



**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.

20180116104459PC CLK/F

***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 *DK*

Department: Procurement *MS*

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)



PIMA COUNTY

MASTER AGREEMENT

PIMA COUNTY, ARIZONA

THIS IS NOT AN ORDER - TRANSMISSION CONSTITUTES CONTRACT EXECUTION

Master Agreement No: 1800000000000000190

MA Version: 1

Page: 1 of 2

Description: Medical Benefits Administration Services-PBM Services

I S S U E R	Pima County Procurement Department
	130 W. Congress St. 3rd Fl
	Tucson AZ 85701
	Issued By: DEBORAH KNUTSON
	Phone: 5207243736
	Email: debbie.knutson@pima.gov

T E R M S	Initiation Date: 07-01-2018	
	Expiration Date: 06-30-2023	
	NTE Amount: \$125,000.00 Used Amount: \$0.00	

V E N D O R	CaremarkPCS Health, L.L.C.	Contact: Colleen Cleveland
	DBA: CVS Health	Phone: 480-614-7739
	2211 Sanders Road, NBT10	Email: proposals@caremark.com
	Northbrook IL 60062	Terms: 0.00 %
		Days: 30

Shipping Method:	Vendor Method
Delivery Type:	
FOB:	FOB Dest, Freight Prepaid
Modification Reason	
This Master Agreement is for an initial term of five (5) years in the not-to-exceed amount of \$125,000.00 and includes five (5) one-year renewal options.	
Attachment: Contract and Business Associate Agreement	

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: 18000000000000000190

MA Version: 1

Page: 2 of 2

Line	Description					
1	Card Issuance					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$0.50			
2	Paper Submitted Claim (per processed claim)					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$1.50			
3	Postage Fees-First class over 1 ounce					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$0.70			
4	Prior Authorization Admin Fee					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$35.00			
5	Participating Group Specific Programming					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	HOUR	\$150.00			
6	Prescription Claim Appeal - First Level					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$150.00			
7	Prescription Claim Appeal - Second Level					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$350.00			
8	Prescription Claim Appeal - External Review					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$500.00			

EXHIBIT I - 3
FORM OF ADDENDUM
TRADITIONAL PRICING OPTION 3
TIER THREE

PIMA COUNTY DEPARTMENT OF HUMAN RESOURCES PROJECT: Pharmacy Benefits Administrative Services CONTRACTOR: CaremarkPCS Health, LLC AMOUNT: \$125,000.00 (estimated Administrative Fees only – excluding prescription Claim amounts) FUNDING: Pima County Health Benefits Trust Fund	CONTRACT NO. <u>MA-PD-18-190</u> AMENDMENT NO. _____ <small>This number must appear on all invoices, correspondence and documents pertaining to this contract.</small>
--	--

Participating Group Name: Pima County
Participating Group Address: 130 W. Congress St.
Tucson, AZ 85701

Participating Group Addendum Effective Date: July 1, 2018

Term: 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.

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.

1. This Addendum ("Addendum") supplements the Amended and Restated Prescription Benefit Services Agreement ("Agreement") between CaremarkPCS Health, L.L.C. ("Caremark" and/or "Contractor") and Employers Health Purchasing Corporation ("EHPC") dated as of January 1, 2008. All capitalized terms used in this Addendum shall have the meaning set forth in the Agreement.

2. The undersigned Participating Group ("Participating Group" and/or "County") is a Plan Participant of EHPC. Participating Group has reviewed the Agreement and desires that Caremark provide to it the products and Services described in the Agreement on the terms and conditions set forth in the Agreement and this Addendum. By signing this Addendum, Participating Group agrees to the terms and conditions of the Agreement, including the Exhibits attached thereto, and this Addendum.

