

**COUNTY OF MENDOCINO
STANDARD SERVICES
AGREEMENT**

This **Pharmacy Clinical Management Agreement** ("Agreement") is by and between the **COUNTY OF MENDOCINO** (hereinafter referred to as the "COUNTY", "Client", or "PCM Participant" as further described below), and **Keenan & Associates** ("KEENAN"), and **Pharmacy Risk Management, LLC d/b/a US-Rx Care** ("PRM"), hereinafter KEENAN and PRM may be referred to together as the "CONTRACTOR".

WITNESSETH

WHEREAS, pursuant to Government Code Section 31000, COUNTY may retain independent contractors to perform special services to or for COUNTY or any department thereof; and,

WHEREAS, CONTRACTOR is willing to provide such services on the terms and conditions set forth in this Agreement and is willing to provide same to COUNTY.

NOW, THEREFORE it is agreed that COUNTY does hereby retain CONTRACTOR to provide the services described in Attachment "1", and CONTRACTOR accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement, the Additional Provisions attached hereto, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

Attachment 1	Pharmacy Clinical Management Agreement
Exhibit A	Payment Terms
Exhibit B	Mendocino County ePayables Information

The term of this Agreement shall be from November 1, 2020 and shall continue through October 31, 2021.

ATTACHMENT 1

PHARMACY CLINICAL MANAGEMENT AGREEMENT

This **Pharmacy Clinical Management Agreement** ("Agreement") is made and entered into by and between **County of Mendocino** ("Client" or "PCM Participant" as further described below), **Keenan & Associates** ("Keenan"), and **Pharmacy Risk Management, LLC d/b/a US-Rx Care** ("PRM") as of **November 1, 2020** ("Effective Date"). Keenan, Client, and PRM may be referred to individually as a "Party," or collectively as the "Parties."

RECITALS

WHEREAS, Pharmacy Clinical Management ("PCM") is a program designed to assist employers in managing the costs associated with their self-funded employee prescription drug benefit plans;

WHEREAS, PRM is experienced in pharmacy case management services for specialty and non- specialty drugs, and PRM has agreed to make its services available through PCM at preferred pricing;

WHEREAS, Client maintains a self-funded employee prescription drug plan ("Plan") and desires to participate in the PCM; and

NOW, THEREFORE, it is agreed:

AGREEMENT

1. TERM

The term of this Agreement shall be from November 1, 2020, for a period of twelve (12) months until **October 31, 2021** ("**Initial Term**"), unless the Agreement is sooner terminated as provided under Section 11. Upon expiration of the Initial Term this Agreement shall automatically renew for additional one (1) year terms unless notice of non-renewal is given at least sixty (60) days prior to the end of any then-current annual term.

2. SCOPE OF SERVICES

- A. PCM is exclusively available to clients of Keenan, Assured Partners, their respective affiliates, subsidiaries (direct or indirect), and designated marketing partners.
- B. "PCM Participant" is the Client, an employer group, that participates in the PCM program, and where used in the plural refers to all employer groups participating in the PCM program. Client is a PCM Participant for such time as this Agreement is in effect. Like other PCM Participants, Client shall be entitled to access all services offered through PCM.
- C. Keenan shall provide general account management services to PCM Participants, will arrange for and coordinate the services provided through PCM, and will act as liaison between PCM Participants and PRM.

D. Client hereby elects to receive the prescription drug case management services ("Case Management Services") offered by PCM. It is understood and agreed that the Case

Management Services will be provided by PRM, an independent contractor, engaged by Keenan to provide the Case Management Services to PCM Participants, including the Client. Keenan shall have no responsibility or liability for any act or omission of PRM in the performance of the Case Management Services.

3. NATURE OF SERVICES

- A. PCM Participants will implement the Case Management Services for specialty drugs in accordance with Exhibit A.
- B. The relationship of the Parties shall be that of independent contractor and each Party shall at all times remain responsible for its own operational and personnel expenses. Under no circumstance shall any employee of one Party look to the other Party for any payment or the provision of any benefit, including without exception, workers' compensation coverage. Except as may be expressly set forth in or contemplated by this Agreement, neither Party shall have the right to act on behalf of the other, or to bind the other to any contract or other obligation.

