

New York

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

MEDICAL ASSISTANCE PROGRAM

STATE OF NEW YORK

Summary of Cooperative Arrangements with State Health and State Vocational Rehabilitation Agencies and with Title V Grantees:

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COOPERATIVE AGREEMENT**BY AND BETWEEN**

The State Department of Health, hereinafter referred to as "Health" and the State Department of Social Services, hereinafter referred to as "Social Services".

WITNESSETH:

WHEREAS, On July 30, 1965, the "Social Security Amendments of 1965" were enacted into law as Public Law 89-97, which among its provisions included the enactment of Title XIX making additional funds available to the states for Medical Assistance provided to eligible individuals; and

WHEREAS, Title XIX makes provision for the submission of a "State plan" by a "single State agency";

WHEREAS, Chapter 256 of the Laws of 1966, added a new Title 11 to Article 5 of the Social Services Law (sections 363, et seq.) promoting the State's goal of making available to everyone regardless of race, age, national origin, or economic standing, uniform high quality medical care, makes provisions for a program of Medical Assistance for Needy Persons, hereinafter referred to as "Medical Assistance" and designated Social Services the "single State agency" for purposes of Title XIX; and

WHEREAS, such a State plan heretofore has been developed by Social Services pursuant to Title XIX and Title 11 and has been submitted to, and approved by, the Health Care Financing Administration (HCFA), the federal agency responsible for administration of Title XIX; and

WHEREAS, Title XIX makes provision for a state agency to be designated to establish and maintain standards for institutions in which recipients of Medical Assistance may receive care or services and permits certain functions and services to be performed under such Title for the "single State agency" by other state and local agencies; and

WHEREAS, Health is the State agency which licenses health institutions, health maintenance organizations and agencies, the primary health service agency, and the agency designed to determine whether providers under Title XVIII of the Social Security Act meet the standards for participation in such program; and

WHEREAS, Chapter 474 of the Laws of 1996 amended Title 11, by designating Health as the "single State agency" having overall responsibility for the Medical Assistance program under Title XIX of the Social Security Act and Title 11 of Article 5 of the Social Services Law; for maintaining the "State plan" for Medical Assistance and submitting amendments thereto to HCFA; and for taking such steps, not inconsistent with law, as may be necessary to obtain and retain approval of such plans by HCFA; and

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WHEREAS, Title 11, as amended, also designates Health as the agency responsible for establishing and maintaining standards for hospital and related services and non-institutional care, reviewing and approving local social services medical plans, establishing a uniform system of reports relating to quality of medical care, reviewing the quality and availability of medical care and services furnished under local social services medical plans, and providing consultative services to providers of care under the plan; and

WHEREAS, Title 11, as amended, designates Social Services as the agency responsible for determining the eligibility for Medical Assistance of applicants therefore, and for auditing payments to providers of care, services and supplies under the Medical Assistance program; and

WHEREAS, Health and Social Services, pursuant to Title 11, as amended, are authorized to enter into such cooperative arrangements as shall be necessary to assure that the purposes and objectives of the Medical Assistance program are effectively accomplished, and

WHEREAS, the Commissioner of Health has the authority, pursuant to Title 11, as amended, to delegate responsibility under Title 11 to other state departments and agencies and to enter into memoranda of understanding as may be necessary to carry out the provisions of Title 11; and

WHEREAS, Health and Social Services have been cooperating in carrying out the directives of the Legislature in implementing the Federal requirements under Title XIX and in defining the respective functions and responsibilities of Social Services and Health under Title 11, as amended;

NOW, THEREFORE, in order to implement the Medical Assistance Program and the Federal requirements applicable thereto, and to define the respective functions and responsibilities of Social Services and Health under such program, to improve access to primary care for all recipients, to assure the delivery of high quality care, to provide comprehensive care for the health needs of all recipients and to improve the cost effectiveness of the Medical Assistance program, Social Services and Health agree as follows:

I. FEDERAL RELATIONS

- A. Health shall be responsible for submitting amendments of the "State plan" to HCFA necessary to implement the Medical Assistance program and for conducting negotiations with respect thereto and appealing denials thereof, in consultation with and with the participation of Social Services, as may be necessary.
- B. Health shall be responsible for submitting Medical Assistance-related demonstration and waiver applications to the federal Department of Health and Human Services (HHS) and/or HCFA. However, Health shall consult with Social Services in the development and revision of any such applications that may affect Social Services responsibilities under the Social Services Law or this Agreement. Social Services shall assist Health in developing, revising and securing approval of any applications initiated by Health where such applications affect Social Services' responsibilities under the Social Services Law or this Agreement.

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- C. Health shall submit a summary of this Agreement to HCFA in accordance with HCFA requirements.
- D. In the event of a deferral or disallowance of federal Medical Assistance funds associated with the activities of Health or any other State agency, the defense against said Federal action shall be the responsibility of Health. However, Health shall consult with Social Services, and such other State agencies as may be necessary or appropriate, in the development and implementation of such defense and with regard to any appeal, settlement or discontinuance of appeal of any deferral or disallowance related to Title XIX.

II. MEDICAL ASSISTANCE ELIGIBILITY

- A1. Health shall be responsible for establishing and revising the standards and policies relating to persons' eligibility for Medical Assistance and for requiring adherence to the standards and policies relating to persons' eligibility for Medical-Assistance by the social services districts of the State.
- A2. Social Services, as the single state agency under Title IV-A of the federal Social Security Act, shall, through the social services districts, be responsible for determining the eligibility of persons for Medical Assistance. Health shall be responsible for determining eligibility for Medical Assistance for residents of the Oxford Home and for individuals who are the fiscal responsibility of the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities.
- A3. Social Services may involve other State agencies in the eligibility determination process through cooperative agreements with the approval of Health.
- B1. Social Services shall have responsibility for maintenance, operation and future systems development of the Welfare Management System (WMS) and associated subsystems. This responsibility includes notification to, and coordination with, Health for all changes to this system. Reasonable accommodation will be afforded to Health to allow development of systems initiatives in consultation with Social Services to support the Medical Assistance Program.
- B2. Health shall have responsibility for maintenance, operation and future systems development of the Electronic Medicaid Eligibility Verification System (EMEVS). This responsibility includes coordination with Social Services for all systems changes. Reasonable accommodation will be provided to Social Services to allow development of systems initiatives to support operation and development of Social Services' programs.
- B3. Health shall have responsibility for maintenance, operation and future systems development of the Medicaid Management Information System (MMIS) and associated systems as defined by the federal General Systems Design (GSD). Social Services shall retain

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responsibility for the Provider Surveillance and Utilization Review System (SURS). Health shall be responsible for notification to and coordination with Social Services of any systems changes to MMIS. Social Services will consult with Health on any Provider SURS initiatives. Reasonable accommodations will be provided to Social Services to support operation and development of Social Services' programs.