3. Participating Group elects the pricing options as further described in the Agreement.

Traditional Rebate Model –New Participating Group's

Participating Group Elects:

- Retail Option – National Network**
 Retail Option – Custom Network

- Retail Option – Advanced™ Choice Network
- Retail Option – Exclusive Choice Network
- Extended Days' Supply (“EDS”) 90
- Standard Rebates
- Advanced Control Formulary™
- Advanced Control Specialty Formulary™
- High Performance Generic Step Therapy Rebates
- Traditional Generic Step Therapy
- Value Based Formulary
- Derm Bundle Rebates
- Opt-In Formulary or Opt-Out Formulary

4. Modifications to the Master Agreement. The parties agree that, as to Participating Group only, the following provisions of the Master Agreement shall be amended and restated as follows:

(i) Section 4 (Use of Data) of the Agreement is hereby amended by deleting such Section in its entirety and replaced with the following:

“4. **Use of Data** Provided there is no remuneration Caremark may use, disclose, reproduce, or adapt to third parties for their business purposes information obtained in connection with this Agreement, including Claims, as well as eligibility information, which is not identifiable on a Participating Group or Plan Participant basis. Caremark shall maintain the confidentiality of this information as required by applicable law, and may not use the information in any way prohibited by applicable law.”

(ii) Section 6.2 (Control of Plan) of the Agreement is hereby amended by the addition of the following:

“The Plan Sponsor may appoint Caremark as a fiduciary under the Plan for the sole purpose of processing and adjudicating benefit Claims and first level appeals, which is contingent upon the Participating Group retaining sole and absolute authority to design, amend, terminate, or modify, in whole or in part, all or any portion of the Plan, including the sole authority to control and administer the Plan. Caremark shall have no other fiduciary authority or duties to the Plan or its Plan Participants.”

(iii) Section 11.2 (EHPC and Participating Group Indemnification) of the Agreement is hereby amended by deleting such Section in its entirety and replacing it with the following:

“11.2 **Participating Group Indemnification.** Unless otherwise prohibited by applicable law, EHPC and Participating Group shall defend, indemnify and hold harmless Caremark, its subsidiaries and affiliates and each of their respective officers, directors, and employees (the “Caremark Parties”) from and against any and all Losses incurred by any Caremark Parties arising out of or relating to (i) Participating Group’s negligence or breach of its obligations or warranties set forth in this Agreement, except to the extent such Losses are caused by the negligence or willful misconduct of any Caremark Party, (ii) any legal defects in the design of the Plan, or (iii) any deficiencies in the PDD. Participating Group

will have no obligation to indemnify Caremark under this Section for any Losses attributed to any breach or negligence by EHPC.”

(iv) Section 13.6 (Governing Law) of the Agreement is hereby amended by deleting such Section in its entirety and replacing it with the following:

“13.6 Governing Law. This Agreement and its interpretation shall be governed by the internal laws of the State of Arizona (without regard to its conflict of laws rules).”

(v) The first sentence of Section 13.15 of the Agreement is hereby amended by deleting such sentence in its entirety and replacing it with following:

“At Participating Group’s written request and direction, Caremark will provide certain information to EHPC’s identified third party data warehouse vendor including, without limitation, Claims data relating to Covered Members, for EHPC’s warehouse project.”

(vi) Section 13.17 (Market Check) of the Agreement is hereby amended the addition of the following:

“Caremark will notify Participating Group of market check pricing by November 1st of the applicable Plan year during which the market check is performed. Participating Group may elect to remain under its then current pricing terms and conditions if it elects not to sign a new PGA and notifies Caremark thirty (30) days after notification of the market check pricing is received.”

(vii) The first sentence of Section 2 of Attachment 2 (Appeals Addendum for Participating Groups that are NOT governed by ERISA) of the Agreement is hereby amended by deleting such sentence in its entirety and replacing it with the following:

“Participating Group represents to Caremark that the Appeals Program satisfies any and all laws applicable to the Plan with respect to appeals from denials of Claims for prescription drug benefits.”