4. CLIENT'S DUTIES AND RESPONSIBILITIES

- A. Client shall retain final authority and responsibility for its Plan, including without limitation, compliance with all legal and regulatory aspects of the Plan. It shall be Client's responsibility to identify and make any changes to its Plan documents that may be required as a result of the implementation of a prescription drug case management program as a component of the Plan.
- B. Client shall timely provide, or cause to be provided, any such information under its possession and control, or the possession and control of any third-party performing services for Client, that is necessary for PRM to perform the Case Management Services.
- C. Client shall instruct, order, require, expedite and oversee that any person or entity acting on behalf of the Client that is not a Party to the Agreement (e.g., benefit claims administrator, pharmacy benefit manager, etc.) to make any information or individual available in a timely manner.
- D. Neither Keenan nor PRM shall be responsible for any delay in performance that results from the failure of Client, or any other or any other person or entity acting on behalf of

Client and not a Party to this Agreement (e.g., benefit claims administrator, pharmacy benefit manager, etc.) to make available any information or individual in a timely manner.

- E. Client shall be responsible for all communications to its members to educate and inform of the program as soon as practical prior to the effective date or as Client sees fit.
- F. To the best of Client's knowledge, the information provided by Client, or its representative, for the provision of the Case Management Services shall be timely, accurate and complete when furnished, and may be relied upon without further investigation or review. Client understands that such information will not be audited or verified by Keenan or PRM, and that neither shall have any liability to Client or to any third person for any information provided by Client, or any Client representative.
- G. Keenan has expended considerable time and talent in developing the PCM program, which is part of the Keenan Pharmacy Services Program (KPS program) suite of services, and it is acknowledged that the KPS program contains many unique features that place Keenan at a competitive advantage in the marketplace. Keenan recognizes that Client retains ownership of decisions related to benefits services providers. Keenan has the right to evaluate and ensure, on an ongoing basis, that Keenan's proprietary program information is not accessible to a competing party due to a new or changed circumstances (such as merger, acquisition or a change in Client's benefits broker).

If Client will be making a change, and/or introducing a third-party that is wishes to potentially access or derive the Confidential Information, Client will notify Keenan of such change no later than twenty-four (24) hours before contracting with, engaging or involving the vendor and provide a description of the services or products such vendor provides. Keenan agrees to timely assess and determine whether such third-party may be provided access to Keenan's Confidential Information.

In the event that Keenan, in their sole discretionary judgment, determines that such vendor program is or may be in conflict with, disruptive to or affects the services or products provided under this Agreement, Keenan will inform Client of such threat or concerns, and both Keenan and Client agree to timely address the potential threat or concerns to ensure that Keenan's Confidential Information is protected. Should the Parties not reasonably resolve the potential threat, or any other concerns Keenan reserves all rights including the right to terminate the Agreement with a thirty (30) day notice

5. CASE MANAGEMENT SERVICES

- A. PRM shall furnish, at its own expense, all labor, materials, equipment and other items necessary to carry out the Case Management Services.
- B. PRM shall perform its Case Management Services in compliance with all applicable local, state and federal laws and will obtain and maintain any licenses, permits and/or professional designations or certifications required by law to perform the Case Management Services contemplated by this Agreement.

PRM may use subcontractors to assist in performing the Case Management Services. PRM shall remain responsible for the services provided by any subcontractor.

- C. PRM shall endeavor to process all transactions in a timely manner, but does not warrant or represent that any such transaction shall be completed on the same day as requested.

6. COMPENSATION

- A. The fees payable to PRM for the Case Management Services are as outlined on Exhibit A, attached to and made a part of this Agreement. A portion of the funds retained by PRM will be paid to Keenan as compensation for its services in conjunction with PCM.
- B. Any balance owed by the PCM Participant under this Agreement that is not paid within fifteen (15) days following the due date on the invoice shall be deemed late. Interest on any late payment shall accrue as of the date of the original invoice at the rate of (a) one and a half percent (1½ %) per month, or (b) the maximum interest rate permitted by applicable law, whichever is lower. PRM shall have the right to suspend its Case Management Services and other account management services until late payments are received in full, and Keenan shall have the right to terminate Client's participation in PCM, if any balance owed by Client is more than thirty (30) days late.

