

# **Whatcom County Substance Use Disorder Treatment Guide**



**2015 – 2016**

**10/01/2016**

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# OVERVIEW OF WHATCOM COUNTY SUBSTANCE USE DISORDER SERVICE SYSTEM

## 1. Statement of Philosophy

The Whatcom County Substance Use Disorder Treatment Program seeks to build an integrated recovery and disease management network. Many opportunities will arise over the next couple of years to usher in a new era of health care. Our network shall ensure connectivity among individual programs and services, both within the local continuum of care and in collaboration with other community health providers. The program seeks relationships with progressive contractors which embrace new concepts such as recovery services and integrated behavioral health treatment.

Providers of services are committed to quality improvement processes that incorporate research-based and best or innovative practices. Research demonstrates the value of retaining people in treatment. People who are retained for 90 days of treatment fair better in their overall recovery. Providers will work to improve engagement and retention of people in treatment to the state averages for adult and youth populations. The County expects new services developed with local dollars to assist agencies in working with clients on a more individualized basis and to help with engagement and retention. The County expects that County-funded service partners will make every effort to assist clients accessing treatment, and in moving to the next level of care and into recovery.

The County and its partners strive to maximize limited resources, in recognition that demand will continue to exceed available resources. Together, we will adapt to the shifting landscape of needs and shifting health care reform, while maintaining a commitment to quality services.

All services are provided without regard to disability, gender and gender orientation, cultural and ethnic background, developmental issues, sexual preference, and religious and nonreligious orientation.

## 2. Contractor Requirements

- A. State Licensure. Contractors shall be licensed by and in good standing with the Washington State Department of Social and Health Services (DSHS), Division of Behavioral Health and Recovery (DBHR). Contractors shall maintain other certifications, licenses, and accreditations, as necessary, to meet the contractual terms of this Agreement.
- B. Staff Qualifications. Contractors shall retain competent staff whose job descriptions, qualifications, orientation, training, and performance comply with WAC 388-877 and 388-810, as applicable.
- C. Sliding Fee Schedule. Contractors shall use the sliding fee schedule for low-income clients contained in this guide. The sliding fee schedule shall be available and accessible to the Contractor's staff and clients.
- D. Consumer Rights. Contractors shall ensure clients are informed of and protected by their rights, as defined in WAC 388-877.

- E. Consent to Treatment and Access to Records. Contractors shall ensure that clients served consent to and have access to their records, in accordance with WAC 388-877.
- F. Confidentiality. Contractors shall ensure the confidentiality of client information in accordance with 42 CFR Part 2, RCW 70.96A.150, WAC 388-877, and all other applicable confidentiality state and federal statutes and regulations.
- G. Medicaid Eligibility. All Contractors shall screen and engage client Health Plan Finder Website <http://www.wahbexchange.org>, or to Whatcom Alliance for Healthcare Advancement (WAHA) to secure benefits for treatment, or to the Community Services Office if appropriate.
- H. Requirements to work with Youth. Chemical Dependency Professional (CDPs) who are working with the youth outpatient treatment population must dedicate 10 of the 40 required Continuing Education credits for CDP recertification to adolescent-specific training or professional development activities.

### 3. Definitions

- a. "American Society of Addiction Medicine Criteria" (ASAM) means clinical guidelines designed to improve assessment and outcomes-driven treatment and recovery services matching patients to appropriate types and levels of care.
- b. "Assessment" means diagnostic services provided by a CDP or CDP trainee under CDP supervision to determine a client's involvement with alcohol and other drugs. See WAC 388-877 & 388-877B for a detailed description of assessment requirements.
- c. "Capacity Management" means a continually updated system for identifying treatment capacity for clients who cannot be admitted and a mechanism for matching clients to treatment programs with sufficient capacity.
- d. "CDP" means Chemical Dependency Professional.
- e. "Criminal Justice Treatment Account Funds" means a state revenue source appropriated for drug and alcohol treatment and support services for offenders.
- f. "Data" means information that is disclosed or exchanged as described by this Contract.
- g. "Date of first contact" means the date a person contacts an agency by any means (walk-in, telephone call, referral through a physician, counselor or CDP, etc.) to request a service when the date for the service is scheduled at the time of the contact.
- h. "DBHR" means the Division of Behavioral Health and Recovery or its successor.
- i. "Dependent children" means children under age 18 living with the parent or through age 20 if enrolled in school and financially supported by the parent.
- j. "Drug Court Funds" means funds appropriated for drug and alcohol treatment and

support services for offenders within a Drug Court Program.

