



**BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS**

Award Contract Grant

Requested Board Meeting Date: 1/16/18

* = Mandatory, information must be provided

or Procurement Director Award

***Contractor/Vendor Name/Grantor (DBA):**

CaremarkPCS Health, L.L.C. dba CVS Health (Headquarters: Northbrook, IL)
Aetna Life Insurance Company dba Aetna (Headquarters: Hartford, CT)

***Project Title/Description:**

Medical Benefits Administration Services

***Purpose:**

Award: Multiple Master Agreements. Master Agreement No. MA-PO-18-189 for Third Party Administrative (TPA) and Employee Assistance Program (EAP) Services is for an initial term of five (5) years in the not-to-exceed award amount of \$15,000,000.00 and includes five (5) one-year renewal options.

Master Agreement No. MA-PO-18-190 for Pharmacy Benefits Management (PBM) Services is for an initial term of five (5) years in the not-to-exceed award amount of \$125,000.00 and includes five (5) one-year renewal options.

This award includes the authority for the Procurement Director to approve annual revisions and modifications to the Participating Group Addendum for PBM Services considering actual usage and anticipated requirements without further action by the Board of Supervisors provided that the sum of the revised contract amount does not exceed the approved award amount.

Administering Department: Human Resources.

***Procurement Method:**

Pursuant to Pima County Procurement Code 11.12.020, Competitive Sealed Proposals, Solicitation No. 264063 was conducted for bundled or unbundled services in the following categories; Third Party Administrative (TPA) Services, Employee Assistance Program (EAP) Services and Pharmacy Benefits Management (PBM) Services. Seven proposals were received as follows:

- Aetna, Cigna and UMR provided proposals for a bundled solution to include TPA, EAP & PBM Services.
- BCBSAZ provided proposals for a bundled solution to include TPA & PBM Services.
- CVS Health and Envision RX provided proposals for PBM only.
- American Behavioral provided a proposal for EAP only.

The evaluation and selection committee for this solicitation consisted of four voting members and were assisted by staff that possessed specialized expertise in the areas of Benefits, Wellness, Risk and Disease Management. The committee evaluated the proposals received for TPA, PBM and EAP and determined which companies would move on to the finalist phase of the process to participate in the oral interviews and the best and final offer process. The following were the finalists.

- TPA-Aetna and UMR.
- PBM-CVS Health and EnvisionRXOptions.
- EAP-Aetna and UMR.

Based on the scoring of the oral interviews, analysis of proposals, best and final offers and a thorough actuarial review of projected claims over the next five years, the recommendation for award is recommended to the highest scoring proposals for PBM Services to CVS Health, through the Employers Health Coalition, and for TPA and EAP Services to Aetna.

PRCUID: 264063

Attachments: Notice of Recommendation for Award and Master Agreements.

PRCUID: 264063

***Program Goals/Predicted Outcomes:**

Provision of integrated claims administration for pharmacy services.

***Public Benefit:**

Cost effective integrated health benefits program.

***Metrics Available to Measure Performance:**

Active review of various reports that monitor the overall effectiveness of claims administration and formulary management.

***Retroactive:**

No.

Document Type: MA Department Code: PO Contract Number (i.e.,15-123): 18-190 & 18-189

Effective Date: 7/1/18 Termination Date: 6/30/23 Prior Contract Number (Synergen/CMS): _____

Expense Amount: \$* 125,000.00/15,000,000.00 Revenue Amount: \$ _____

*Funding Source(s) required: Pima County Health Benefits Trust Fund

Funding from General Fund? Yes No If Yes \$ _____ % _____

Contract is fully or partially funded with Federal Funds? Yes No

*Is the Contract to a vendor or subrecipient? Vendor

Were insurance or indemnity clauses modified? Yes No

If Yes, attach Risk's approval

Vendor is using a Social Security Number? Yes No

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment / Revised Award Information

Document Type: _____ Department Code: _____ Contract Number (i.e.,15-123): _____

Amendment No.: _____ AMS Version No.: _____

Effective Date: _____ New Termination Date: _____

Prior Contract No. (Synergen/CMS): _____

Expense or Revenue Increase Decrease Amount This Amendment: \$ _____

Is there revenue included? Yes No If Yes \$ _____

*Funding Source(s) required: _____

Funding from General Fund? Yes No If Yes \$ _____ % _____

Grant/Amendment Information (for grants acceptance and awards) Award Amendment

Document Type: _____ Department Code: _____ Grant Number (i.e.,15-123): _____

Effective Date: _____ Termination Date: _____ Amendment Number: _____

Match Amount: \$ _____ Revenue Amount: \$ _____

*All Funding Source(s) required: _____

*Match funding from General Fund? Yes No If Yes \$ _____ % _____

*Match funding from other sources? Yes No If Yes \$ _____ % _____

*Funding Source: _____

*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)? _____

Contact: Debbie Knutson, Procurement Officer

Department: Procurement

Telephone: 724-3736

Department Director Signature/Date: [Signature] 12-28-17

Deputy County Administrator Signature/Date: [Signature]

County Administrator Signature/Date: [Signature] 1/3/18

(Required for Board Agenda/Addendum Items)



MASTER AGREEMENT

PIMA COUNTY, ARIZONA

**THIS IS NOT AN ORDER - TRANSMISSION CONSTITUTES
CONTRACT EXECUTION**

Master Agreement No: 1800000000000000189

MA Version: 1

Page: 1 of 2

Description: Medical Benefit Administration Services-TPA & EAP Services

I S S U E R	<p>Pima County Procurement Department 130 W. Congress St. 3rd Fl Tucson AZ 85701</p> <p>Issued By: DEBORAH KNUTSON Phone: 5207243736 Email: debbie.knutson@pima.gov</p>
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T E R M S	<p>Initiation Date: 07-01-2018 Expiration Date: 06-30-2023</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td>NTE Amount:</td> <td>\$15,000,000.00</td> </tr> <tr> <td>Used Amount:</td> <td>\$0.00</td> </tr> </table>	NTE Amount:	\$15,000,000.00	Used Amount:	\$0.00
NTE Amount:	\$15,000,000.00				
Used Amount:	\$0.00				

V E N D O R	<p>AETNA LIFE INSURANCE COMPANY 151 FARMINGTON AVE HARTFORD CT 06156</p>	<p>Contact: KRISTEN RYAN Phone: 860-273-0733 Email: Terms: 0.00 % Days: 30</p>
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<p>Shipping Method: Vendor Method</p> <p>Delivery Type:</p> <p>FOB: FOB Dest, Freight Prepaid</p> <p>Modification Reason This Master Agreement is for an initial term of five (5) years in the not-to-exceed amount of \$15,000,000.00 and includes five (5) one-year renewal options.</p> <p>Attachment: Contract</p>

This Master Agreement incorporates the attached documents, and by reference all instructions, Standard Terms and Conditions, Special Terms and Conditions, and requirements that are included in or referenced by the solicitation documents used to establish this agreement. All transactions and conduct are required to conform to these documents.

MASTER AGREEMENT DETAILS



Master Agreement No: 18000000000000000189

MA Version: 1

Page: 2 of 2

Line	Description					
1	Medical Claim Admin Fee per employee per month for 2018/2019					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$29.00			
2	Aetna Disease Mgmt per employee per month 2018/2019					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$4.40			
3	Smoking Cessation Program per employee per month 2018/2019					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$0.60			
4	Employee Assistance Program per employee per month 2018/2019					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$1.66			
5	Training above initial 20 hours included					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	HOUR	\$250.00			
6	Travel Time					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	HOUR	\$150.00			
7	Critical Incident above initial 20 hours included per incid.					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	HOUR	\$250.00			

PIMA COUNTY DEPARTMENT OF HUMAN RESOURCES

PROJECT: Medical Benefits Administrative Services – Third Party Administration and Employee Assistance Program

CONTRACTOR: Aetna Life Insurance Company

AMOUNT: \$15,000,000.00

FUNDING: Pima County Health Benefits Trust Fund

CONTRACT

NO. MA-PD-18-189

AMENDMENT NO. _____

This number must appear on all invoices, correspondence and documents pertaining to this contract.

1. Parties, Background and Purpose.

- 1.1. Parties. This Contract ("Services Agreement") is between Pima County, a body politic and corporate of the State of Arizona ("County"), and Aetna Life Insurance Company ("Contractor").
- 1.2. Authority. County selected Contractor pursuant to and consistent with Procurement Code 11.12.020 Competitive Sealed Proposals.
- 1.3. Solicitation. County previously issued Solicitation No. 264063 for certain goods and/or services (the "Solicitation"). Requirements and specifications contained in the Solicitation, all documents included in the Solicitation, and any information and documentation submitted by Contractor in response to the Solicitation, are incorporated into this Contract by reference.
- 1.4. Contractor's Response. Contractor submitted the most advantageous response to the Solicitation.

2. Term.

- 2.1. Original Term. This Contract is effective for a five (5) year period commencing on July 1, 2018 (the "Initial Term"). Term when used in this Contract, means the Initial Term plus any exercised Extension Options.
- 2.2. Extension Options. County may renew this Contract for up to five (5) additional periods of up to one (1) year each (each an "Extension Option"). An Extension Option will be effective only upon execution by the Parties of a formal written amendment.

3. Scope of Services.

Contractor will provide County with the products and/or services ("Goods and Services") described in the following exhibits:

- Exhibit A** - Third Party Administrative ("TPA") Scope of Work
- Exhibit B** - N/A - Removed
- Exhibit C** - Employee Assistance Program ("EAP") Scope of Work
- Exhibit D** - Offeror/Contractor Certification
- Exhibit E** - Minimum Qualifications
- Exhibit F** - Business Associate Agreement

The Goods and Services must comply with all requirements and specifications in the Solicitation and response to RFP; these documents are incorporated into the Contract the same as set forth in full herein.

4. Key Personnel.

Contractor will employ suitably trained and skilled professional personnel to perform all services under this Contract. Prior to changing any key personnel, especially those key personnel County relied upon in making this Contract, Contractor will obtain the approval of County. "Key Personnel" for purposes of this paragraph are defined as account management and other personnel having direct interaction with the County.

The key personnel will include the following*:

TPA Account Service Team staff: Executive Sponsor, Senior Account Executive, and Account Manager;

PBM Account Service Team staff: N/A.

EAP Account Service Team staff: Executive Sponsor, Account Executive and Account Manager

*additional staff will be used as needed.