(viii) The last sentence of Section 3 of Attachment 2 (Appeals Addendum for Participating Groups that are NOT governed by ERISA) of the Agreement is hereby amended by deleting such sentence in its entirety and replacing it with the following:

“If Participating Group does not so notify Caremark, then Caremark shall implement the modification and shall continue to rely on the representation set forth in paragraph 2 above.”

(ix) Section 8 of Attachment 2 (Appeals Addendum for Participating Groups that are NOT governed by ERISA) of the Agreement is hereby amended by deleting such Section in its entirety and replacing it with the following:

“8 Participating Group agrees that if Participating Group fails to pay on or prior to the due date any amount owing to Caremark hereunder. Caremark shall have all rights and remedies for non-payment specified in the Agreement.”

(x) (Tier 3 ((\$10,000,000 - \$20,000,000 Annual Gross Spend) (Traditional – New Business)) Appendix 1 (Retail, Mail, Specialty Drug discounts and Fees and Rebate Guarantees) of the Agreement is hereby amended by the addition of the following:

Data Management Administrative Fee	\$1.00 per Plan Participant per year
------------------------------------	--------------------------------------

5. 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.

6. Legal Arizona Workers Act Compliance.

Contractor warrants that primary services under this contract (e.g. prescription claims processing, network administration, formulary management, rebate administration, customer call center services, County data warehousing) shall be performed within the borders of the United States. Any of the primary Contractor services that are described in the specifications or scope of work that exclusively serve Pima County or its beneficiaries and may involve access to secure or sensitive data or personal client data shall be performed within the borders of the United States. This Section 6 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.

6.1 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 contractually require that each subcontractor who is engaged by Contractor to provide services to the County, under this Contract likewise complies with the State and Federal Immigration Laws.

6.2 Books & Records. County has the right, at any time to inspect those books and records of Contractor and any subcontractor that is engaged by Contractor to provide services to the County, in order to verify such party’s compliance with the State and Federal Immigration Laws. County shall reimburse Caremark its cost for supporting any such audit if it is performed outside of County’s annual audit as set forth in the Agreement.

6.3 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.

6.4 Subcontractors. Contractor will advise each of Contractor’s subcontractors 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.”

A government entity shall not deem Contractor or any subcontractor in material breach of any of the foregoing if Contractor or any subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274a and 274b of the federal immigration and nationality act and the e-verify requirements prescribed by section 23-214, subsection A.

7. 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.

8. Non-Discrimination.

For Contractor and any subcontractor with operations located and services performed outside of the State of Arizona, Contractor and subcontractor shall comply with Federal non-discrimination laws and regulations. For Contractor and any subcontractor with operations located and services performed within the State of Arizona, Contractor and Contractor subcontractor will comply with Federal non-discrimination laws and regulations and 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.

9. 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:
Todd Rooks, Strategic Sales Executive
Caremark PCS Health, LLC
9501 E. Shea Blvd.
Scottsdale, AZ 85260
317-616-1644

10. Insurance.

The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. Pima County in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract. Contractor’s insurance shall be placed with companies that have an “A.M. Best” rating of not less than A- and a Financial Size Category of VII.

Pima County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

10.1 Minimum Scope and Limits of Insurance:

Contractor shall procure and maintain, until all of their obligations have been discharged, coverage with limits of liability not less than those stated below.

10.1.1 Commercial General Liability (CGL) – Occurrence Form with minimum limits of \$5,000,000 Each Occurrence and \$25,000,000 General Aggregate. Policy shall include bodily injury, personal and advertising injury, property damage, and products – completed operations.

10.1.2 Business Automobile Liability – Bodily Injury and Property Damage for any owned, leased, hired, and/or non-owned automobiles used in the performance of this Contract with a Combined Single Limit (CSL) of \$5,000,000.

10.1.3 Workers' Compensation and Employers' Liability - Statutory requirements and benefits. Coverage is compulsory for employers of one or more employees. Employer's Liability - \$2,000,000 each employee/disease/accident.

