Kern County Agreement No. 215-2024

MEMORANDUM OF UNDERSTANDING

BETWEEN

KERN HEALTH SYSTEMS - COUNTY OF KERN

FOR THE COORDINATION OF SERVICES FOR THE MENTAL HEALTH PLAN,

SPECIALTY MENTAL HEALTH SERVICES, AND

DRUG MEDI-CAL ORGANIZED DELIVERY SYSTEM

FY 2024-2029

Kern County
Agt. # 215-2024

MEMORANDUM OF UNDERSTANDING

BETWEEN

KERN HEALTH SYSTEMS AND COUNTY OF KERN

COORDINATION OF SERVICESMHP SMHS AND DMC-ODS

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into by Kern Health Systems ("MCP"), and the County of Kern ("County") ("MHP/DMC-ODS"), a political subdivision of the State of California, as represented by its Kern Behavioral Health and Recovery Services Department ("KernBHRS"), located at 2001 28th Street, Bakersfield, California 93301 effective as of MAY 21 2024 ("Effective Date"). MHP/DMC-ODS, MCP, and MCP's relevant Subcontractors and/or Downstream Subcontractors may be referred to herein as a "Party" and collectively as "Parties."

WHEREAS the Parties are required to enter into this MOU, a binding and enforceable contractual agreement under the Medi-Cal Managed Care Contract Exhibit A, Attachment III,

- For MHP SMHS MOU: All Plan Letters ("APL") 18-015, 22-005, 22-006, 22-028, and MHP is required to enter into this MOU pursuant to Cal. Code Regs. tit. 9 § 1810.370, MHP Contract, Exhibit A, Attachment 10, Behavioral Health Information Notice ("BHIN") 23-056 and any subsequently issued superseding BHINs, to ensure that Medi-Cal beneficiaries enrolled in MCP who are served by MHP ("Members") are able to access and/or receive mental health services in a coordinated manner from MCP and MHP;

- For DMC-ODS MOU: All Plan Letter ("APL") 22-005, APL 23-029, and subsequently issued superseding APLs, and DMC-ODS is required to enter into this MOU under the DMC-ODS Intergovernmental Agreement Exhibit A, Attachment I, Behavioral Health Information Notice ("BHIN") 23-001, BHIN 23-057 and any subsequently issued superseding BHINs, to ensure that Medi-Cal Members enrolled in MCP who are served by DMC-ODS ("Members") are able to access and/or receive substance use disorder ("SUD") services in a coordinated manner from MCP and DMC-ODS;

WHEREAS the Parties desire to ensure that Members receive MHP/SUD services in a coordinated manner and to provide a process to continuously evaluate the quality of the care coordination provided; and

WHEREAS the Parties understand and agree that any Member information and data shared to facilitate referrals, coordinate care, or to meet any of the obligations set forth in this MOU must be shared in accordance with all applicable federal and state statutes and regulations, including, without limitation, 42 Code of Federal Regulations Part 2.

In consideration of mutual agreements and promises hereinafter, the Parties agree as follows:

1. **Definitions.** Capitalized terms have the meaning ascribed by MCP's Medi-Cal Managed Care Contract with the California Department of Health Care Services ("DHCS"), unless

otherwise defined herein. The Medi-Cal Managed Care Contract is available on the DHCS webpage at www.dhcs.ca.gov.

a. "MCP Responsible Person" means the person designated by MCP to oversee MCP coordination and communication with MHP/DMC-ODS and ensure MCP's compliance with this MOU as described in Section 4 of this MOU.

b. "MCP-MHP Liaison" means MCP's designated point of contact responsible for acting as the liaison between MCP and MHP as described in Section 4 of this MOU. The MCP-MHP Liaison must ensure the appropriate communication and care coordination is ongoing between the Parties, facilitate quarterly meetings in accordance with Section 9 of this MOU, and provide updates to the MCP Responsible Person and/or MCP compliance officer as appropriate.

c. "MCP-DMC-ODS Liaison" means DMC-ODS's designated point of contact responsible for acting as the liaison between MCP and DMC-ODS as described in Section 5 of this MOU. The DMC-ODS Liaison should ensure the appropriate communication and care coordination are ongoing between the Parties, facilitate quarterly meetings in accordance with Section 9 of this MOU, and provide updates to the DMC-ODS Responsible Person and/or DMC-ODS compliance officer as appropriate.

d. "MHP Responsible Person" means the person designated by MHP to oversee coordination and communication with MCP and ensure MHP's compliance with this MOU as described in Section 5 of this MOU.

e. "MHP Liaison" means MHP's designated point of contact responsible for acting as the liaison between MCP and MHP as described in Section 5 of this MOU. The MHP Liaison should ensure the appropriate communication and care coordination are ongoing between the Parties, facilitate quarterly meetings in accordance with Section 9 of this MOU, and provide updates to the MHP Responsible Person and/or MHP compliance officer as appropriate.

f. "DMC-ODS Responsible Person" means the person designated by DMC-ODS to oversee coordination and communication with MCP and ensure DMC-ODS compliance with this MOU as described in Section 5 of this MOU.

g. "DMC-ODS Liaison" means DMC-ODS's designated point of contact responsible for acting as the liaison between MCP and DMC-ODS as described in Section 5 of this MOU. The DMC-ODS Liaison should ensure the appropriate communication and care coordination are ongoing between the Parties, facilitate quarterly meetings in accordance with Section 9 of this MOU, and provide updates to the DMC-ODS Responsible Person and/or DMC-ODS compliance officer as appropriate.

h. "Network Provider" as it pertains to MCP, has the same meaning ascribed by the MCP's Medi-Cal Managed Care Contract with the DHCS; as it pertains to MHP, has the same meaning ascribed by the MHP Contract with the DHCS; and as it pertains

to DMC-ODS, has the same meaning ascribed by the DMC-ODS Intergovernmental Agreement with the DHCS.

i. "Subcontractor" as it pertains to MCP, has the same meaning ascribed by the MCP's Medi-Cal Managed Care Contract with the DHCS; as it pertains to MHP, has the same meaning ascribed by the MHP Contract with the DHCS; and as it pertains to DMC-ODS, has the same meaning ascribed by the DMC-ODS Intergovernmental Agreement with the DHCS.

j. "Downstream Subcontractor" as it pertains to MCP, has the same meaning ascribed by the MCP's Medi-Cal Managed Care Contract with the DHCS; as it pertains to MHP, means a subcontractor of a MHP Subcontractor; and as it pertains to DMC-ODS, means a subcontractor of a DMC-ODS Subcontractor.

2. **Term.** This MOU is in effect as of the Effective Date listed above and continues for a term of Five (5) years or as amended in accordance with Section 14.f of this MOU.

3. **Services Covered by This MOU.** This MOU governs the coordination between:

   a. For MCP and MHP for Non-specialty Mental Health Services ("NSMHS") covered by MCP and further described in APL 22-006, and Specialty Mental Health Services ("SMHS") covered by MHP and further described in APL 22-003, APL 22-005, and BHIN 21-073, and any subsequently issued superseding APLs or BHINs, executed contract amendments, or other relevant guidance. The population eligible for NSMHS and SMHS set forth in APL 22-006 and BHIN 21-073 is the population served under this MOU.

   b. For DMC-ODS and MCP for the provision of SUD services as described in APL 22-006, and any subsequently issued superseding APLs, and Medi-Cal Managed Care Contract, BHIN 23-001, DMC-ODS Requirements for the Period of 2022-2026, and the DMC-ODS Intergovernmental Agreement, and any subsequently issued superseding APLs, BHINs, executed contract amendments, or other relevant guidance.

4. **MCP Obligations.**

   a. **Provision of Covered Services.**

      i. For MHP, MCP is responsible for authorizing Medically Necessary Covered Services, including NSMHS, ensuring MCP's Network Providers coordinate care for Members as provided in the applicable Medi-Cal Managed Care Contract, and coordinating care from other providers of carve-out programs, services, and benefits.

ii. For DMC-ODS, MCP is responsible for authorizing Medically Necessary Covered Services and coordinating Member care provided by the MCP's Network Providers and other providers of carve-out programs, services, and benefits.

b. **Oversight Responsibility.** The Chief Executive Officer, the designated MCP Responsible Person listed in Exhibit A of this MOU, is responsible for overseeing MCP's compliance with this MOU. The MCP Responsible Person must:

i. Meet at least quarterly with MHP/DMC-ODS, as required by Section 9 of this MOU;

ii. Report on MCP's compliance with the MOU to MCP's compliance officer no less frequently than quarterly. MCP's compliance officer is responsible for MOU compliance oversight reports as part of MCP's compliance program and must address any compliance deficiencies in accordance with MCP's compliance program policies;

iii. Ensure there is a sufficient staff at MCP who support compliance with and management of this MOU;

iv. Ensure the appropriate levels of MCP leadership (i.e., person with decision-making authority) are involved in implementation and oversight of the MOU engagements and ensure the appropriate levels of leadership from MHP/DMC-ODS are invited to participate in the MOU engagements, as appropriate;

v. Ensure training and education regarding MOU provisions are conducted annually for MCP's employees responsible for carrying out activities under this MOU, and as applicable for Subcontractors, Downstream Subcontractors, and Network Providers; and

vi. Serve, or may designate a person at MCP to serve, as the MCP-MHP Liaison/MCP-DMC-ODS Liaison, the point of contact and liaison with MHP/DMC-ODS. The MCP-MHP Liaison/MCP-DMC-ODS Liaison is listed in Exhibit A of this MOU. MCP must notify MHP/DMC-ODS of any changes to the MCP-MHP Liaison/MCP-DMC-ODS Liaison in writing as soon as reasonably practical but no later than the date of change and must notify DHCS within five Working Days of the change.

c. **Compliance by Subcontractors, Downstream Subcontractors, and Network Providers.** MCP must require and ensure that its Subcontractors, Downstream Subcontractors, and Network Providers, as applicable, comply with all applicable provisions of this MOU.

