

MEDI-CAL COUNTY INMATE PROGRAM AGREEMENT

Article 1 – Parties

- A. The parties to this Agreement (Agreement) are *Monterey* (the County) and the California Department of Health Care Services (DHCS).
- B. The County may voluntarily choose to participate in the Medi-Cal County Inmate Program (MCIP) by entering into this Agreement as authorized by Welfare and Institutions Code sections 14053.7 and 14053.8, and Government Code sections 26605.6, 26605.7, and 26605.8.
- C. DHCS is the single state agency responsible for administering the California Medical Assistance Program (Medi-Cal), including MCIP, pursuant to California Welfare and Institutions Code section 14100.1.

Article 2 – Purpose of the Agreement

- A. The purpose of this Agreement is to set forth the terms a County must abide by in order to participate in MCIP. If a County does not participate in MCIP or does not abide by the terms of this Agreement, the County remains responsible for arranging for and paying for medical care for its inmates. MCIP creates budgetary savings for the County for the medical care provided to its Medi-Cal eligible inmates. MCIP, makes federal financial participation (FFP) available for medical care provided to Medi-Cal eligible county inmates. The County receives budgetary savings because it does not fund from the federal share of MCIP services for their Medi-Cal eligible inmates. MCIP services are provided by Medi-Cal providers to Medi-Cal eligible inmates, for which FFP- may be claimed consistent with federal law, including but not limited to subparagraph (A) following paragraph (29) of Section 1905(a) of the Social Security Act.
 - 1) MCIP allows the Medi-Cal providers to directly bill DHCS for MCIP services and DHCS will reimburse the Medi-Cal providers at their applicable Medi-Cal rate for the services rendered, to the extent FFP is available. DHCS will seek and retain FFP claimed for MCIP services and the County will reimburse DHCS any remaining balance for the claims paid by DHCS to the Medi-Cal provider for MCIP services, except for the MCIP services provided by public providers under the certified public expenditure (CPE) process.
 - 2) When the Medi-Cal provider is a Designated Public Hospital (DPH) or other public provider that incurs the cost of the nonfederal share pursuant to the CPE process, the Medi-Cal provider shall receive the FFP resulting from expenditures for the MCIP services. Notwithstanding the sentence above, DPHs may claim under Subparagraph 1 for MCIP services that are not claimed through the CPE process established in the Demonstration Project.

- B. The County shall reimburse DHCS its apportioned share of the nonfederal share of the administrative costs incurred for the administration of MCIP based on Addendum A.

Article 3 – Term of the Agreement

Subject to the provisions of this Agreement, the term of this Agreement shall be one year from July 1, 2017, through June 30, 2018.

Article 4 – Maximum Payable Amount

- A. The amount under this Agreement that the County shall be obligated to reimburse DHCS for MCIP services paid by DHCS to Medi-Cal providers shall not exceed the nonfederal share of the Medi-Cal payments for MCIP services for the County’s inmates incurred by DHCS. The maximum payable amount shall not exceed: \$200,000. This amount is subject to the annual limitations listed below:

Year	MCIP Services Total Nonfederal Share
SFY 2017-18	\$200,000

- B. The amount that the County shall be obligated to pay DHCS for MCIP administrative services rendered under this Agreement shall not exceed its apportioned share of the nonfederal share of the federally claimable costs of administering MCIP incurred by DHCS. The maximum payable amount shall not exceed the County’s apportioned share, which shall be based on a methodology specified in *Addendum A*, which is: \$3,611.68. This amount is subject to the annual limitations listed below:

Year	MCIP Administrative Services Total Nonfederal Share for the County
SFY 2017-18	\$3,611.68

- C. The maximum payable amount under this Agreement shall not exceed \$ 203,611.68.
- D. For future SFY periods not covered under this Agreement, the maximum payable amount will be determined through a new Agreement or an amendment to this Agreement.

Article 5 – Contact Persons

Any notice, request, demand or other communication required or permitted hereunder, shall be deemed to be properly given when deposited in the United States mail, postage prepaid, and addressed:

In the case of the County, to:

*Manuel T. González, Assistant County Administrative Officer
Monterey County
Attn: Manuel T. González
Assistant County Administrative Officer
168 W. Alisal, 3rd Floor
Salinas, CA 93901*

Or to such person or address as the County may furnish in writing or e-mail to DHCS.