7. INSURANCE

Insurance coverage in a minimum amount set forth herein shall not be construed to relieve Keenan for liability in excess of such coverage, nor shall it preclude Client from taking such other action as is available to it under any other provisions of this Agreement or otherwise in law. Insurance requirements shall be in addition to, and not in lieu of, Contractor's indemnity obligations under Section 8 of this Agreement.

Keenan shall obtain and maintain insurance coverage as follows:

- a. Combined single limit bodily injury liability and property damage liability - one million dollars (\$1,000,000) each occurrence.
- b. Vehicle / Bodily Injury combined single limit vehicle bodily injury and property damage liability - five hundred thousand dollars (\$500,000) each occurrence.

Keenan shall furnish to Client certificates of insurance evidencing the minimum levels described above.

8. INDEMNIFICATION

- A. Keenan shall defend, indemnify and hold Client harmless against all claims,

demands, actions, costs (including attorneys' fees) made by the Client or any third-party as a result of the negligence, omission, or willful misconduct of Keenan, its officers, agents and employees in connection with the services provided under this Agreement.

- B. PRM shall defend, indemnify and hold Client harmless against all claims, demands, actions, costs (including attorneys' fees) made by the Client or any third-party as a result of the negligence, omission, or willful misconduct of PRM, its officers, agents and employees in connection with the services provided under this Agreement.
- C. Client shall defend, indemnify and hold harmless Keenan and/or PRM, as applicable, and their respective officers, agents and employees against all claims, demands, actions, costs (including attorneys' fees) made against any of them as a result of the negligence, omissions, or willful misconduct of Client in connection with the specific Case Management Services provided under this Agreement.

9. LIMIT OF LIABILITY

- A. No Party shall be liable to any of the other Parties for any incidental, consequential, special, punitive or other indirect damages, including, but not limited to, damages for economic loss, lost profits, loss of reputation or lost opportunities resulting from a claim, damage or loss or otherwise arising from this Agreement, even if the Party has been advised of the possibility of any such loss and/or such damages.
- B. Each Party's total aggregate liability to any other Party under this Agreement, whether in contract, quasi-contract, tort or otherwise, resulting from claims, demands, actions, costs, or otherwise under this Agreement,

10. DISPUTE RESOLUTION

- A. In the event of any dispute arising out of or relating to this Agreement, such dispute shall be resolved by submission to binding arbitration before Judicial Arbitration & Mediation Services ("JAMS") or ADR Services, at the claimant's choice, in Mendocino County, California, before a retired judge or justice. If the Parties are unable to agree on a retired judge or justice, the selected arbitration service (JAMS or ADR Services) will select the arbitrator.
- B. In any such arbitration, the Parties shall be entitled to take discovery in accordance with the provisions of the California Code of Civil Procedure, but either Party may request that the arbitrator limit the amount or scope of such discovery, and in determining whether to do so, the arbitrator shall balance the need for the discovery against the Parties' mutual desire to resolve disputes expeditiously and inexpensively.
- C. The prevailing Party in any action, arbitration, or proceeding arising out of or to enforce any provision of this Agreement will be awarded reasonable attorneys' fees and costs incurred in that action, arbitration, or proceeding, or in the enforcement of any judgment or award rendered.

11. TERMINATION

- A. Either Client, Keenan, or PRM may terminate this Agreement, by providing

written notice to the other Parties, upon the occurrence of any of the following events:

- i. Without cause or penalty upon sixty (60) days' notice;
 - ii. The dissolution or insolvency of any Party;
 - iii. The filing of a bankruptcy petition by or against a Party (if the petition is not dismissed within sixty (60) days in the case of an involuntary bankruptcy petition);
 - iv. If the application of any law, rule, regulation, or court or administrative decision prohibits the continuation of this Agreement or would cause a penalty to that Party if the Agreement is continued, and if the Agreement cannot be amended to conform to such law, rule, regulation, or court or administrative decision in a manner that would preserve the original intent of the Parties with respect to their rights and duties under this Agreement; or
 - v. By the non-breaching Party if a breach of this Agreement is not cured within thirty (30) days following receipt of written notice of the breach from the non-breaching Party.
- B. The termination of this Agreement for any reason will end Client's participation in PCM.