5. MHP/DMC-ODS Obligations.

a. **Provision of Specialty Mental Health/DMC-ODS Services.** MHP is responsible for providing or arranging for the provision of SMHS. DMC-ODS is responsible for providing or arranging covered SUD services.

b. **Oversight Responsibility.** The Kern Behavioral Health and Recovery Services Director, the designated MHP/DMC-ODS Responsible Person, listed on Exhibit B of this MOU, is responsible for overseeing MHP's/DMC-ODS' compliance with this MOU. The MHP/DMC-ODS Responsible Person serves, or may designate persons to serve, as the designated MHP/DMC-ODS Liaisons, the point of contact and liaison with MCP. The MHP/DMC-ODS Liaison is listed on Exhibit B of this MOU. The MHP/DMC-ODS Liaison may be the same person as the MHP/DMC-ODS Responsible Person. MHP/DMC-ODS must notify MCP of changes to the MHP/DMC-ODS Liaison as soon as reasonably practical but no later than the date of change. The MHP/DMC-ODS Responsible Person must:

   i. Meet at least quarterly with MCP, as required by Section 9 of this MOU;

   ii. Report on MHP's/DMC-ODS' compliance with the MOU to MHP's/DMC-ODS' compliance officer no less frequently than quarterly. MHP's/DMC-ODS' compliance officer is responsible for MOU compliance oversight and reports as part of MHP's/DMC-ODS' compliance program and must address any compliance deficiencies in accordance with MHP's/DMC-ODS' compliance program policies;

   iii. Ensure there is sufficient staff at MHP/DMC-ODS to support compliance with and management of this MOU;

   iv. Ensure the appropriate levels of MHP/DMC-ODS leadership (i.e., persons with decision-making authority) are involved in implementation and oversight of the MOU engagements and ensure the appropriate levels of leadership from MCP are invited to participate in the MOU engagements, as appropriate;

   v. Ensure training and education regarding MOU provisions are conducted annually to MHP's/DMC-ODS' employees responsible for carrying out activities under this MOU, and as applicable for Subcontractors, Downstream Subcontractors, and Network providers; and

   vi. Be responsible for meeting MOU compliance requirements, as determined by policies and procedures established by MHP/DMC-ODS, and reporting to the MHP/DMC-ODS Responsible Person.

c. **Compliance by Subcontractors, Downstream Subcontractors, and Network Providers.** MHP/DMC-ODS must require and ensure that its Subcontractors, Downstream Subcontractors, and Network Providers, as applicable, comply with all applicable provisions of this MOU.

6. Training and Education.

a. To ensure compliance with this MOU, the Parties must provide training and orientation for their employees who for carry out activities under this MOU and, as applicable, Network Providers, Subcontractors, and Downstream Subcontractors who assist MCP with carrying out MCP's responsibilities under this MOU. The training must include information on MOU requirements, what services are provided or arranged for by each Party, and the policies and procedures outlined in this MOU. For persons or entities performing responsibilities as of the Effective Date, the Parties must provide this training within 60 Working Days of the Effective Date. Thereafter, the Parties must provide this training prior to any such person or entity performing responsibilities under this MOU and to all such persons or entities at least annually thereafter. The Parties must require its Subcontractors and Downstream Subcontractors to provide training on relevant MOU requirements and MHP/DMC-ODS services to their contracted providers.

b. In accordance with health education standards required by the Medi-Cal Managed Care Contract, the Parties must provide Members and Network Providers with educational materials related to accessing Covered Services, including for services provided by MHP/DMC-ODS.

c. The Parties each must provide the other Party, Members, and Network Providers with training and/or educational materials on how MCP Covered Services and MHP/DMC-ODS services may be accessed, including during nonbusiness hours.

7. Screening, Assessment, and Referrals.

a. **MHP Screening and Assessment.** The Parties must develop and establish policies and procedures that address how Members must be screened and assessed for mental health services, including administering the applicable Screening and Transition of Care Tools for Medi-Cal Mental Health Services as set forth in APL 22-028 and BHIN 22-065.

   i. MCP and MHP must use the required screening tools for Members who are not currently receiving mental health services, except when a Member contacts the mental health provider directly to seek mental health services.

   ii. MCP and MHP must use the required Transition of Care Tool to facilitate transitions of care for Members when their service needs change.

   iii. The policies and procedures must incorporate agreed-upon and/or required timeframes; list specific responsible parties by title or department; and include any other elements required by DHCS for the mandated statewide Adult Screening Tool for adults aged 21 and older, Youth Screening Tool for youth under age 21,

and Transition of Care Tool, for adults aged 21 and older and youth under age 21, as well as the following requirements:

1. The process by which MCP and MHP must conduct mental health screenings for Members who are not currently receiving mental health services when they contact MCP or MHP to seek mental health services. MCP and MHP must refer such Members to the appropriate delivery system using the Adult or Youth Screening Tool for Medi-Cal Mental Health Services based on their screening result.
2. The process by which MCP and MHP must ensure that Members receiving mental health services from one delivery system receive timely and coordinated care when their existing services are being transitioned to another delivery system or when services are being added to their existing mental health treatment from another delivery system in accordance with APL 22-028 and BHIN 22-065.

b. **DMC-ODS Screening and Assessment.**

i. The Parties must work collaboratively to develop and establish policies and procedures that address how Members must be screened and assessed for MCP Covered Services and DMC-ODS services.

ii. MCP must develop and establish policies and procedures for providing Alcohol and Drug Screening, Assessment, Brief Interventions, and Referral to Treatment ("SABIRT") to Members aged eleven (11) and older in accordance with APL 21-014. MCP policies and procedures must include, but not be limited to:

1. A process for ensuring Members receive comprehensive substance use, physical, and mental health screening services, including the use of American Society of Addiction Medicine (ASAM) Level 0.5 SABIRT guidelines;

2. A process for providing or arranging the provision of medications for Addiction Treatment (also known as Medication-Assisted Treatment) provided in primary care, inpatient hospital, emergency departments, and other contracted medical settings;

c. **MHP Referrals.** The Parties must work collaboratively to develop and establish policies and procedures that ensure that Members are referred to the appropriate MHP services and MCP Covered Services.

i. The Parties must adopt a "no wrong door" referral process for Members and work collaboratively to ensure that Members may access services through multiple pathways and are not turned away based on which pathway they rely on, including, but not limited to, adhering to all applicable No Wrong Door for Mental Health Services Policy requirements described in APL 22-005 and BHIN 22-011.

The Parties must refer Members using a patient-centered, shared decision-making process.

ii. The Parties must develop and implement policies and procedures addressing the process by which MCP and MHP coordinate referrals based on the completed Adult or Youth Screening Tool in accordance with APL 22-028 and BHIN 22-065, including:

1. The process by which MHP and MCP transition Members to the other delivery system.

2. The process by which Members who decline screening are assessed.

3. The process by which MCP:

   a. Accepts referrals from MHP for assessment, and the mechanisms of communicating such acceptance and that a timely assessment has been made available to the Member.

   b. Provides referrals to MHP for assessment, and the mechanisms of sharing the completed screening tool and confirming acceptance of referral and that a timely assessment has been made available to the Member by MHP.

   c. Provides a referral to an MHP Network Provider (if processes agreed upon with MHP), and the mechanisms of sharing the completed screening tool and confirming acceptance of the referral and that a timely assessment has been made available to the Member by MHP.

4. The process by which MHP:

   a. Accepts referrals from MCP for assessment, and the mechanisms for communicating such acceptance and that a timely assessment has been made available to the Member.

   b. Provides referrals to MCP for assessment, and the mechanisms of sharing the completed screening tool and confirming acceptance of the referral and that a timely assessment has been made available to the Member by MCP.

   c. Provides a referral to an MCP Network Mental Health Provider (if processes agreed upon with MCP), and the mechanisms of confirming the MCP Network Mental Health Provider accepted the referral and that a timely assessment has been made available to the Member by MCP.

d. Provides a referral to MCP when the screening indicates that a Member under age 21 would benefit from a pediatrician/Primary Care Physician ("PCP") visit.

5. The process by which MCP and MHP coordinate referrals using the Transition of Care Tool in accordance with APL 22-028 and BHIN 22-065.

6. The process by which MCP (and/or its Network Providers):

   a. Accepts referrals from MHP, and the mechanisms of communicating such acceptance, including that the Member has been connected with a Network Provider who accepts their care and that services have been made available to the Member.

   b. Provides referrals to MHP and the mechanisms of sharing the completed transition tool and confirming acceptance of the referral, including that the Member has been connected with a provider who accepts their care and that services have been made available to the Member.

   c. Provides a referral to an MHP Network Provider (if processes have been agreed upon with MHP), and the mechanisms of sharing the completed transition tool and confirming acceptance of the referral, including that the Member has been connected with a provider who accepts their care and that services have been made available to the Member.

   d. MCP must coordinate with MHP to facilitate transitions between MCP and MHP delivery systems and across different providers, including guiding referrals for Members receiving NSMHS to transition to an SMHS provider and vice versa, and the new provider accepts the referral and provides care to the Member.

7. The process by which MHP (and/or its Network Providers):

   a. Accepts referrals from MCP, and the mechanisms of communicating such acceptance, including that the Member has been connected with a Network Provider who accepts their care and that services have been made available to the Member.

   b. Provides referrals to MCP, and the mechanisms of sharing the completed transition tool and confirming acceptance of the referral, including that the Member has been connected with a Network Provider who accepts their care and that services have been made available to the Member.

c. Provides a referral to an MCP Network Provider (if processes have been agreed upon with MCP), and the mechanisms of sharing the completed transition tool and confirming acceptance of the referral, including that the Member has been connected with a Network Provider who accepts their care and that services have been made available to the Member.

iii. MHP must refer Members to MCP for MCP's Covered Services, as well as any Community Supports services or care management programs for which Members may qualify, such as Enhanced Care Management ("ECM"), Complex Care Management ("CCM"), or Community Supports. However, if MHP is also an ECM Provider, MHP provides ECM services pursuant to a separate agreement between MCP and MHP for ECM services; this MOU does not govern MHP's provision of ECM.

iv. MCP must have a process for referring eligible Members for substance use disorder ("SUD") services to a Drug Medi-Cal-certified program or a Drug Medi-Cal Organized Delivery System ("DMC-ODS") program in accordance with the Medi-Cal Managed Care Contract.

d. **DMC-ODS Referrals**. The Parties must work collaboratively to develop policies and procedures that ensure Members are referred to the appropriate MCP Covered Services and DMC-ODS services.

i. The Parties must facilitate referrals to DMC-ODS for Members who may potentially meet the criteria to access DMC-ODS services and ensure DMC-ODS has procedures for accepting referrals from MCP.

ii. MCP must refer Members using a patient-centered, shared decision-making process.

iii. MCP must develop and implement an organizational approach to the delivery of services and referral pathways to DMC-ODS services.

iv. DMC-ODS must refer Members to MCP for Covered Services, as well as any Community Supports services or care management programs for which they may qualify, such as Enhanced Care Management ("ECM") or Complex Case Management ("CCM"). If DMC-ODS is an ECM Provider, DMC-ODS provides ECM services pursuant to that separate agreement between MCP and DMC-ODS for ECM services; this MOU does not govern DMC-ODS's provision of ECM.

v. The Parties must work collaboratively to ensure that Members may access services through multiple pathways. The Parties must ensure Members receive SUD services when Members have co-occurring SMHS and/or NSMHS and SUD needs.

vi. MCP must have a process by which MCP accepts referrals from DMC-ODS staff, providers, or a self-referred Member for assessment, makes a determination of

medical necessity for the Member to receive DMC-ODS covered services and provides referrals within the DMC-ODS provider network; and

vii. DMC-ODS must have a process by which DMC-ODS accepts referrals from MCP staff, providers, or a self-referred Member for assessment, and a mechanism for communicating such acceptance to MCP, the provider, or the self-referred Member, respectively.