In the case of DHCS, to:

California Department of Health Care Services
Safety Net Financing Division
Medi-Cal Supplemental Payments Section
Attn: Inmate Medi-Cal Claiming Unit
1501 Capitol Avenue, MS 4504
P.O. Box 997436
Sacramento, CA 95899-7436

Or to such person or address as DHCS may, from time to time, furnish in writing or email to County.

Article 6 – Payment Terms and Invoicing

A. General Terms

- 1) The County shall compensate DHCS for the County's apportioned share of the nonfederal share of MCIP administrative services, and for the nonfederal share of MCIP services listed in Article 7, as required by Welfare and Institutions Code sections 14053.7 and 14053.8, and Government Code sections 26605.6, 26605.7, and 26605.8, within sixty (60) days of receipt of an invoice from DHCS, which specifies both the total federally claimable cost, and the nonfederal share of the total cost, for payments DHCS has made to providers, except that the County shall not reimburse the state for the nonfederal share of services billed by Medi-Cal providers under a CPE process, as described in Articles 8 and 11, below. MCIP administrative services and MCIP services shall be separately invoiced by

DHCS to the County. Addendum A attached to this Agreement includes details regarding the nonfederal share of administrative costs. If the County is found to have overpaid DHCS comparing its owed nonfederal share to payments actually made, DHCS shall refund the overpayment to the County within forty-five (45) days of an invoice from the County, containing the same information. This refund may be made by offsetting the amount against the County's next quarterly payment due to DHCS.

- 2) Failure by the County to timely compensate DHCS pursuant to Paragraphs B and C shall constitute a material breach of this Agreement by the County, which, at DHCS' discretion, may result in termination by DHCS pursuant to Article 10. The County may cure such breach by rendering payment of the amount owed to DHCS prior to the termination of this Agreement.
- 3) In no event shall payment be made by the County for any invoice or portion thereof exceeding the respective maximum annual Agreement amount specified in Article 4. Payment for any MCIP administrative services rendered by DHCS or MCIP services paid by DHCS exceeding the respective maximum annual Agreement amount shall require an amendment to this Agreement pursuant to Article 9. If the County fails to execute a retroactive amendment to the maximum payable amount under this Agreement, DHCS shall terminate the Agreement pursuant to Article 10.
- 4) Payments shall be sent to DHCS at the following address (or such other address as DHCS may specify in writing):

California Department of Health Care Services
Safety Net Financing Division
Medi-Cal Supplemental Payments Section
Attn: Inmate Medi-Cal Claiming Unit
1501 Capitol Avenue, MS 4504
P.O. Box 997436
Sacramento, CA 95899-7436

B. MCIP Services

- 1) DHCS shall submit to the County a quarterly invoice for MCIP services that identifies the nonfederal share amount, and a report that contains information regarding paid claims data for the quarter, including information identifying the provider of services and the beneficiary, the recipient aid code, and amount of reimbursement, and other information that may be agreed to between the parties.

- 2) The DHCS invoice shall not contain and the County shall not compensate DHCS for MCIP services provided by Medi-Cal providers where the County incurs the cost of providing MCIP services and claims them through the CPE process.
- 3) If the Medi-Cal provider renders MCIP services that are not reimbursable under the CPE process established, then the invoice shall contain and the County shall reimburse DHCS for the nonfederal share of DHCS' payments for these MCIP services.

C. MCIP Administrative Services

- 1) DHCS shall submit to the County an annual invoice for the County's apportioned share of the nonfederal share of MCIP administrative services based on Addendum A. The annual invoice for reimbursement identifies the following summarized categories of DHCS costs for the allocated SFY period billed: salary, benefits, operating expenses, and total costs. Costs shall be multiplied by one minus the Federal Medical Assistance Percentage applicable to such administrative costs subject to the limit on the amount reimbursable by the County under Article 4. For SFY 2017-18 and thereafter, DHCS shall submit annual invoices to the County no later than one hundred eighty (180) days following the close of the SFY.
- 2) The County shall not be obligated to pay DHCS for the MCIP administrative services covered by any invoice if DHCS presents the invoice to the County more than one (1) year after this Agreement terminates.