5. **Compensation and Payment.**

5.1. Rates; Adjustment. County will pay Contractor at the rates set forth in the following:

Exhibit G – Fee Schedule – TPA

Exhibit H – N/A - Removed

Exhibit I – Fee Schedule – EAP

County will pay Contractor the Service Fees in accordance with the attached Fee Proposals. No Services other than those identified in the Scope of Work and Fee Proposals are included.

County shall reimburse Contractor for additional expenses incurred by Contractor and agreed to by the parties on behalf of the Plan or County which are necessary for the administration of the Plan, including, but not limited to: special hospital audit fees, fees paid or expenses incurred to recover Plan assets, customized printing fees, clerical listing of eligibility, County audits exceeding limits in the Services Agreement, and for any other services performed which are not Services under the Services Agreement. The payment by Contractor on behalf of County of any such expenses shall constitute part of the Services hereunder, provided, however, with respect to any payments made by Contractor on behalf of and at the request of the County to Contractors, as a result of Contractor issuing such payment, Contractor will assume the tax reporting obligation, such as Form 1099-MISC or other applicable forms.

In circumstances where Contractor may have a contractual claim or payment dispute with a provider, the settlement of that dispute with the provider may include a one-time payment in settlement to the provider or to Contractor, or may otherwise impact future payments to providers. Contractor, in its discretion, may apportion the settlement to County, either as an additional service fee from, or as a credit to, County, as may be the case, based upon specific applicable claims, proportional membership or some other allocation methodology.

Unless one party informs the other of its intent to allow the Services Agreement to terminate in accordance with Section 20.2-Termination of Convenience and/or Section 20.3-Termination by Contractor of this Contract, the initial term of this Contract shall be one (1) year beginning on the Effective Date (referred to as an "Agreement Period"). Following the close of an Agreement Period, Contractor will prepare and submit to the County a report showing the Service Fees paid.

It is the intention of both parties that pricing shall remain firm during the first five (5) years for TPA and EAP Service Categories ("Initial Period"). Price adjustments shall only be considered during Initial Period, with mutual consent, when prices decrease from attached Fee Proposals. After the Initial Period, Contractor, upon renewal of the Contract, shall submit a written request to County with supporting documents justifying proposed fee adjustments at least on hundred eighty (180) days prior to the renewal or expiration date of the Contract. It is specifically understood that fluctuations or changes in enrollment will not affect the pricing of this agreement and that all rates and fees are net of commissions or fees paid to third parties. It is agreed that the Unit Prices shall include compensation for the Contractor to implement and actively conduct cost and price control activities. County will review the proposed pricing and determine if it is in the best interest of County to renew or extend the Contract as provided for in Section 2-Term of this Contract.

Contractor shall not provide goods and services in excess of that defined by this agreement without prior written authorization by an amendment executed by County. Goods and Services provided in excess of Line Item or Contract Total Amounts without prior authorization by fully executed amendment shall be at Contractor's own risk.

For the period of record retention required under Section 22-Non Exclusive Contract, County reserves the right to question any payment made under this Section and to require reimbursement therefore by setoff or otherwise for payments determined to be improper or contrary to the contract or law, by mutual agreement of the parties or by a court of competent jurisdiction.

6. Benefit Funding.

Plan benefit payments and related charges of any amount payable under the Plan shall be made by check drawn by Contractor payable through the Contractor's bank or by electronic funds transfer or other reasonable transfer method. County, by execution of the Contract, expressly authorizes Contractor to issue and accept such checks on behalf of County for the purpose of payment of Plan benefits and other related charges. County agrees to provide funds through its designated bank sufficient to satisfy all Plan benefits (and which also may include Service Fees in satisfaction of the obligations of any late charges under the Contract) and related charges upon notice from Contractor or the Bank of the amount of payments made by Contractor. County agrees to instruct its bank to forward an amount in Federal funds on the day of the request equal to such liability by wire transfer or such other transfer method agreed upon between County and Contractor. As used herein "Plan benefits" means payments under the Plan, excluding any copayments, coinsurance or deductibles required by the Plan.

Contractor is not obligated to act on outstanding benefits checks unless directed to do so by County. Contractor reserves the right to place stop payments on all outstanding benefit checks (i.e., checks that have not been presented for payment) on the sooner of:

- A) one (1) year following the date Contractor completes its runoff processing obligations; or
- B) five (5) days following County's failure to provide requested funds or pay Service Fees due in accordance with Section 20.1-Termination of Contract for Default.

7. Insurance.

The Insurance Requirements herein are minimum requirements for this Contract and in no way limit, the indemnity covenants contained in this Contract. Contractor's insurance shall be placed with companies licensed in the State of Arizona and the insureds shall have an "A.M. Best" rating of not less than A- VII. Pima County in no way warrants that the minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

7.1. Minimum Scope and Limits of Insurance.

Contractor shall procure and maintain, until all contractual obligations have been discharged, the insurance coverage with limits of liability not less than stated below. Pima County in no way warrants that the minimum insurance limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy the County's Insurance Requirements.

- 7.1.1. Commercial General Liability (CGL) – Occurrence Form with limits of \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include bodily injury, property damage, broad form contractual liability coverage, personal and advertising injury and products – completed operations.
- 7.1.2. Business Automobile Liability – Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract with a Combined Single Limit (CSL) of \$1,000,000 each accident.
- 7.1.3. Workers' Compensation (WC) and Employers' Liability - Statutory requirements and benefits for Workers' Compensation. In Arizona, WC coverage is compulsory for employers of one or more employees. Employer's Liability coverage- \$1,000,000 each accident and each person - disease.
- 7.1.4. Professional Liability (Errors and Omissions) Insurance – This insurance is required when the Professional Liability or any other coverage is excluded from the above CGL policy. The policy limits shall be not less than \$10,000,000 Each Claim and \$10,000,000 Annual Aggregate. The insurance policy shall cover professional misconduct or negligent acts of anyone performing any services under this contract.

- 7.1.5. Network Security (Cyber)/Privacy Insurance - Coverage shall have minimum limits not less than \$2,000,000 Each Claim with a \$2,000,000 Annual Aggregate. The insurance shall include, but not be limited to, coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs. This should also include breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, and funds transfer loss.
- 7.1.6. Claim-Made Insurance Coverage - If any part of the Required Insurance is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract. In addition, either continuous coverage shall be maintained, or an extended discovery period will be exercised for a period of not less than three (3) years following Contract expiration, termination or cancellation.
- 7.1.7. Comprehensive Crime Insurance - Coverage with a minimum limit of \$2,000,000.00 per occurrence. The Employee Dishonesty and Fidelity insurance shall include coverage for all of the Contractor's representatives who perform work under this agreement, especially financial (Trust Account) activities; On-Premises loss (inside the premises); In-Transit loss (loss outside the premises); and Loss of Face Values items.

7.2. Additional Insurance Requirements.

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

- 7.2.1. Additional Insured - The General Liability, Business Automobile and Network/Cyber Privacy insurance policies shall each be endorsed to include Pima County, its departments, districts, boards, commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- 7.2.2. Subrogation - The General Liability, Business Automobile and Network/Cyber Privacy insurance policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- 7.2.3. Primary Insurance - The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by Pima County, its agents, officials, or employees shall be excess and not contributory insurance.
- 7.2.4. Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

7.3. Notice of Cancellation.

Each Required Insurance policy must provide, and certificates specify, that County will receive not less than thirty (30) days advance written notice of any policy cancellation, except ten (10) days prior notice is sufficient when the cancellation is for non-payment of a premium. Notice shall include the Pima County project or contract number and project description.

7.4. Verification of Coverage.

Contractor shall furnish Pima County with certificates of insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

- 7.4.1. All certificates and endorsements, as required by this written agreement, are to be received and approved by Pima County before work commences. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance coverages or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
- 7.4.2. All certificates required by this Contract shall be sent directly to the appropriate County Department. The Certificate of Insurance shall include the Pima County project or contract number and project description on the certificate. Pima County reserves the right to require complete copies of all insurance policies required by this Contract at any time.

7.5. **Approval and Modifications.**

The Pima County Risk Manager may approve a modification of the Insurance Requirements without the necessity of a formal Contract amendment, but the approval must be in writing. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

8. **Indemnification.**

To the fullest extent permitted by law, Contractor will defend, indemnify, and hold harmless Pima County and any related taxing district, and the officials and employees of each of them (collectively, "Indemnitee") from and against any and all claims, actions, liabilities, losses, and expenses (including reasonable attorney fees) (collectively, "Claims") arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Contractor or any of Contractor's directors, officers, agents, employees, volunteers, or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Indemnitee will, in all instances, except for Claims arising solely from the acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all Claims. Contractor is responsible for primary loss investigation, defense and judgment costs for any Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Contract.

9. **Laws and Regulations.**

- 9.1. **Compliance with Laws.** Contractor will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders.
- 9.2. **Licensing.** Contractor warrants that it is appropriately licensed to provide the services under this Contract and that its subcontractors will be appropriately licensed.
- 9.3. **Choice of Law; Venue.** The laws and regulations of the State of Arizona govern the rights and obligations of the parties under this Contract. Any action relating to this Contract must be filed and maintained in the appropriate court of the State of Arizona in Pima County.

10. **Independent Contractor.**

Contractor is an independent contractor. Neither Contractor, nor any of Contractor's officers, agents or employees will be considered an employee of Pima County for any purpose or be entitled to receive any employment-related benefits, or assert any protections, under the Pima County Merit System. Contractor is responsible for paying all federal, state and local taxes on the compensation received by Contractor under this Contract and will indemnify and hold County harmless from any and all liability that County may incur because of Contractor's failure to pay such taxes.

11. **Subcontractors.**

Contractor is fully responsible for all acts and omissions of any subcontractor, and of persons directly or indirectly employed by any subcontractor, and of persons for whose acts any of them may be liable, to the same extent that the Contractor is responsible for the acts and omissions of its own employees. Nothing in this Contract creates any obligation on the part of County to pay or see to the payment of any money due any subcontractor, except as may be required by law.

12. **Standard of Care.**

The parties will discharge their obligations under the Services Agreement with that level of reasonable care which a similarly situated Services provider or plan administrator, as applicable, would exercise under similar circumstances. In connection with fiduciary powers and duties hereunder, if delegated by County to Contractor as noted in Section 13-Fiduciary Duty, Contractor shall observe the standard of care and diligence required of a fiduciary under applicable state law.