- k. “Ensure” as to this Agreement means to make sure that something will happen or will be available within the resources identified in Exhibit B, A&R.
- l. “Fiscal/Program Requirements” means the new title of the updated version of the formerly titled BARS manual including the DSHS BHSIA/DIVISION OF BEHAVIORAL HEALTH AND RECOVERY/CHEMICAL DEPENDENCY Supplementary Instructions and Fiscal Policy Standards for Reimbursable Costs as used by DBHR located at:  
  
<http://www.dshs.wa.gov/dbhr/daprovider.shtml>
- m. “GAIN-SS” means the Global Assessment of Individual Needs – Short Screener tool for conducting the integrated comprehensive screening for coordinating chemical dependency and mental health issues. The GAIN-SS is completed by the patient and interpreted by a CDP or CDP trainee under CDP supervision.
- n. “Indigent Patients” means those receiving a DSHS income assistance grant (e.g., TANF, SSI) or WA Apple Health. They are usually identified by a Medicaid identification card. Food stamp recipients are not considered indigent patients unless they also receive one of the above grant or medical assistance programs.
- o. “Interim Services” means services offered to an eligible patient denied admission to treatment due to a lack of capacity.
- p. “IDU and IVDU” mean the same population: Injecting Drug User and Intra-venous Drug User. The acronyms may be used interchangeably to refer to a person or patient who has used a needle one or more times to illicitly inject drugs.
- q. “Low-Income Patient” means that individual whose gross household monthly income does not exceed the monthly income determined by 220% of the Federal Poverty Guidelines as eligible for low-income services. These individuals are eligible to receive services partially supported by County Community Services
- r. "Medicaid State Match" means those funds allocated and identified in the Service Rates Plan, from the state Awards provided under this Contract to pay the state's share of the costs of services provided to Medicaid-eligible clients.
- s. “Opiate Substitution Treatment Services” (OST) means provision of treatment services and medication management (methadone, etc.) to individuals addicted to opiates.
- t. “Patient” means individuals who are actively receiving assessment or treatment services.
- u. “P-I-T-A” means Prevention, Intervention, Treatment and Aftercare.
- v. “Pregnant and Post-partum Women and Parenting Persons” (PPW) means
  - (1) Women who are pregnant.

- (2) Women who are postpartum during the first year after pregnancy completion regardless of the outcome of the pregnancy or placement of children.
- (3) Men or women who are parenting children under the age of six, including those attempting to gain custody of children supervised by the Department of Social and Health Services, Division of Children and Family Services (DCFS).
- w. "Substance Use Disorder (SUD)" means a problematic pattern of alcohol/drug use leading to clinically significant impairment or distress as categorized in the DSM 5.
- x. "TARGET2000" means the Treatment and Assessment Report Generation Tool, the management information system maintained by DSHS that retains demographic, treatment, and ancillary service data on each individual receiving publicly-funded outpatient and residential chemical dependency treatment services in Washington State, as well as data on other general services provided.
- y. "Treatment Data" means information input to TARGET to record treatment services provided to patients. This information will be used to verify services identified in A- 19 invoices prior to payment and work towards entering input data into TARGET by the end of 7th calendar day after the date of service.
- z. "Waiting List" means a list of SAPT-qualified clients for whom a date for service has not been scheduled due to a lack of capacity. A person will be selected from the list to fill an opening based on the required order of precedence identified in the Contract.
- aa. "Young adult" means a person or patient from age 18 through age 20.
- bb. "Youth" means a person or patient from age 10 through age 17.

## 2. Applicable Law

This Contract contains links to both DSHS and Federal websites to provide references, information and forms for your use. Links may break or become inactive if a website is reorganized; DSHS is not responsible for links that do not respond as expected.