- C1. Health shall maintain a system of Fair Hearings in accordance with federal requirements to hear the appeals of applicants for and recipients of Medical Assistance who are adversely affected by the actions of Health or social services districts.
- C2. Under such Fair Hearing system, social services agencies, including local social services districts, shall continue to be responsible for issuing notices of agency action with respect to matters affecting recipient eligibility. Social Services shall continue to receive requests for fair hearings, shall conduct administrative hearings and shall recommend appropriate actions with respect thereto to Health which shall issue the final administrative decisions thereon. Health shall designate appropriate staff of Social Services to issue final administrative decisions on behalf of Health, and to review issued fair hearing decisions for the purpose of correcting any error found in such decisions, including the reopening of a previously closed fair hearing record for purposes of completing such record.

III. MEDICAL STANDARDS AND PROGRAM OVERSIGHT

- A. Health shall be responsible for establishing and maintaining, in conformance with any standards established by HHS, health standards for medical providers, as may be licensed by the State of New York, from which recipients of Medical Assistance may receive medical care or health-related services.
- B. Health and Social Services shall share the responsibility for requiring adherence by providers of medical care and health services to the regulations promulgated by Health concerning the standards of medical care and health-related services, as reflected below.
- C. Health shall, pursuant to the Public Health Law, certify managed care plans, and in consultation with the responsible special needs agency, special needs plans, for participation in the Medical Assistance program.
- D. Health shall periodically review the utilization, appropriateness, availability and quality of medical care and services furnished to recipients of Medical Assistance under the program and shall make such reports as required by law of the findings together with any recommendations in accordance with State law, the federal Social Security Act and regulations promulgated thereunder.
- E. Health shall be responsible for the administration of the Drug Utilization Review Program. Health and Social Services shall share

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the responsibility for conducting medical and drug review activity to control inappropriate utilization identified in conformance with established regulations and policies and commonly accepted medical practice.

- F1. Social Services shall be responsible for conducting audits of managed care providers and other providers of care, services and supplies enrolled in the Medical Assistance program including the responsibility for on-going fraud and abuse monitoring, investigation and referral. In this regard, Social Services shall consult with Health to ensure that such audits are conducted in accordance with Medical Assistance policy as established by Health. Social Services shall maintain a system to review and audit provider performance under the program, to recover inappropriate payments to providers and to assess provider sanctions for program violations, shall maintain a system of provider hearings to review contested audit findings, recoveries, penalties and provider sanctions, shall maintain a system for withholding payments to providers, and shall maintain a system for the final recovery of overpayments and penalties and for sanctioning and excluding enrolled providers for program violations.
- F2. Social Services audit responsibility shall include but not be limited to fiscal audits of providers (including billing audits and audits of rates conducted under Section 368-c of the Social Services Law), audits relating to provider unacceptable practices, other audits which relate to the ability of a provider to continue to participate in the Medical Assistance Program and activities related to Medical Assistance recipient fraud. Such responsibility shall also include the administration of contracts related to Social Services audit and revenue maximization responsibilities.
- G. Social Services shall continue to be responsible for the audit and review of claims paid under the Medical Assistance Program to individuals who are not enrolled as providers.
- H. Social Services and Health shall have joint responsibility for the pre-payment review of claims submitted by providers for payment under the Medical Assistance Program. Such joint responsibility shall include the effectuation of edits on claims for payments pending resolution of the review in conformance with policies and standards of Health. Reasonable accommodation will be provided to Social Services to allow development of systems to support any such initiatives.
- I. Social Services, as part of its audit and fraud control responsibility, shall be responsible for Medical Assistance third party operations and recoveries. Health shall be responsible for third party policy as it relates to Medical Assistance eligibility. Each agency shall consult and coordinate with the other to ensure an effective third party recovery program.

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IV. PROGRAM MANAGEMENT AND ADMINISTRATION

- A. Health shall be responsible for the supervision of the administration, management and overall operation of the Medical Assistance Program.
- B. Health shall be responsible for the establishment of the Medical Assistance delivery network; and recruitment, selection and procurement of providers and managed care plans; provided, however, nothing herein shall prohibit social services districts or groups of districts from procuring providers or managed care plans with the approval of Health.
- C. Social Services shall be responsible for conducting management assessment reviews and audits, and for performing Medical Assistance quality control review of social services districts.
- D. Social Services shall assure that medical care and health-related services, under Medical Assistance, be made available in all social services districts to the extent required by law and the regulations of Health and, where Health has determined that sufficient capacity exists in the managed care entities serving a district, assure that recipients receive such care under the managed care program in accordance with the regulations of Health.
- E. Health shall be responsible for enrolling medical care providers into the Medical Assistance program, instructing them with respect to participation requirements and assuring payment and shall provide for agreements with providers of services under the State plan, in accordance with applicable Federal requirements. Nothing herein shall preclude Health from delegating to Social Services the responsibility for making an initial determination with respect to provider enrollment applications for those groups or types of providers that Health deems appropriate and for instructing such providers with respect to participation requirements.
- F. Either Social Services or Health may terminate a provider's enrollment under the Medical Assistance program upon advance notice to the provider. Any such termination instituted by Social Services shall be upon advance written notice to and approval by Health. Health and Social Services shall establish a mechanism to provide for the notification to each other of any such terminations.
- G. Health, in consultation with Social Services, shall be responsible for the design, development and operation, either directly or by contract, of the information systems which are necessary to support provider enrollment and payment functions under the Medical Assistance program. Provided, however, that, prior to entering into any contracts with fiscal agents, or extending the current contract, Health shall ensure that such contracts make adequate provision for assuring proper integration of Social Services' responsibilities, including Medical Assistance eligibility determination, fiscal audits, fraud and abuse under this Agreement information systems shall be at a minimum be

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accessible by Social Services and shall permit Social Services, upon notification to Health, to initiate withholding of payments, recoveries, terminations of enrollment and sanctions, as they relate to Medicaid providers. Social Services and Health shall develop procedures for the input and retrieval of information by Social Services related to such system and for the development of reports required by Social Services in its audit and fraud control responsibilities. Social Services shall have the right to disseminate information obtained from such systems in the course of its responsibilities and consistent with federal and state confidentiality requirements.