13. **Fiduciary Duty.**

It is understood and agreed that the County retains complete authority and responsibility for the Plan, its operation, and the benefits provided there under, and that Contractor is empowered to act on behalf of County in connection with the Plan only to the extent expressly stated in the Services Agreement or as agreed to in writing by Contractor and County. County has the sole and complete authority to determine eligibility of persons to participate in the Plan.

Contractor will serve as the County's claim fiduciary relative to all benefit determinations including all levels of appeals with no litigation provisions. Contractor will act as claim fiduciary for the County. Contractor will administer claims and payments and make final determinations of benefit decisions (including utilization review, precertification decisions and coverage determinations). Contractor will also administer appeals of benefit determinations and review of denied claims. If there is a lawsuit where the County is named as a defendant, Contractor will, at its own expense, defend the County if the lawsuit involves a claim for benefits and there is no conflict between Contractor and the County. Contractor will control the defense and determine whether to settle the lawsuit and the amount of any settlement offered. The County shall be responsible for funding payment of benefits in any settlement or judgment. If there is a conflict between Contractor and County, or if the suit asserts independent liability on the part of the County, the County will be responsible for its own defense.

14. **Assignment.**

Contractor may not assign its rights or obligations under this Contract, in whole or in part, without the County's prior written approval. County may withhold approval at its sole discretion.

15. **Non-Discrimination.**

Contractor will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this contract, including flow-down of all provisions and requirements to any subcontractors. During the performance of this Contract, Contractor will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

16. **Americans with Disabilities Act.**

Contractor will comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

17. **Authority to Contract.**

Contractor warrants its right and power to enter into this Contract. If any court or administrative agency determines that County does not have authority to enter into this Contract, County will not be liable to Contractor or any third party by reason of such determination or by reason of this Contract.

18. **Full and Complete Performance.**

The failure of either party to insist, in one or more instances, upon the other party's full and complete performance under this Contract, or to take any action based on the other party's failure to fully and completely perform, is not a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time is not an accord and satisfaction.

19. **Cancellation for Conflict of Interest.**

This Contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.

20. **Termination.**

20.1. **Termination of Contract for Default.**

- A. Upon a failure by Contractor to cure a default under this Contract within ten (10) days of receipt of notice from County of the default, County may, in its sole discretion, terminate this Contract for default by written notice to Contractor. In this event, County may take over the work and complete it by contract or otherwise. In such event, Contractor shall be liable for any damage to the County resulting from Contractor's default, including any increased costs incurred by County in completing the work.
- B. The occurrence of any of the following, without limitation to the named events, shall constitute an event of default:
1. Abandonment of or failure by Contractor to observe, perform or comply with any material term, covenant, agreement or condition of this Contract, or to prosecute the work or any separable part thereof with the diligence that will insure completion within the time specified in this contract, including any extension, or a failure to complete the work (or the separable part of the work) within the specified time;
 2. Persistent or repeated refusal or failure to supply adequate staff, resources or direction to perform the work on schedule or at an acceptable level of quality;
 3. Refusal or failure to remedy defective or deficient work within a reasonable time;
 4. Loss of professional registration or business or other required license or authority, or any curtailment or cessation for any reason of business or business operations that would substantially impair or preclude Contractor's performance of this Contract;
 5. Disregard of laws, ordinances, or the instructions of County or its representatives, or any otherwise substantial violation of any provision of the contract;
 6. Performance of work hereunder by personnel that are not qualified or permitted under federal, state or local law to perform such services;
 7. Commission of any act of fraud, misrepresentation, willful misconduct, or intentional breach of any provision of this Contract; or
 8. If a voluntary or involuntary action for bankruptcy is commenced with respect to Contractor, or Contractor becomes insolvent, makes a general assignment for the benefit of creditors, or has a receiver or liquidator appointed in respect of its assets.
- C. In the event of a termination for default:
1. All finished and unfinished drawings, specifications, documents, data, studies, surveys, drawings, photographs, reports and other information in whatever form, including electronic, acquired or prepared by Contractor for this project shall become County's property and shall be delivered to County not later than five (5) business days after the effective date of the termination;
 2. County may withhold payments to Contractor arising under this or any other Contract for the purpose of set-off until such time as the exact amount of damage due County from Contractor is determined; and
 3. Subject to the immediately preceding subparagraph (2), County's liability to Contractor shall not exceed the Contract value of work satisfactorily performed prior to the date of termination for which payment has not been previously made.
- D. The Contract will not be terminated for default nor the Contractor charged with damages under this Section, if:
1. Excepting item (8) in paragraph B above, the event of default or delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of Contractor. Examples of such causes include—
 - (i) Acts of God or of the public enemy,
 - (ii) Acts of the County in either its sovereign or contractual capacity,
 - (iii) Acts of another Contractor in the performance of a contract with the County,
 - (iv) Fires,
 - (v) Floods,

- (vi) Epidemics,
- (vii) Quarantine restrictions,
- (viii) Strikes,
- (ix) Freight embargoes,
- (x) Unusually severe Contractor weather, or
- (xi) Delays of subcontractors at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both Contractor and the subcontractor(s); and

2. The Contractor, within seven (7) days from the beginning of any event of default or delay (unless extended by County), notifies the County in writing of the cause(s) therefore. In this circumstance, the County shall ascertain the facts and the extent of the resulting delay. If, in the reasonable judgment of County, the findings warrant such action, the time for completing the work may be extended.

- E. For the purposes of paragraph A above, "receipt of notice" shall include receipt by hand by Contractor's designated representative, by facsimile transmission with notice of receipt, or under the Notices clause of this Contract.
- F. If, after termination of the Contract for default, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the County.
- G. The rights and remedies of County in this Section are cumulative and in addition to any other rights and remedies provided by law or under this contract.

20.2. Termination of Convenience.

County reserves the right to terminate this Contract or any portion thereof at any time and without cause by serving upon Contractor thirty (30) days advance written notice of such intent to terminate. In the event of such termination, the non-terminated provisions of the Contract including but not limited to pricing and fees will not be affected and the County's only obligation to Contractor for the terminated service(s) shall be payment for services rendered prior to the date of termination.

Notwithstanding any other provision in this Contract, this Contract may be terminated if for any reason, there are not sufficient appropriated and available monies for the purpose of maintaining County or other public entity obligations under this Contract. In the event of such termination, County shall have no further obligation to Contractor, other than to pay for services rendered prior to termination. Upon any termination by the County, Contractor will cooperate with the County, its employees or contracted agents along with any subsequent service provider in order to effectively and efficiently transition services. Contractor will provide these transition services at no additional cost to the County.

20.3. Termination by Contractor.

- A. Contractor may terminate the Contract by giving to County at least one hundred eighty (180) days written notice stating when, after the date of such notice, such termination shall become effective.
- B. If County fails to respond to an initial request by Contractor, or the bank selected by Contractor, on which benefit payment checks are drawn in satisfaction of a claim for Plan benefits, to provide funds to the bank for the payment of checks or other payments approved and recorded by Contractor, Contractor shall have the right to cease processing benefit payment requests and suspend other Services until the requested funds have been provided. Contractor may terminate the Contract immediately upon transmission of notice to County by mail, facsimile transmission or other means of communication (including electronic mail) if (a) County fails to provide the requested funds within five (5) business days of written notice by Contractor,
- C. If County fails to pay Service Fees by the Payment Due Date, Contractor shall have the right to suspend Services until the Service Fees have been paid.

21. **Notice.**

Any notice required or permitted to be given under this Contract must be in writing and be served by personal delivery or by certified mail upon the other party as follows:

COUNTY:
Mr. Allyn Bulzomi, Director
Pima County Human Resources
150 W. Congress, 5th Floor
Tucson, AZ 85701
(520)724-8672

CONTRACTOR:
Mr. Ray Eveleth, Account Director
Aetna Life Insurance Company
151 Farmington Avenue
Hartford, CT 06156
602-659-9238

22. **Non-Exclusive Contract.**

Contractor understands that this Contract is nonexclusive and is for the sole convenience of County. County reserves the right to obtain like services from other sources for any reason.

23. **Other Documents.**

Contractor and County in entering into this Contract have relied upon information provided in the Pima County Solicitation No. 264063 including the Request for Proposals, Instructions to Offerors, Standard Terms and Conditions, Specific Terms and Conditions, Solicitation Addenda, Contractor's Proposal and on other information and documents submitted by the Contractor in its' response to Solicitation No. 264063. These documents are hereby incorporated into and made a part of this Contract as if set forth in full herein, to the extent not inconsistent with the provisions of this contract.

24. **Severability.** Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law will be ineffective to the extent of such prohibition without invalidating the remainder of this Contract.

25. **Books Records, and Audits.** Contractor shall keep and maintain proper and complete books, records and accounts, which shall be open at all reasonable times for inspection and audit by duly authorized representatives of County.

In addition, Contractor shall retain all records relating to this contract at least five (5) years after its termination or cancellation or, if later, until any related pending proceeding or litigation has been closed.

County upon at least four (4) weeks in advance of the desired audit date will complete an Audit request form providing information reasonably requested by Contractor and as permitted by applicable law, the Plan-related benefit information shall be made available to County or to a third party designated by County, for inspection during regular business hours at the place or places of business where it is maintained by Contractor, for purposes related to the administration of the Plan. Such Plan-related benefit information will be kept by Contractor for seven (7) years after the year in which a claim is adjudicated, unless Contractor turns such information over to County or its designee. Audits must be commenced within two (2) years following the period being audited.

Contractor is not responsible for paying County's' audit fees or the costs associated with the audit. County shall pay Contractor fees for any audit which, with Contractor's approval, (i) onsite cannot be completed within a five (5) day period, (ii) contains a sample size in excess of 250 claim transactions (or with respect to a Health Fund audit, 250 Plan Participant(s)), or (iii) otherwise creates exceptional administrative demands upon Contractor. The County represents that it has informed its plan participants that Plan Participant Confidential Information may be used in connection with audits. Any requested payment to County from Contractor resulting from the audit must be based upon documented findings, agreed to by both parties, and must be due to Contractor's actions or inactions.

Identification of Audit Sample - The sample must be based on a statistical random sampling methodology (e.g., systematic random sampling, simple random sampling, and stratified random sampling). Contractor will advise County of any concerns they have with the sample size, the objectives of the audit and the sampling methodology proposed by the auditors.

Audit Reports - Contractor will have a right to receive the final Audit Report. Contractor shall have the right to include with the final Audit Report a supplementary statement containing supporting documentation and materials that Contractor considers pertinent to the audit.

26. **Public Records.**

26.1. Disclosure. Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-603(H) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all documents submitted in response to the solicitation resulting in award of this Contract, including, but not limited to, pricing schedules, product specifications, work plans, and any supporting documents, are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors.