10.1.4 Professional Liability (Errors and Omissions) Insurance – The policy limits shall be not less than \$15,000,000 Each Claim and \$15,000,000 Annual Aggregate. The insurance policy shall cover professional misconduct or negligent acts of Contractor or any Contractor subcontractor performing any services under this contract.

In the event that the Professional Liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised, for a period of two (2) years beginning at the time work under this Contract is completed.

10.1.5 Cyber and Network Liability Insurance - The policy limits shall be not less than \$20,000,000 each claim covering liabilities for financial loss resulting or arising from acts, errors, or omissions, in connection with services provided under this agreement and \$55,000,000 Annual Aggregate. Policy shall include data protection liability (cyber liability) insurance providing protection against: (a) breaches of security; (b) violation or infringement of any right of privacy, breach of federal, state, or foreign security and/or privacy laws or regulations; and (c) data theft, damage, destruction, or corruption.

10.2 Additional Insurance Requirements:

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

10.2.1 Subrogation Endorsement: The General Liability, Business Automobile Liability and Workers' Compensation 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.

10.2.2 Primary Insurance: Insurance afforded the Contractor shall be primary and that any insurance carried by Pima County, its agents, officials, employees or Pima County shall be excess and not contributory insurance.

10.2.3 Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

10.2.4 Subcontractors: Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. Pima County reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its subcontractors have coverage

10.3 Notice of Cancellation:

Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, or be canceled without ten (10) days prior written notice to Pima County. Notice shall include the Pima County contract number and project description.

10.4 Verification of Coverage:

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

10.4.1 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 coverage, is a breach of contract.

10.4.2 All certificates required by this Contract shall be sent directly to the appropriate County Department within thirty (30) days of written request by the applicable County Department addressed to Contractor's address for Notices.

10.5 Approval and Modifications:

Pima County Risk Management reserves the request modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will require mutual approval and a formal Contract amendment.

11. This Addendum, together with the Agreement and Business Associate Agreement (attached) constitutes the entire agreement between the parties with respect to the subject matter herein and supersedes all prior understandings, agreements, contracts or arrangements between the parties, whether oral or written.

PIMA COUNTY

Chair, Board of Supervisors

Date

ATTEST

Clerk of the Board

Date

APPROVED AS TO FORM

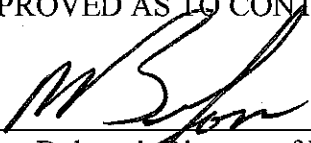


Paula Perrera, Deputy County Attorney

1-3-18

Date

APPROVED AS TO CONTENT



Allyn Bulzomi, Director of Human Resources

1/3/18

Date

CAREMARKPCS HEALTH, LLC

By: Steven C. Schaper

Name: Steven Schaper

Title: Group Head

Date: 12/28/17

EMPLOYERS HEALTH PURCHASING

By: David Ulanets

Name: David Ulanets

Title: VP PBM Contracting

Date: 12/28/17

BUSINESS ASSOCIATE AGREEMENT

WHEREAS, Pima County, on behalf of the Pima County Health Benefits Plan ("Covered Entity"), and CaremarkPCS Health, L.L.C. dba CVS Health ("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. For the avoidance of doubt, this includes to provide Data Aggregation services to Plan as permitted by 45 CFR 164.504(e)(2)(i)(B) and to de-identify the PHI or create a limited data set in accordance with 45 CFR §164.514, which de-identified information or limited data set may be used and disclosed by Business Associate as permitted by law, including HIPAA. Notwithstanding the foregoing, under no circumstances may Business Associate sell PHI and/or Covered Entity data, even if such is aggregated and/or de-identified.

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 successful 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; provided that Business Associate is able to reasonably accommodate such restriction. Covered Entity agrees to reimburse Business Associate for any increase in costs required to accommodate such restriction.

