

**Key Contract Provisions for an
Administrative Agreement (Agreement) for
the Provision of Health Home Services**
(2/2016)

The contracting parties shall be defined herein as “Health Home” and “MCO.”

“**Member**” means an individual enrolled in an MCO MMC Plan.

“**Health Home Candidate**” means a Member who is eligible to become a Health Home Participant by the MCO or NYSDOH to a Health Home.

“**Health Home Participant**” means a Health Home Candidate who is assigned to a Health Home and assigned a Health Home Services Provider and receives care management services by the Health Home as defined below under “Health Home Services.”

“**Enrollment**” means the process by which a Member’s membership in the MCO begins.

“**Activation**” means the process by which Health Home Services are initiated for a Health Home Participant.

“**De-activation**” means the process by which Health Home Services are terminated for a Health Home Participant.

“**Assignment**” and “**Re-Assignment**” means the process by which a Member is assigned to a Health Home contracted with the MCO.

“**Participating Provider**” means a provider of clinical and/or related services that is credentialed by the MCO or its designee, if applicable, and has contracted with the MCO to render such services to Members as a participant in the MCO’s Provider Network.

“**Health Home Services Provider**” means a provider of Health Home Services that has a contractual relationship with a Health Home.

“**Health Home Services**” means those services defined in Section 1945(h)(4) of the Social Security Act and as more specifically defined in an attachment to the agreement including:

1. Comprehensive care management;
2. Care coordination and health promotion;
3. Comprehensive transitional care from inpatient to other settings, including appropriate follow-up;
4. Individual and family support, which includes authorized representatives;
5. Referral to community and social support services, if relevant; and
6. The use of health information technology to link services, as feasible and appropriate.

“Provider Network” is the group of Participating Providers by which a Member receives clinical and/or related services pursuant to the MCO’s in-network benefit package.

“Health Home Service Organizations” is the collective list of Health Home Service Providers.

“Emergency Medical Condition” means a medical or behavioral condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, possessing an average knowledge of medicine and health, could reasonably expect the absence of immediate medical attention to result in: (i) placing the health of the person afflicted with such condition in serious jeopardy, or in the case of a pregnant woman, the health of the woman or her unborn child or, in the case of a behavioral condition, placing the health of the person or others in serious jeopardy; or (ii) serious impairment to such person's bodily functions; or (iii) serious dysfunction of any bodily organ or part of such person; or (iv) serious disfigurement of such person.

“NYSDOH” means the New York State Department of Health.

1. The following are key terms that should be included in each agreement between an MCO and a Health Home.

Scope of Health Home Services: Health Home only shall use experienced and qualified personnel to perform the Health Home Services. Health Home shall perform all Health Home Services (1) in a good and workmanlike manner and in accordance with best practices in the community for Health Home’s industry, and (2) in accordance with all applicable laws, rules, regulations and government program requirements. A Health Home will:

- Provide MCO with a list of all Health Home Services Providers in the Health Home Services Organization, and shall notify MCO of any changes to such list, such as the addition or deletion of a Health Home Services Provider, prior to the effective date of the change.
- Health Homes may, at any time, if they choose, amend their contract with Health Home Service Providers to allow the Health Home Service Providers to communicate directly with the MCOs for purposes of outreach only. All communication must be consistent with state and federal laws and regulations concerning confidentiality and protection of health information. Notwithstanding any such agreement between the MCO and the Health Home Service Providers the Health Homes shall still bear all responsibility for their Health Home Service Providers with respect to the provision of Health Home Services.
- Provide outreach, contact and engagement services to Health Home Candidates, including securing a signed NYSDOH approved Health Home Patient Information Sharing Consent from those Health Home Candidates choosing to receive Health Home Services so that Health Home may share Member’s medical records, encounter data and other health information with MCO, Health Home Services Providers that are Participating Providers and NYSDOH, as applicable and appropriate;