- H. Social Services shall be responsible for provider fraud control mechanisms including but not limited to "post and clear" and "card swipe". Social Services shall consult with Health during the development of any new initiatives.
- I. Social Services shall be responsible for the development, implementation and monitoring of the Social Services Medical Assistance audit plan. Social Services shall consult with Health in the development of such plan and shall periodically advise Health of the status of all initiatives contained in the plan. All recoveries received by Social Services shall be processed and deposited in a manner to be developed by Social Services and Health.
- J. Social Services shall continue to be responsible for medical support enforcement activities pursuant to the provisions of Title IV-D of the Social Security Act.
- K. Social Services shall continue to be responsible for interaction with local services districts regarding local district Medical Assistance fiscal activities. Such responsibility shall include the processing of administrative and program claims, interception of funds for local district escrow accounts, recoupment of intergovernmental transfer revenue, issuance of disproportionate share payments, and maintenance of local district cost allocation plans.
- L. Health shall be responsible for interaction with other state agencies regarding Medical Assistance claiming and the processing of reimbursement requests. Health shall be responsible for the filing of the Medical Assistance Quarterly Expenditure Report.
- M. Social Services shall be responsible for the administration of the existing training contract with the State University College at Buffalo. Health shall be responsible for all training functions under the contract which are related to Medical Assistance.
- N. Social Services shall be responsible for all Medical Assistance disability determination functions, including establishment of disability policy and, where applicable, review of social service district procedures.

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V. RATES AND FEES

- A. Health shall establish fees, rates and payment methodologies for providers of medical care and health-related services and shall establish the range of acceptable rates of payment for managed care providers, under the Medical Assistance Program. Provided, however, that nothing herein shall be interpreted as affecting the authority of local social services districts or other state agencies to establish rates of payment where such authority existed prior to the date of this Agreement.
- B. Methodologies and levels of payment for physician case management programs, for comprehensive health services programs with special purpose certificates of authority and for special needs plans or programs shall be developed by Health in consultation with the responsible special needs agency.

VI. REPORTS, FORMS AND PROCEDURES

- A. Through cooperative efforts, Social Services and Health shall develop mutually satisfactory forms and procedures for carrying out their respective responsibilities under Title 11 of Article 5 of the Social Services Law and this Agreement. Such forms and procedures shall include those necessary for determining eligibility for Medical Assistance and claiming Federal reimbursement.
- B. Health shall require such reports as are or may be necessary to comply with Federal requirements and Social Services shall do whatever may be necessary to assure that such requirements may be met.
- C1. Health, in consultation with Social Services, shall determine the nature and extent of the information which should be collected from providers and shall design reports required to monitor the health care provided under the Medical Assistance program. Health shall determine the nature and extent of the information which should be collected from providers for the purpose of establishing rates of payment and shall design such reports as are necessary to establish rates of payment and acceptable ranges of payment, including the collection and reporting of encounter data from managed care programs and HMOS. Social Services shall have access to any such information needed to carry out its responsibilities under this Agreement.
- C2. Social Services shall provide advice and assistance to Health in the determination of the nature and extent of information to be collected from and design of reports for social services districts affecting their program and fiscal responsibilities.
- D. In order to effectively monitor the quality and appropriateness of the care provided, to identify patterns of under-utilization or aberrant care practices, to provide information necessary for plan quality assurance and improvement activities, and to streamline multiple reporting activities, Health in consultation with Social

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Services, shall be responsible for the design and implementation of an encounter data system sufficient to meet the needs of the State agencies and social services districts having responsibility for the implementation of the Medical Assistance program. These responsibilities shall include: identification of key clinical and utilization variables, data collection, and maintenance and training and technical assistance to providers. Social Services shall have access to all such data and information.

- E. Health shall be responsible for obtaining data relating to the quality and availability of medical care and health services furnished under the Medical Assistance program and shall have the responsibility for collection of encounter data for the managed care program. Social Services shall continue to collect and process encounter data from providers currently enrolled in the Medical Assistance program until such time as the universal encounter data set is established, new provider agreements are executed with the providers, or Health has assumed responsibility for enrolling providers into the Medical Assistance program. Social Services shall have access to all such data and information.
- F. Health shall provide encounter data and payment reports to Social Services, at such times and in such manner as may be necessary, to enable Social Services to carry out its functions and its responsibilities to supervise the social services districts under the Medical Assistance program and to carry out its functions and responsibilities with respect to financial audits, fraud and abuse, and provider sanctions.
- G. Until such time as Health establishes a formal process for the communication of Medical Assistance policy to social services districts, Health shall have access to existing methods within Social Services for such communications. Communications included under the terms of this paragraph include but are not limited to Administrative Directives, Local Commissioners Memoranda, and the General Information System. Health and Social Services shall cooperate in this regard such that there is no interruption in the flow of Medical Assistance communications to the social services districts. Health shall use best efforts to establish a Medical Assistance policy communications process as soon as practicable.

VII. GRIEVANCE PROCEEDINGS AND APPEALS – RECIPIENTS

- A. As provided for hereinabove and consistent with relevant federal and State law with respect thereto, upon designation by Health, Social Services shall make provisions for hearing appeals by applicants for, or recipients of Medical Assistance with respect to their eligibility for Medical Assistance and any adverse agency action taken with respect thereof; holding fair hearings on such appeals when hearings are requested; recommending final decisions and determinations; issuing final administrative decisions on behalf of Health through staff designated by the Commissioner of Health; and taking such steps as may be necessary to enforce Health's final determinations and decisions.