Article 7 – DHCS Responsibilities

A. MCIP Services

- 1) DHCS shall pay the appropriate Medi-Cal fee-for-service rate to Medi-Cal providers that directly bill DHCS for MCIP services rendered to the County's MCIP-eligible inmates and shall seek FFP. DHCS shall be responsible to pay such providers only to the extent the County commits to reimburse DHCS the nonfederal share of all federally reimbursable MCIP claims and for which FFP is available and retained by DHCS for the MCIP service claims.
- 2) DHCS shall maintain accounting records to a level of detail which identifies the actual expenditures incurred for MCIP services, the services provided, the county responsible, the specific inmate treated, the inmate's aid code, and the specific provider billing.
- 3) DHCS shall submit claims in a timely manner to the federal Medicaid Program to draw down FFP for DHCS, and shall draw down and distribute

FFP for MCIP services claimed through the CPE process. Such claims shall be submitted in compliance with all applicable laws and regulations.

B. MCIP Administrative Services

- 1) DHCS shall administer MCIP and this Agreement for claiming federal reimbursement for MCIP services. It is understood by both the County and DHCS that other administrative activities including, but not limited to, transporting MCIP eligible beneficiaries, arranging for their care and for their incarceration remain the administrative responsibilities of the County.
- 2) DHCS shall maintain accounting records to a level of detail which identifies the actual expenditures incurred for personnel services which includes salary/wages, benefits, overhead costs for DHCS's staff, as well as equipment and all related operating expenses applicable to these positions including, but not limited to, general expense, rent and supplies, and travel cost for identified staff and managerial staff working specifically on activities or assignments directly related to MCIP.

C. General Responsibilities

- 1) DHCS shall:
 - i. Ensure that an appropriate audit trail exists within DHCS records and accounting system and maintain expenditure data as indicated in this Agreement.
 - ii. Designate a person to act as liaison with County with regard to issues concerning this Agreement. This person shall be identified to County's contact person for this Agreement.
 - iii. Provide a written response by email or mail to County's contact person within thirty (30) days of receiving a written request for information related to MCIP.
 - iv. With each quarterly invoice, provide paid claim analysis report to the County regarding MCIP claims submitted by providers for the County's MCIP-eligible inmates, as used for the determination of the corresponding nonfederal share that is the County's obligation under this Agreement,
- 2) Should the scope of work or services to be performed under this Agreement conflict with DHCS' responsibilities under federal Medicaid law, the responsibilities under federal Medicaid law shall take precedence.

- 3) DHCS' cessation of any activities due to federal Medicaid law responsibilities does not relinquish the obligation of the County to reimburse DHCS for MCIP administrative costs and MCIP services incurred by DHCS in connection with this Agreement for periods in which the County participated in the program.
- 4) DHCS agrees to provide to the County, or any federal or state department having monitoring or reviewing authority, access to and the right to examine its applicable records and documents for compliance with relevant federal and state statutes, rules and regulations, and this Agreement.

Article 8 – County Responsibilities

A. MCIP Services

- 1) Except as provided in (vi.) of this section, the County is responsible for reimbursing DHCS for the nonfederal share of MCIP services paid by DHCS to Medi-Cal providers rendering MCIP services to the County's MCIP eligible beneficiaries.
 - i. The County may pay a Medi-Cal provider to the extent required by or otherwise permitted by state and federal law to arrange for services for the MCIP individuals. Such additional amounts shall be paid entirely with County funds, and shall not be eligible for Social Security Act Title XIX FFP.
 - ii. If DHCS pays the Medi-Cal provider more than what the county would have paid for services rendered, the county cannot request the difference from the Medi-Cal provider.
 - iii. If the county would have paid the Medi-Cal provider less than what DHCS paid the Medi-Cal provider, the county is still obligated to reimburse DHCS for the nonfederal share of the payment from DHCS for MCIP services.
 - iv. In the event that FFP is not available for any MCIP service claimed pursuant to this Agreement, the County shall be solely responsible for arranging and paying for any such MCIP service.
 - v. If the Centers for Medicare & Medicaid Services (CMS) determines an overpayment has occurred for a payment made to a Medi-Cal provider for MCIP services to the County's MCIP-eligible inmate, including the application of any federal payment limit that reduces the amount of FFP available for MCIP services, then DHCS shall seek the overpayment amount from the provider and return the collected FFP to CMS and return the collected nonfederal share of

the overpayment to the County. In the event that DHCS cannot recover from the Medi-Cal provider such overpayment, the County shall pay DHCS an amount equal to the FFP portion of the unrecovered amount to the extent that section 1903(d)(2)(D) of the Social Security Act is found not to apply.