8. Care Coordination and Collaboration.

a. MHP Care Coordination.

i. The Parties must adopt policies and procedures for coordinating Members' access to care and services that incorporate all the specific requirements set forth in this MOU and ensure Medically Necessary NSMHS and SMHS provided concurrently are coordinated and non-duplicative.

ii. The Parties must discuss and address individual care coordination issues or barriers to care coordination efforts at least quarterly.

iii. The Parties must establish policies and procedures to maintain collaboration with each other and to identify strategies to monitor and assess the effectiveness of this MOU. The policies and procedures must ensure coordination of inpatient and outpatient medical and mental health care for all Members enrolled in MCP and receiving SMHS through MHP, and must comply with federal and State law, regulations, and guidance, including Cal. Welf. & Inst. Code Section 5328.

iv. The Parties must establish and implement policies and procedures that align for coordinating Members' care that address:

a. The specific point of contact from each Party, if someone other than each Party's Responsible Person, to act as the liaison between Parties and be responsible for initiating, providing, and maintaining ongoing care coordination for all Members under this MOU;

b. A process for coordinating care for individuals who meet access criteria for and are concurrently receiving NSMHS and SMHS consistent with the No Wrong Door for Mental Health Services Policy described in APL 22-005 and BHIN 22-011 to ensure the care is clinically appropriate and non-duplicative and considers the Member's established therapeutic relationships;

c. A process for coordinating the delivery of medically necessary Covered Services with the Member's PCP, including, without limitation, transportation services, home health services, and other Medically Necessary Covered Services for eligible Members;

d. Permitting Members to concurrently receive NSMHS and SMHS when clinically appropriate, coordinated, and not duplicative consistent with the No Wrong Door for Mental Health Services Policy described in APL 22-005 and BHIN 22-011.

e. A process for ensuring that Members and Network Providers can coordinate coverage of Covered Services and carved-out services outlined by this MOU outside normal business hours, as well as providing or arranging for 24/7 emergency access to admission to psychiatric inpatient hospital.

b. MHP Transitional Care

a. The Parties must establish policies and procedures and develop a process describing how MCP and MHP will coordinate transitional care services for Members. A "transitional care service" is defined as the transfer of a Member from one setting or level of care to another, including, but not limited to, discharges from hospitals, institutions, and other acute care facilities and skilled nursing facilities to home or community-based settings,[1] or transitions from outpatient therapy to intensive outpatient therapy. For Members who are admitted to an acute psychiatric hospital, psychiatric health facility, adult residential, or crisis residential stay, including, but not limited to, Short-Term Residential Therapeutic Programs and Psychiatric Residential Treatment Facilities, where MHP is the primary payer, MHPs are primarily responsible for coordination of the Member upon discharge. In collaboration with MHP, MCP is responsible for ensuring transitional care coordination as required by Population Health Management,[2] including, but not limited to:

i. Tracking when Members are admitted, discharged, or transferred from facilities contracted by MHP (e.g., psychiatric inpatient hospitals, psychiatric health facilities, residential mental health facilities) in accordance with Section 11(a)(iii) of this MOU.

ii. Approving prior authorizations and coordinating services where MCP is the primary payer (e.g., home services, long-term services and supports for dual-eligible Members);

iii. Ensuring the completion of a discharge risk assessment and developing a discharge planning document;

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[1] Expectations for transitional care are defined in the PHM Policy Program Guide: https://www.dhcs.ca.gov/CalAIM/Documents/2023-PHM-Program-Guide-a11y.pdf

[2] Expectations for transitional care are defined in the PHM Policy Program Guide: https://www.dhcs.ca.gov/CalAIM/Documents/2023-PHM-Program-Guide-a11y.pdf; *see also* PHM Roadmap and Strategy: https://www.dhcs.ca.gov/CalAIM/Documents/Final-Population-Health-Management-Strategy-and-Roadmap.pdf

iv. Assessing Members for any additional care management programs or services for which they may qualify, such as ECM, CCM, or Community Supports and enrolling the Member in the program as appropriate;

v. Notifying existing CCM Care Managers of any admission if the Member is already enrolled in ECM or CCM; and

vi. Assigning or contracting with a care manager to coordinate with behavioral health or county care coordinators for each eligible Member to ensure physical health follow up needs are met as outlined by the Population Health Management Policy Guide.

b. The Parties must include a process for updating and overseeing the implementation of the discharge planning documents as required for Members transitioning to or from MCP or MHP services.

c. For inpatient mental health treatment provided by MHP or for inpatient hospital admissions or emergency department visits known to MCP, the process must include the specific method to notify each Party within 24 hours of admission and discharge and the method of notification used to arrange for and coordinate appropriate follow-up services.

d. The Parties must have policies and procedures for addressing changes in a Member's medical or mental health condition when transferring between inpatient psychiatric service and inpatient medical services, including direct transfers.

c. DMC-ODS Care Coordination.

i. The Parties must adopt policies and procedures for coordinating Members' access to care and services that incorporate all the requirements set forth in this MOU.

ii. The Parties must discuss and address individual care coordination issues or barriers to care coordination efforts at least quarterly.

iii. MCP must have policies and procedures in place to maintain cross-system collaboration with DMC-ODS and to identify strategies to monitor and assess the effectiveness of this MOU.

iv. The Parties must implement policies and procedures that align for coordinating Members' care that address:

1. The requirement for DMC-ODS to refer Members to MCP to be assessed for care coordination and other similar programs and other services for which they may qualify provided by MCP including, but not limited to, ECM, CCM, or Community Supports;

2. The specific point of contact from each Party, if someone other than each Party's Responsible Person, to act as the liaison between Parties and be responsible for initiating, providing, and maintaining ongoing care coordination for all Members under this MOU;

3. A process for how MCP and DMC-ODS will engage in collaborative treatment planning to ensure care is clinically appropriate and non-duplicative and considers the Member's established therapeutic relationships;

4. A process for coordinating the delivery of Medically Necessary Covered Services with the Member's Primary Care Provider, including without limitation transportation services, home health services, and other Medically Necessary Covered Services for eligible Members;

5. A process for how MCP and DMC-ODS will help to ensure the Member is engaged and participates in their care program and a process for ensuring the Members, caregivers, and providers are engaged in the development of the Member's care;

6. A process for reviewing and updating a Member's problem list, as clinically indicated. The process must describe circumstances for updating problem lists and coordinating with outpatient SUD providers;

7. A process for how the Parties will engage in collaborative treatment planning and ensure communication among providers, including procedures for exchanges of medical information; and

8. Processes to ensure that Members and providers can coordinate coverage of Covered Services and carved-out services outlined by this MOU outside of normal business hours, as well as providing or arranging for 24/7 emergency access to Covered Services and carved-out services.

d. DMC-ODS Transitional Care.

a. The Parties must establish policies and procedures and develop a process describing how MCP and DMC-ODS will coordinate transitional care services for Members. A "transitional care service" is defined as the transfer of a Member from one setting or level of care to another, including, but not limited to, discharges from hospitals, institutions, and other acute care facilities and skilled nursing facilities to home- or community-based settings,[2] level of care transitions that occur within the facility, or transitions from outpatient therapy to intensive outpatient therapy and vice versa.

b. For Members who are admitted for residential SUD treatment, including, but not limited to, Short-Term Residential Therapeutic Programs and Psychiatric Residential Treatment Facilities where DMC-ODS is the primary payer, DMC-ODS is primarily responsible for coordination of the Member upon discharge. In collaboration with DMC-ODS, MCP is responsible for ensuring transitional care coordination as required by Population Health Management,[3] including, but not limited to:

i. Tracking when Members are admitted, discharged, or transferred from facilities contracted by DMC-ODS in accordance with Section 11(a)(iii) of this MOU;

ii. Approving prior authorizations and coordinating services where MCP is the primary payer (e.g., home services, long-term services, and supports for dual-eligible Members);

iii. Ensuring the completion of a discharge risk assessment and developing a discharge planning document;

iv. Assessing Members for any additional care management programs or services for which they may qualify, such as ECM, CCM, or Community Supports, and enrolling the Member in the program as appropriate;

v. Notifying existing CCM Care Managers of any admission if the Member is already enrolled in ECM or CCM; and

vi. Assigning or contracting with a care manager to coordinate with county care coordinators to ensure physical health follow-up needs are met for each eligible Member as outlined by the Population Health Management Policy Guide.[4]

c. The Parties must include in their policies and procedures a process for updating and overseeing the implementation of the discharge planning documents as required for Members transitioning to or from MCP or DMC-ODS services;

d. For inpatient residential SUD treatment provided by DMC-ODS or for inpatient hospital admissions or emergency department visits known to MCP, the process must include the specific method to notify each Party within 24 hours of admission and discharge and the method of notification used to arrange for and coordinate appropriate follow-up services.

e. Clinical Consultation.