12. CONFIDENTIALITY

Keenan and PRM shall maintain the privacy and confidentiality of, and shall safeguard against the disclosure, Client's confidential information. For purposes of this Section 12, Confidential Information means any non-public information relating to Client's business activities, and any individually identifiable personal, medical, consumer and/or financial data, information and records. If they have not already done so, Keenan and PRM shall each execute a Business Associate Agreement ("BAA") with the Client, the terms of which will govern the use and disclosure of Protected Health Information ("PHI"), as such term is defined under the Health Insurance Portability and Accountability Act of 1996. Further, if PRM engages subcontractors to assist in the provision the Case Management Services, the subcontractor will be required to execute a BAA which will govern the subcontractor's use and disclosure of PHI acquired as a result of this Agreement. To the extent that Client gains access to any non-public information relating to the business activities of Keenan, and/or PRM, Client shall maintain the confidentiality of such information, and shall not disclose it to any third-party without the written consent of Keenan or PRM, as applicable. Information regarding the pricing of any service offered through PCM is considered Confidential Information subject to this Section 12.

13. GENERAL

- A. Keenan and/or PRM reserve the right to alter or amend the terms and conditions of PCM at any time, including but not limited to the fees or pricing structure with thirty (30) days' notice. The Parties agree to modify or amend the Agreement, pursuant to Section 13.E.

- B. The Agreement, its recitals and all exhibits and amendments attached to the Agreement (incorporated into this Agreement by this reference) contain the entire understanding of the Parties related to the subject matter covered by this Agreement and supersede all prior and collateral statements, presentations, communications, reports, agreements or understandings, if any, related to such matter(s).
- C. The obligations of this Agreement, other than the obligations of Keenan and PRM to perform their respective services and Client's obligation to pay for such services, shall survive the expiration or termination of this Agreement.
- D. This Agreement is made for the benefit of the Parties and is not intended to confer any third-party benefit or right. The enforcement of any remedy for a breach of this Agreement may only be pursued by the Parties to this Agreement.
- E. No modification or amendment to this Agreement shall be binding unless in writing and signed by authorized representatives from all Parties. Any waiver or delay by a Party in enforcing this Agreement shall not deprive that Party of the right to take appropriate action at a later time or due to another breach. This Agreement shall be interpreted as if written jointly by the Parties.
- F. If any provision of this Agreement is determined to be partially or wholly illegal, invalid or unenforceable, then it shall be severed from this Agreement and replaced by a valid and enforceable provision that most closely expresses the intention of the invalid or unenforceable provision. The severance of any such provision shall not affect the validity of the remaining provisions of this Agreement.
- G. No Party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, power outages, failure of computer systems, machinery or supplies, vandalism, strikes, or other work interruptions, or any similar or other cause beyond the reasonable control of either Party. The affected Party shall make a good faith effort to perform under this Agreement in the event of any such circumstances, and full performance shall resume once the cause of the delay has abated.
- H. All notices hereunder shall be in writing and shall be sent to the signatories at the addresses as set forth following their signatures, or to such other individual or address as a Party may later direct. Notices shall be sent via personal delivery, courier service, United States mail (postage pre-paid, return receipt requested), express mail courier, electronic mail, or fax. Notice shall be effective when delivered, or if refused, when delivery is attempted. Notices delivered during non-working hours shall be deemed to be given as of the next business day.
- I. This Agreement may be executed in counterparts and by fax signatures and each shall be deemed to be an original.


- J. Each person signing this Agreement on behalf of a Party represents and warrants that he or she has the necessary authority to bind such Party and that this Agreement is binding upon and enforceable against such Party.

<u>Pharmacy Risk Management, LLC</u>		<u>Keenan & Associates</u>	
<u>Signature:</u>	<i>Taeho Oh</i>	<u>Signature:</u>	<i>Jeffrey Hall</i>
<u>By:</u>	Taeho Oh	<u>By:</u>	Jeffrey Hall
<u>Title:</u>	Chief Pharmacy Officer	<u>Title:</u>	Senior Vice President
<u>Address:</u>	707 Miamisburg-Centerville Rd. #406	<u>Address:</u>	2355 Crenshaw Blvd. Ste. 200
	Dayton, OH 45459		Torrance, CA 90501
<u>Telephone:</u>	(800) 618-8860	<u>Telephone:</u>	(310) 212-0363 Ext: 3222
<u>Attention:</u>	Corporate Development	<u>Attention:</u>	Michele Porter
<u>E-mail:</u>	Taeho@PRMcare.com	<u>Email:</u>	mporter@keenand.com