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- B. Health, as the single state agency, shall decide and issue final administrative decisions on appeals reviewed or heard by Social Services in accordance with the requirements of the Social Services Law and federal law and regulations, as applicable. Health shall designate appropriate individuals in Social Services to issue final administrative decisions on behalf of the Commissioner of Health and to review issued fair hearing decisions for the purpose of correcting any error found in such decisions, including the reopening of a previously closed fair hearing record for purposes of completing such record. Health delegates to Social Services the responsibility for deciding and issuing those decisions in which Medicaid eligibility is dependent upon or is affected by an individual's eligibility for public assistance. Health also delegates to Social Services the authority to respond on its behalf to any correspondence, contacts or inquiries relating to medical assistance hearings which are directed to Social Services, to Health or to the Commissioner of Health.
- C. Health, consistent with its responsibility under the Public Health Law, this Agreement and the federal requirements therefor, shall assure that recipients, who are enrollees in managed care plans under the Statewide managed care program, shall have access to grievance and appeal procedures regarding services by their respective managed care plans, as specified in section 4403(1)(g) of the Public Health Law, 10 NYCRR 98.14 and the federal laws and regulations governing such procedures.

VIII. MONITORING AND ENFORCEMENT OF AGREEMENT

Except as otherwise specified to the contrary herein, Health, in consultation with Social Services, shall establish and implement policies and procedures reasonably necessary to monitor and evaluate the effectiveness and efficiency of the activities performed under this Agreement and the Medical Assistance program, appropriate to its responsibilities under State law and in accordance with applicable requirements of federal law and regulation.

IX. ADMINISTRATIVE PROCEEDINGS – PROVIDERS

- A. Consistent with its responsibilities hereunder, Social Services shall be responsible and have authority for determining the amount of any restitution or administrative penalty due from a managed care plan or other provider, resulting from receipt of overpayment, fraud, abuse, or an unacceptable practice, and other administrative penalties, including but not limited to suspension, disqualification or limitation of such provider's participation in the program. The Commissioner of Social Services, or designees, shall be delegated to perform any and all of the functions and shall have the authority for all actions described in 18 NYCRR Parts 515, 516, 517, and 518 and for the conduct of administrative proceedings to review such actions as described in 18 NYCRR Part 519 including the authority to render a final administrative decision.

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- B. Notwithstanding the foregoing provisions hereof regarding Social Services' responsibilities with respect to fraud and abuse, Health shall retain its jurisdiction with respect to licensure of hospitals, as defined under Article 28 of the Public Health Law, HMOs and home health agencies, and physicians, physician assistants and specialists' assistants.
- C. Health retains its authority regarding any providers' violation of Article 33 of the Public Health Law. This will also pertain when the provider's violations occur when providing services in the Medical Assistance program. For the purposes of effectuating penalties designed to deter violations of Article 33 of the Public Health Law, Social Services shall be responsible for monitoring compliance by Medical Assistance providers with orders issued pursuant to Public Health Law Article 33.

X. CIVIL PROCEEDINGS

- A. Social Services shall have authority in those proceedings involving any provider's violation of Article 33 of the Public Health Law for recovery of such sums of money obtained by a provider or other vendor as the result of fraud, abuse, or unacceptable practice in the Medical Assistance program and to perform such other acts as may be necessary to enforce other civil penalties provided for in law. Social Services shall have primary responsibility and authority for interacting with the Department of Law in the defense of those actions brought against Social Services as a result of a determination made relating to its audit functions and in any action brought seeking recovery of overpayments or penalties identified in an audit or review conducted by Social Services.
- B. Health delegates to Social Services the responsibility and authority to defend state and federal litigation involving appeals of final administrative hearing decisions issued by Social Services staff designated by Health. This delegation shall be limited to cases where the primary issue is whether the decision was based on substantial evidence, or where the fair hearing process itself is challenged, either systematically or in individual cases. Health also delegates to Social Services the authority to approve the payment of attorney's fees by Health in appropriate cases, in the course of settlement negotiations, or where directed by a court's decisions.

XI. CRIMINAL PROSECUTION

Social Services shall be responsible and shall have the authority for the preparation of cases involving fraud, abuse or unacceptable practice in the Medical Assistance program for referral to an appropriate prosecuting agency or agencies. Nothing herein shall be construed as precluding Health from consulting with or referring matters to such prosecuting agency or agencies.

XII. FEDERAL ADVANCES

- A. Health will periodically obtain, in conformity with applicable Federal regulations and practices, advances against Federal funds

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provided for the conduct of the functions and activities herein prescribed and authorized under the Medical Assistance program. Such funds may be received by the State Comptroller and, upon allocation in accordance with applicable provisions of law, shall become available to Health and Social Services in anticipation of Federal reimbursement to which they may become entitled as a result of reasonable and necessary costs incurred in performing the functions authorized by this Agreement.

- B. Health will submit estimates of anticipated costs and entitlement to Federal reimbursement as a result thereof for such periods in accordance with federal requirements. Such costs shall be limited to costs allowable for the functions and activities herein provided in accordance with records maintained by Health or submitted by Social Services, including, but not limited to, the names of employees, salaries paid, hours of performance and specification of such activities; provided, however that where Health or Social Services utilize services or materials in the execution of this Agreement for purposes which include purposes other than those encompassed by Title XIX, the cost of those services or materials shall be claimed for federal financial participation in accordance with one or more cost allocation plans which meet the requirements of OMB Circular A-87 and 45 CFR 95.507.
- C. At such intervals as Health may reasonably require, Social Services will submit a report of its actual expenses in executing the functions and activities authorized under such Title XIX. Health will determine whether such expenditures were necessary for the performance of the functions authorized by this Agreement and will compare such expenditures and Social Services' entitlement to Federal funds, as a result thereof, to the advances received from Federal funds for the period. If Health's examination of such expenditures determines that any such expenditure was not necessary to the purposes of this Agreement, Health shall inform Social Services of such determination. Social Services will be given a reasonable length of time, but not less than thirty (30) days, to justify such expenditures. If Health thereafter finds that such expenses are not necessary to the performance of such purposes, Social Services' entitlement to Federal reimbursement shall be reduced by an amount so determined and subsequent Federal advances adjusted, by increase or reduction, to compensate for such expense and for any difference between entitlements reported for the prior period and the advance for that period.

XIII. STAFFING

- A. As required by Civil Service Law and regulations, Social Services shall identify and assign to Health such staff, who are substantially engaged in functions related to the supervision of the State's Medical Assistance program, in such numbers as may be required to perform the functions assigned to Health under this Agreement. Staff so identified and assigned shall have relevant background, knowledge, skills and abilities necessary to the performance and of such functions and must be acceptable to Health. Staff identified for assignment to Health will have the legally

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prescribed time frames from their notification of assignment to Health to protest such assignment. Health and Social Services shall have joint responsibility for determining the disposition of any such protest.

