

## PROVIDER TRADING PARTNER AGREEMENT

This Trading Partner Agreement (hereinafter "Agreement") is made by and between HM Benefits Administrators, Inc. ("Company"), and "Provider", a licensed health care provider further identified on Appendix A attached.

**WHEREAS**, the Company performs certain claims processing and administrative services; and,

**WHEREAS**, Provider renders certain professional health care services ("Services") to members of employer groups and individuals, and submits documentation of those Services to the Company; and,

**WHEREAS**, Provider and the Company (individually, "Party" and collectively, the "Parties") desire to exchange by and through electronic communications, certain Data (as defined below) that may contain protected health information ("PHI") as defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and regulations implemented thereunder (45 Code of Federal Regulations Parts 160-164) ("HIPAA Regulations"); and,

**WHEREAS**, the Parties agree to safeguard any and all PHI or other Data received, transmitted or accessed electronically to or from each other in accordance with HIPAA and the HIPAA Regulations, and desire to set forth in writing their understanding with respect to these communications and the covenant of confidentiality and non-disclosure of PHI or other Data.

**THEREFORE**, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereto agree as follows:

### I. DEFINITIONS

Data. Any information provided and/or made available by either of the Parties to the other that is subject to the requirements of the Electronic Transaction Standards. Such information may include PHI and Proprietary Data.

Electronic Data Interchange ("EDI") Reference Guide. A technical user manual provided by the Company to Provider to assist Provider in preparing and completing electronic data interchange. The Company reserves the right to revise and update the EDI Reference Guide ("Guide") in its sole discretion.

Electronic Transaction Standards. The transaction and code set standards implemented by HHS pursuant to HIPAA and found at 45 Code of Federal Regulations ("CFR") Parts 160 and 162.

HHS. The United States Department of Health and Human Services.

Privacy Standards. The standards for privacy of individually identifiable health information implemented by HHS pursuant to HIPAA and found at 45 Code of CFR Parts 160 and 164.

Individual. The person who is the subject of the Data, as defined by 45 CFR § 160.103.

Proprietary Data. That information used in the Company's business or business practices to which Provider would not otherwise have access but for its contractual relationship with the Company, including but not limited to information systems technologies, practices and operational processes.

Security Standards. The standards for the security of electronic health information implemented by HHS pursuant to HIPAA and found at 45 CFR Subpart C of Part 164.



## II. INTRODUCTION

This Agreement authorizes the Parties to electronically exchange Data, including PHI, through a public or private telecommunications network using language and code sets authorized at 45 CFR § 160 et seq., in an efficient and cost-effective manner without limiting the obligations of each Party as set forth in this Agreement or imposed by applicable law, solely for the purposes set forth herein, in accordance with the terms "Standard" and "Transactions" as defined at 45 CFR § 160.103 (hereinafter aggregated and referred to as "Standard Transactions"), and the privacy standards described and referenced below. Any Data, Proprietary Data or PHI electronically exchanged under this Agreement is to be used and exchanged solely as authorized by HIPAA, and is further subject to the terms and conditions set forth in this Agreement.

## III. TERM, TERMINATION and SUSPENSION

The term of this Agreement shall commence upon its execution. Provider agrees that its ability to transmit, receive or otherwise electronically access Data will cease if Provider or the Company terminates this Agreement.

This Agreement may be terminated by either Party without cause upon sixty (60) days written notice or immediately by either Party for cause. Cause shall include, but not be limited to, breach of any material term(s) of this Agreement, fraud, abuse, and/or failure to protect PHI. Notice of termination may be rescinded by the terminating Party if the other Party successfully cures the breach complained of to the terminating Party's satisfaction. Each Party may also temporarily suspend electronic communications under this Agreement to protect computer or data systems in cases of emergencies, or to perform maintenance. Each Party agrees to minimize the frequency and duration of these temporary suspensions.

## IV. COMPANY OBLIGATIONS

- A. ID(s) and Password(s). Upon execution of this Agreement, the Company will assign logon ID(s) and password(s) to Provider to allow Provider to authenticate its identity and transmit data electronically. The Company shall retain title to all logon ID(s) and password(s) and reserves the right to change any logon ID or password at any time, for any reason, or if required to do so by law, regulation, or court order.
- B. Data. Data the Parties may exchange pursuant to this Agreement may change as a result of changes in law or regulation, or actions taken by an employer group in accordance with the terms and conditions of certain health care benefits contracts, or changes made to those contracts. The Company does not warrant the accuracy of the Data it sends to Provider; acceptance by the Company of the Data Provider sends electronically does not constitute guarantee of reimbursement.