- vi. The County is not responsible for reimbursing DHCS for the nonfederal share of expenditures for MCIP services provided by DPHs when those services are reimbursed under the CPE process because DHCS is not responsible for the nonfederal share of expenditures for MCIP services reimbursed in the CPE process.
 - vii. The County is responsible for reimbursing DHCS for the nonfederal share of MCIP services provided by DPHs that are not reimbursed under the CPE process.
- 2) If CMS determines DHCS claimed a higher federal medical assistance percentage (FMAP) rate than is allowed and FFP is reduced by CMS for the MCIP services provided to a County's MCIP-eligible inmate for MCIP services, then the County shall hold DHCS harmless for the return of the FFP to CMS.

B. MCIP Administrative Services

- 1) As a condition of participating in MCIP, the County accepts its responsibility for reimbursing DHCS for the County's apportioned share of the nonfederal share of costs of MCIP administrative services based on Addendum A, performed by DHCS in administering MCIP, so that there is no expenditure from the State General Fund.
- 2) The County shall reimburse DHCS its allotted portion of the nonfederal share of funding for compensation, associated operating expenses, equipment, and travel costs for no more than 3.50 full-time equivalent (FTE) positions composed of: one-half (0.50) FTE Staff Service Manager I, two (2) FTE Staff Services Analysts/Associate Governmental Program Analysts, one-half (0.50) FTE Attorney, and one-half (0.50) FTE Accounting Officer, to be established and housed at DHCS, to support the reported expenditures submission process for obtaining federal reimbursement under this Agreement. The County's allotted portion shall be based on a methodology specified in Addendum A.

C. General Responsibilities

- 1) Upon the County's compliance with all applicable provisions in this Agreement and applicable laws, the County may send its MCIP-eligible inmates to Medi-Cal providers to receive MCIP services.
- 2) The County shall reimburse DHCS pursuant to Paragraphs A and B with funds from the County's General Fund, or from any other funds allowed under federal law and regulation, including but not limited to, Section 1903(w) of the Social Security Act and Code of Federal Regulations, title 42, part 433, subpart B.
- 3) In the event of any federal deferral or disallowance which is applicable to MCIP expenditures, the County shall provide all documents requested by DHCS within fourteen (14) days.
- 4) The County shall assist with the completion of and delivery of completed Medi-Cal applications to County Welfare Department (CWD) within 90 calendar days after the date of admission of the inmate to an Medi-Cal provider off of the grounds of the county correctional facility which results in an expected stay of more than 24 hours.

Article 9 – Amendments

- A. Amendments to this Agreement shall be made only by a writing signed by the parties to this Agreement and, if required by state law, by approval of the California Department of General Services. Notwithstanding the previous sentence, any update made to the appropriate contact persons identified in Article 5 may be made by e-mail to the other contact person or persons and without formal amendment.
- B. This Agreement shall be amended pursuant to findings from the periodic assessment identified in Article 11.H, to accurately reflect the State's administrative costs and MCIP medical care costs.

Article 10 – Termination and Agreement Disputes

- A. This Agreement may be terminated by any party upon written notice given at least thirty (30) calendar days prior to the termination date. Notice shall be addressed to the respective parties as identified in Article 5 of this Agreement. The County shall remain obliged after the termination date to pay for all MCIP administrative costs and MCIP services incurred by DHCS for periods in which it participated in the program.
- B. This Agreement shall be terminated upon cessation of MCIP. The County shall remain obliged after the termination date to pay for all of the County's apportioned share of MCIP administrative costs based on Addendum A and all of the County's MCIP services incurred by DHCS for periods in which it participated in the program.

C. An informal dispute resolution process shall be undertaken prior to the dispute resolution processes described in Subparagraphs 1 to 2, below. In case of a dispute there shall be a discussion between the County and DHCS staff, and if not resolved then the County shall address the issue to DHCS in a written letter. If unresolved then the dispute resolution processes in Subparagraphs 1 to 2 shall be undertaken as appropriate.

- 1) Nothing in this Agreement shall prevent the County from pursuing any other administrative and judicial review available to it under law.
- 2) Judicial review pursuant to Code of Civil Procedure section 1085 shall be available to resolve disputes relating to the terms, performance, or termination of this Agreement, or any act, failure to act, conduct, order, or decision of DHCS that violate this Agreement subject to Article 11.F.

D. The terms of Article 6 (Payment Terms and Invoicing), Article 10 (Termination and Agreement Disputes), Article 11.B (Indemnification), and Article 11.D (Records) shall survive after the termination date.