- B. On an ongoing basis, Social Services and Health shall determine the nature and extent of the staffing needs of each agency with respect to their roles and responsibilities under this Agreement and may develop such staff deployment and redeployment plans to provide for the permanent transfer of such staff as is deemed necessary to effectively perform their respective functions hereunder. Social Services and Health shall effect the permanent reassignment and redeployment of such staff as is deemed necessary to effectively perform their respective functions hereunder in accordance with applicable provisions of the Civil Services Law and related statutes.

XIV. MISCELLANEOUS

- A. Social Services and Health shall observe and require the observance of the applicable requirements relating to confidentiality of records and information and each agrees not to allow examination of records or to disclose information, except as may be necessary for the purpose of obtaining medical care and health services, assuring the propriety of such care and service, or the proper discharge of responsibilities relating thereto, and except as provided by applicable State and Federal laws and regulations.
- B. Social Services and Health shall observe and require the observance of the requirements of Title V of the Civil Rights Act of 1964.

XV. TERMS OF AGREEMENT

- A. This Agreement shall be effective only to the extent that it is found by HCFA to be permitted under applicable Federal law and to the extent that Federal aid is not impaired thereby.
- B. Social Services and Health shall designate specific personnel in each State agency responsible for continuous liaison activities, including regular meetings and summaries thereof provided to the signatories hereto, to evaluate policies that affect the Medical Assistance program.
- C. This Agreement shall run from the date hereof for a period of one year, at which time Health and Social Services shall review the Agreement for any needed changes and jointly plan to incorporate any such changes in the Agreement. If no changes are deemed appropriate, this Agreement shall automatically be renewed upon the same terms for additional periods of one year unless amended in writing by mutual agreement of the parties.
- D. To the extent permitted by law, either party may terminate this Agreement on 30 days advance notice in writing to the other party. If terminated, any funds paid to Health under the provisions of this Agreement which have not been expended or encumbered in

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accordance with the provisions of this Agreement prior to the date on which the Agreement was terminated and property purchased with funds paid to Health under the provisions of this Agreement, shall be accounted for in accordance with standards established by Social Services governing disposition of such property and funds.

- E. This Agreement may be amended from time to time; however, no such agreement shall be effective unless signed by the Commissioners of Health and Social Services and shall be effective only to the extent set forth in Paragraph A. above.
- F. The Memorandum of Understanding entered into between the parties on August 4, 1987 is hereby terminated. Provided, however, such August 4, 1987 Memorandum shall guide the parties in resolving any unforeseen problems or issues arising hereunder and in resolving any ambiguities herein.

Dated at
Albany, New York

NEW YORK STATE DEPARTMENT
OF HEALTH

[handwritten date: 9/30] , 1996

By: [Signed] _____
Barbara A. DeBuono
Commissioner

NEW YORK STATE DEPARTMENT
OF SOCIAL SERVICES

[handwritten date illegible] , 1996

By: [Signed] _____
Brian J. Wing
Acting Commissioner

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Summary of Agreement between New York State Department of Social Services (DSS) and New York State Office of Mental Health (OMH) (within the New York State Department of Mental Hygiene) dated September 29, 1982 and superceding all previous Agreements. Such agreement serves also as a Provider Agreement between the two agencies.

This Agreement makes provision of coverage under Medical Assistance for the following:

- persons under care in a general acute care hospital while on release from an OMH facility
- persons placed in family care on conditional release from an OMH facility
- persons age 65 or older who are in an OMH facility
- persons age 21 or younger who are in an OMH facility or a private not-for-profit facility duly certified for such by the OMH
- persons found in a psychiatric section of a general acute care hospital duly certified by the OMH and the New York State Department of Health

New York State Department of Social Services is responsible for:

1. Furnishing public and/or medical assistance.
2. Established standards of eligibility.
3. Determining eligibility within appropriate time frames.
4. Authorizing public and/or medical assistance.
5. Making provision for appeals and fair hearings.
6. Developing, in cooperation with the OMH, a system of reports to be made periodically to DSS relating to necessary data in connection with medical assistance provided.
7. Observing and requiring confidentiality of all records pertaining to client care.
8. Issuing policy, rules and regulations pertaining to the Medicaid program and for interpretation of the State Plan as the Single State Agency.
9. Forwarding to the OMH, in a timely fashion, any communications relating to OMH's performance or responsibilities as an authorized medical provider.
10. In cooperation with the OMH jointly plan for developing alternate methods of care for the mentally ill.
11. Periodically transferring Federal Funds to OMH under an advance system.

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The New York State Office Mental Health is responsible for:

1. Establishing mental health standards for inpatient and outpatient services furnished by public and private facilities.
2. Requiring adherence by State institutions to such standards.
3. Making application to Social Services for public and/or medical assistance on behalf of patients.
4. The marshalling, exploration and verification of all income and resources of patients.
5. Prompt application to Social Security Administration for appointment of Representative Payee as indicated.
6. Notify Social Services within 30 days of any change affecting eligibility.
7. Maintaining records necessary to fully disclose the nature, amount and duration of services reimbursed by medical assistance.
8. Assuring that each OMH facility has in effect a utilization review plan including medical care evaluations as required by applicable statute and/or regulation.
9. Furnishing DSS with notices of adverse utilization review determinations made on behalf of their facility's patients.
10. Billing DSS only for actual and necessary care rendered.
11. OMH agrees to comply with federally mandated disclosure requirements.
12. Conducting periodic medical reviews either directly or through contract of Medicaid clients need for or continued care in public or private hospital facilities under OMH's licensure.
13. Participation in fair hearings as advisors or expert witnesses.

TN #85-11

Supersedes TN #74-2

Approval Date July 17, 1985

Effective Date April 1, 1985

New York

3

Summary of Agreement between New York State Department of Social Services (DSS) and the New York State Office of Mental Retardation and Developmental Disabilities (within the NYS Department of Mental Hygiene) (OMR/DD) dated April 19, 1993 and April 30, 1993.