1. The Parties must establish policies and procedures for MCP and MHP to provide clinical consultations to each other regarding a Member's mental illness, including consultation on diagnosis, treatment, and medications. A

2. The Parties must establish policies and procedures for reviewing and updating a Member's problem list, as clinically indicated (e.g., following crisis intervention or hospitalization), including when the care plan or problem list must be updated, and coordinating with outpatient mental health Network Providers.

3. DMC-ODS Clinical Consultation.

The Parties must establish policies and procedures to ensure that Members have access to clinical consultation, including consultation on medications, as well as clinical navigation support for patients and caregivers.

f. MHP Enhanced Care Management.

a. Delivery of the ECM benefit for individuals who meet ECM Population of Focus definitions (including, but not limited to, the Individuals with Severe Mental Illness and Children Populations of Focus) must be consistent with DHCS guidance regarding ECM, including:

i. That MCP prioritizes assigning a Member to an SMHS Provider as the ECM Provider if the Member receives SMHS from that Provider and that Provider is a contracted ECM Provider, unless the Member has expressed a different preference or MCP identifies a more appropriate ECM Provider given the Member's individual needs and health conditions;

ii. That the Parties implement a process for SMHS Providers to refer their patients to MCP for ECM if the patients meet Population of Focus criteria; and

iii. That the Parties implement a process for avoiding duplication of services for individuals receiving ECM with SMHS Targeted Case Management ("TCM"), Intensive Care Coordination ("ICC"), and/or Full-Service Partnership ("FSP") services as set forth in the CalAIM ECM Policy Guide, as revised or superseded from time to time, and coordination activities.

g. Community Supports.

1. Coordination must be established with applicable Community Supports providers under contract with MCP, including:

a. The identified point of contact, from each Party to act as the liaison to oversee initiating, providing, and maintaining ongoing coordination as mutually agreed upon in MCP and MHP protocols;

b. Identification of the Community Supports covered by MCP; and

c. A process specifying how MHP will make referrals for Members eligible for or receiving Community Supports.

h. Eating Disorder Services.

1. MHP is responsible for the SMHS components of eating disorder treatment and MCP is responsible for the physical health components of eating disorder treatment and NSMHS, including, but not limited to, those in APL 22-003 and BHIN 22-009, and any subsequently issued superseding APLs or BHINs, and must develop a process to ensure such treatment is provided to eligible Members, specifically:

    a. MHP must provide for medically necessary psychiatric inpatient hospitalization and outpatient SMHS.

    b. MCP must also provide or arrange for NSMHS for Members requiring eating disorder services.

2. For partial hospitalization and residential eating disorder programs, MHP is responsible for medically necessary SMHS components, while MCP is responsible for the medically necessary physical health components.

    a. MCP is responsible for the physical health components of eating disorder treatment, including emergency room services, and inpatient hospitalization for Members with physical health conditions, including those who require hospitalization due to physical complications of an eating disorder and who do not meet criteria for psychiatric hospitalization.

i. MHS Prescription Drugs.

1. The Parties must establish policies and procedures to coordinate prescription drug, laboratory, radiological, and radioisotope service procedures. The joint policies and procedures must include:

    a. MHP is obligated to provide the names and qualification of prescribing physicians to MCP.

    b. MCP is obligated to provide MCP's procedures for obtaining authorization of prescribed rugs and laboratory services, including a list of available pharmacies and laboratories.

j. DMC-ODS Enhanced Care Management.

1. Delivery of the ECM benefit for individuals who meet ECM Population of Focus definitions (including, but not limited to, the Individuals with Severe Mental Illness and Children Populations of

Focus) must be consistent with DHCS guidance regarding ECM, including:

a. That MCP prioritize assigning a Member to a DMC-ODS Provider as the ECM Provider if the Member receives DMC-ODS services from that Provider and that Provider is a contracted ECM Provider, unless the Member has expressed a different preference or MCP identifies a more appropriate ECM Provider given the Member's individual needs and health conditions; and

b. That the Parties implement a process for DMC-ODS Providers to refer their patients to MCP for ECM if the patients meet Population of Focus criteria.

2. The Parties must implement a process for avoiding duplication of services for individuals receiving ECM with DMC-ODS care coordination. Members receiving DMC-ODS care coordination can also be eligible for and receive ECM.

3. MCP must have written processes for ensuring the non-duplication of services for Members receiving ECM and DMC-ODS care coordination.

i. Community Supports. Coordination must be established with applicable Community Supports providers under contract with MCP, including:
   1. The identified point of contact from each Party to act as the liaison to oversee initiating, providing, and maintaining ongoing coordination as mutually agreed upon in MCP and DMC-ODS protocols;
   2. Identification of the Community Supports covered by MCP; and
   3. A process specifying how DMC-ODS will make referrals for Members eligible for or receiving Community Supports.

k. DMC-ODS Prescription Drugs.

The Parties must develop a process for coordination between MCP and DMC-ODS for prescription drug and laboratory, radiological, and radioisotope service procedures, including a process for referring eligible Members for SUD services to a Drug Medi-Cal-certified program or a DMC-ODS program in accordance with the Medi-Cal Managed Care Contract.

9. Quarterly Meetings.

a. The Parties must meet as frequently as necessary to ensure proper oversight of this MOU but not less frequently than quarterly to address care coordination, Quality Improvement ("QI") activities, QI outcomes, systemic and case-specific

concerns, and communication with others within their organizations about such activities. These meetings may be conducted virtually.

b. Within 30 Working Days after each quarterly meeting, the Parties must each post on its website the date and time the quarterly meeting occurred, and, as applicable, distribute to meeting participants a summary of any follow-up action items or changes to processes that are necessary to fulfill the Parties' obligations under the Medi-Cal Managed Care Contract, the MHP Contract, the DMC-ODS Intergovernmental Agreement, and this MOU.

c. The Parties must invite the other Party's Responsible Person and appropriate program executives to participate in quarterly meetings to ensure appropriate committee representation, including local presence, to discuss and address care coordination and MOU-related issues. The Parties' Subcontractors and Downstream Subcontractors should be permitted to participate in these meetings, as appropriate.

d. The Parties must report to DHCS updates from quarterly meetings in a manner and frequency specified by DHCS.

e. **Local Representation.**
MCP must participate, as appropriate, in meetings or engagements to which MCP is invited by MHP/DMC-ODS, such as local county meetings, local community forums, and MHP/DMC-ODS engagements, to collaborate with MHP/DMC-ODS in equity strategy and wellness and prevention activities.

10. Quality Improvement.

The Parties must develop QI activities specifically for the oversight of the requirements of this MOU, including, without limitation, any applicable performance measures and QI initiatives, including those to prevent duplication of services, as well as reports that track referrals, Member engagement, and service utilization. Such QI activities must include processes to monitor the extent to which Members are able to access mental health services across SMHS and NSMHS, and Covered Service utilization. The Parties must document these QI activities in policies and procedures.

11. Data Sharing and Confidentiality.

The Parties must establish and implement policies and procedures to ensure that the minimum necessary Member information and data for accomplishing the goals of this MOU are exchanged timely and maintained securely and confidentially and in compliance with the requirements set forth below to the extent permitted under applicable state and federal law. The Parties will share protected health information ("PHI") for the purposes of medical and behavioral health care coordination:

a. For MHP, pursuant to Cal. Code Regs. tit. 9, Section 1810.370(a)(3), and to the fullest extent permitted under the Health Insurance Portability and Accountability Act and its implementing regulations, as amended ("HIPAA") and 42 Code Federal Regulations Part 2, and other State and federal privacy laws. For additional guidance, the Parties should refer to the CalAIM Data Sharing Authorization Guidance.[3]

b. For DMC-ODS, pursuant to Welfare and Institutions § 14184.102(j), and to the fullest extent permitted under the Health Insurance Portability and Accountability Act and its implementing regulations, as amended ("HIPAA"), 42 Code Federal Regulations Part 2, and other State and federal privacy laws. For additional guidance, the Parties should refer to the CalAIM Data Sharing Authorization Guidance.[4]

c. **Data Exchange.** Except where prohibited by law or regulation, MCP and MHP/DMC-ODS must share the minimum necessary data and information to facilitate referrals and coordinate care under this MOU. The Parties must have policies and procedures for supporting the timely and frequent exchange of Member information and data, including behavioral health and physical health data; for ensuring the confidentiality of exchanged information and data; and, if necessary, for obtaining Member consent, when required. The minimum necessary information and data elements to be shared as agreed upon by the Parties, are set forth in Exhibit C of this MOU. To the extent permitted under applicable law, the Parties must share, at a minimum, Member demographic information, behavioral and physical health information, diagnoses, assessments, medications prescribed, laboratory results, referrals/discharges to/from inpatient or crisis services and known changes in condition that may adversely impact the Member's health and/or welfare. The Parties must annually review and, if appropriate, update Exhibit C of this MOU to facilitate sharing of information and data. MHP/DMC-ODS and MCP must establish policies and procedures to implement the following with regard to information sharing:

    i. A process for timely exchanging information about Members eligible for ECM, regardless of whether the Specialty Mental Health/DMC-ODS provider is serving as an ECM provider;

    ii. A process for MHP/DMC-ODS to send regular, frequent batches of referrals to ECM and Community Supports to MCP in as close to real time as possible;

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[3] CalAIM Data Sharing Authorization Guidance VERSION 2.0 June 2023 available at: https://www.dhcs.ca.gov/Documents/MCQMD/CalAIM-Data-Sharing-Authorization-Guidance-Version-2-Draft-Public-Comment.pdf.