26.2. Records Marked Confidential; Notice and Protective Order. If Contractor reasonably believes that some of those records contain proprietary, trade secret or otherwise-confidential information, Contractor must prominently mark those records "CONFIDENTIAL." In the event a public-records request is submitted to County for records marked CONFIDENTIAL, County will notify Contractor of the request as soon as reasonably possible. County will release the records ten (10) business days after the date of that notice, unless Contractor has, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.

26.3. Business Confidential Information. Each party acknowledges that performance of the Services Agreement may involve access to and disclosure of County and Contractor identifiable business proprietary data, rates, procedures, materials, lists, systems and information of the other (collectively "Business Confidential Information"). No Business Confidential Information shall be disclosed to any third party other than a party's representatives who have a need to know such information in relation to administration of the Plan, and provided that such representatives are informed of the confidentiality provisions hereof and agree to abide by them. All such Information must be maintained in strict confidence. County agrees that Contractor may make lawful references to County in its marketing activities and in informing health care providers as to the organizations and plans for which Services are to be provided.

26.4. Contractor Confidential Information. Any information with respect to Contractor's or any of its affiliate's fees or specific rates of payment to health care providers and any information which may allow determination of such fees or rates and any of the terms and provisions of the health care providers' agreements with Contractor or its affiliates are deemed to be Contractor Confidential Information. No disclosure of any such information may be made or permitted to County or to any third party whatsoever, including, but not limited to, any broker, consultant, auditor, reviewer, administrator or agent unless (i) Contractor has consented in writing to such disclosure and (ii) each such recipient has executed a confidentiality agreement in form satisfactory to Contractor's counsel.

26.5. Plan Participant Confidential Information. In addition, each party will maintain the confidentiality of medical records and confidential Plan Participant-identifiable patient information ("Plan Participant Confidential Information"), and in accordance with the terms of **Exhibit F - Business Associate Agreement**.

26.6. Upon Termination. Upon termination of the Services Agreement, each party, upon the request of the other, will return or destroy all copies of all of the other's Confidential Information in its possession or control except to the extent such Confidential Information must be retained pursuant to applicable law, to the extent such Confidential Information cannot be disaggregated from Contractor's databases, or except as otherwise provided under the **Exhibit F - Business Associate Agreement** provided, however, that Contractor may retain copies of any such Confidential Information it deems necessary for the defense of litigation concerning the Services it provided under the Services Agreement and for use in the processing of runoff claims for Plan benefits.

County and Contractor acknowledge that compliance with the provisions of the foregoing paragraphs are necessary to protect the business and good will of each party and its affiliates and that any actual or potential breach will irreparably cause damage to each party or its affiliates for which money damages may not be adequate. County and Contractor therefore agree that if a party or party's representatives breach or attempt to breach the provisions of this Section the other party will not oppose such party's request for temporary, preliminary and permanent equitable relief, without bond, to restrain such breaches, together with any and all other legal and equitable remedies available under applicable law or under the Services Agreement.

27. **Legal Arizona Workers Act Compliance.**

Due to security and protection concerns, services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve Pima County or its beneficiaries and may involve access to secure or sensitive data or personal client data or development or modification of software for the County shall be performed within the borders of the United States. Unless specifically stated otherwise in specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

27.1 Compliance with Immigration Laws. Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to its employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor will further ensure that each subcontractor who performs any work for Contractor under this Contract likewise complies with the State and Federal Immigration Laws.

27.2 Books & Records. County has the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

27.3 Remedies for Breach of Warranty. Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this Section, is a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor will be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion. Any additional costs attributable directly or indirectly to such remedial action are the responsibility of Contractor.

27.4 Subcontractors. Contractor will advise each subcontractor of County's rights, and the subcontractor's obligations, under this Section 27-Legal Arizona Workers Act Compliance by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor is a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

28. **HIPAA.**

The parties acknowledge that County's health benefit program is a "covered entity" as described in 45 C.F.R. §160.103 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and is required to comply with the provisions of HIPAA with respect to safeguarding the privacy, confidentiality and security of protected health information. Contractor acknowledges that it may obtain confidential personal health information of County's health benefit program participants in the course of Contractor's performance under the terms of this Contract. "Confidential personal health information" includes information that could be used to identify a participant, information pertaining to the participant's care, treatment or experience in County's program, and information pertaining to the cost of, payment for, or collections activities related to participant's care, treatment and experience in County's program.

Contractor agrees to maintain the privacy, confidentiality and security of information it may obtain in the course of its performance under this Contract. In particular, Contractor warrants that it is HIPAA compliant and agrees that it is County's Business Associate and is bound by **Exhibit F - Business Associate Agreement**, which is incorporated into this agreement, and further specifically agrees that:

- A. Any confidential personal health information that Contractor may obtain shall remain the sole property of the County; and
- B. Contractor shall establish and maintain procedures and controls that are acceptable to County to assure that no confidential personal health information contained in its records or obtained from County or from others in carrying out its functions under this Contract shall be used by or disclosed by Contractor, its agents, officers, employees or sub-Contractors, except as required in the performance of its obligations under the terms of this Contract; and
- C. Contractor shall not remove any confidential personal health information from County premises, if applicable; and
- D. Any other information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of its duties under this Contract, or to County.

29. Order of Precedence.

In the event that there are inconsistencies between agreement documents, following is the order of precedence, superior to subordinate, that shall be applied to resolve the inconsistency:

- Pima County Contract
- EXHIBIT A TPA Scope of Work
- EXHIBIT B N/A - Removed
- EXHIBIT C EAP Scope of Work
- EXHIBIT D Offeror/Contractor Certification
- EXHIBIT E Minimum Qualifications
- EXHIBIT F Business Associate Agreement
- EXHIBIT G Fee Schedule – TPA
- EXHIBIT H N/A - Removed
- EXHIBIT I Fee Schedule – EAP
- Pima County Standard Terms and Conditions

30. County's Responsibilities.

- A. Eligibility. County shall supply Contractor in writing or by electronic medium agreed to by the parties with all information regarding the eligibility of Plan Participants including but not limited to the identification of any Sponsored Dependents defined in County's Summary Plan Description ("SPD") and shall notify Contractor by the tenth day of the month following any changes in Plan participation. County agrees that retroactive terminations of Plan Participants shall not exceed thirty (30) days and that Contractor has no financial responsibility for any benefit payments owed under the Plan. Contractor has no responsibility for determining whether an individual meets the definition of a Sponsored Dependent. Contractor shall not be responsible in any manner, including but not limited to, any obligations set forth in Section 31-Recovery of Overpayments below, for any delay or error caused by the County's failure to furnish forms executed by County's Plan Participants, or in another manner which satisfies applicable law, that confidential information relating to their benefit claims may be disclosed to third parties in connection with plan administration.
- B. Initial SPD Review. County shall provide Contractor with all Plan documents at least thirty (30) days prior to the Effective Date or such other date mutually agreed upon by the parties. County agrees that it will provide Contractor with a copy of its SPD, so that Contractor may reconcile any potential differences that may exist among the SPD, the description of Plan Benefits on Pima County Website and Contractor's internal policies and procedures. Contractor does NOT review County's SPD for compliance with applicable law. County also agrees that it is responsible for satisfying any and all Plan reporting and disclosure requirements imposed by law, including updating the SPD to reflect any changes in benefits.

- C. Notice of Benefit Change. County shall notify Contractor in writing of any changes in Plan documents or Plan benefits at least thirty (30) days prior to the effective date of such changes. Contractor shall have thirty (30) days following receipt of such notice to inform County of whether it will administer such proposed changes. The Plan Benefits listed on Pima County website will be automatically modified to reflect such proposed changes if Contractor either agrees to administer the changes as proposed or fails to object to such changes within thirty (30) days of receipt of the foregoing notice.
- D. Employee Notices. County agrees to furnish each Employee covered by the Plan written notice, satisfactory to the parties, that County has complete financial liability for the payment of Plan benefits. County agrees to indemnify Contractor and hold Contractor harmless against any and all loss, damage and expense (including reasonable attorneys' fees) sustained by Contractor as a result of any failure by County to give such notice.
- E. Miscellaneous. County shall as soon as practicable provide Contractor with such information regarding administration of the Plan as Contractor may request from time to time. Contractor is entitled to rely on the information most recently supplied by County in connection with Contractor's Services and its other obligations under the Services Agreement. Contractor shall not be responsible for any delay or error caused by County's failure to furnish correct information in a timely manner. Contractor is not responsible for responding to Plan Participant request for copies of Plan documents.

31. **Recovery of Overpayments.**

The parties will cooperate fully to make reasonable efforts to recover overpayments of Plan benefits. If it is determined that any payment has been made by Contractor to or on behalf of an ineligible person or it is determined that more than the appropriate amount has been paid Contractor shall undertake good faith efforts to recover the erroneous payment. For the purpose of this provision, "good faith efforts" constitute Contractor's outreach to the responsible party twice via letter, phone, email or other means to attempt to recover the payment at issue. If those efforts are unsuccessful in obtaining recovery, Contractor may use an outside vendor, collection agency or attorney to pursue recovery unless the County directs otherwise. Except as stated in this Section, Contractor has no other obligation with respect to the recovery of overpayments.

Overpayment recoveries made through third party recovery vendors, collection agencies, or attorneys are credited to County net of fees charged by Contractor or those entities. Overpayments must be determined by direct proof of specific claims. Indirect or inferential methods of proof - such as statistical sampling, extrapolation of error rate to the population, etc. - may not be used to determine overpayments. In addition, application of software or other review processes that analyze claims in a manner different from the claim determination and payment procedures and standards used by Contractor may not be used to determine overpayments.

County may not seek collection, or use a third party to seek collection, of benefit payments or overpayments from contracted providers, since all such recoveries are subject to the terms and provisions of the providers' proprietary contracts with Contractor. For the purpose of determining whether a provider has or has not been overpaid, County agrees that the rates paid to contracting providers for covered services shall be governed by Contractor's contracts with those providers, and shall be effective upon the loading of those contract rates into Contractor's systems, but no later than three (3) months after the effective date of the provider's contracts.

County may not seek collection, or use a third party to seek collection, of benefit payments or overpayments from parties other than contracted providers described above, until Contractor has had a reasonable opportunity to recover the overpayments. Contractor must confirm all overpayments before collection by a third party may commence. County may be charged for additional Contractor expenses incurred in overpayment confirmation.