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 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.
3. To the extent Associate's employees and subcontractors, beyond the boundaries and jurisdiction of the United States access, store, share, maintain, transmit, use, or disclose PHI in any form via any medium (collectively "Access"), then Business Associate shall remain responsible to Covered Entity for ensuring such Access of PHI is consistent with applicable law and the terms of this Agreement.

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 reasonable and documented 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.



On behalf of our members, board of directors and staff, we thank you for submitting this application to join Employers Health. Each prospective member must be approved by the Employers Health Board of Directors. Please provide the following information to facilitate this process.

Date of Application: 1/16/18 Membership Effective Date: 7/1/18

Company Name ("Prospective Member"): Pima County

Address: 150 W. Congress St., 4th Floor
Tucson, AZ 85701

Website: webcms.pima.gov

Primary Benefits Contact (name and title): Gayl Zambo, H.R. Division Manager

Email: gayl.zambo@pima.gov Phone: 520-724-8006

Preferred learning/networking medium (webinar, email, in-person event, etc.): webinar

Secondary Benefits Contact (name and title): Jennifer Billa, H.R. Supervisor

Email: jennifer.billa@pima.gov Phone: 520-724-8114

Executive HR Contact (name and title): Allyn Bulzomi, H.R. Director

Email: allyn.bulzomi@pima.gov Phone: 520-724-8672

Plan Information

TYPE	VENDOR	TOTAL EMPLOYEES OR RETIREES ENROLLED	TOTAL LIVES ENROLLED	RENEWAL DATE
Active Medical	HDHP Self Insured (PPO/HMO/HDHP)	5200	11,500	7/1/19
Active Medical Plan 2	(Aetna - TPA) (PPO/HMO/HDHP)			
Active Medical Plan 3	(PPO/HMO/HDHP)			
Active Pharmacy	HDHP Self Insured	5200	11,500	7/1/19
Retiree Medical/Pharmacy				
Dental	Employers Dental & Self Insured	2555 & 2500	5404 & 5600	7/1/18
Vision	Davis Vision	3586	7845	7/1/18
EAP	Aetna	7000	N/A	7/1/18
Ancillary				

Plan Information (continued)

Bargaining units/unions with representation in your employee population: _____

If union presence, please indicate CBA term(s): _____

Health and welfare broker/consultant (if any) (name and company): CBIZ Benefits & Insurance

Benefit Administration System (if any): ADP

Plan year: 7/1 - 6/30

Membership Category

- Sustaining: All privately held and/or publicly traded organizations, other than those that meet the criteria of an Affiliate, Contributor, Small Business or Labor Union, as defined in the Employers Health by-laws and described below.
- Affiliate: Governmental (school districts, municipalities, counties) and other not-for-profit organizations domiciled in Ohio, Michigan, Indiana, Kentucky, West Virginia or Pennsylvania, excluding those that fall in the Contributor category.
- Contributor: Managed care organizations, health care providers (hospitals, physician groups), TPAs, consultants, brokers and pharmaceutical manufacturers.
- Labor Unions (e.g. Taft-Hartley health and welfare funds, VEBA Trusts).
- Participating Group: An organization participating in Employers Health group purchasing programs through its membership or strategic relationship with an Employers Health Strategic Affiliate:

Affiliate Name: Pima County

*Please note: Member organizations participating in group purchasing will be billed at a minimum of 100 employees.

By signing this application on the line below and subject to approval of Prospective Member's membership by the Employers Health Coalition, Inc. (EHCI) Board of Directors, Prospective Member agrees to all of the following:

- a) Prospective Member will pay all properly invoiced annual membership dues as set forth in the EHCI bylaws, as amended; and
- b) Prospective Member's membership will automatically renew for successive one year terms beginning on the effective date anniversary, unless terminated in writing by EHCI or Prospective Member thirty days before renewal.

Applicant Signature: _____

Title: _____