[4] CalAIM Data Sharing Authorization Guidance VERSION 2.0 June 2023 available at: https://www.dhcs.ca.gov/Documents/MCQMD/CalAIM-Data-Sharing-Authorization-Guidance-Version-2-Draft-Public-Comment.pdf

iii. A process for MHP to send admission, discharge, and transfer data to MCP when Members are admitted to, discharged from, or transferred from facilities contracted by MHP (e.g., psychiatric inpatient hospitals, psychiatric health facilities, residential mental health facilities), and for MCP to receive this data. This process may incorporate notification requirements as described in Section 8(a)(v)(3);

iv. A process for DMC-ODS to send admission, discharge, and transfer data to MCP when Members are admitted to, discharged from, or transferred from facilities contracted by DMC-ODS (e.g., residential SUD treatment facilities, residential SUD withdrawal management facilities), and for MCP to receive this data. This process may incorporate notification requirements as described in Section 8(a)(v)(3);

v. A process to implement mechanisms to alert the other Party of behavioral health crises (e.g., MHP alerts MCP of Members' uses of mobile health, psych inpatient, and crisis stabilization; DMC-ODS alerts MCP of uses of SUD crisis intervention; and MCP alerts MHP of Members' visits to emergency departments and hospitals); and

vi. A process for MCP to send admission, discharge, and transfer data to MHP/DMC-ODS when Members are admitted to, discharged from, or transferred from facilities contracted by MCP (e.g., emergency department, inpatient hospitals, nursing facilities), and for MHP/DMC-ODS to receive this data. This process may incorporate notification requirements as described in Section 8(a)(v)(3).

d. **Behavioral Health Quality Improvement Program**. If MHP/DMC-ODS is participating in the Behavioral Health Quality Improvement Program, then MCP and MHP/DMC-ODS are encouraged to execute a DSA. If MHP/DMC-ODS and MCP have not executed a DSA, MHP/DMC-ODS must sign a Participation Agreement to onboard with a Health Information Exchange that has signed the California Data Use and Reciprocal Support Agreement and joined the California Trusted Exchange Network.

e. **Interoperability.**

i. MCP and MHP must make available to Members their electronic health information held by MCP pursuant to 42 Code of Federal Regulations Section 438.10 and in accordance with APL 22-026 or any subsequent version of the APL. MCP must make available an application programming interface that makes complete and accurate Network Provider directory information available through a public-facing digital endpoint on MCP's and MHP's respective websites pursuant to 42 Code of Federal Regulations Sections 438.242(b) and 438.10(h).

ii. MCP and DMC-ODS must exchange data in compliance with the payer-to-payer data exchange requirements pursuant to 45 Code of Federal Regulations Part 170. MCP must make available to Members their electronic health information held by the Parties and make available an application program interface that makes complete and accurate Network Provider directory information available through a public-facing digital endpoint on MCP's and DMC-ODS's respective websites pursuant to 42 Code of Federal Regulations Section 438.242(b) and 42 Code of Federal Regulations Section 438.10(h). The Parties must comply with DHCS interoperability requirements set forth in APL 22-026 and BHIN 22-068, or any subsequent version of the APL and BHIN, as applicable.

12. Dispute Resolution.

a. MHP

i. The Parties must agree to dispute resolution procedures such that in the event of any dispute or difference of opinion regarding the Party responsible for service coverage arising out of or relating to this MOU, the Parties must attempt, in good faith, to promptly resolve the dispute mutually between themselves. The Parties must document the agreed-upon dispute resolution procedures in policies and procedures. Pending resolution of any such dispute, MCP and MHP must continue without delay to carry out all responsibilities under this MOU unless the MOU is terminated. If the dispute cannot be resolved within 15 Working Days of initiating such negotiations, either Party may pursue its available legal and equitable remedies under California law. Disputes between MCP and DMC-ODS that cannot be resolved in a good faith attempt between the Parties must be forwarded by MCP and/or DMC-ODS to DHCS.

ii. Disputes between MCP and MHP that cannot be resolved in a good faith attempt between the Parties must be forwarded to DHCS via a written "Request for Resolution" by either MHP or MCP within three business days after failure to resolve the dispute, consistent with the procedure defined in Cal. Code Regs. tit. 9, § 1850.505, "Resolutions of Disputes between MHPs and Medi-Cal Managed Care Plans" and APL 21-013. Any decision rendered by DHCS regarding a dispute between MCP and MHP concerning provision of Covered Services is not subject to the dispute procedures set forth in the Primary Operations Contract Exhibit E, Section 1.21 (Contractor's Dispute Resolution Requirements);

iii. A dispute between MHP and MCP must not delay the provision of medically necessary SMHS, physical health care services, or related prescription drugs and laboratory, radiological, or radioisotope services to beneficiaries as required by Cal. Code Regs. tit. 9, § 1850.525;

iv. Until the dispute is resolved, the following must apply:

i. The Parties may agree to an arrangement satisfactory to both Parties regarding how the services under dispute will be provided; or

ii. When the dispute concerns MCP's contention that MHP is required to deliver SMHS to a Member either because the Member's condition would not be responsive to physical health care-based treatment or because MHP has incorrectly determined the Member's diagnosis to be a diagnosis not covered by MHP, MCP must manage the care of the Member under the terms of its contract with the State until the dispute is resolved. MHP must identify and provide MCP with the name and telephone number of a psychiatrist or other qualified licensed mental health professional available to provide clinical consultation, including consultation on medications to MCP provider responsible for the Member's care; or

iii. When the dispute concerns MHP's contention that MCP is required to deliver physical health care-based treatment of a mental illness, or to deliver prescription drugs or laboratory, radiological, or radioisotope services required to diagnose or treat the mental illness, MHP is responsible for providing or arranging and paying for those services until the dispute is resolved.

v. If decisions rendered by DHCS find MCP is financially liable for services, MCP must comply with the requirements in Cal. Code Regs. tit. 9, § 1850.530.

vi. The Parties may agree to an expedited dispute resolution process if a Member has not received a disputed service(s) and the Parties determine that the routine dispute resolution process timeframe would result in serious jeopardy to the Member's life, health, or ability to attain, maintain, or regain maximum function. Under this expedited process, the Parties will have one Working Day after identification of a dispute to attempt to resolve the dispute at the plan level. All terms and requirements established in APL 21-013 and BHIN 21-034 apply to disputes between MCP and MHP where the Parties cannot agree on the appropriate place of care. Nothing in this MOU or provision must constitute a waiver of any of the government claim filing requirements set forth in Title I, Division 3.6, of the California Government Code or as otherwise set forth in local, state, and federal law.

vii. MHP must designate a person or process to receive notice of actions, denials, or deferrals from MCP, and to provide any additional information requested in the deferral notice as necessary for a medical necessity determination.

viii. MCP must monitor and track the number of disputes with MHP where the Parties cannot agree on an appropriate place of care and, upon request, must report all such disputes to DHCS.

ix. Once MHP receives a deferral from MCP, MHP must respond by the close of the business day following the day the deferral notice is received, consistent with Cal. Welf. & Inst. Code § 14715.

x. Nothing in this MOU or provision constitutes a waiver of any of the government claim filing requirements set forth in Title I, Division 3.6, of the California Government Code or as otherwise set forth in local, State, or federal law.

b. DMC-ODS Dispute Resolution

i. The Parties must agree to dispute resolution procedures such that in the event of any dispute or difference of opinion regarding the Party responsible for service coverage arising out of or relating to this MOU, the Parties must attempt, in good faith, to promptly resolve the dispute mutually between themselves. The Parties must document the agreed-upon dispute resolution procedures in policies and procedures. Pending resolution of any such dispute, MCP and DMC-ODS must continue without delay to carry out all responsibilities under this MOU unless the MOU is terminated. If the dispute cannot be resolved within 15 Working Days of initiating such negotiations or such other period as may be mutually agreed to by the Parties in writing, either Party may pursue its available legal and equitable remedies under California law. Disputes between MCP and DMC-ODS that cannot be resolved in a good faith attempt between the Parties must be forwarded by MCP and/or DMC-ODS to DHCS.

ii. Unless otherwise determined by the Parties, the DMC-ODS Liaison must be the designated individual responsible for receiving notice of actions, denials, or deferrals from MCP, and for providing any additional information requested in the deferral notice as necessary for a medical necessity determination.

iii. MCP must monitor and track the number of disputes with DMC-ODS where the Parties cannot agree on an appropriate place of care and, upon request, must report all such disputes to DHCS.

iv. Until the dispute is resolved, the following provisions must apply:

    i. The Parties may agree to an arrangement satisfactory to both Parties regarding how the services under dispute will be provided; or

    ii. When the dispute concerns MCP's contention that DMC-ODS is required to deliver SUD services to a Member and DMC-ODS has incorrectly determined the Member's diagnosis to be a diagnosis not covered by DMC-ODS, MCP must manage the care of the Member

under the terms of its contract with the State, including providing or arranging and paying for those services until the dispute is resolved.

iii. When the dispute concerns DMC-ODS's contention that MCP is required to deliver physical health care-based treatment, or to deliver prescription drugs or laboratory, radiological, or radioisotope services required to diagnose, DMC-ODS is responsible for providing or arranging and paying for those services until the dispute is resolved.

v. Nothing in this MOU or provision constitutes a waiver of any of the government claim filing requirements set forth in Title I, Division 3.6, of the California Government Code or as otherwise set forth in local, State, or federal law.

13. Equal Treatment. Nothing in this MOU is intended to benefit or prioritize Members over persons served by MHP/DMC-ODS who are not Members. Pursuant to Title VI, 42 United States Code Section 2000d, et seq., MHP/DMC-ODS cannot provide any service, financial aid, or other benefit, to an individual which is different, or is provided in a different manner, from that provided to others provided by MHP/DMC-ODS.