Article 11 – General Provisions

A. Definitions.

- 1) The term “certified public expenditure process” or “CPE process” means the process established for the Medi-Cal program under state law (including but not limited to section 14166.1, et seq.), the California Medi-Cal state plan, and approved Medicaid demonstration projects and waivers through which public Medi-Cal providers claim federal financial participation for their allowable expenditures.
- 2) The term “days” as used in this Agreement shall mean calendar days unless specified otherwise.
- 3) The term “Demonstration Project” means the California Medi-Cal 2020 Demonstration, Number 11-W-00193/9, as approved by CMS effective beginning December 30, 2015.
- 4) The term “designated public hospital” is defined as set forth in the Demonstration Project, which shall be codified in state law at Welfare and Institutions Code section 14184.10, subdivision (f) pursuant to SB 815 (2016), and as may be modified from time to time.
- 5) The term “inmate” as used in this Agreement includes the persons identified in Welfare and Institutions Code sections 14053.7(e)(2)(A) and 14053.8(k)

“juvenile inmate,” and Government Code sections 26605.6(a) “prisoner,” 26605.7(a) “prisoner” and (d)(1) “probationer,” and 26605.8 “prisoner” and “probationer.”

- 6) The term “MCIP” or “Medi-Cal County Inmate Program” contains the following three components: the Adult County Inmate Program (ACIP), as authorized in state law pursuant to Welfare and Institutions Code section 14053.7 and Penal Code section 5072, the Juvenile County Ward Program (JCWP), as authorized in Welfare and Institutions Code section 14053.8, and the County Compassionate Release Program (CCRP) and County Medical Probation Program (CMPP), as authorized by Government Code sections 26605.6, 26605.7, and 26605.8.
- 7) “MCIP administrative services” means the administrative services provided by DHCS personnel for the administration of MCIP, which shall include, but not be limited to those services provided by the personnel in Article 8 when claiming federal reimbursement for MCIP services and seeking reimbursement for DHCS from the County.
- 8) “Medi-Cal provider” means, any individual, partnership, group association, corporation, institution, or entity and the officer, directors, owners, managing employees or agents of any partnership, group association, corporation, institution, or entity that provides services, goods, supplies, or merchandise, directly or indirectly, to a Medi-Cal beneficiary, and that has been enrolled in the Medi-Cal program.

For purposes of MCIP, a Medi-Cal provider may claim for MCIP services rendered to the MCIP-eligible inmate depending on the MCIP component program. For example, a clinic cannot seek reimbursement from DHCS for outpatient services provided to an ACIP inmate because the outpatient services provided are not allowable as MCIP services for ACIP. A Medi-Cal provider does not go through a separate Medi-Cal enrollment or certification process to participate in MCIP.

- 9) “MCIP services” constitutes all of the following, only to the extent federal financial participation is available: a) in ACIP, Medi-Cal allowable inpatient hospital services, including inpatient psychiatric services, and physician services provided during the inpatient hospital service stay of adult inmates in county correctional facilities who are determined eligible for Medi-Cal pursuant to Welfare and Institutions Code section 14053.7; b) in the Compassionate Release Program pursuant to Government Code section 26605.6 and Medical Probation Program pursuant to Government Code section 26605.7, full-scope Medi-Cal services; c) in JCWP, Medi-Cal allowable inpatient hospital services, including inpatient psychiatric services and physician services, of juvenile inmates in county correctional facilities who are determined eligible for Medi-Cal services pursuant to Welfare and

Institutions Code section 14053.8; and, d) any other Medi-Cal program for which federal reimbursement is available for coverage of adult inmates and juvenile inmates in county correctional facilities, if authorized by law and agreed to by the County and DHCS by amending this Agreement.

10) The term "Medi-Cal rate" means the reimbursement determined by the reimbursement methodology approved for the Medi-Cal provider under the California State Plan, or Social Security Act section 1115 Demonstration Project or section 1915 waiver.

11) The State Fiscal Year (SFY) begins on July 1st of each year and ends on June 30th in the subsequent calendar year.

B. Indemnification. It is agreed that the County shall defend, hold harmless, and indemnify DHCS, its officers, employees, and agents from any and all reported expenditures, liability, loss, or expense (including reasonable attorney fees) for injuries or damage to any person, any property, or both which arise out of the terms and conditions of this Agreement and the negligent or intentional acts or omissions of the County, its officers, employees, or agents.