## V. PROVIDER OBLIGATIONS and AUTHORIZATIONS

- A. Provision of Data. Provider may electronically provide the Company with Data, including the minimum necessary PHI (see 45 CFR § 164.502(b)) in accordance with the terms of the Agreement and the Guide. Provider is solely responsible to ensure that the Data it provides the Company is correct.
- B. Logon ID and Password. Provider agrees to protect the Company's logon ID(s) and password(s) from compromise, release or discovery by any unauthorized person, and shall not disclose logon ID(s) and password(s) to any third party in any manner. If a breach of this provision occurs, Provider must notify the Company immediately as set forth in the Guide. Provider acknowledges and agrees that only Provider personnel it designates shall be permitted to use the logon ID(s) and password(s). Provider's use of logon ID(s) and password(s) constitutes an Electronic Signature that confirms Provider's willingness to: remain bound by these terms and conditions and ratify any transaction conducted electronically by the Company.
- C. Provider's Costs. Provider shall assume all its internal costs to transmit, access and receive Data electronically including but not limited to, the costs of computers, terminals, connections, modems, and browsers that have the capability to use HIPAA-mandated code-set Standard Transactions, and the costs of providing sufficient security measures to safeguard receipt and transmission of PHI in accordance with the Privacy Standards (45 CFR § 164.503(c)(1) and, when applicable, the Security Standards. Provider acknowledges that any changes made to Data may impact any reimbursement it receives.
- D. Authorization to Use Data. Provider's use of a Company system or process under this Agreement constitutes authorization and direction to the Company to use PHI or other Data to adjudicate and process health care claims

the Company receives from Provider. Provider may access, receive and transmit only that Data in such format as described in the Guide. No electronic communication will give rise to any obligation until it is accessible at the receiving Party's computer as set forth in the Guide. Provider acknowledges that the Company may disclose the PHI it makes available to the Company concerning Individuals who are members of a plan to the plan sponsor consistent with HIPAA's requirements and the language set forth herein.

## **VI. INDEMNIFICATION**

Each Party shall release, defend, indemnify and hold harmless the other Party, its corporate subsidiaries, affiliates officers, directors, employees, agents, persons, firms, divisions, successors and assigns, against any and all: liability, losses or damages, whether direct or indirect, to person or property; claims; judgments; costs and reasonable attorney's fees; legal action or potential for the same which may result from that first Party's improper use or unauthorized disclosure or use of Data or PHI in violation of this Agreement. Each Party assumes all liability for any damage, whether direct or indirect, to the Data or the other Party's information systems caused by the unauthorized use of such Data or information systems by the first Party, its employees or agents or any third party who gains access to the systems through their acts or omissions. Neither Party shall be liable to the other Party for damages caused by a circumstance beyond its control, including, without limitation: "hackers" who gain access to the system or Data in spite of a Party's compliant security measures, a major disaster, epidemic, the complete or partial destruction of its facilities, riot, civil insurrection, war or similar causes. Neither Party shall be liable to the other Party for any special, incidental, exemplary or consequential damages.

## **VII. COMPLIANCE WITH PRIVACY STANDARDS**

Each Party will develop, implement, maintain and use appropriate administrative, technical and physical Data safeguards, in compliance with 42 U.S.C. § 1320d-2(d), 45 CFR § 164.530(c) and patient confidentiality provisions of applicable state statutes or regulations.

Each Party shall execute trading partner and/or business associate agreements with subcontractors or agents that provide services involving maintenance, use or disclosure of PHI, ensuring that any subcontractors or agents to whom it provides PHI agree in writing to those restrictions that, with respect to such PHI, apply to that individual subcontractor or agent. Each Party agrees that it will not maintain, use, make available or further disclose PHI other than as permitted or required by this Agreement or as required by law.

## **VIII. SYSTEMS AND PERSONNEL SECURITY/UNAUTHORIZED DISCLOSURES**

The Parties shall comply with the Security Standard when so required. On or before the required compliance date of the Security Standards, the Parties will adopt any necessary modifications to their practices for maintaining PHI or transmitting PHI electronically, and shall provide any written assurances required under the Security Standards to prevent unauthorized access to Data. If an unauthorized disclosure of PHI, or the discovery of unauthorized access to and/or tampering with the Data is discovered, the disclosing Party will immediately report to the other Party, using the most expeditious medium available, no later than twenty-four (24) hours after such discovery/disclosure is made, the following information: (i) the nature of the disclosure, (ii) PHI used or disclosed, (iii) the individual(s) who made and received the disclosure, (iv) any corrective action taken to prevent further disclosure(s) and mitigate the effect of the current disclosure(s), and (v) any such other information reasonably requested by the non-disclosing Party. The Parties will cooperate in the event of any litigation concerning unauthorized use, transfer or disclosure of such Data.

## **IX. COMPLIANCE WITH ELECTRONIC TRANSACTION STANDARDS**

When required, the Parties shall comply with each applicable regulation when performing "Standard Transactions." The Parties will not enter into any Trading Partner Agreement related to this Agreement that changes any definition, data condition or use of a data element or segment, nor adds any data elements or segments to the maximum defined data set as proscribed in the Electronic Transaction Standards, and as further proscribed by the Company. (See 45 CFR § 162.915(b)). The Parties further agree that they will neither use any code or data elements marked "not used" or which are not found in the Electronic Transaction Standards' implementation specifications, nor change the meaning or intent of any of the Electronic Transaction Standards' implementation specifications. (See 45 CFR § 162.915(c)(d)).