14. General.

a. **MOU Posting.** MCP and MHP/DMC-ODS must each post this executed MOU on its website.

b. **Documentation Requirements.** MCP and MHP/DMC-ODS must retain all documents demonstrating compliance with this MOU for at least 10 years as required by the Medi-Cal Managed Care Contract, the MHP Contract, and DMC-ODS Intergovernmental Agreement. If DHCS requests a review of any existing MOU, the Party that received the request must submit the requested MOU to DHCS within 10 Working Days of receipt of the request.

c. **Notice.** Any notice required or desired to be given pursuant to or in connection with this MOU must be given in writing, addressed to the noticed Party at the Notice Address set forth below the signature lines of this MOU. Notices must be (i) delivered in person to the Notice Address; (ii) delivered by messenger or overnight delivery service to the Notice Address; (iii) sent by regular United States mail, certified, return receipt requested, postage prepaid, to the Notice Address; or (iv) sent by email, with a copy sent by regular United States mail to the Notice Address. Notices given by in-person delivery, messenger, or overnight delivery service are deemed given upon actual delivery at the Notice Address. Notices given by email are deemed given the day following the day the email was sent. Notices given by regular United States mail, certified, return receipt requested, postage prepaid, are deemed given on the date of delivery indicated on the return receipt. The Parties may change their addresses for purposes of receiving notice hereunder by giving notice of such change to each other in the manner provided for herein.

d. **Delegation.** MCP and MHP/DMC-ODS may delegate its obligations under this MOU to a Fully Delegated Subcontractor or Partially Delegated Subcontractor as permitted under the Medi-Cal Managed Care Contract, provided that such Fully Delegated Subcontractor or Partially Delegated Subcontractor is made a Party to this MOU. Further, the Parties may enter into Subcontractor Agreements or Downstream Subcontractor Agreements that relate directly or indirectly to the performance of the Parties' obligations under this MOU. Other than in these circumstances, the Parties cannot delegate the obligations and duties contained in this MOU.

e. **Annual Review.** MCP and MHP/DMC-ODS must conduct an annual review of this MOU to determine whether any modifications, amendments, updates, or renewals of responsibilities and obligations outlined within are required. MCP and MHP/DMC-ODS must provide DHCS evidence of the annual review of this MOU as well as copies of any MOUs modified or renewed as a result.

f. **Amendment.** This MOU may only be amended or modified by the Parties through a writing executed by the Parties. However, this MOU is deemed automatically amended or modified to incorporate any provisions amended or modified in the Medi-Cal Managed Care Contract, the MHP Contract, DMC-ODS Intergovernmental Agreement, and subsequently issued superseding APLs, BHINs, or guidance, or as required by applicable law or any applicable guidance issued by a State or federal oversight entity.

g. **Governance.** This MOU is governed by and construed in accordance with the laws of the state of California.

h. **Independent Contractors.** No provision of this MOU is intended to create, nor is any provision deemed or construed to create any relationship between MHP/DMC-ODS and MCP other than that of independent entities contracting with each other hereunder solely for the purpose of effecting the provisions of this MOU. Neither MHP/DMC-ODS nor MCP, nor any of their respective contractors, employees, agents, or representatives, is construed to be the contractor, employee, agent, or representative of the other.

i. **Counterpart Execution.** This MOU may be executed in counterparts signed electronically, and sent via PDF, each of which is deemed an original, but all of which, when taken together, constitute one and the same instrument.

j. **Superseding MOU.** This MOU constitutes the final and entire agreement between the Parties and supersedes any and all prior oral or written agreements, negotiations, or understandings between the Parties that conflict with the provisions set forth in this MOU. It is expressly understood and agreed that any

prior written or oral agreement between the Parties pertaining to the subject matter herein is hereby terminated by mutual agreement of the Parties.

k. **Insurance.** MCP, in order to protect County and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of MCP's actions in connection with the performance of MCP's obligations, as required in this Agreement, shall secure and maintain insurance as described below. MCP shall not perform any work under this Agreement until MCP has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the County's authorized insurance representative, Insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, MCP shall supply proof that such person is an authorized representative thereof and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon. The MCP shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. MCP shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by MCP or County as an additional insured.

    i. Workers' Compensation and Employers Liability Insurance Requirement -- In the event MCP has employees who may perform any services pursuant to this Agreement, MCP shall submit written proof that MCP is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code.

       MCP shall require any sub-contractors to provide workers' compensation for all of the subcontractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by MCP. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, MCP shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered.

MCP shall also maintain employer's liability insurance with limits of one million dollars ($1,000,000) for bodily injury or disease.

ii. Liability Insurance Requirements:

(1) MCP shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance:

(a) Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the County), Personal Injury (including bodily injury and death), and Property Damage for liability arising out of MCP's performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least one million dollars ($1,000,000) each occurrence and two million dollars ($2,000,000) aggregate.

(b) Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least one million dollars ($1,000,000) each occurrence.

(c) Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, the performance of all required services under this Agreement, with coverage equal to the policy limits, which shall not be less than one million dollars ($1,000,000) per occurrence and three million dollars ($3,000,000) aggregate.

(d) Cyber Liability Insurance, for liability arising out of, or in connection with, the performance of all required services under this Agreement, with coverage equal to the policy limits, which shall not be less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) aggregate. Coverage shall respond to the
duties and obligations as is undertaken by MCP in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark,

trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

(2) The Commercial General Liability and Automobile liability Insurance required in this sub-paragraph b. shall include an endorsement naming the County and County's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using one of the following three options: (i) on ISO form CG 20 10 11 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.

(3) Any self-insured retentions in excess of $100,000 must be declared on the Certificate of Insurance or other documentation provided to County and must be approved by the County Risk Manager.

(4) If any of the insurance coverages required under this Agreement is written on a claims-made basis, MCP, at MCP's option, shall either (i) maintain said coverage for at least five (5) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than five (5) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

iii. Cancellation of Insurance -- The above stated insurance coverages required to be maintained by MCP shall be maintained until the completion of all of MCP's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the MCP shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by MCP in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. MCP shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

iv. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII. Any exception to these requirements must be approved by the County Risk Manager.

v. If MCP is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, MCP shall provide coverage equivalent to the insurance coverages and endorsements required above. The County will not accept such coverage unless the County determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by MCP is equivalent to the above-required coverages.

vi. All insurance afforded by MCP pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by the County. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the County.

vii. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve MCP for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the County from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.

viii. Failure by MCP to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by MCP. County, at its sole option, may terminate this Agreement and obtain damages from MCP resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to MCP, County shall deduct from sums due to MCP any premiums and associated costs advanced or paid by County for such insurance. If the balance of monies obligated to MCP pursuant to this Agreement are insufficient to reimburse County for the premiums and any associated costs, MCP agrees to reimburse County for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by County to take this alternative action shall not relieve MCP of its obligation to obtain and maintain the insurance coverages required by this Agreement.

15. INDEMNIFICATION.

Each Party shall defend, indemnify, and hold harmless, the other party, and their respective officers, directors, employees, agents, members, shareholders, partners, joint ventures, affiliates, successors, and assigns from and against any and all liabilities, obligations, claims,

demands, suits, losses, expenses, damages, fines, judgments, settlements, and penalties, including, without limitation, costs, expenses, and attorneys' fees incident thereto, arising out of or based upon contract damages, property damage, or bodily injury (including death at any time resulting there from) to any person, including the indemnifying party's employees, affiliates, or agents, occasioned by or in connection with (1) the indemnifying party's negligent performance of (or failure to perform) the contract duties hereunder; (2) a violation of any laws or any negligent act or omission by the indemnifying party's or its affiliates, subcontractors, agents or employees during the performance of the contract duties hereunder; or (3) a breach of this Agreement by the indemnifying party or any of its affiliates, subcontractors, agents, or employees. The aforesaid obligation of indemnity shall be construed so as to extend to all legal, defense and investigation costs, as well as all other reasonable costs, expenses and liabilities incurred by the party indemnified (including reasonable attorney's fees), from and after the time at which the party indemnified received notification (whether verbal or written) that a claim or demand is to be made or may be made. Both parties' obligations under this Section do not extend to any liability caused by the sole negligence of the other party. This Section shall survive the termination or expiration of this Agreement.

16. RELIGIOUS AND POLITICAL ACTIVITIES.

No person performing any service or providing any goods designated under this Contract shall participate in any political or religious activity on County time or in any manner involving the use of county property or expenditure of public funds nor conveying the implication of County endorsement or support for a candidate for local, state, or federal office.

Notwithstanding the foregoing, nothing in this Contract shall be construed to unlawfully limit an individual's Constitutional rights. Accordingly, the limitations contained in this section are for the sole purpose of preventing proselytizing and politicking while engaged in the performance of services under this Contract.

17. TERMINATION.

Either party may terminate this agreement in whole, with or without cause, upon thirty (30) days' prior written notice to the other party. In the event of termination of this agreement for any reason, County shall have no further obligation to pay for any services rendered or expenses incurred by Contractor after the effective date of the termination, and Contractor shall be entitled to receive compensation for services satisfactorily rendered, calculated on a prorated basis up to the effective date of termination. Should DHCS or any other oversight agency or KernBHRS determine that the delivery of service is unsatisfactory, KernBHRS may terminate the agreement in part or in whole.

18. IMMEDIATE TERMINATION.

Notwithstanding the foregoing, County shall have the right to terminate this agreement effective immediately after giving written notice to Contractor in the event County determines that Contractor does not have the proper credentials, experience, or skill to perform the required

services under this agreement; or in the event that continuation by Contractor in the providing of services may result **(i)** in civil, criminal, or monetary penalties against County, **(ii)** in the breach of any federal or state or regulatory rule or regulation or condition of accreditation or certification, or **(iii)** in the loss or threatened loss of County's ability to participate in any federal or state health care program, including Medicare or Medi-Cal.

SIGNATURE AUTHORITY. Each party has full power and authority to enter into and perform this agreement, and the person signing this agreement on behalf of each party has been properly authorized and empowered to enter into this agreement.

[Remainder of this page intentionally left blank]

IN WITNESS TO WHICH, each Party to this MOU has signed this MOU upon the date indicated, and agrees for itself, its employees, officers, partners, and successors, to be fully bound by all terms and conditions of this MOU.

APPROVED AS TO CONTENT:
Behavioral Health and Recovery Services

By: Alison Burrowes
Alison Burrowes, MA, LCSW, **Director**

COUNTY OF KERN
Board of Supervisors

By: _____
, Chairman
"County"
DAVID COUCH

APPROVED AS TO FORM:

Office of the County Counsel

By: Kathleen Rivera
Kathleen Rivera,
Chief Deputy County Counsel

Kern Health Systems

By: _____
Emily Duran, Chief Executive Officer
"Contractor"

Exhibit A

MCP-MHP Liaisons as referenced in Section 4.b of this MOU

Liaisons	Kern Health Systems
MCP Responsible Person	Director of Behavioral Health
MCP-MHP Liaison	Director of Behavioral Health

[Remainder of this page intentionally left blank]

Exhibit B

MHP and DMC-ODS Liaisons as referenced in Section 5.b and 6.b of this MOU

Liaison	MHP
MHP/DMC-ODS Responsible Person	Kern Behavioral Health and Recovery Services Director
MHP Liaison	Kern Behavioral Health and Recovery Services Medical Services Division Administrator
DMC-ODS Liaison	Kern Behavioral Health and Recovery Services Substance Use Disorder Division Administrator

[Remainder of this page intentionally left blank]

Exhibit C

DATA SHARING AGREEMENT

1. PARTIES

(a) This Single Data Sharing Agreement supplements and is made by and between the County of Kern (County) and Kern Health Systems who are required to or elect to exchange Health and Social Services Information (defined below) within the State of California in accordance with this Agreement (defined below). County and Medi-Cal Managed Care Plan are referred to individually as a "party" and collectively as the "parties."