C. Severability. If any term, condition, or provision of 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 and effect, and shall not be affected, impaired or invalidated in any way. Notwithstanding the previous sentence, if a decision by a court of competent jurisdiction invalidates, voids, or renders unenforceable a term, condition, or provision in this Agreement that is included in the purpose of this Agreement then the parties to this Agreement shall either amend this Agreement pursuant to Article 9, or it shall be terminated pursuant to Article 10.

D. Records. DHCS and the County shall maintain and preserve all records relating to this Agreement for a period of three (3) years from DHCS' receipt of the last payment of FFP, or until three years after all audit findings are resolved, whichever is later. This does not limit any responsibilities held by DHCS or the County provided for elsewhere in this Agreement, or in state or federal law.

E. Compliance with Applicable Laws. All parties performance under this Agreement shall be in accordance with all applicable federal and state laws, including, but not limited to:

- 1) The Americans with Disabilities Act of 1990, as amended;
- 2) Section 504 of the Rehabilitation Act of 1973, as amended;
- 3) Title XIX of the Social Security Act;
- 4) Welfare and Institutions Code section 14000 et seq.;
- 5) Government Code section 53060;
- 6) The California Medicaid State Plan;

- 7) Laws and regulations including, but not limited to those related to licensure, certification, confidentiality of records, quality assurance, and nondiscrimination;
- 8) The Policy and Procedure Letters, and similar instructions, published with regulatory authority;
- 9) Government Code sections 26605.6, 26605.7, and 26605.8;
- 10) Penal Code section 5072;
- 11) Title 42 of the Code of Federal Regulations; and,
- 12) California Code of Regulations.

F. Controlling Law and Venue. The validity of this Agreement and its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue of any action brought with regards to this Agreement shall be in any county in which the Attorney General maintains an office.

G. Integration Clause.

- 1) This Agreement and any exhibits and addendums attached hereto shall constitute the entire Agreement among the parties to it pertaining to the implementation of MCIP and supersedes any prior or contemporaneous understanding or agreement with respect to the subject matter of this Agreement.
- 2) Notwithstanding Subparagraph G.1., DHCS Form 9098 or DHCS Form 6208 (whichever is applicable) is incorporated by reference into this Agreement if the County has a DHCS Form 9098 or DHCS Form 6208 on record. Notwithstanding Subparagraph G.1., the terms of the DHCS Form 9098 or DHCS Form 6208 controls to the extent there is a conflict with this Agreement, except for Article 10 of this Agreement. If the DHCS Form 9098 or DHCS Form 6208 does not address a matter addressed by this Agreement, then this Agreement controls.

H. Periodic Assessment. Pursuant to Welfare and Institutions Code sections 14053.7 and 14053.8, and Government Code sections 26605.6, 26605.7, and 26605.8, the County enters into this Agreement in order to implement MCIP under which the County may participate and for which the County will pay the nonfederal share of all federally reimbursable administrative costs and medical care costs incurred by DHCS performing activities described in Article 7. The County agrees that DHCS, in its sole discretion, may conduct a periodic assessment in consultation with the counties, of such costs incurred by DHCS to determine compliance with Welfare and Institutions Code sections 14053.7 and 14053.8, Penal Code section 5072, and Government Code sections 26605.6, 26605.7, and 26605.8, and DHCS agrees to ensure that all invoicing as described in Article 6 and any other relevant documentation will be accordingly updated to ensure compliance with Welfare and

Institutions Code sections 14053.7 and 14053.8, Penal Code section 5072, and Government Code sections 26605.6, 26605.7, and 26605.8.