The New York State Department of Social Services shall be responsible for:

1. Establishing or revising standards, policies and procedures for determining eligibility for Medical Assistance.
2. Maintaining, through training programs and prompt updating of procedural changes, ongoing responsibility for the eligibility determination process.
3. Determining eligibility within 30 days of receipt of all information necessary to complete such determination from OMR/DD.
4. Maintaining free access to all eligibility documentation gathered by OMR/DD and periodically auditing the documentation to assure the accuracy and completeness thereof, as the basis for eligibility determinations made by DSS; complete system eligibility information shall be maintained by DSS subject to system purges/limitation.
5. Providing fair hearings in accordance with applicable DSS and HHS regulations for Medical Assistance applicants or recipients served by OMR/DD operated or licensed facilities.
6. Submitting amendments to "State Plan" and submitting this agreement as required by federal rules and serving as liaison with respect to all State Plan amendments, issues of compliance, or any other federal inquiry.
7. Entering into written provider agreements for the provision of Medical Assistance to eligible individuals only with providers certified by the Department of Health as meeting applicable standards for the provision of such services under federal and State law, which agreements will be in the form established and approved by DSS and shall comply with federal survey and certification requirements; DSS shall have the right to refuse to enter into such agreements, cancel, or suspend such agreements, with any provider should it determine that such provider is not in compliance with such requirements or that the provider has failed to comply with any of the terms thereof.
8. Providing a printout of annual redetermination cases at least 90 days prior to the expiration of the current authorization period.

TN #93-22

Approval Date September 13, 1993

Supersedes TN #85-11

Effective Date April 30, 1993

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The New York State Office of Mental Retardation and Developmental Disabilities shall be responsible for:

1. Making application for Medical Assistance benefits on behalf of potentially eligible clients, and on behalf of those on release from an OMR/DD facility to receive care in a medical facility, application to be made no later than 30 days after receipt of all information needed to support an eligibility determination by DSS.
2. Marshalling, exploring, developing and verifying all income, resources, third-party benefits, and other eligibility information in order that DSS may accurately determine eligibility.
3. Notifying Social Services immediately upon receiving knowledge of any change that affects eligibility for Medical Assistance.
4. Timely notifying Social Services of any newly certified providers, of those providers which are decertified, and of any changes in addresses, ownership program capacity or otherwise.
5. On request, participating in Fair Hearings as advisors and witnesses.
6. Certifying to DSS that all facilities operated or licensed by OMR/DD for which reimbursement is claimed meet applicable federal standards.
7. Supplying Social Services in a timely manner with any documentation requested hereunder.
8. Conducting utilization review activities, required for all medical care and services including:
 - a. development of forms, criteria, training and technical assistance; approval of UR plans; placement planning, level of care determinations; and assuring that the general federal requirements are met (42 CFR 456.1 – 456.23)
 - b. In the case of ICF/DD/s assuring that, in addition to meeting general federal criteria, they meet requirements of 42 CFR 456.350 – 456.438 as to –
 - (1) Certificate of need,
 - (2) Evaluation and pre-admission reviews,
 - (3) Plan of care,
 - (4) Written UR review plans,
 - (5) Continued stay review,
 - (6) Description of UR review function.

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9. Assuring the Independent Professional Reviews (IPR's) are conducted on a regular basis; consulting with Social Services as to their conduct and the contracting therefor; and initiating corrective action for problems identified thereby.
10. Surveying all facilities and programs under its jurisdiction and periodically evaluating all services for the developmentally disabled delivered under the auspices of these facilities and programs, as pertains to Medical Assistance.
11. Establishing regulations and procedures for all facilities and services under its jurisdiction and consulting Social Services regarding same prior to promulgation or implementation thereof, as pertains to Medical Assistance.
12. To ensure high quality provision of services, providing consultative services through its regional offices (District/Borough Developmental Services Office) to all Medical Assistance services administered by OMRDD.
13. Where appropriate, OMR/DD shall seek recoveries of Medical Assistance and credit such recoveries to DSS.
14. Sharing appropriate training materials with DSS when those materials pertain to the delivery of Medicaid services, so that DSS input can be made.
15. Consistent with the delegation of authority accepted by this agreement, where applicable, OMR/DD will establish reimbursement rates, fees and schedules for residential and non-residential care services in consultation with DSS and with the approval of the State Division of the Budget.

TN #93-22

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Approval Date September 13, 1993

Effective Date April 30, 1993

New York

4

Summary of Agreement between the New York State Department of Social Services (DSS) and the New York State Division of Alcoholism and Alcohol Abuse (within the Department of Mental Hygiene) (DAAA) being dated December 30, 1981.

This agreement relates to the provision of Medicaid benefits to such persons who are admitted for either inpatient or outpatient care and services in facilities that fall under jurisdiction of the Division of Alcoholism and Alcoholism Abuse.

The New York State Department of Social Services shall be responsible for:

1. Establishing standards and criteria of eligibility for Medical Assistance.
2. Authorizing public and/or Medical Assistance.
3. Furnishing public and/or Medical Assistance.
4. Making provisions for appeals and Fair Hearings.
5. Observing and requiring the confidentiality of records according to applicable statutes and regulations.
6. Administering the Medicaid program and verifying the quality and appropriateness of care rendered and reimbursed under this agreement.
7. Reimbursing all allowable and direct and indirect expenditures incurred.

The Division of Alcoholism and Alcohol Abuse either directly or through contract with the Office of Mental Health is responsible for:

1. Developing standards and policy governing the provision of medical care and/or rehabilitation relating to alcoholism.
2. Requiring adherence to such standard in state operated and voluntary operated facilities and settings.
3. Making application to Social Services for public or medical assistance on behalf of its patients.
4. The marshalling, exploring and verification of all income and resources of patients.
5. Maintaining records and reports that disclose the amount and duration of care supplied under the Medicaid program including indirect service costs under the Agreement.
6. Conducting annual periodic medical reviews and quality assurance reviews.
7. Billing Social Services only for actual allowable days of care as services provided under Medicaid.
8. Maintaining with Social Services an accurate and updated list of all providers eligible under Title XIX.
9. Participating in fair hearings as advisor or expert witness.

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Supersedes TN #74-2

Effective Date April 1, 1985

New York

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A. Summary of the Agreement between the New York State Department of Social Services on behalf of the Division of Medical Assistance (DMA) and the New York State Department of Health on behalf of the Center for Community Health (CCH) dated June 12, 1989.

The New York State Department of Social Services shall:

1. Provide local social services with CCH supplied lists and descriptions of current MCH primary and preventive health care programs for CSN (including Maternal and Child Health Block Grant funded programs) operating in the local social services district.
2. Disseminate CCH supplied brochures describing program services and eligibility requirements to local social services districts.
3. Ensure that the local social services districts refer individuals who may be eligible for medical, nutritional or dental services to the local MCH primary and preventive health care programs.
4. Authorize payment of Medical Assistance funds for care, services and supplies covered under the Medical Assistance Program and provided to Medicaid recipients by MMIS enrolled MCH primary and preventive health care and CSN providers.