- Conduct a comprehensive assessment of each Health Home Participant and any such assessment the NYSDOH requires for defined populations, including but not limited to children and individuals receiving or eligible to receive Home and Community Based Services (HCBS). Such assessments shall include medical, behavioral, functional and social support needs;
 - Provide behavioral health expertise and leadership, as applicable, for individuals with Serious Mental Illness (SMI) and those with substance use disorders (SUD);
 - Prepare and maintain a comprehensive plan of care in conformance to any State and federal requirements for each Health Home Participant, including information retrieved from the Health Home Participant and from providers of clinical, behavioral and social support services and share such plans of care as required in the Health Home Standards and Requirements for Health Homes, Care Management Providers and Managed Care Organizations established by NYSDOH and as amended from time to time.
 - Coordinate care by and among Health Home Services Providers and Participating Providers and the MCO;
 - Provide any or all Health Home Services to Health Home Participants, as agreed to with the MCO;
 - Coordinate non-health service providers and local government agencies that may also provide non-health social services;
 - Report to the MCO on activities and services in a format and within timeframes designated by the MCO and/or NYSDOH, which requirements are negotiated and mutually agreed upon between MCO and Health Home; and promptly respond to the MCO's requests for information regarding specific services provided to Members; and
 - Provide data management to the MCO in compliance with the data submission requirements of the MCO and NYSDOH.
2. Business Associate Agreement. The MCOs must enter into a Business Associate Agreement or another legally acceptable arrangement which complies with Health Insurance Portability and Accountability Act (HIPAA) as per each entity's counsel, with the Health Home Service Providers in order that those Health Home Service Providers may communicate directly with the MCO for purposes of outreach only. Once a member has signed the "Health Home Patient Information Sharing Consent" MCOs shall also share data necessary for the ongoing engagement and coordination of care. All communication must be consistent with state and federal laws and regulations concerning confidentiality and protection of health information. Notwithstanding any such agreement between the MCO and the Health Home Service Providers, the Health Homes shall still bear all responsibility for their Health Home Service Providers with respect to the provision of Health Home Services.

If the MCOs delegate behavioral health services to a manager, the MCO must ensure that, if the manager shares information with a Health Home or Health Home Service Provider, the manager enters into a Business Associate Agreement or another legally acceptable arrangement which complies with Health Insurance Portability and Accountability Act (HIPAA) as per each entity's counsel, with these entities.

3. MCO Protocols: The Health Home, in the development of a plan of care for a Health Home Participant, shall ensure that such plan of care is in accordance with the MCO's Participating Provider manual, as applicable to care management and Health Home Services. The Health Home and MCO shall work cooperatively to use in network resources and address any opportunities for network expansion to best serve Member needs. The Health Home agrees and must require each Health Home Services Provider to agree to adhere to all MCO notification and authorization requirements. Health Home and Health Home Services Providers shall cooperate with quality oversight activities conducted by the MCO. However, nothing herein affects the obligation of a Health Home Services Provider that is also a Participating Provider, for the delivery of Health Home Services, to adhere to and abide by the Participating Provider's contract with the MCO, the MCO's Participating Provider manual and all applicable MCO rules. Neither the Health Home nor any Health Home Services Provider shall refer a Member for in-network benefits to any provider or Health Home Services Provider in the Health Home Service Organization that is not otherwise a Participating Provider in the MCO's Provider Network without the MCO's prior notice and approval, except in the instance of an Emergency Medical Condition. Health Home shall systematically and timely communicate with the MCO, Health Home Services Providers and Participating Providers about clinical, care coordination and social service referral information regarding Health Home participants, as appropriate, and in accordance with legal privacy requirements.
4. Representations and Warranties: The Health Home is a duly organized, validly existing organization in good standing, designated by NYSDOH as a Health Home. Health Home has the authority to execute and deliver the Agreement and to perform the service under the Agreement. Health Home agrees it is and will continue to be for the term of the Agreement eligible to participate in the NYS Medicaid Program, and to comply with all state and federal laws and regulations, including Medicaid program requirements, the MCO's contract with the State for administering a federally sponsored health care program, and all confidentiality provisions contained in the contract between the MCO and the State.
5. Payment: MCO shall pay Health Home for Health Home Services pursuant to the rates set by NYSDOH at a minimum, and shall have no obligation or responsibility for distributing payment for Health Home Services to Health Home Service Providers within the Health Home Services Organization. The MCO shall bill NYSDOH for Health Home Services for Health Home Participants and Outreach and Engagement for Health Home Candidates no less frequently than every fourteen (14) days MCO shall pay Health Home for Health Home Services billed to the MCO within fourteen (14) days of MCO's receipt of payment from NYSDOH.
6. Prompt Pay: The Health Homes acknowledge and agree that payments for Health Home Services under this Agreement do not constitute as payment or processing of health care claims and, as such, such payments are not subject to the rules relating to the processing of health claims and

overpayments to health care providers under SIL Sections 3224-a and 3224-b of the NYS Insurance Law.