- I. Conformance Clause. Any provision of this Agreement in conflict with present or future governing authorities is hereby amended to conform to those authorities and such amended provisions supersede any conflicting provisions in this Agreement. The governing authorities include, but are not limited to the authorities listed in Article 11.E.
- J. Waiver. No covenant, condition, duty, obligation, or undertaking made a part of this Agreement shall be waived except by amendment of the Agreement by the parties hereto, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the other party to which the same may apply; and, until performance or satisfaction of all covenants, duties, obligations, or undertakings is complete, the party shall have the right to invoke any remedy available under this Agreement, or under law, notwithstanding such forbearance or indulgence.
- K. Third Party Benefit. None of the provisions of this Agreement are or shall be construed as for the benefit of, or enforceable by, any person not a party to this Agreement.
- L. Conflict of Interest. The County is subject to the Medi-Cal Conflict of Interest Law, as applicable and set forth in Welfare and Institutions Code section 14022 and Article 1.1 (commencing with section 14030), and implemented pursuant to California Code of Regulations, title 22, section 51466.
- M. Budget Contingency Clause.
 - 1) DHCS will seek an appropriation in the Budget Act each State fiscal year which would authorize DHCS to pay Medi-Cal providers for MCIP services. It is mutually agreed that if the State Budget Act of the current SFY or any subsequent SFYs covered under this Agreement does not appropriate any funds for MCIP, this Agreement shall be of no further force and effect. In this event, an Article 10.B termination shall be implemented and DHCS shall have no liability to pay any funds whatsoever to Medi-Cal providers for MCIP services for the County's inmates rendered through the termination date of this Agreement.
 - 2) If funding associated with MCIP for any SFY is reduced by the State Budget Act DHCS shall have the option to cancel this Agreement, with no liability occurring to the State.
- N. Limitation of State Liability.

- 1) Notwithstanding any other provision of this Agreement, DHCS shall be held harmless from any federal audit disallowance and interest resulting from payments made by the federal Medicaid program as reimbursement for claims providing services for MCIP, less the amounts already remitted to or recovered by DHCS for the disallowed claim.
- 2) To the extent that a federal audit disallowance and interest results from a claim or claims for which the Medi-Cal provider has received reimbursement for MCIP services under this Agreement, DHCS shall recoup from the Medi-Cal provider, upon written notice, amounts equal to the amount of the disallowance and interest in that fiscal year for the disallowed claim, less the amounts already remitted to or recovered by DHCS. All subsequent claims submitted to DHCS applicable to any previously disallowed claim, may be held in abeyance, with no payment made, until the federal disallowance issue is resolved.

O. Exclusions. The County shall comply with the following requirements:

- 1) The conviction of an employee or subcontractor of the County, or of an employee of a subcontractor, of any felony or of a misdemeanor involving fraud, abuse of any Medi-Cal beneficiary, or abuse of the Medi-Cal program, shall result in the exclusion of that employee or subcontractor, or employee of a subcontractor, from participation in MCIP except as a beneficiary.
- 2) Exclusion after conviction described in Article 11.O.1 shall result regardless of any subsequent order under Penal Code section 1203.4 allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.
- 3) Suspension or exclusion of an employee or a subcontractor, or of an employee of a subcontractor, from participation in the Medi-Cal program, the Medicaid program, or the Medicare program, shall result in the exclusion of that employee or subcontractor, or employee of a subcontractor, from participation in MCIP, except as a beneficiary.
- 4) Revocation, suspension, or restriction of the license, certificate, or registration of any employee, subcontractor, or employee of a subcontractor, shall result in exclusion from MCIP, when such license, certificate, or registration is required for the provision of services.

P. Confidentiality. The County shall comply with the applicable confidentiality requirements as specified in Section 1902(a)(7) of the Social Security Act; Code of Federal Regulations, title 42, section 431.300; Welfare and Institutions Code section 14100.2; and California Code of Regulations, title 22, section 51009; and,

the Business Associates Agreement attached and hereby incorporated by reference.

Q. Data Sharing.

- 1) The County shall comply with all provisions of the current Business Associates Agreement (BAA) incorporated by reference and made part of this Agreement as Addendum B.
- 2) The County shall comply with all of the requirements imposed by DHCS as required by the Social Security Administration (SSA) Agreement between DHCS and the Social Security Administration, which is incorporated by reference and made part of this Agreement as Addendum C.
 - i. Please note these documents are highly sensitive and confidential. Only the county Privacy and Security Officers or designee shall receive these documents, and disclosure shall be limited to the appropriate parties involved with Medi-Cal PII. These documents are not public and shall not be published on any website accessible by or otherwise made available to the public.

R. Agreement Signature Certification. The person signing this Agreement on behalf of the County shall complete and sign the certification incorporated by reference and made part of this Agreement as Addendum D.

The persons signing this Agreement on behalf of County and DHCS, as applicable, represent and warrant that he or she is an individual duly authorized and having authority to sign on behalf of, and approve for, County or DHCS, as applicable, and is authorized and designated to enter into and approve this Agreement on behalf of County or DHCS, as applicable.

[County's name]

Signature: _____

Name: _____

Title: _____

Date: _____

**CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES
Contract Management Unit**

Signature: _____

Name: _____

Title: _____

Date: _____