<u>County of Mendocino</u>	
<u>Signature:</u>	See attached signature page 10
<u>By:</u>	
<u>Title:</u>	
<u>Address:</u>	
<u>Telephone:</u>	
<u>Attention:</u>	
<u>E-mail:</u>	

IN WITNESS WHEREOF

DEPARTMENT FISCAL REVIEW:


DEPARTMENT HEAD 06/04/2021
DATE

Budgeted: ☐ Yes ☒ No

Budget Unit: 0715

Line Item: 862189

Grant: ☐ Yes ☒ No

Grant No.: _____

CONTRACTOR/COMPANY NAME

By: see attached signature page 9 11

Date: _____

NAME AND ADDRESS OF CONTRACTOR:

See page 9 11

COUNTY OF MENDOCINO

By: _____
DAN GJERDE, Chair
BOARD OF SUPERVISORS

Date: _____

ATTEST:

CARMEL J. ANGELO, Clerk of said Board

By: _____
Deputy

I hereby certify that according to the provisions of
Government Code section 25103, delivery of this
document has been made.

CARMEL J. ANGELO, Clerk of said Board

By: _____
Deputy

By signing above, signatory warrants and
represents that he/she executed this Agreement in
his/her authorized capacity and that by his/her
signature on this Agreement, he/she or the entity
upon behalf of which he/she acted, executed this
Agreement

COUNTY COUNSEL REVIEW:

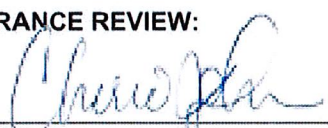
APPROVED AS TO FORM:

CHRISTIAN M. CURTIS,
County Counsel

By: 
Deputy

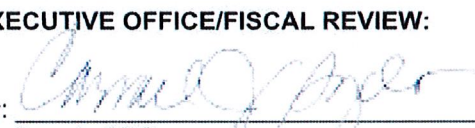
Date: 06/04/2021

INSURANCE REVIEW:

By: 
Risk Management

06/04/2021
Date: _____

EXECUTIVE OFFICE/FISCAL REVIEW:

By: 
Deputy CEO

06/04/2021
Date: _____

Signatory Authority: \$0-25,000 Department; \$25,001- 50,000 Purchasing Agent; \$50,001+ Board of Supervisors

Exception to Bid Process Required/Completed ☐ _____

Mendocino County Business License: Valid ☐

Exempt Pursuant to MCC Section: _____

EXHIBIT A

PRM Fees

The monthly fee for the Case Management Services provided by PRM under this agreement shall not exceed \$4.00 Per Member Per Month ("PMPM"). For purposes of calculating any fees due, the term "Member" means an individual covered by the Client's Plan and the individual's dependents also receiving benefits under the Plan. For example, in the case of a family consisting of an employee, spouse and two children, all of whom are covered by the Plan, the number of "Members" would be four (4) and the fee shall not exceed $\$4.00 \times 4 = \16.00 per month.

EXHIBIT B

MENDOCINO COUNTY EPAYABLES INFORMATION

The County of Mendocino is currently making credit card payments to all of our vendors and suppliers who qualify. To qualify, vendors need to currently accept credit card payments. To achieve this more efficient form of payment, the County has partnered with Bank of America and their ePayables credit card program. This electronic initiative will yield many benefits to its participants:

- Expedited receipt of cash - electronic credit card payments provide cash flow benefits by eliminating mail and paper check float
- Elimination of check processing costs
- Remittance data transmitted with payment for more efficient back-end reconciliation
- No collection costs associated with lost or misplaced checks
- Reduced exposure to check fraud
- More efficient handling of exception items
- Fits with existing accounting software - requires no purchase of software, no modifications to existing accounts receivable system and no change to bank accounts.
- Going green with paperless electronic credit card payments help conserve the environment by eliminating printing and mailing of paper checks.

For information regarding the payment process, please email Auditorap@mendocinocounty.org.

Additional information regarding the Bank of America Program is also available at:

http://corp.bankofamerica.com/business/ci/landing/epayables-vendors?cm_mmc=sb-general_-vanity_-sg01vn000r_epayablesvendors_-na