7. Health Home Participant Re-Assignment or Termination: The parties recognize that there are many ways in which Health Home Participant status may change that may result in Re-Assignment or De-Activation. Upon prior reasonable notice to Health Home, MCO shall have the authority to De-Activate a Health Home Participant or Re-Assign Health Home Participants to another designated Health Home if the Health Home is not effectively providing or managing Health Home Services to the Member, not achieving quality goals, not adhering to the MCO's protocols, or not meeting specific Members needs, as determined by the MCO after consultation with the Health Home. In addition, MCO may Re-Assign a Health Home Participant to another Health Home if the Member: a) requests Re-Assignment, b) relocates, or c) transfers to a Primary Care Participating Provider who is affiliated with another health home. All such reassignments shall be subject to any applicable fair hearing or appeal rights. MCO will De-Activate a Health Home Participant from the Health Home if the Member is no longer enrolled in the MCO or upon a determination by the MCO, in consultation with the Health Home that the Member is not engaging in the Health Home Services or adhering to the plan of care.
8. Monitoring and Auditing: MCO shall monitor the performance of the Health Home and the Health Home Services Providers, including using appropriate financial, programmatic and oversight tools and measures. All such tools and measures used shall be shared with Health Home to facilitate and foster proactive on-going continuous improvement efforts. MCO and any government officials with oversight authority over the MCO, including but not limited to the NYSDOH and/or U.S. Department of Health and Human Services, shall have the right, during normal business hours and upon advance written notice, to monitor and evaluate, through inspection or other means, Health Home's performance under this Agreement, including but not limited to access to Members' medical records, encounter data and financial information. Health Home shall permit MCO and any government officials with oversight authority over the MCO to conduct site visits of the Health Home and Health Home Services Providers, upon prior notice, to verify the performance of Health Home Services and other services under this Agreement and that such services continue to comply with the terms and standards of the MCO and any NYSDOH standards. This provision shall survive the termination of this Agreement regardless of the reason.
9. Quality, Data and Reporting Requirements: Health Home shall comply with MCO Health Home data and reporting requirements, which are provided to Health Homes and includes adhering to MCO quality performance measures, as applicable to care management activities. As a condition of payment, Health Home shall report all required care management and patient data to MCO and NYSDOH, as required.
10. Maintenance of Records: Health Home shall and shall require Health Home Services Providers to maintain Member medical records for a period of six (6) years after the date of service, and in the case of a minor, for three (3) years after the age of majority or six (6) years after the date of service, whichever is later, or for such longer period as required by law, regulation or the contract between MCO and NYSDOH. This provision shall survive the termination of this Agreement regardless of the reason.

11. Term: The term of this Agreement shall begin as of the effective date and shall continue for one (1) year, after which this Agreement shall re-new for additional one (1) year terms; (a) so long as the Health Home continues to be approved by NYSDOH as a designated Health Home; (b) unless otherwise terminated as provided for in this Agreement; or (c) either party gives sixty (60) days advance written notice prior to the renewal date.
12. Termination for Cause: MCO shall have the right to terminate this Agreement upon 60 days written notice, if the Health Home (1) materially breaches this Agreement (2) does not: (a) adhere to the reporting requirements; (b) achieve quality goals or comply with Health Home Care Management Standards and Requirements; and/or (c) fails to comply with the MCO's protocols; provided that, in the instance of (1) and (2) above, the Health Home is given 60 days to remediate such breach or deficiency. Further the MCO shall have the right to terminate this Agreement immediately if the Health Home (1) loses its licensure or Health Home Designation; (2) is excluded, suspended or barred from participating in any government health care program; (3) fails to maintain liability insurance, as required; or (4) receives a determination by a government entity or review body that it has violated any law or is engaged in or is engaging in fraud, waste or abuse. Health Home shall also have the right to terminate this Agreement upon sixty (60) days written notice if there is a material breach by MCO of this Agreement and this breach is not cured within the sixty (60) day notice period. Health Homes and MCOs will provide copies of written notices of termination to NYSDOH.
13. Termination without Cause: Either party may give the other party sixty (60) days advance written notice of its intent to terminate this Agreement.
14. Obligations Post Termination: Upon termination, Health Home shall: (1) assist in effecting an orderly transfer of services and obligations to another Health Home to which MCO has assigned the Members to prevent any disruption in services to such Members (2) provide MCO and NYSDOH with access to all books, records and other documents relating to the performance of services under this Agreement that are required or requested, at no charge; and (3) subject to applicable law, stop using and return and/or destroy all proprietary information. This provision shall survive the termination of the Agreement regardless of the reason.
15. Indemnification: Each party (an "Indemnifying Party") shall indemnify and hold harmless the other party, employees, agents and representatives (collectively the "Indemnified Party"), against any claim, demand, liability or expense incurred, which may result or arise out of any action by the Indemnifying Party, its employees, agents or representatives in the performance or omission of any act relating to this Agreement. Each party shall be responsible for his, her or its own actions and omissions that may relate to or arise from his, her or its duties and obligations under this Agreement.

