administrative fee. The administrative fee is determined by applying two percent (2%) to the amount of the intergovernmental transfer amount made by County to State DHCS in support of the MMCRRIs under this Amendment that is subject to the assessment fee described in section 14301.4(d) of the Welfare and Institutions Code.

C. Conditions for Receiving Local Medi-Cal Managed Care Rate Range Payments

- (1) The LMMCRR Payments shall represent compensation for covered Medi-Cal hospital and non-hospital services rendered by PROVIDER on behalf of Medi-Cal

beneficiaries enrolled within Monterey County during the State fiscal year to which the LMMCRR Payments apply.

- (2) As a condition for receiving LMMCRR Payments, PROVIDER shall, as of the date the particular LMMCRR Payment is due:
 - (a) remain a participating provider in the PLAN and not issue a notice of termination of the Agreement;
 - (b) maintain its current emergency room licensure status and not close its emergency room;
 - (c) maintain its current inpatient surgery suites and not close these facilities.
- (3) Payments made by PLAN to PROVIDER under the terms of this Section O constitute patient care revenues. Subject to the conditions set forth in Subparagraph I.C.(2) above, and notwithstanding the Other Agreements, PROVIDER agrees to assign the LMMCRR payments received between inpatient and outpatient hospital services and non-hospital services in accordance with the proportions set by PLAN or, if PLAN does not so designate, as set by PROVIDER. These proportions will be established to represent a reasonable allocation based on the needs of these categories of services and the relative value of the services each provides.

D. Schedule and Notice of Receipt of MMCRRIs

PLAN shall provide PROVIDER with a schedule, if applicable, and written notice of the amount and date of each MMCRR payment it receives within seven (7) calendar days after the funds have been paid to it by State DHCS.

E. Form and Timing of Payments

PLAN agrees to pay LMMCRR Payments to PROVIDER in the following form and according to the following schedule:

- (1) PLAN agrees to pay the LMMCRR Payments to PROVIDER using the same mechanism through which compensation and payments are normally paid to PROVIDER (e.g., electronic transfer).
- (2) PLAN will pay the LMMCRR Payments to PROVIDER no later than thirty (30) calendar days after receipt of the MMCRRIs from State DHCS.

F. Cooperation Among Parties

Should disputes or disagreements arise regarding the ultimate computation or appropriateness of any aspect of the LMMCRR Payments, PROVIDER and PLAN agree

to work together in all respects to support and preserve the LMMCRR Payments to the full extent possible on behalf of the safety net in Monterey County.

G. Reconciliation

Within one hundred twenty (120) calendar days after the end of each of PLAN's fiscal years in which LMMCRR Payments were made to PROVIDER, PLAN shall perform a reconciliation of the LMMCRR Payments transmitted to the PROVIDER during the preceding fiscal year to ensure that the supporting amount of MMCRRIs were received by PLAN from State DHCS. PROVIDER agrees to return to PLAN any overpayment of LMMCRR Payments made in error to PROVIDER within thirty (30) calendar days after receipt from PLAN of a written notice of the overpayment error, unless PROVIDER submits a written objection to PLAN. Any such objection shall be resolved in accordance with the dispute resolution processes set forth in 8.1 of the Agreement. The reconciliation processes established under this paragraph are distinct from the indemnification provisions set forth below. PLAN agrees to transmit to the PROVIDER any underpayment of LMMCRR Payments within thirty (30) calendar days of PLAN's identification of such underpayment.

H. Indemnification

PROVIDER shall indemnify PLAN in the event that State DHCS, the Department of Health and Human Services or any other federal or state agency recoups, offsets, or otherwise withholds any monies from or fails to provide any monies to PLAN, or PLAN is denied any monies to which it otherwise would have been entitled, as a direct result of the MMCRRIs arising from the Intergovernmental Agreement entered into between the County and State DHCS. Recovery by PLAN pursuant to this section shall include, but not be limited to, reduction in future LMMCRR Payments to PROVIDER in an amount equal to the amount of MMCRRi payments withheld or recovered from PLAN, or by reduction of any other amounts owed by PLAN to PROVIDER. This provision shall survive the termination of this Section O.

2. Term

The term of this Section O shall commence on January 1, 2021 and shall terminate on December 31, 2024.

All other terms and provisions of the Agreement shall remain in full force and effect so that all rights, duties and obligations, and liabilities of the parties hereto otherwise shall remain unchanged; provided, however, if there is any conflict between the terms of this Amendment and the Agreement, then the terms of this Amendment shall govern. Terms used in this Amendment shall have the meanings assigned to them in the Agreement, unless otherwise specified in this Amendment. The Agreement, as amended, is the entire agreement of the parties and supersedes

all prior negotiations, proposals or understandings relating to the subject matter of the Agreement.

Each signatory of this Amendment represents and warrants individually on behalf of himself or herself, and the party on whose behalf he or she executes this Amendment, that he or she is duly authorized to execute this Amendment.

HEALTH PLAN: _____ Date: _____

By: Stephanie Sonnenshine, Chief Executive Officer

PROVIDER: _____ Date: _____

By: Charles Harris, MD, Interim Chief Executive Officer