32. **Defense of Claim Litigation.**

In the event of a legal, administrative or other action arising out of the administration, processing or determination of a claim for Plan benefits, the party designated in this document as the fiduciary which rendered the decision in the appeal last exercised by the Plan Participant which is being appealed to the court ("appropriate named fiduciary") shall undertake the defense of such action at its expense and settle such action when in its reasonable judgment it appears expedient to do so.

If the other party is also named as a party to such action, the appropriate named fiduciary will defend the other party PROVIDED the action relates solely and directly to actions or failure to act by the appropriate named fiduciary and there is no conflict of interest between the parties. County agrees to pay the amount of Plan benefits included in any judgment or settlement in such action. The other party shall not be liable for any other part of such judgment or settlement, including but not limited to legal expenses and punitive damages, except and to the extent provided in Section 8-Indemnification. Notwithstanding anything to the contrary in the Defense of Litigation clause above, in any multi-claim provider litigation, (including arbitration), disputing reimbursement for benefits for more than one Plan Sponsor, County authorizes Contractor to defend and reasonably settle County's benefit claims in such litigation.

33. Remedies.

Other than in an action between the parties for third party indemnification, or for breach of the Business Associate Agreement, neither party shall be liable to the other for any consequential, incidental or punitive damages whatsoever.

34. Entire Agreement.

This document constitutes the entire agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This Contract may be modified, amended, altered or extended only by a written amendment signed by the parties.

IN WITNESS THEREOF, the parties have affixed their signatures to this Contract on the date written below.

PIMA COUNTY

AETNA LIFE INSURANCE COMPANY

Chair, Board of Supervisors



Date

Mark Sternat, Director of Business Development
Name/Title

November 30, 2017
Date

ATTEST

Clerk of Board

Date


APPROVED AS TO FORM



Paula Perreza, Deputy County Attorney

12.4.17
Date

APPROVED AS TO CONTENT



Ailyn Bulzomi, Director of Human Resources

12/5/17
Date

PIMA COUNTY STANDARD TERMS AND CONDITIONS

1. OPENING:

Responses will be publicly opened and each respondent's name, and if a Bid the amount, will be read on the date and at the location defined in the *Request for Proposal (RFP)*. Proposals shall be opened so as to avoid disclosure of the contents of any proposal to competing Offerors during the process of negotiation. All interested parties are invited to attend.

2. EVALUATION:

Responses shall be evaluated to determine which are most advantageous to Pima County (County) considering evaluation criteria, conformity to the specifications and other factors.

If an award is made, County will enter into an agreement with the one or multiple respondent(s) that submitted the lowest responsive bid(s) that were determined responsible for supplying the required goods or services. Unless otherwise specified on the Bid/Proposal document determination of the low/lowest bids will be made considering the total bid amount.

County, at its sole discretion, reserves the following rights: 1) to waive informalities in the bid or bid procedure; 2) to reject the response of any persons or corporations that have previously defaulted on any contract with County or who have engaged in conduct that constitutes a cause for debarment or suspension as set forth in County Code section 11.32; 3) to reject any and all responses; 4) to re-advertise for bids previously rejected; 5) to otherwise provide for the purchase of such equipment, supplies materials and services as may be required herein; 6) to award on the basis of price and other factors, including but not limited to such factors as delivery time, quality, uniformity of product, suitability for the intended task, and Offeror's ability to supply; 7) to increase or decrease the item quantity or eliminate any item of this solicitation prior to the award. Pricing evaluations will be based on pre-tax pricing proposed by Contractor.

3. AWARD NOTICE:

A *Notice of Recommendation for Award* for RFP will be posted on the Procurement website and available for review by interested parties. A tabulation of responses will be maintained at the Procurement Department.

4. AWARD:

Awards will be made by either the Procurement Director or the Board of Supervisors in accordance with the Pima County Procurement Code. County reserves the right to reject any or all proposals, bids or proposals or to waive irregularities and informalities if it is deemed in the best interest of County. Unless expressly agreed otherwise, resulting contracts are not exclusive, are for the sole convenience of County, and County reserves the right to obtain like goods or services from other sources.

5. WAIVER:

Each Offeror, by submission of a proposal, bid or proposal waives any and all claims for damages against County or its officers or employees when County exercises any of its reserved rights.

6. ACKNOWLEDGEMENT AND ACCEPTANCE:

If Contractor's terms of sale are inconsistent with the terms of the resultant contract, the terms herein shall govern, unless County accepts Contractor's terms in writing. No oral agreement or understanding shall in any way modify this contract or the terms and conditions herein. Contractor's acceptance, delivery or performance called for herein shall constitute unqualified acceptance of the terms and conditions of the resultant contract.

7. PAYMENT TERMS:

Payment terms are net thirty (30) days, unless otherwise specified by the contract.

8. FRAUD AND COLLUSION:

Each Contractor, by submission of a bid, certifies that no officer or employee of County or of any subdivision thereof: 1) has aided or assisted Contractor in securing or attempting to secure a contract to furnish labor, materials or supplies at a higher price than that proposed by any other Contractor; 2) has favored one Contractor over another by giving or withholding information or by willfully misleading the Offeror in regard to the character of the material or supplies called for or the conditions under which the proposed work is to be done; 3) will knowingly accept materials or supplies of a quality inferior to those called for by any contract; 4) has any direct or indirect financial interest in the proposal or resulting contract. Additionally, during the conduct of business with County, Contractor will not knowingly certify, or induce others to certify, to a greater amount of labor performed than has been actually performed, or to the receipt of a greater amount or different kind of material or supplies that has been actually received. If at any time it shall be found that Contractor has in presenting any proposal(s) colluded with any other party or parties for the purpose of preventing any other proposal being made, then any contract so awarded shall be terminated and that person or entity shall be liable for all damages sustained by County.

9. COOPERATIVE USE OF RESULTING CONTRACT:

As allowed by law, County has entered into cooperative procurement agreements that enable other Public Agencies to utilize procurement agreements developed by County. Contractor may be contacted by participating agencies and requested to provide services and products pursuant to the pricing, terms and conditions defined by the County Master Agreement, or Purchase Order. Minor adjustments are allowed subject to agreement by both Contractor and Requesting Party to accommodate additional cost or other factors not present in the County's agreement and required to satisfy particular Public Agency code or functional requirements and are within the intended scope of the solicitation and resulting contract. Any such usage shall be in accordance with State, County and other Public Agency procurement rules, regulations and requirements and shall be transacted between the requesting party and Contractor. Contractor shall hold harmless County, its officers, employees, and agents from and against all liability, including without limitation payment and performance associated with such use. A list of agencies that are authorized to use County contracts can be viewed at the Procurement Department Internet home page: <http://www.pima.gov/procure> by selecting the link titled *Authorized Use of County Contracts*.

10. PATENT INDEMNITY:

Contractor will indemnify, defend and hold County, its officers, agents and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted composition, secret process, patented or unpatented invention, Section or appliance furnished or used in connection with the Master Agreement, Purchase Order, and associated orders. Contractor may be required to furnish a bond or other indemnification to County against any and all loss, damage, costs, expenses, claims and liability for patent or copyright infringement.

11. UNFAIR COMPETITION AND OTHER LAWS:

Responses must be in accordance with Arizona trade and commerce laws (Title 44 A.R.S.) and all other applicable County, State, and Federal laws and regulations.

12. ASSIGNMENT:

Contractor may not assign its rights to the contract, in whole or in part, without prior written approval of County. County may withhold approval at its sole discretion, provided that County will not unreasonably withhold such approval.

13. NON-APPROPRIATION OF FUNDS:

COUNTY may cancel this contract pursuant to A.R.S. § 11-251(42) if for any reason the County Board of Supervisors does not appropriate funds for the stated purpose of maintaining the contract. In the event of such cancellation, County has no further obligation, other than payment for services or goods that County has already received.

14. PROTESTS:

An interested party may file a protest regarding any aspect of a solicitation, evaluation, or recommendation for award. Protests must be filed in accordance with the Pima County Procurement Code, Section 11.20.010.

15. CONTROL OF DATA PROVIDED BY COUNTY:

For those projects and contracts where COUNTY has provided data to enable the Contractor to provide contracted services or products, unless otherwise specified and agreed to in writing by County, Contractor will treat, control and limit access to said information as confidential and will under no circumstances release any data provided by County during the term of this contract and thereafter, including but not limited to personal identifying information as defined by A.R.S. § 44-1373, and Contractor is further prohibited from selling such data, in any form, directly or through a third party. Upon termination or completion of the contract, Contractor will either return all such data to County or will destroy such data and confirm destruction in writing in a timely manner not to exceed sixty (60) calendar days.

16. ISRAEL BOYCOTT CERTIFICATION:

Contractor hereby certifies that it is not currently engaged in, and will not for the duration of this Contract engage in, a boycott of Israel as defined by A.R.S. § 35-393.01. Violation of this certification by Contractor may result in action by the County up to and including termination of this Contract.

END OF PIMA COUNTY STANDARD TERMS AND CONDITIONS

EXHIBIT A

THIRD PARTY ADMINISTRATIVE SERVICES (TPA) SCOPE OF WORK

General

1. **Adhere to all details described in Aetna response to Request for Proposal (RFP) #264063.**

Network

1. Provide a comprehensive provider network (meaning both breadth of services and geographic coverage) that offers the most competitive discounts for participants in Pima County (County) along with a network within Arizona and the United States as well.
2. Ensure there are quality measurement standards and metrics that enable participants to compare and contrast various providers relative to quality scores and cost efficiencies.
3. Provide a network that balances choice of providers with effective cost management of claims.

Utilization Management and Concurrent Review Services

1. Provide services that review the acuity of the care provided to participants.
2. Utilizing clinically trained personnel, provide initial and ongoing precertification or prior authorization services that help manage inpatient care, mental and behavioral health services, and rehabilitative services. Assist in precluding non-value added care.
3. Provide review services that request care related to clinical trials, organ transplantation, specialty medications and infusion coverage.