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5. Coordinate and defend the deferral and disallowance of Medicaid funds associated with the activities of DMA and CCH.
6. Conduct periodic evaluations of local social services districts to ensure that protocols established in accordance with this Agreement are implemented effectively.

The New York State Department of Health shall:

1. Disseminate written information describing the Child/Teen Health Plan (C/THP) and other Medical Assistance services and eligibility requirements to local MCH primary and preventive health care programs and programs for CSN.
2. Provide local MCH primary and preventive health care programs and programs for CSN with DMA supplied brochures describing C/THP and other Medical Assistance services
3. Ensure procedures are in place for referral of all persons who may be eligible for Medicaid benefits but whose eligibility has not been determined.
4. Ensure that MCH primary and preventive health care program providers receiving Medicaid reimbursement for primary ambulatory care services covered by the C/THP program and rendered to C/THP eligibles participate and report

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- such services as Child/Teen Health Plan examinations.
5. Be responsible within limits of the appropriations for payment for care, services, and supplies provided to MCH primary and preventive health care programs and programs for CSN participants not fully eligible for Medical Assistance as found in 18 NYCRR Part 360.
 6. Conduct periodic evaluations of local MCH primary and preventive health care programs and programs for CSN to ensure that the quality of care is accordance with DCH standards.

Jointly the New York State Department of Social Services and the New York State Department of Health shall:

1. Make training programs available to local health care program providers and local social services districts to enable them to coordinate efforts of eligibility determination and increasing access to services.
2. Provide to each other, upon request, available data on clients participating in MCH primary and preventive health care programs and programs for CSN and the Medical Assistance Program.

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Effective Date July 1, 1989

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3. Explore and study the feasibility of conducting special outreach, referral and tracking efforts directed at Medical Assistance eligibles who are either unserved or underserved and may be eligible for MCH primary and preventive health care programs or programs for CSN.
4. Meet annually, and more often as needed, and be responsible for the coordination of planning for effective service delivery, and consideration of new initiatives, and the discussion of any issues or resolution of any problem which may arise under the terms of this Agreement.
5. Ensure that local social services districts and local MCH primary and preventive health care programs and programs for CSN participate as appropriate in these discussions and are informed of any policy changes that occur in accordance with the terms of this Agreement.

Terms of this Agreement:

1. No amendment of the terms of this Agreement shall be valid unless reduced to writing and signed by the necessary parties.

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Effective Date July 1, 1989

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2. This Agreement may be terminated by any of the parties hereto upon 30 days written notice to the other party.
3. This Agreement shall be for a period of two years beginning on the day last appearing and shall automatically be renewed for successive periods of two years, unless there is written notice to the other party of its intention not to renew the Agreement at least 30 days before the end of the current period.

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Effective Date July 1, 1989

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Summary of a revised Agreement, dated January 14, 1983 between the New York State Department of Social Services and the Office of Vocational Rehabilitation (OVR) within the New York State Department of Education relating to medical assistance benefits.

The agreement relates to the joint development of services for the non-blind handicapped and defines the reimbursement responsibilities for each agency when mutually serving the same client.

New York State Department of Social Services is responsible for:

1. Authorizing public and/or medical assistance.
2. Referring applicants/recipients to OVR when rehabilitation needs are indicated.
3. Being payor in the first instance for those whose prescribed services which part of a rehabilitation plan of care, are covered services by Title XIX.
4. Providing funds for care and maintenance to eligible persons served by both agencies.

The Office of Vocational Rehabilitation is responsible for:

1. The provision of vocational rehabilitation services to the non-blind physically and mentally handicapped persons.
2. To develop, restore and/or improve the work capacities of the vocationally handicapped.
3. OVR shall refer to DSS for public assistance, any OVR applicant/client who appears in need of such social services.

OVR and DSS shall jointly be responsible for:

1. Developing financial and service plans for any case receiving both public assistance and rehabilitation services.
2. Establishing a regular visitation schedule in order to maximize resources for mutually sharing clients.
3. Sharing of data and information that would change the eligibility of the mutually shared client for continuing prescribed care or services.
4. Designing training for agency staff and linkage routes for effectiveness and efficiency.
5. Observing client confidentiality rules.

TN #85-11

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Effective Date April 1, 1985

New York
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Summary of Cooperative Agreement between the New York State Department of Social Services and the New York State Superintendent of Insurance, dated January 14, 1985.

There is a joint responsibility of the above parties, including local Social Services districts that upon request to any other third party insurers for necessary information, that such request is only made to determine whether any insurance or other benefits have been or should have been claimed and paid with respect to items of medical care and services received by a particular individual for which medical assistance coverage would otherwise be available.

TN #85-11

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Effective Date April 1, 1985

New York
8

Summary of Agreement between New York State Department of Social Services (DSS) and the New York State Education Department (SED) dated October 25, 1993 and October 12, 1993.

The New York State Department of Social Services shall be responsible for:

- 1) Establishing and revising standards, policies and procedures for administration of "School Supportive Health Services" (SSHS) in the Medical Assistance program.
- 2) Assuring the SED will be informed of all information required to meet any current and new mandates of the Medical Assistance program as they pertain to School Supportive Health Services Program (SSHSP).
- 3) Initiating amendments to the "State Plan" and submitting these to federal Department of Health and Human Services (HHS); and serving as liaison with respect to all State Plan Amendments, issues of compliance, or any other federal inquiry.
- 4) Entering into written provider agreements for the provision of Medical Assistance to eligible individuals only with providers meeting applicable standards for the provision of such services under federal and State law, which agreements will be in the form established and approved by DSS and shall comply with applicable federal requirements. DSS shall have the right to refuse to enter into such agreements with any provider should it determine that such provider is not in compliance with such requirements or that the provider has failed to comply with any of the terms thereof.
- 5) Reviewing and approving curriculum related to SED's training of school districts for the SSHSP.

The State Education Department shall be responsible for:

- 1) Reviewing of school districts' eligibility to become SSHS.
- 2) Providing school districts with training and information on participation in the Medical Assistance Program as SSHSP providers.
- 3) Establishing a system to assure that the school districts bill the Medical Assistance Program only for those types of services which are Medicaid reimbursable.
- 4) Monitoring the school districts' provision of SSHS to children with or suspected of having disabilities in accordance with Part 200 of the Regulations of the New York State Commissioner of Education and Article 89 of State Education Law.