Both Health Home and MCO understand and acknowledge that pursuant to State law, the Office of the Medicaid Inspector General (OMIG) and/or the Office of the Inspector General (OIG) may review and audit all contracts, claims, bills and other expenditures of medical assistance program funds to determine compliance. Both parties agree to indemnify and hold the other party harmless from any and all liability arising out of any suit, investigation, administrative action, fine, penalty or sanction by or relating to OMIG and/or OIG against either party relating to the direct, negligent or wrongful actions of the MCO or Health Home or Health Home Services

Providers.

16. Adjustments: Recoupment/Adjustments for Incorrect/Over Payment to Health Home:

- 1) Other than recovery for duplicate payments, MCO will provide Health Home with 30 days prior written notice before engaging in additional incorrect/over payment recovery efforts seeking recovery of the incorrect/over payment to the Health Home. Such notice shall state the specific information relating to such incorrect/over payment, payment amount and proposed adjustment with a reasonable explanation of the proposed adjustment. MCO will not initiate incorrect/over payment recovery efforts more than 24 months after the original payment unless authorized or required by the state.
- 2) The MCO acknowledges and agree that payments for Health Home Services under this Agreement do not constitute as payment or processing of health care claims and, as such, such payments are not subject to the rules relating to the processing of health claims and overpayments to health care providers under SIL Sections 3224-a and 3224-b of the NYS Insurance Law.

17. Non-discrimination: Health Home shall not, and shall ensure that Health Home Services Providers do not discriminate against any Members based on color, race, creed, age, gender, sexual orientation, and disability, place of origin or source of payment or type of illness or condition. Health Home shall, and shall require Health Home Services Providers to comply with the Federal Americans with Disabilities Act (ADA).

18. Confidentiality: Health Home shall, and shall require Health Home Services Providers to comply with the applicable provisions of the Health Insurance Portability and Accountability Act (HIPAA), the Health Information Technology for Economic and Clinical Health Act (HITECH), HIV confidentiality requirements of Article 27-F of the Public Health Law, Mental Hygiene Law Section 33.13, 42 CFR Part 2, and the confidentiality requirements set forth in the Medicaid Managed Care and Family Health Plus model contract between the MCO and NYSDOH. The parties acknowledge that Health Home is a business associate of MCO and agree to enter into a Business Associate Agreement, which shall be binding upon the parties to this Agreement.

19. Implementation Prior to DOH Approval: This Agreement is subject to the approval of the New York State Department of Health and if implemented prior to such approval, the parties agree to incorporate into this Agreement any and all modifications required by the Department of Health for approval or, alternatively, to terminate this Agreement if so directed by the Department of Health, effective sixty (60) days subsequent to such notice.

The Parties may want to specifically define “comprehensive care management,” “care coordination and health promotion,” and “comprehensive transitional care” and/or set forth in an attachment the “health home services” and/or “care management” functions that will specifically delegated to the Health Home, and include language on Hold Harmless, Member Complaints, Insurance Requirements, Compliance with Managed Care Reform Act and SDOH Standard Clauses, and Disclosure of ownership.