These legal resources identified below are incorporated by reference and include but are not limited to the following:

- a. 21 CFR Food and Drugs

Chapter 1, Subchapter C, Drugs: General

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=e05a5d3b5c9521fa83bb6cf863ec842d&c=ecfr&tpl=/ecfrbrowse/Title21/21cf\\_rv4\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=e05a5d3b5c9521fa83bb6cf863ec842d&c=ecfr&tpl=/ecfrbrowse/Title21/21cf_rv4_02.tpl)

- b. 42 CFR Subchapter A--General Provisions

Part 2 Confidentiality of Alcohol and Drug Abuse Patient Records

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title42/42cfr2\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title42/42cfr2_main_02.tpl)

Part 8 Certification of Opioid Treatment Programs

[http://www.access.gpo.gov/nara/cfr/waisidx\\_08/42cfr8\\_08.html](http://www.access.gpo.gov/nara/cfr/waisidx_08/42cfr8_08.html)

- c. 45 CFR Public Welfare, Part 96 Block Grants, Subpart L Substance Abuse Prevention and Treatment Block Grant

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=cf5634f82becd9d1bdf1f59a5d478a12&rgn=div5&view=text&node=45:1.0.1.1.54&idno=45#45:1.0.1.1.54.12>

- d. Office of Management and Budget (OMB) links regarding federally required audit requirements A-87, A-122, A-133

[http://www.whitehouse.gov/omb/circulars\\_default/](http://www.whitehouse.gov/omb/circulars_default/) (scroll just over halfway down the page)

- e. Washington Administrative Code, Department of Social and Health Services (WAC) Chemical Dependency assistance programs 388-800, Certification Requirements 388-877 & 388-877B, WorkFirst 388-310

<http://apps.leg.wa.gov/wac/default.aspx?cite=388>

Washington Administrative Code, Department of Early Learning 170.295, 170.296

<http://apps.leg.wa.gov/wac/default.aspx?cite=170>

- f. Revised Code of Washington (RCW)

Counselors 18.19, CDP's 18.205, Regulation of Health Professions 18.130, Abuse of Children 26.44, Public Officers and Agencies 42, State Government (Executive) 43, Rules of the Road 46.61, Uniform Controlled Substances Act 69.50, Treatment for alcoholism, intoxication, and drug addiction 70.96A, Involuntary Commitment 70.96A.140, Developmental Disabilities 71.A, Abuse of Vulnerable Adults 74.34.

<http://apps.leg.wa.gov/rcw/>

- g. Fiscal/Program Requirements (Formerly BARS)



“Fiscal/Program Requirements” means the new title of the updated version of the formerly titled BARS manual including the DSHS BHSIA/DIVISION OF BEHAVIORAL HEALTH AND RECOVERY/CHEMICAL DEPENDENCY Supplementary Instructions and Fiscal Policy Standards for Reimbursable Costs as used by DBHR located at:

<http://www.dshs.wa.gov/dbhr/daprovider.shtml>

### **3. Requirements**

#### **a. Background Checks (RCW 43.43, WAC 388-877 & 388-877B)**

The Contractor shall ensure a criminal background check is conducted for all staff members; case managers, outreach staff members, etc.; or volunteers who have unsupervised access to children, adolescents, vulnerable adults, and persons who have developmental disabilities.

When providing services to youth, the Contractor shall ensure that requirements of WAC 388-06-0170 are met.

#### **b. Services and Activities to Ethnic Minorities and Diverse Populations**

The Contractor shall:

- (1) Ensure all services and activities provided by the Contractor under this Contract shall be designed and delivered in a manner sensitive to the needs of all ethnic minorities.
- (2) Initiate actions to ensure or improve access, retention, and cultural relevance of treatment, prevention or other appropriate services, for ethnic minorities and other diverse populations in need of treatment and prevention services as identified in their needs assessment.
- (3) Take the initiative to strengthen working relationships with other agencies serving these populations.

