

First Amendment to Administrative Services Contract
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CITY OF ANN ARBOR
007000981

This first amendment ("Amendment") to the January 1, 2016 Administrative Services Contract ("Contract") between Blue Cross Blue Shield of Michigan ("BCBSM") and the undersigned group ("Group"), as the plan sponsor and administrator of its group health care plan (collectively, BCBSM and Group are referred to as the "Parties"), shall be effective on the 2018 Renewal Date.

In consideration of their mutual promises, the Parties hereby amend the Contract as follows:

1. The Subrogation section of Article II—Group Responsibilities—is amended by adding the following sentence at the end of the first paragraph:

On and after the effective date of the new Shared Savings Program, which shall not be sooner than January 1, 2018, BCBSM will retain as administrative compensation a percentage of all funds recovered through subrogation efforts as set forth in Schedule A.

2. The Pharmacy Rebates section of Article II—Group Responsibilities is deleted in its entirety and replaced with the following:

Pharmacy Benefits.

To the extent Group has engaged BCBSM to administer prescription drug claims for its Plan, BCBSM or its subcontractor shall process all prescription drug claims according to Group's benefit design and BCBSM's participating pharmacy contracts.

Group acknowledges that payments to participating pharmacies may include prescription drug costs, dispensing fees, and incentive fees for dispensing a generic drug or compounding a prescription drug.

Group understands and agrees that BCBSM may directly contract with pharmaceutical manufacturers or BCBSM may contract with various subcontractors that have contracts with pharmaceutical manufacturers ("Rebate Administrators"). Because of such contracts with Rebate Administrators, Group agrees that Group will not submit, either directly or indirectly through a third party, prescription drug claims to any pharmaceutical manufacturers for rebates. The Rebate Administrators retain a portion of the gross rebates collected from drug manufacturers as a claims processing and rebate administration fee ("Rebate Administrator Fee"). In addition, notwithstanding anything to the contrary in this Contract, BCBSM retains a portion of the rebates as administrative compensation ("BCBSM Rebate Service Fee"). The Rebate Administrator Fee and BCBSM Rebate Service Fee are set forth in Schedule A. If, pursuant to BCBSM's agreement with a Rebate Administrator, the Rebate Administrator Fee changes during a Contract Year, such change shall be effective and automatically incorporated in Group's Schedule A following 30 days' notice by BCBSM to Group. BCBSM will pass on to Group rebates net of any fees set forth in the Schedule A. If BCBSM receives rebate adjustments or de minimis amounts of unidentifiable rebates that cannot practicably be tied to particular claims, BCBSM will proportionally allocate those rebate amounts to customers with pharmacy benefits.

3. The Eligibility and Enrollment section (B) of Article II is amended by deleting “and warrants” from the last sentence of that section.
4. The Group Audits section (G) of Article II is amended by deleting the following text from the section: “; and the indemnification and hold harmless of BCBSM from any claims, actions, demands or loss, including all expenses and reasonable attorney fees, arising from any suit or other action brought by an individual or provider to the extent caused by Group or its auditor”.
5. The Confidentiality section (J) of Article II is amended by deleting “The terms of this Contract and” from the first sentence.
6. The Coordination with Medicare section (L) of Article II is amended by deleting the last sentence in its entirety.
7. The Obligation to Pay (subsection 2) of the Transition Assistance Period section (B) of Article IV is amended by deleting the fifth sentence of that subsection (which starts “Group represents and warrants...”) and replacing it with the following sentence: “Group represents that it understands that it will be solely liable for any Claims BCBSM does not pay as a result of Group’s failure to make timely payments to BCBSM.”
8. The Group Duty to Notify/Indemnity subsection (7) of the Transition Assistance Period section (B) of Article IV is amended by deleting the subsection in its entirety and replacing it with the following subsection 7: “7. Group Duty to Notify. Group shall notify BCBSM if, as a result of its insolvency or other status, another party is required by law to receive any refunds, payments, or returned funds from BCBSM under this Article IV.”
9. The Group Responsibilities section (A) of Article III is amended by adding the following language at the beginning of the section: “Except for costs, fees, and other liabilities that are attributable to BCBSM’s intentional misconduct or negligent conduct,”.
10. The Indemnity section (B) of Article V is amended by deleting the section in its entirety and replacing it with the following section B: “**B. Liability**. All liability to third parties, loss, or damage as a result of claims, demands, costs, or judgments arising from Group’s actions pursuant to this Agreement shall be the responsibility of the Group and not the responsibility of BCBSM if the liability, loss, or damage is caused by, or arises out of, the action or failure to act on the part of Group or any employee or agent of Group, provided that nothing herein shall be construed as a waiver of any governmental immunity by Group or its officers or employees as provided by statute or court decisions.”
11. Except as set forth in this Amendment, all other terms and conditions of the Contract shall remain in full force and effect. If there is a conflict between the terms of this Amendment and the Contract, the terms of this Amendment shall prevail.

[SIGNATURE PAGE FOLLOWS]

Signature Page

BCBSM:

By _____
Its: _____

GROUP: CITY OF ANN ARBOR

By _____
Christopher Taylor, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to substance

Howard S. Lazarus, City Administrator

Service Area Administrator

Approved as to form and content

Stephen Postema, City Attorney