## **X. NOTICES**

Any notice relating to this Agreement shall be in writing and transmitted by either (i) U.S. Mail, first class, postage prepaid; (ii) facsimile transmission; or (iii) e-mail, to the addresses/telephone numbers/e-mail addresses contained in the Guide. Notices or communications shall be deemed given (a) in the case of transmittal by U.S. mail, on the date of receipt by the addressee and (b) in the case of e-mail or facsimile transmission on the date the e-mail or facsimile is sent.

**XI. RECORDS AND AUDIT**

The Parties shall maintain, in accordance with their document retention policies and applicable law and regulation, and for a minimum of seven (7) years, true and correct copies of any source documents from which they reproduce Data. The Company reserves the right to audit those records and security methods of Provider necessary to ensure compliance with this Agreement or to ensure that adequate security precautions have been made to prevent unauthorized disclosure of any Data.

**XII. SURVIVAL OF PROVISIONS**

Any provision of this Agreement which requires or reasonably contemplates the performance or existence of obligations by either Party after the termination of the Agreement shall survive such termination.

**XIII. ASSIGNMENT**

No right or interest in this Agreement shall be assigned by either Party without the prior written permission of the other Party.

**XIV. GOVERNING LAW**

The construction, interpretation and performance of this Agreement and all transactions under it shall be governed by the laws of the Commonwealth of Pennsylvania, except to the extent federal law preempts them.

**XV. WAIVER OF RIGHTS**

No course of dealing or failure of either Party to strictly enforce any term, right or condition of the Agreement shall be construed as a waiver of such term, right or condition.

**XVI. SEVERABILITY**

If any provisions of this Agreement shall be deemed invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing those invalid or unenforceable provision(s), and the rights and obligations of each Party shall be construed and enforced accordingly.

**XVII. ENTIRE AGREEMENT**

This Agreement and any Manuals, Guides, Exhibits and Attachments thereto shall constitute the entire Agreement between the Parties with respect to the subject matter of this Agreement and shall not be altered, varied, revised or amended except in writing signed by both Parties. The provisions of this Agreement supersede all prior oral or written quotations, communications, agreements and understandings of the Parties with respect to the subject matter of this Agreement.

**XVIII. AGREEMENT TO AMEND**

Notwithstanding anything in this Agreement to the contrary, the Parties acknowledge that the HIPAA Regulations are evolving and, thus, may require amendment to this Agreement to ensure continuing compliance. The Parties agree to amend this Agreement to add terms, conditions or assurances required by the HIPAA Regulations, including the Security Standards. Should the Parties fail to adopt amendments by the effective date of any HIPAA Regulation, this Agreement will be deemed to be automatically amended on such effective date to require both Parties to comply with the requirements of such HIPAA Regulation.

**BY SIGNING BELOW**, the individual with authority to bind each of Party is representing that he/she has read the foregoing Agreement and agrees on behalf of the Party it represents to be bound by it.

**PROVIDER**

\_\_\_\_\_  
Provider Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Business/Provider Name

**HM BENEFITS ADMINISTRATORS, INC.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

The completed agreement should be sent to:

HM Benefits Administrators, Inc.  
Attn: HIPAA EDI Coordinator  
P. O. Box 535059  
Pittsburgh, PA 15253

**Appendix A**  
*Please complete and return with the Trading Partner Agreement.*

**EDI Transaction Sign Up Worksheet**

**1. TRADING PARTNER INFORMATION** \* = required fields

Trading Partner Name*:			
Street Address1*:			
Street Address2:			
City*:			
State*:			
Zip*:			
Contact Name*:			
Telephone Number*:		Extension:	
Office Fax Number:			
Internet E-mail Address:			
Federal Tax ID/Social Security Number*:			

**Trading Partner Type \* (check all that apply)**

- |  |   |
|--|---|
| <input type="checkbox"/> Professional Provider         | <input type="checkbox"/> Institutional Provider       |
| <input type="checkbox"/> Billing Service               | <input type="checkbox"/> Clearinghouse - Professional |
| <input type="checkbox"/> Clearinghouse - Institutional | <input type="checkbox"/> Software Vendor/Developer    |

**2. REQUEST TYPE \***

- Assign a NEW Trading Partner Number
- Update existing Trading Partner - #  and Login

For updated trading partner information, please provide a brief description for the change.

**3. X12 TRANSACTIONS \* (check all that apply)**

<u>837d</u> Dental Claim	<u>837p</u> Professional Claim	<u>837i</u> Institutional Claim	<u>835</u> Remittance Advice	<u>270/271</u> Eligibility Inquiry/Response	<u>276/277</u> Claim Status/Response
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