Healthcare Access Disease Management and Care Coordination Services

1. Provide disease management programs and services in the following areas at a minimum: Asthma, Obesity, Chronic Obstructive Pulmonary Disease (COPD), Coronary Artery Disease (CAD), Congestive Heart Failure, High Risk Pregnancy, Diabetes, Depression, and Low Back Pain and management thereof.
2. Provide Pima County with a Clinical Health Advocate (CHA) who is a dedicated employee assisting County's Human Resource (HR) professionals with targeted health and wellness initiatives. This position will also assist in the implementation of and participation encouragement for members in health management programs. Roles and responsibilities for the CHA include the following:
 - Analyze medical/pharmacy data to identify trends and areas of focus for County as it relates to disease prevalence, utilization patterns, and population engagement.
 - Develop and present strategies to address underlying medical trends for County in collaboration with County.
 - Provide consultation in long- and short-term planning, goals, and objectives related to the wellness program.
 - Assist customer with developing and deploying health promotion and wellness educational programs.
 - Be a subject matter expert on Care Management programs (CM).
 - Coordinate outreach with CM contacts to facilitate engagement or re-engagement.

- Actively participate in the Wellness Council of Arizona (WELCOAZ).
- Coordinate with County Health Coaches to educate them on CM programs.
- Actively participate in County benefits and wellness team meetings.
- Be fluent in County benefits and wellness program.
- Assist in driving Primary Care Physician (PCP) engagement.
- Promote medical consumer tools, e.g., web portal, Personal Health Record (PHR), cost estimator, etc.
- Attend wellness fairs, benefit events and employee education opportunities to educate County employees about medical programs and services available to them and how to access these resources.
- Assist with projects related to the implementation of County's initiatives, provide clinical insight and assist with seamless implementation of these initiatives.
- Assist with the analysis and preparation of quarterly reporting presentations. Participate in onsite customer meetings on a regular basis in conjunction with the account team and informatics.
- Maintain appropriate confidentiality of all materials and information encountered in performance of duties.

Background/Experience

The CHA will be a Certified Health Educator (or similar certification) with at least three (3) years' experience as a health educator with clinical experience.

- Energetic, comfortable with public speaking.
- Excellent communication skills.
- Engaging and approachable.
- Knowledge of health promotion.
- Self-starter, independently creative.
- Excellent problem solving.
- Strong team player.

Education

- The highest level of education desired for candidates in this position is a Bachelor's degree or equivalent experience.

Licenses and Certifications

- Medical/Certified Wellness Program Manager (CWPM) is desired.
- Health and Fitness/Wellness Councils of America is desired.
- Health and Fitness/Wellness Coach is desired.

Functional Experience

- Functional - Clinical / Medical/Consultative informatics/.
- Functional - Products-Medical/Active Lifestyle Coaching/.

- Functional - Products-Medical/Active Disease Management/.
- Functional - Clinical/Medical/Marketing/.
- Functional - Communications/Member communications/.

Technology Experience

- Technical – Medical Applications/Total clinical View/End User.

Required Skills

- General Business/Communicating for Impact/ADVANCED.
- General Business/Demonstrating Business and Industry Acumen/ADVANCED.
- General Business/Consulting for Solutions/ADVANCED.

Desired Skills

- General Business/Ensuring Project Discipline/ADVANCED.
- Leadership/Driving Change/FOUNDATION.
- Leadership/Anticipating and Innovating/FOUNDATION.

Telework Specifications

- This position is located on-site at customer location (Pima County).

Additional Job Information

Work within a positive, successful, caring team of clinical professionals focused on customer and plan success. Contribute positively to the health of the men, women and family members of a large County organization. Enjoy professional independence and creativity. Join Pima County in realizing our vision to create a health care system that is simple, affordable, and customer-centered.

Operations

1. Provide a web based portal for access by participants to review their individual and enrolled dependent claim activity as well as access health information and wellness services to benefit themselves or their families.
2. Bilingual (Spanish) communication is required for written materials and annual enrollment support services.
3. Working in conjunction with the County, prepare and sometimes distribute benefit materials, reports or presentations as well as attendance at annual enrollment meetings.
4. Provide HIPAA compliant web based access to authorized County employees and designated business associate(s) for claims data, financial and statistical reports and any other data readily available to employers relative to your standard reporting tools and resources.
5. Working in conjunction with the County, integrate the County's non-Medicaid Benefit Programs into a comprehensive Benefits Guide summarizing all benefit programs offered to participants. TPA agrees to prepare and distribute those to participants via hard copy and/or web. Please refer to our current benefits guide indicated: [Pima County Employee Benefits Guide 2017/18](#).
6. Provide toll free or local phone number access to all participants for questions or concerns relative to eligibility, claim issues, provider network services, pharmacy benefit services, benefit coverage, grievance and appeals services and general concerns.

7. Provide Nurse Line or equivalent services 24 hours per day throughout the plan year to participants who have care access questions or seek general healthcare advice.
8. Provide call center customer service resources that must be available at a minimum from 7:30am through 6:00pm Arizona time. Ideally, extended hours should be made available.
9. Provide a comprehensive telemedicine component that would be available nationwide to all member 24 hours a day. Services should include both telephonic and video access to health care providers.

Claim Processing

1. Provide complete claim administration to include receipt of claims and payments processed in accordance with the County's plan designs.
2. Coordinate, interface and integrate data with medical management, utilization review, pre-certification/authorization and other resources to make benefit determination pursuant to the County's benefit plan(s).
3. Perform coordination of benefits and subrogation services with other benefit plans (including Medicare and Medicaid where applicable) and third parties as needed or requested.
4. Perform all communication processes whether oral or written with providers of care or plan participants to ensure any and all information is gathered to accurately and timely pay claims.
5. Provide any and all notices to plan participants regarding denial of benefits along with review or appeal instructions for the participant including external review and appeals processes in addition to internal review processes.
6. Serve as the County's claim fiduciary relative to all benefit determinations including all levels of appeals with no litigation provisions. The County will not be retaining any claim fiduciary responsibilities. If there are fees associated with the administration of this function, please be sure to clearly indicate those fees on your cost proposal.
7. Provide all EOB (explanation of benefits) to all plan participants as a result of claims processed.
8. Provide and operate fraud detection and reduction programs.
9. The County is also seeking solutions for consolidated claims processing and billing services as outlined in the TPA Questionnaire document in **ATTACHMENT VII**. Bidders are asked to provide information about solutions they have available for these services and/or their willingness to work with third party vendors which can provide these services.
10. Provide continued education to participants relative to their rights and responsibilities to appeal any denied, limited, or excluded coverage determination.
11. Provide management oversight of internal review processes as well as external review processes while maintaining complete claim fiduciary responsibilities with no liability to the County.
12. Provide independent review organizations for claim or coverage appeals.

Wellness Services:

1. Provide an integrated online Health Risk Assessment (HRA) where claim data can be uploaded into the participants HRA record. Provide a sample of your HRA as well as a sample of your HRA aggregate reporting.

2. Provide a 24 hour/365-day Nurse Line for participants to access services. The cost of this service needs to be clearly outlined in your cost proposal.
3. Provide a 24 hour/365-day telemedicine (both telephonic and video capable) for participants to access services. The cost of this service needs to be clearly outlined in your cost proposal.
4. Provide education and communication notices to participants for age/gender screenings or immunizations. Provide samples of your communication materials.
5. Provide Flu shots on-site pro bono as well as all associated scheduling and administrative services. To the extent you have flu shots arranged and available as a preventative service, please explain who you utilize as part of your network.
6. Provide resources and materials to support the County's health fairs and/or Annual Enrollment periods.
7. Coordinate with the County's existing Wellness Programs to enhance communications, provide specific disease or illness initiatives and health improvement measurement tools. Work with the County resources to leverage existing community resources to improve participant health and wellbeing.
8. Provide complimentary discount programs or services to participants to promote wellness (e.g. discounted gym rates, nutritional tools, weight management services, etc.). Provide a list of these services in your proposal.

Case Management

1. Provide resources directly or through your vendor to coordinate health care services amongst differing provider disciplines and locations on behalf of participants.
2. Provide education to participants to better manage their care and risk factors to avoid duplication of services and result in better health outcomes.
3. Help explain to participants various treatment options that may exist for them along with probable outcomes.
4. Provide educational and other resources to participants that may be available beyond their plan coverage.

Eligibility and Participant Enrollment Services

1. Enroll, terminate, and manage qualifying events and changes pursuant to the County's eligibility definitions.
2. Provide online enrollment and eligibility services as well as agree to accept electronic data eligibility files and formats from the County's employee information management systems.
3. Provide members with verification of coverage including start and end dates upon request.

Data Reporting

1. Provide enrollment, demographic and claim data at least quarterly in a report format.
2. Provide financial reporting of paid claims (not incurred), by disease category, by provider type paid, by service/benefits category, in-network versus non-network and other data sorting as is standard industry practice.
3. Integrate PBM and Stop Loss recovery data into reporting packages.

4. Provide access to your reporting systems by authorized County staff and designated business associate(s), including the County's employee benefits consulting firm, CBIZ, to be defined by the County and the vendor.

EXHIBIT B

N/A - Removed

EXHIBIT C

EMPLOYEE ASSISTANCE PROGRAM (EAP) SERVICES SCOPE OF WORK

1. Provide 24-hour access to EAP services. Professional staff of EAP must be able to provide intake, assessment and triage as needed to Pima County (County) participants.
2. Provide participants a toll free crisis telephone line for counseling intervention on an as needed basis.
3. Provide participants with confidential evaluation and assessments for up to five (5) EAP counseling services per issue per year. Provide participants appropriate referrals to specialized providers based upon participant need(s). Public Safety personnel that experience traumatic events must be able to receive up to twelve (12) counseling sessions per year.
4. Provide educational and communication materials to the County and eligible participants.

NOTE: Benefit Eligible (not necessarily benefit enrolled) County employees and dependents are eligible to receive EAP benefits regardless of enrollment status in the County's medical plan.

5. Provide training for the County Human Resource Staff, Directors, Managers and/or Supervisors relative to how to best utilize an EAP including participant referrals, difficult employees, crisis interventions, and early detection mechanisms. Provide and update as necessary a complete listing of available courses indicating the duration of each course and whether said courses are provided at no additional cost or the applicable fee. Provide an integrated model of care that coordinates with and refers to programs for medical and behavioral health.