2. PURPOSE AND INTENT

(a) California Health and Safety Code § 130290 was enacted in 2021 and establishes the creation of the California Health and Human Services Data Exchange Framework and requires certain datasharing among entities as set forth in California Health and Safety Code § 130290(f) on or before January 31, 2024. California Health and Safety Code § 130290 also provides for the California Health and HumanServices Agency to encourage the inclusion of county health, public benefit, and social services as part of the Data Exchange Framework. The framework includes this single data sharing agreement and a set of common policies and procedures.

(b) This Agreement is intended to facilitate data exchange between the parties in compliance with all applicable federal, state, and local laws, regulations, and policies. This Agreement setsforth a common set of terms, conditions, and obligations to support secure real-time access to, or exchange of, Health and Social Services Information (as defined below) between and among the parties. Nothing in this Agreement is intended to replace or supersede any existing or future agreement between or among the Parties that provides for more extensive data exchange than that required under this Agreement.

(c) This Agreement is not intended nor designed to: (i) mandate or require a specific technology; (ii) create a single entity that exchanges Health and Social Services Information; or (iii) createa single repository of data.

3. DEFINITIONS

"Agreement" shall mean this Data Sharing Agreement, the Policies and Procedures and the Specifications.

"Applicable Law" shall mean all federal, state, local, or tribal laws and regulations then in effect and applicable to the subject matter herein. For the avoidance of doubt, federal government entities are only subject to federal law.

"Authorization" shall have the meaning and include the requirements set forth at 45 CFR § 164.508 of theHIPAA Regulations and at Cal. Civ. Code § 56.11. The term shall include all requirements for obtaining consent to disclose confidential substance abuse disorder treatment records as set forth in 42 C.F.R. Part 2,when applicable, and shall include any additional requirements under Applicable Law to disclose PHI or PII.

"Breach" shall mean the unauthorized acquisition, access, disclosure, or use of Health and Social ServicesInformation as set forth in the Policies and Procedures.

"**Confidential Party Information**" shall mean proprietary or confidential materials or information of a party in any medium or format that a party labels as such upon disclosure or that given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered confidential. Notwithstanding any label to the contrary, Confidential Party Information does not include any information which is or becomes known publicly through no fault of the party to which such information is disclosed (a "**Receiving Party**"); is learned of by a Receiving Party from a third party entitledto disclose it; is already known to a Receiving Party before receipt from the disclosing party as documented by the Receiving Party's written records; or is independently developed by a Receiving Partywithout reference to, reliance on, or use of the disclosing Participant's Confidential Participant Information.

"**Covered Entity**" shall have the meaning set forth at 45 C.F.R. § 160.103 and shall also include the following as these terms are defined in California Civil Code § 56.05: "provider of health care," "health care service plan," and "licensed health care professional."

"**Effective Date**" shall mean date written above.

"**Governance Entity**" shall mean the entity within the California Health and Human Services Agency established to oversee the California Data Exchange Framework, the Framework's Data Sharing Agreementand its Policies and Procedures.

"**Health and Social Services Information**" shall mean any and all information received, stored, processed, generated, used, transferred, disclosed, made accessible, or shared pursuant to this Agreement, including but not limited to: (a) Data Elements as set forth in the applicable Policy and Procedure; (b) information related to the provision of health care services, including but not limited to PHI; and (c) information relatedto the provision of social services. Health and Social Services Information may include PHI, PII, de- identified data (as defined in the HIPAA Regulations at 45 C.F.R. § 164.514), anonymized data, pseudonymized data, metadata, digital identities, and schema.

"**HIPAA Regulations**" shall mean the standards for privacy of individually identifiable health information, the security standards for the protection of electronic protected health information and the breach notification rule (45 C.F.R. §§ 160 and 164) promulgated by the U.S. Department of Health and Human Services under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as in effect on the Effective Date and as may be amended, modified, or renumbered.

"Individual User" shall mean the person who is the subject of PHI or PII.

"**Personally Identifiable Information" or "PII"** shall have the same meaning as "Personal Information"set forth in Section 1798.140(o) of the California Civil Code, but shall be limited to PII exchanged pursuant to this Agreement.

"**Personal Representative**" shall refer to a person who, under Applicable Law, has authority to act on behalf of an individual as set forth in 45 C.F.R. § 164.502(g).

"**Policies and Procedures**" shall mean the policies and procedures adopted by the Governance Entity pursuant to this Agreement.

"**Protected Health Information" or "PHI**" shall refer to "protected health information" as set forth at 45

C.F.R. § 160.103 of the HIPAA Regulations and "medical information" as set forth at Civil Code § 56.05.

"**Qualified Health Information Organization**" or "**Qualified HIO**" shall mean a state-designated data exchange intermediary that facilitates the exchange of Health and Social Services Information between Parties.

"**Recipient**" shall mean a Party that receives Health and Social Services Information from a Submitter. For purposes of illustration only, Recipients include, but are not limited to, Participants who receive queries, responses, subscriptions, publications or unsolicited messages.

"**Social Services**" shall mean the delivery of items, resources, and/or services to address social determinantsof health and social drivers of health, including but not limited to housing, foster care, nutrition, access to food, transportation, employment, and other social needs.

"**Specifications**" shall mean the specifications adopted by the Governance Entity pursuant to this Agreement to establish (i) minimum data content required for particular data exchange use cases and (ii) technical and security requirements to enable the Parties to exchange Health and Social Services Information. Specifications may include, but are not limited to, specific network standards, services, and policies.

"**Submitter**" shall mean a Party that submits Health and Social Services Information to a Recipient.

"**System**" shall mean software, portal, platform, or other electronic medium controlled by a Party through which the Party conducts Health and Social Services Information exchange-related activities. For purposes of this definition, it shall not matter whether the Party controls the software, portal, platform, or medium through ownership, lease, license, or otherwise.

"**Treatment**" shall have the same meaning as set forth at 45 C.F.R. § 164.501 of the HIPAA Regulations.

4. USE OF HEALTH AND SOCIAL SERVICES INFORMATION

(a) *Required, Permitted and Prohibited Purposes.* The purposes for which the Parties shall or may acquire, access, use, and disclose Health and Social Services Information pursuant to this Agreement, and the purposes for which the Participants may not acquire, access, use or disclose Health andSocial Services Information pursuant to this Agreement, shall be set forth in the Policies

and Procedures.

5. POLICIES AND PROCEDURES AND SPECIFICATIONS

(a) *Compliance with Terms of this Agreement.* Parties shall at all times abide by this Agreement, including the Policies and Procedures and Specifications.

(b) *Incorporation; Modifications.* The Policies and Procedures, the Specifications, and any future updates to either of them are hereby incorporated by reference into this Agreement. The Policies and Procedures and Specifications are intended to be flexible to address changing needs and standards and may be modified from time to time through the process outlined in the Policies andProcedures without a need to modify or re-execute this Agreement.

(c) *Health Equity.* In order to reduce healthcare disparities, the Specifications shall set forth standards that advance health equity.

6. AUTHORIZATIONS

(a) To the extent required by Applicable Law, Party shall not disclose PHI or PII to another Party unless a legally valid Authorization has been obtained. For the avoidance of doubt, Party shall not be required to obtain an Authorization prior to disclosing PHI or PII pursuant to this Agreement unless an Authorization is required under Applicable Law. Any disclosure of Health and SocialServices Information by a Submitter shall be deemed an express representation that the Submitter has complied with this Section and unless the Recipient has actual knowledge to the contrary, the Recipient may reasonably and justifiably rely upon such representation.

7. REQUIREMENT TO EXCHANGE HEALTH AND SOCIAL SERVICES INFORMATION

(a) Each Party shall engage in the exchange of Health and Social Services Information as set forth in the Policies and Procedures, either through execution of an agreement with a Qualified HIO,through execution of an agreement with another entity that provides data exchange, or through use of the Party's own technology. If a Party elects not to execute an agreement with a Qualified HIO andinstead elects to use its own technology or to execute an agreement with another entity that provides data exchange, the Party must comply with or obtain reasonable assurances that the other Party enables the Party to comply with, the minimum requirements for data exchange set forth in the Policies and Procedures or Specifications.

(b) Parties shall engage in the real-time exchange of Health and Social Services Information in accordance with the timeframes set forth in the Policies and Procedures.

8. PRIVACY AND SECURITY

(a) *General.* Each Party shall at all times fully comply with all Applicable Law relatingto this Agreement and the use of Health and Social Services Information.

(b) *Safeguards.* Each Party shall be responsible for maintaining a secure environment that supports the exchange of PHI or PII as set forth in the Policies and Procedures.

(c) *Individual User Education.* Parties shall use tools, resources, and technical assistance made available by the California Health and Human Services Agency to help Individual Users and/or their Personal Representatives understand the benefits of information sharing and for obtaining informed consent.

9. MINIMUM NECESSARY

(a) Any use or disclosure of PHI or PII pursuant to this Agreement will be limited to the minimum PHI or PII necessary to achieve the purpose for which the information is shared, except where limiting such use or disclosure to the minimum necessary (i) is not feasible, (ii) is not required under the HIPAA Regulations (such as for Treatment) or any other Applicable Law, (iii) is a disclosure to an Individual User or Individual User's Personal Representative, (iv) is a disclosure pursuant to an IndividualUser's Authorization, or (v) is a disclosure required by Applicable Law.

10. INDIVIDUAL ACCESS SERVICES

(a) *Bidirectional Access to Health Information*. An Individual User or an Individual User's Personal Representative shall have the right to inspect, obtain a copy of, and have bidirectional electronic access to, PHI or PII about the Individual User as set forth in the Policies and Procedures and to the extentconsistent with Applicable Law.