TN #92-42

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Effective Date May 21, 1992

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- 5) Obtaining written assurances from the school districts of their compliance with applicable rules, regulations, policies, standards, fee codes and procedures of the New York State Department of Social Services as set forth in Title 18 of the Official Compilation of Codes, Rules and Regulations of New York State and other publications of the Department, including Medicaid Management Information System Provider Manuals and other official bulletins of the Department and assuring that the local school districts understand and agree that they shall be subject and shall accept, subject to due process of law, any determinations pursuant to said rules, regulations, policies, standards, fee codes and procedures, including, but not limited to, any duly made determination affecting a school district's past, present and future status in the Medicaid program and/or imposing any duly considered sanction or penalty.
- 6) Monitoring school districts' compliance with:
 - documentation requirements of SSHS;
 - the obligation to provide SSHS by appropriately licensed or certified staff who meet Medicaid standards; and
 - other third party insurance requirements.
- 7) Obtaining assurances from each school district to supply DSS with any documentation requested hereunder in a timely manner.
- 8) Obtaining assurances from each school district that it will not seek Medicaid reimbursement for any service paid for with other federal funds.
- 9) Assuring that Federal Medicaid funds are properly matched with State funds.
- 10) Obtaining assurances from each school district that they will not bill Medicaid for services covered by other third party reimbursement.

TN #92-42Approval Date June 2, 1995Supersedes TN NEWEffective Date May 21, 1992

New York

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Summary of Agreement between New York State Department of Social Services (DSS), State Education Department (SED), and the Office of Mental Retardation and Developmental Disabilities (OMRDD).

1. State Education Department will be responsible for:
 - a. SED will reimburse school districts for the cost of education and related services provided to children who reside in an ICF/DD and attend a public school, a Board Cooperative Education Services ("BOCES") program, or a SED approved school not operated by an ICF/DD.
 - b. SED will provide OMRDD with cost data for education and related services for each child residing in an ICF/DD who attend public schools, BOCES, or SED approved school, or SED approved schools operated by ICFs/DDs. Such cost data will be provided on a mutually agreeable time schedule in a format prescribed by OMRDD. SED understands that OMRDD will use this data to develop ICF/DD reimbursement rates which include these and other costs allowable under the Medicaid program.
 - c. SED agrees to be responsible for and to pay to DSS any disallowance taken pursuant to federal and/or state law. SED will recoup such disallowance by allowing OMRDD to adjust the appropriate ICF/DD reimbursement rate to account for such disallowance.
 - d. SED will continue to monitor the education programs provided to children residing in ICFs/DD.
 - e. SED will direct school districts that they cannot access Medicaid reimbursement from the School Supportive Health Services Program ("SSHP") for any child residing in the ICF/DD. SED and DSS will implement procedures to assure that there will be no double billing or double payment for educational and related services provided by school districts to children residing in ICFs/DD.
 - f. SED will transfer to DSS the amount of non-federal share of any and all funds associated with claims for Medicaid from non-state operated ICF/DDs made pursuant to this agreement. The amount of the transfer to DSS will be based upon a contribution by SED of 50% of the estimated cost for education and related services which are part of the ICF/DD rate calculation as determined pursuant to paragraph b above, and reconciled to actual costs based upon adjudicated claims as determined by DSS.
 - g. SED will review for form the contracts between the ICFs/DD and the school districts for education and related services and ensure that OMRDD receives signed copies of all such contracts.

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2. Office of Mental Retardation and Developmental Disabilities will be responsible for:
 - a. After payment is made by DSS through MMIS for all education and related services, OMRDD will recoup from participating non-state operated ICFs/DD the cost of such services provided to children residing in an ICF/DD and receiving education and related services in a public school, BOCES or a SED approved private school not operated by the ICF/DD and any other education costs incurred by a school district responsible for the education of the child from the reimbursement rate (calculated in accordance with paragraph 1(b) above) of the ICF/DD and transfer such funds to SED on a mutually agreeable schedule.
 - b. Upon payment by DSS, OMRDD will transfer to SED the Federal share for any and all Medicaid payments for education and related services provided to children who reside in state operated ICFs/DD and receive educational and related services in public schools, BOCES, or an SED approved private school not operated by a state operated ICF.
 - c. OMRDD will not be responsible for the state share of any Medicaid payment nor be responsible for payment of any Medicaid disallowance, however, in the event of any disallowance, OMRDD agrees to recoup the amount of any disallowance from the ICFs/DD incurring such disallowance by an adjustment to the reimbursement rate calculated in accordance with paragraph 1(b) and in accordance with paragraph 1(c).
 - D. OMRDD will continue to monitor ICF/DD program plans to assure compliance with applicable state and federal ICF/DD requirements.
3. Department of Social Services will be responsible for:
 - a. DSS will pay through the MMIS 100% of the cost of education and related services provided to children resident in non-state operated ICFs/DD, in accordance with reimbursement rates developed OMRDD utilizing data provided by SED in accordance with paragraph 1(b).
 - b. DSS will pay the federal share of the cost of education and related services provided to children resident in state operated ICFs/DD, in accordance with reimbursement rates developed by OMRDD utilizing data provided by SED in accordance with paragraph 1(b).
 - c. DSS shall consider the SED contribution made pursuant to paragraph 1(F) above to represent the full non-federal share contribution, and include all overburden obligations of counties pursuant to Social Services Law at Section 368-a.

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- d. DSS shall hold SED responsible for any and all state and local share obligations incurred for education and (related services rendered under this memorandum.
- e. DSS shall recover from SED the amount of any disallowance associated with any Medicaid payments made to any ICF/DD pursuant to this agreement.
- 4. State Education and the Office of Mental Retardation and Developmental Disabilities will be responsible for:
 - a. Jointly maintain and share data on the location and number of school age persons who reside in ICFs/DD.
 - b. Jointly develop contracts between the ICF/DD and school districts, CRP programs and SED approved schools operated by ICFs/DD.
- 5. This memorandum shall continue in full force and effect until and unless it is terminated.
- 6. This memorandum may be amended only in writing and upon the mutual consent of the parties.
- 7. This memorandum shall be effective on July 1, 1995

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