EXHIBIT D

OFFEROR/CONTRACTOR CERTIFICATION

CONTRACTOR LEGAL NAME: Aetna Life Insurance Company

BUSINESS ALSO KNOWN AS: Aetna

MAILING ADDRESS: 151 Farmington Ave

CITY/STATE/ZIP: Hartford Ct 06156

REMIT TO ADDRESS: Same as above

CITY/STATE/ZIP: Same as above

CONTACT PERSON NAME/TITLE: Ray Eveleth - Account Director

PHONE: 602 659-9238 FAX: 860-273-0123

CONTACT PERSON EMAIL ADDRESS: EvelethR@aetna.com

EMAIL ADDRESS FOR ORDERS & CONTRACTS: EvelethR@aetna.com

CORPORATE HEADQUARTERS ADDRESS: 151 Farmington Ave Hartford Ct 06156

WEBSITE: www.aetna.com

ACKNOWLEDGEMENT of SOLICITATION ADDENDA:

Contractor acknowledges that it incorporates the following solicitation addenda in its offer and this contract:

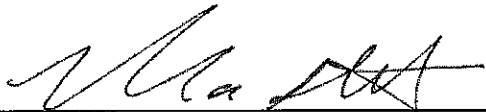
Addendum #	Date	Addendum #	Date	Addendum #	Date
1	7/18/17	4	8/2/17		
2	7/27/17	5	8/4/17		
3	8/1/17				

SMALL BUSINESS ENTERPRISE (SBE) CERTIFICATION:

Is your firm SBE-certified as defined by the solicitation "Instruction to Offerors" section? Yes No (Select one)

If 'Yes', have you included your certification document? Yes No (Select one)

NOTE: If you do not submit the SBE Certification document with your bid, County will not apply the SBE Preference.

SIGNATURE:  DATE: 8/4/17

Mark Sternat - Director of Business Development
PRINTED NAME & TITLE OF AUTHORIZED OFFEROR REPRESENTATIVE EXECUTING PROPOSAL

EXHIBIT E

MINIMUM QUALIFICATIONS VERIFICATION FORM

(The Minimum Qualifications Verification Form applies to any and all proposed Service Categories.)

OFFEROR'S NAME: Aetna Life Insurance Company

Offeror certifies that they possess the following minimum qualifications and shall provide the requested documents that substantiate their satisfaction of the Minimum Qualifications. Failure to provide the information required by these Minimum Qualifications and required to substantiate responsibility will be cause for the Offeror's proposal to be rejected as **Non-Responsive**.

ITEM NO.	MINIMUM QUALIFICATIONS	CHECK, certifying agreement with the requirement
1	Contractor certifies it is competent, willing and responsible to perform the services in accordance with all requirements of this solicitation and this contract.	<input checked="" type="checkbox"/> Yes
2	Contractor certifies it is able to accept eligibility and enrollment information from the ADP OBA benefits administration system.	<input checked="" type="checkbox"/> Yes
3	Contractor certifies that it holds all State and Federal licenses to operate in the State of Arizona and provide services as outlined in this solicitation for Pima County.	<input checked="" type="checkbox"/> Yes
4	Contractor certifies that it maintains strict adherence to all Federal HIPAA Privacy and Security regulations.	<input checked="" type="checkbox"/> Yes
5	Contractor certifies that it currently performs services (TPA, PBM, or EAP) for employers with 5,000 or more employees and 10,000 insured members.	<input checked="" type="checkbox"/> Yes

* Aetna certifies it meets this minimum qualification and can work with Pima County to understand and provide additional documentation (i.e., copies of licensures, copies of procedures and policies, customer references/confirmations of qualifications) that would be acceptable to substantiate this certification for Pima County.


SIGNATURE:

8/13/17
DATE:

Mark Starnat; Director of Business Development
PRINTED NAME & TITLE OF AUTHORIZED OFFEROR REPRESENTATIVE EXECUTING PROPOSAL

EXHIBIT F

BUSINESS ASSOCIATE AGREEMENT

WHEREAS, Pima County, on behalf of the Pima County Health Benefits Plan ("Covered Entity"), and Aetna Life Insurance Company ("Business Associate") (each, a "Party," and collectively, the "Parties") wish to enter into a Business Associate Agreement to ensure compliance with the Privacy and Security Rules of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA Privacy and Security Rules") (45 C.F.R. Parts 160 and 164); and

WHEREAS, the Health Information Technology for Economic and Clinical Health ("HITECH") Act of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, modified the HIPAA Privacy and Security Rules (hereinafter, all references to the "HIPAA Privacy and Security Rules" include all amendments thereto set forth in the HITECH Act and any accompanying regulations); and

WHEREAS, the Parties have entered into a written or oral arrangement or arrangements (the "Underlying Agreements") whereby Business Associate will provide certain services to Covered Entity that require Business Associate to create, receive, maintain, or transmit Protected Health Information ("PHI") on Covered Entity's behalf, and accordingly Business Associate may be considered a "business associate" of Covered Entity as defined in the HIPAA Privacy and Security Rules; and

WHEREAS, Business Associate and Covered Entity wish to comply with the HIPAA Privacy and Security Rules, and Business Associate wishes to honor its obligations as a business associate to Covered Entity.

THEREFORE, in consideration of the Parties' continuing obligations under the Underlying Agreements, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the provisions of this Business Associate Agreement ("Agreement").

Except as otherwise defined herein, any and all capitalized terms in this Agreement shall have the definitions set forth in the HIPAA Privacy and Security Rules. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA Privacy and Security Rules, as amended, the HIPAA Privacy and Security Rules in effect at the time shall control. Where provisions of this Agreement are different than those mandated by the HIPAA Privacy and Security Rules, but are nonetheless permitted by the HIPAA Privacy and Security Rules, the provisions of this Agreement shall control.

I. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

A. Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreements, provided that such use or disclosure would not violate the HIPAA Privacy and Security Rules if done by Covered Entity.

B. Business Associate may use PHI in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of Business Associate, provided that such uses are permitted under state and federal confidentiality laws.

C. Business Associate may disclose PHI in its possession to third parties for the purposes of its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate, provided that:

1. the disclosures are required by law; or
2. Business Associate obtains reasonable assurances from the third parties to whom the PHI is disclosed that the information will remain confidential and be used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party, and that such third parties will notify Business Associate of any instances of which they are aware in which the confidentiality of the information has been breached.

D. Until such time as the Secretary issues regulations pursuant to the HITECH Act specifying what constitutes "minimum necessary" for purposes of the HIPAA Privacy and Security Rules, Business Associate shall, to the extent practicable, access, use, and request only PHI that is contained in a limited data set (as defined in 45 C.F.R. § 164.514(e)(2)), unless Business Associate requires certain direct identifiers in order to accomplish the intended purpose of the access, use, or request, in which event Business Associate may access, use, or request only the minimum necessary amount of PHI to accomplish the intended purpose of the access, use, or request.

II. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

A. Business Associate agrees not to use or further disclose PHI other than as permitted or required by this Agreement or the Underlying Agreements or as required by law.

B. Business Associate agrees to use appropriate safeguards and to comply, where applicable, with 45 C.F.R. Part 164, Subpart C with respect to Electronic Protected Health Information, to prevent use or disclosure of PHI other than as provided for by this Agreement. Specifically, Business Associate will:

1. implement the administrative, physical, and technical safeguards set forth in 45 C.F.R. §§ 164.308, 164.310, and 164.312 that reasonably and appropriately protect the confidentiality, integrity, and availability of any PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity, and, in accordance with 45 C.F.R. § 164.316, implement and maintain reasonable and appropriate policies and procedures to enable it to comply with the requirements outlined in 45 C.F.R. §§ 164.308, 164.310, and 164.312; and

2. report to Covered Entity any Security Incident, and any use or disclosure of PHI that is not provided for by this Agreement, of which Business Associate becomes aware.

C. Business Associate shall require each subcontractor that creates, receives, maintains, or transmits PHI on its behalf to enter into a business associate agreement or equivalent agreement containing the same restrictions on access, use, and disclosure of PHI as those applicable to Business Associate under this Agreement. Furthermore, to the extent that Business Associate provides Electronic PHI to a subcontractor, Business Associate shall require such subcontractor to comply with all applicable provisions of 45 C.F.R. Part 164, Subpart C.

D. Business Associate agrees to comply with any requests for restrictions on certain disclosures of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. § 164.522 of which Business Associate has been notified by Covered Entity.

E. If Business Associate maintains a designated record set on behalf of Covered Entity, at the request of Covered Entity and in a reasonable time and manner, Business Associate agrees to make available PHI required for Covered Entity to respond to an individual's request for access to his or her PHI in accordance with 45 C.F.R. § 164.524. If Business Associate maintains PHI in an electronic designated record set, it agrees to make such PHI available electronically to Covered Entity or, upon Covered Entity's specific request, to the applicable individual or to a person or entity specifically designated by such individual, upon such individual's request.

F. If Business Associate maintains a designated record set on behalf of Covered Entity, at the request of Covered Entity and in a reasonable time and manner, Business Associate agrees to make available PHI required for amendment by Covered Entity in accordance with the requirements of 45 C.F.R. § 164.526.

G. Business Associate agrees to document any disclosures of Protected Health Information, and to make PHI available for purposes of accounting of disclosures, as required by 45 C.F.R. § 164.528.

H. If Business Associate is to carry out one or more of Covered Entity's obligations under 45 C.F.R. Part 164, Subpart E, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s).

I. Business Associate agrees that it will make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity, available to the Secretary, in a time and manner designated by the Secretary, to enable the Secretary to determine Business Associate's or Covered Entity's compliance with the HIPAA Privacy and Security Rules. Business Associate also shall cooperate with the Secretary and, upon the Secretary's request, pursuant to 45 C.F.R. § 160.310, shall disclose PHI to the Secretary to enable the Secretary to investigate and review Business Associate's or Covered Entity's compliance with the HIPAA Privacy and Security Rules.

- J.** Unless expressly authorized in the Underlying Agreements, Business Associate shall not:
1. use PHI for marketing or fundraising;
 2. use PHI to create a limited data set or to de-identify the information;
 3. use PHI to provide data aggregation services relating to the health care operations of Covered Entity; or
 4. use or disclose PHI in exchange for remuneration of any kind, whether directly or indirectly, financial or non-financial, other than such remuneration as Business Associate receives from Covered Entity in exchange for Business Associate's provision of the services specified in the Underlying Agreements.

5. Prior express written authorization from Covered Entity is required for Business Associate to access, store, share, maintain, transmit, use, or disclose PHI in any form via any medium with any entity or person, including the Business Associate's employees and subcontractors, beyond the boundaries and jurisdiction of the United States. Authorization may be granted in the sole discretion of Covered Entity and, if granted, will be subject to additional conditions with which Business Associate must agree.