11. COOPERATION AND NON-DISCRIMINATION

(a) Each Party shall

(i) Cooperate in good faith with the Governance Entity and the other party to implement the provisions of this Agreement;

(ii) Provide such non-privileged information to the Governance Entity and the other Party as they may reasonably request for purposes of performing activities related to this Agreement;

(iii) Actively engage in the bilateral or multilateral exchange of information with otherParty as both a Submitter and Recipient of information to the extent permitted or required under thisAgreement and Applicable Law;

(iv) Devote such time as may reasonably be requested by the Governance Entity to review information, meet with, respond to, and advise the Governance Entity or other Party with respect to activities as they relate to this Agreement;

(v) Provide such reasonable assistance as may be requested by the Governance Entitywhen performing activities as they relate to this Agreement; and

(vi) Provide any requested information and assistance to the Governance Entity or other Party in the investigation of breaches and disputes, subject to a Party's right to restrict or condition its cooperation or disclosure of information in the interest of (A) preserving privileges in any foreseeable dispute or litigation or (B) protecting its Confidential Party Information. In no case shall a Participant be required to disclose PHI or PII in violation of Applicable Law.

(b) In seeking another Party's cooperation, each Party shall make all reasonable efforts to accommodate the other Party's schedules and reasonable operational concerns. A Party shall promptly report, in writing, to the other Party and the Governance Entity, any problems or issuesthat arise in working with the other Party's employees, agents, or subcontractors that threaten to delayor otherwise adversely impact a Party's ability to fulfill its responsibilities under this Agreement. This writing shall set forth in detail and with clarity the problems that the Party has identified.

(c) *Prohibition on Exclusivity.* A Party may not require exclusivity or otherwise prohibit(or attempt to prohibit) the other Party, entity, or individual from joining or exchanging Health and Social Services Information under this Agreement.

(d) *No Discriminatory Limits on Exchange of Health and Social Services Information.* Parties shall not unfairly or unreasonably limit exchange or interoperability with the other Partyor Individual User, such as by means of burdensome testing requirements that are applied in a discriminatory manner or other means that limit the ability of a Party to send or receive Health and Social Services Information with the other Party or Individual User or slows down the rate at which such Health and Social Services Information is sent or received if such limitation or slower rate would have an anti-competitive effect.

12. INFORMATION BLOCKING

(a) Parties shall comply with any information-blocking provisions set forth in the Policies and Procedures.

13. LEGAL REQUIREMENTS

(a) *Monitoring and Auditing.* The Governance Entity, acting through its agents and independent contractors, shall have the right, but not the obligation, to monitor and audit Parties' compliance with their obligations under this Agreement. Unless prohibited by Applicable Law, Parties shall cooperate with the Governance Entity in these monitoring and auditing activities and shall provide, upon the reasonable request of the Governance Entity, complete and accurate information in the furtheranceof its monitoring and auditing activities. To the extent that any information provided by Parties to theGovernance Entity in connection with such monitoring and auditing activities constitutes Confidential Party Information, the Governance Entity shall hold such information in confidence and shall not redisclose such information to any person or entity except as required by Applicable Law.

(b) *Individual User Opt Out.* Nothing in this Agreement shall prohibit an Individual User oran Individual User's Personal Representative from opting out of having the Individual User's PHI or PII exchanged pursuant to this Agreement.

14. REPRESENTATIONS AND WARRANTIES

Each Party hereby represents and warrants the following:

(a) *Execution of the Agreement.* Each Party has full power and authority to enter into and perform this Agreement and has taken whatever measures necessary to obtain all required approvals or consents in order for it to execute this Agreement. The representatives signing this Agreement on behalf ofthe Parties affirm that they have been properly authorized and empowered to enter into this Agreement on behalf of the Participant.

(b) *Compliance with this Agreement.* Except to the extent prohibited by Applicable Law, eachParty shall comply fully with all provisions of this Agreement. To the extent that a Party delegates its duties under this Agreement to a third party (by contract or otherwise) and such third party will have access to Health and Social Services Information, that delegation shall be in writing and require the third party, prior to exchanging Health and Social Services Information with any Party, to agreeto the same restrictions and conditions that apply through this Agreement to a Party. If either Party determines, after reasonable diligence, that any action or inaction relative to an obligation, including conformance to changes in the Specifications or Policies and Procedures, will cause it to violate

Applicable Law, the Party may terminate this Agreement immediately upon sending written notice to the other party.

(c) *Accuracy of Health and Social Services Information*. When acting as a Submitter, each Party represents that at the time of transmission, the Health and Social Services Information it provides is an accurate representation of the data contained in, or available through, its System and is (i) sent from a System that employs security controls that meet industry standards so that the Health and SocialServices Information being transmitted is intended to be free from malicious software, and (ii) provided ina timely manner and in accordance with the Policies and Procedures. Other than those representations elsewhere in this Agreement, the Submitter makes no other representation, express or implied, about the Health and Social Services Information.

(d) *Express Warranty of Authority to Exchange Health and Social Services Information*. To the extent each Party discloses Health and Social Services Information to the other Party, the disclosing Party represents and warrants that it has sufficient authority to disclose such Health and Social Services Information.

(e) *Third-Party Technology*. Both Parties acknowledge that each Party use technology solutions, applications, interfaces, software, platforms, clearinghouses, and other IT resources to support exchange of Health and Social Services Information that may be provided by third parties ("**Third-Party Technology**"). Each Party shall have agreements in place that require Third-Party Technology vendors (i) to provide reliable, stable, and secure services to the Party and (ii) to adhere to the same or similar privacy and security standards applicable to the Party pursuant to this Agreement. However, both Parties acknowledge that Third-Party Technology may be interrupted or notavailable at times and that this could prevent a Party from transmitting Health and Social Services Information. Parties do not make any representations or warranties as to their Third-Party Technology.

15. TERM, SUSPENSION, AND TERMINATION

(a) *Term*. This Agreement shall commence on the Effective Date and shall continue until terminated in accordance with this Section or the Policies and Procedures.

(b) *Termination by a Party*. Either Party may terminate this Agreement, with or without cause, by giving the other party at least ten (10) business days' prior written notice.

(c) *Effect of Termination*. Upon any termination of this Agreement for any reason, the terminated party shall thereupon and thereafter shall have no rightsunder this Agreement to exchange data with the other Party. Termination of this Agreement shall not affect any rights or obligations which by their terms should survive termination or expiration.

(d) *Enforcement Action*. The Parties hereby grant to the Governance Entity the power to enforce any portion of this Agreement through measures set forth in the Policies and Procedures. Such measures may include, but are not limited to, suspension or termination of a Party's right to exchangeHealth and Social Services Information under this Agreement.

16. PARTICIPANT LIABILITY

(a) County and MCP shall indemnify, defend and hold harmless each other, their elected and appointed officers, directors, employees, and agents from and against any demands, claims, damages, liability, loss, actions, fees, costs, and expenses, including reasonable attorneys' fees, or any property, resulting from the misconduct, negligent acts,

errors or omissions by the other party or any of its officers, directors, employees, agents, successor or assigns related to this MOU, its terms and conditions, including without limitation a breach or violation of any state or federal privacy and/or security laws, regulations and guidance relating to the disclosure of PHI, personally identifiable information or other confidential information of a party hereunder. The terms of this Section 16 shall survive termination of this MOU.

17. MISCELLANEOUS/GENERAL PROVISIONS

(a) *Governing Law.* The construction, interpretation and performance of this Agreement shallbe governed and enforced pursuant to the laws of the State of California, without giving effect to its conflictsof laws provisions, except to the extent California law is preempted by any provision of federal law.

(b) *Jurisdiction and Venue.* This agreement has been entered into and is to be performed in the County of Kern. Accordingly, the parties agree that the venue of any action relating to this agreement shall be in the County of Kern

(c) *Assignment.* No party shall assign or transfer this Agreement, or any part thereof, without the express written consent of the other party, which shall not be unreasonably delayed or denied. Any assignment that does not comply with the requirements of this Section 17(c) shall be void and have nobinding effect.

(d) *Survival.* All Sections which by their nature are meant to survive this Agreement shall survive expiration or termination of this Agreement.

(e) *Waiver.* No failure or delay by any party in exercising its rights under this Agreement shalloperate as a waiver of such rights, and no waiver of any right shall constitute a waiver of any prior, concurrent, or subsequent right.

(f) *Captions.* Captions appearing in this Agreement are for convenience only and shall not bedeemed to explain, limit or amplify the provisions of this Agreement.

(g) *Entire Agreement.* This Agreement sets forth the entire agreement among the parties relative to the subject matter hereof. Any representation, promise, or condition, whether oral or written, notincorporated herein shall not be binding upon any party. This Agreement may only be modified in the manner provided in the Policies and Procedures.

(h) *Validity of Provisions.* In the event that a court of competent jurisdiction shall hold any Section or any part or portion of any Section of this Agreement invalid, void, or otherwise unenforceable, each and every remaining Section or part or portion thereof shall remain in full force and effect.

(i) *Priority.* In the event of any conflict or inconsistency between a provision in the body of this Agreement and the Policies and Procedures or the Specifications, the terms contained in the Policies and Procedures or the Specifications shall prevail, except to the extent they conflict with Applicable Law.

(j) *Counterparts.* This Agreement may be executed in one or more counterparts, each of whichshall be considered an original counterpart, and shall become a binding agreement when each party shall have executed one counterpart.

(k) *Third-Party Beneficiaries.* With the exception of the parties to this Agreement, there shallexist no right of any person to claim a beneficial interest in this Agreement or any rights occurring by virtueof this Agreement.

(l) *Force Majeure.* No party shall be responsible for any delays or failures in performance caused by the occurrence of events or other circumstances that are beyond its reasonable control after the exercise of commercially reasonable efforts to either prevent or mitigate the effect of any such occurrenceor event.

(m) *Time Periods.* Any of the time periods specified in this Agreement may be changed pursuant to the mutual written consent of the Governance Entity and the affected Participant(s).

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Exhibit D

Data Elements

a. *MCP and County must share the following data elements:*
   i. *Member demographic information;*
   ii. *Behavioral and physical health information;*
   iii. *Diagnoses and assessments;*
   iv. *Medications prescribed;*
   v. *Laboratory results;*
   vi. *Referrals/discharges to/from inpatient or crisis services; and*
   vii. *Known changes in condition that may adversely impact the Member's health and/or welfare*

[Remainder of this page intentionally left blank]

[END OF MOU]