III. BUSINESS ASSOCIATE'S MITIGATION AND BREACH NOTIFICATION OBLIGATIONS

A. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

B. Following the discovery of a Breach of Unsecured PHI ("Breach"), Business Associate shall notify Covered Entity of such Breach without unreasonable delay and in no case later than thirty (30) calendar days after discovery of the Breach, and shall assist in Covered Entity's breach analysis process, including risk assessment, if requested. A Breach shall be treated as discovered by Business Associate as of the first day on which such Breach is known to Business Associate or, through the exercise of reasonable diligence, would have been known to Business Associate. The Breach notification shall be provided to Covered Entity in the manner specified in 45 C.F.R. § 164.410(c) and shall include the information set forth therein to the extent known. If, following the Breach notification, Business Associate learns additional details about the Breach, Business Associate shall notify Covered Entity promptly as such information becomes available. Covered Entity shall determine whether Business Associate or Covered Entity will be responsible for providing notification of any Breach to affected individuals, the media, the Secretary, and/or any other parties required to be notified under the HIPAA Privacy and Security Rules or other applicable law. If Covered Entity determines that Business Associate will be responsible for providing such notification, Business Associate may not carry out notification until Covered Entity approves the proposed notices in writing.

C. Notwithstanding the provisions of Section III.B., above, if a law enforcement official states to Business Associate that notification of a Breach would impede a criminal investigation or cause damage to national security, then:

1. if the statement is in writing and specifies the time for which a delay is required, Business Associate shall delay such notification for the time period specified by the official; or

2. if the statement is made orally, Business Associate shall document the statement, including the identity of the official making it, and delay such notification for no longer than thirty (30) days from the date of the oral statement unless the official submits a written statement during that time.

Following the period of time specified by the official, Business Associate shall promptly deliver a copy of the official's statement to Covered Entity.

D. Business Associate shall bear Covered Entity's costs of any Breach and resultant notifications, if applicable, to the extent the Breach arises from Business Associate's negligence, willful misconduct, violation of law, violation of the Underlying Agreements, or violation of this Agreement.

IV. OBLIGATIONS OF COVERED ENTITY

A. Upon request of Business Associate, Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. § 164.520.

B. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an individual to use or disclose Protected Health Information, if such changes could reasonably be expected to affect Business Associate's permitted or required uses and disclosures.

C. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. § 164.522, and Covered Entity shall inform Business Associate of the termination of any such restriction, and the effect that such termination shall have, if any, upon Business Associate's use and disclosure of such Protected Health Information.

V. TERM AND TERMINATION

A. Term. The Term of this Agreement shall be effective as of the date first written above, and shall terminate upon later of the following events: (i) in accordance with Section V.C., when all of the PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity is returned to Covered Entity or destroyed (and a certificate of destruction is provided) or, if such return or destruction is infeasible, when protections are extended to such information; or (ii) upon the expiration or termination of the last of the Underlying Agreements.

B. Termination. Upon either Party's knowledge of a material breach by the other Party of its obligations under this Agreement, the non-breaching Party shall, within twenty (20) days of that determination, notify the breaching Party, and the breaching Party shall have thirty (30) days from receipt of that notice to cure the breach or end the violation. If the breaching Party fails to take reasonable steps to effect such a cure within such time period, the non-breaching Party may terminate this Agreement and the Underlying Agreements without penalty.

Where either Party has knowledge of a material breach by the other Party and determines that cure is infeasible, prior notice of the breach is not required, and the non-breaching Party shall terminate the portion of the Underlying Agreements affected by the breach without penalty.

C. Effect of Termination.

1. Except as provided in paragraph 2 of this subsection C., upon termination of this Agreement, the Underlying Agreements or upon request of Covered Entity, whichever occurs first, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors of Business Associate. Neither Business Associate nor its subcontractors shall retain copies of the PHI except as required by law.

2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide within ten (10) days to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that

return or destruction of PHI is infeasible, Business Associate, and its applicable subcontractors, shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate and its applicable subcontractors maintain such Protected Health Information.

VI. MISCELLANEOUS

A. No Rights in Third Parties. Except as expressly stated herein or in the HIPAA Privacy and Security Rules, the Parties to this Agreement do not intend to create any rights in any third parties.

B. Survival. The obligations of Business Associate under Section V.C. of this Agreement shall survive the expiration, termination, or cancellation of this Agreement, the Underlying Agreements, and/or the business relationship of the Parties, and shall continue to bind Business Associate, its agents, employees, contractors, successors, and assigns as set forth herein.

C. Amendment. The Parties agree that this Agreement will be amended automatically to conform to any changes in the HIPAA Privacy and Security Rules as are necessary for each of them to comply with the current requirements of the HIPAA Privacy and Security Rules and the Health Insurance Portability and Accountability Act, unless a particular statutory or regulatory provision requires that the terms of this Agreement be amended to reflect any such change. In those instances where an amendment to this Agreement is required by law, the Parties shall negotiate in good faith to amend the terms of this Agreement within sixty (60) days of the effective date of the law or final rule requiring the amendment. If, following such period of good faith negotiations, the Parties cannot agree upon an amendment to implement the requirements of said law or final rule, then either Party may terminate this Agreement and the Underlying Agreements upon ten (10) days written notice to the other Party. Except as provided above, this Agreement may be amended or modified only in a writing signed by the Parties.

D. Assignment. Neither Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party.

E. Independent Contractor. None of the provisions of this Agreement are intended to create, nor will they be deemed to create, any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship. Nothing in this Agreement creates or is intended to create an agency relationship.

F. Governing Law. To the extent this Agreement is not governed exclusively by the HIPAA Privacy and Security Rules or other provisions of federal statutory or regulatory law, it will be governed by and construed in accordance with the laws of the state in which Covered Entity has its principal place of business.

G. No Waiver. No change, waiver, or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

H. Interpretation. Any ambiguity of this Agreement shall be resolved in favor of a meaning that permits Covered Entity and Business Associate to comply with the HIPAA Privacy and Security Rules.

I. Severability. In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect.

J. Notice. Any notification required in this Agreement shall be made in writing to the representative of the other Party who signed this Agreement or the person currently serving in that representative's position with the other Party.

K. Entire Agreement. This Agreement constitutes the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written. In the event of any inconsistency between this Agreement and any other agreement between the Parties concerning the use and disclosure of PHI and the Parties' obligations with respect thereto, the terms of this Agreement shall control.

L. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.

Exhibit G
Fee Schedule - TPA

	FEES	Year 1	Year 2	Year 3	Year 4	Year 5
	I) General Administration (Per Employee Per Month - PEPM)	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
1	Medical Claim Admin Fee	\$29.00	\$30.45	\$31.97	\$33.75	\$35.44
2	Pharmacy Claim Admin Fee	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
3	Provider Network Access Fee (if any)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
4	Complete/Full Claim Fiduciary Fee	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
5	Customer Service Fee (Employees)- extended calling hours	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
6	WEB Access tools for Employer Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
7	WEB Access Tools for Employees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
8	Online Enrollment Fees (if any)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
9	Claim/Utilization Reporting- Open Issues monthly banking report	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
10	Data Interfacing with Stop Loss Vendor	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
11	Data Interfacing with PBM Vendor	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
12	Data Interfacing with Provider Network Vendor	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
13	Hardcopy and Electronic Copy of Benefits Books/SBC's	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
14	Printing of Benefit Booklets/SBC's and Mailing to Beneficiaries	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
15	Create Draft SPD for Client Review/Approval	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
16	IRO Fees (Independent Review Organization)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
17	Member ID Card Printing and Mailing	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
18	Nurse Line (24/7) for Members	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
19	Banking Arrangement Fees - Employer and HSA Linkage	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
20	COB and Subrogation Management Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
21	Patient Centered Outcomes Research Fees (County Responsibility)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Total General Administration Fees	\$29.00	\$30.45	\$31.97	\$33.75	\$35.44
	II. Utilization Management Fees (If Any) (PEPM)					
1	Certification Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2	Concurrent Review Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
3	Retrospective Review Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Total Utilization Management Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	III. Disease Management Fees (if any) (PEPM)					
1	Asthma	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2	Arthritis	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
3	CAD (Coronary Artery Disease)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
4	CHF (Congestive Heart Failure)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
5	COPD (Chronic Obstructive Pulmonary Disease)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

6	Depression	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
7	Diabetes Management	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
8	High Risk Pregnancy	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
9	Aetna Disease Management with Medquery with Member Messaging	\$4.40	\$4.62	\$4.85	\$5.09	\$5.34
	Total Disease Management Fees	\$4.40	\$4.62	\$4.85	\$5.09	\$5.34
	IV. Employee wellness Fees (if any) (PEPM)					
1	Online HRA (Health Risk Appraisals)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2	Smoking Cessation Program	\$0.60	\$0.63	\$0.66	\$0.69	\$0.72
3	Health Coaching Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
4	Flu Shots - Onsite	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
5	Health Fair Support - Onsite	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
6	Other Wellness Products/Services	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Total Wellness Fees	\$0.60	\$0.63	\$0.66	\$0.69	\$0.72
	V. Capitation Fees (PEPM)					
1	Behavioral Health Services	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2	Chiropractic Care	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
3	Laboratory	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
4	Other	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Total Capitation Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Total TPA PEPM Fees	\$34.00	\$35.70	\$37.48	\$39.53	\$41.50
	VI. Case Management Fees (if any)					
1	Hourly Rate	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2	Fee Negotiations Fee	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	VII. Miscellaneous Optional Fees					
1	Aetna In-Touch Care PEPM	\$3.30	\$3.30	\$3.30	\$3.30	\$3.30
2	Concierge PEPM	\$1.60	\$1.60	\$1.60	\$1.60	\$1.60
	CREDITS					
1	Annual Wellness Initiative Fund	\$200,000.00	\$200,000.00	\$200,000.00	\$200,000.00	\$200,000.00
2	Communications	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00
3	Possible Performance Credit - Admin Fees at risk PEPM	-\$13.60	-\$14.28	-\$15.00	-\$15.82	-\$16.61

EXHIBIT H

N/A - Removed

**Exhibit I
Fees Schedule - EAP**

Employee Assistance Program	Year 1 2018-2019	Year 2 2019-2020	Year 3 2020-2021	Year 4 2021-2022	Year 5 2022-2023
PEPM (Per Employee Per Month) Fee	\$1.66	\$1.66	\$1.66	\$1.69	\$1.69
Training Hours Included	20	20	20	20	20
Rate/Hour for Training Above Limit	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00
Travel Time/Hour	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00
Critical Incident Hours	Unlimited with up to 20 hours per incident	Unlimited with up to 20 hours per incident	Unlimited with up to 20 hours per incident	Unlimited with up to 20 hours per incident	Unlimited with up to 20 hours per incident
Rate/Hour for Critical Incident Above Limit	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00