#### **c. Continuing Education**

The Contractor shall:

- (1) Ensure that continuing education is provided for employees of any entity providing treatment services or prevention activities. (42 USC 300x-28(b) and 45 CFR 96.132(b)). See requirements for billing in Exhibit B of your contract.
- (2) Continuing Education for Youth Counselors

When working with youth, the Contractor shall require that Chemical Dependency Professionals (CDPs) who are working with the youth outpatient treatment population

dedicate 10 of the 40 required Continuing Education credits for CDP recertification to adolescent specific training or professional development activities.

**d. Single Source Funding**

- (1) Single Source funding means that a contractor can use only one source of funds at any given time.
- (2) All treatment services provided to an individual patient during any one period of time must be funded from a sole source of funds.
- (3) The funding designated by the treatment contractor in TARGET defines the single source of funds to be used to fund the treatment services provided to an individual patient under this contract.

**e. Audit Requirements.**

- (1) Contractor Audit
  - (a) If Contractor is subject to OMB Circular A-133, the County shall require a copy of the completed Single Audit and ensure corrective action is taken for any audit finding, per A-133 requirements.
  - (b) If Contractor is not subject to OMB Circular A-133, the County shall perform sub-recipient monitoring in compliance with federal requirements.

**f. Subcontracting:**

- (1) In general, the County does not allow agencies to subcontract for Substance Use Disorder (SUD) services.
- (2) If an agency wishes to subcontract with another entity in the delivery or operations of SUD services, the agency must first, discuss the details of the proposed agreement with the County and second, provide a detailed plan of how the agency expects to conduct audits of the proposed subcontract and provide documentation to the County.

**g. Federal Block Grant Funding Requirements.**

The Contractor shall comply with the following:

- (1) Charitable Choice (42 USC 300x-65 and 42 CFR Section 54)
  - (a) The County ensures that Charitable Choice Requirements of 42 CFR Part 54 are followed and that Faith-Based Organizations (FBO) are provided opportunities to compete with traditional alcohol/drug abuse prevention and treatment providers for funding. Agencies must declare their status as an FBO prior to the making a proposal for

services.

(b) The FBOs must meet the requirements of 42 CFR Part 54 as follows:

- i. Applicants/recipients for/of services shall be provided with a choice of prevention and treatment providers.
- ii. The FBO shall facilitate a referral to an alternative provider within a reasonable time frame when requested by the recipient of services.
- iii. The FBO shall report to the County all referrals made to alternative providers.
- iv. The FBO shall provide recipients with a notice of their rights.
- v. The FBO provides recipients with a summary of services that includes any inherently religious activities.
- vi. Funds received from the federal block grant must be segregated in a manner consistent with Federal regulations.
- vii. No funds may be expended for religious activities.

(2) Notice of Federal Block Grant Funding Requirement

A portion of the funding for this contract may be from the federally funded Substance Abuse Block Grant (SABG) CFDA# 93.959. The amount allocated will be detailed in the contractor's authorization for service. Contractor will be notified of the amount of SABG expended each calendar year.

Funds designated solely for a specific state fiscal year in this contract may be obligated only for work performed in the designated fiscal year.

(3) Peer Review Required (42 USC 300x-53(a) and 45 CFR 96.136)

The SAPT Block Grant requires annual peer reviews by individuals with expertise in the field of drug abuse treatment. At least five percent of treatment providers will be reviewed. The County and contractors shall participate in the peer review process when requested by DSHS.

(4) Identical Treatment

All facilities receiving Federal Block Grant Funding are required to provide the same services to all patients who are financially eligible to receive state or federal assistance and are in need of services. No distinction shall be made between state and federal funding when

providing the following services including, but not limited to:

- (a) Women's services
- (b) Intravenous drug user services
- (c) Tuberculosis services
- (d) Childcare services for parenting patients
- (e) Interim services

**h. Other Requirements**

1. Collaboration with other Systems (42 USC 300x-28 © and 45 CFR 96.132 (c))

The Contractor shall take measures to interconnect and streamline potentially overlapping systems including but not limited to; child protection services, criminal justice, family court, mental health, and primary care health plans Report Forms

**4. Treatment Statement of Work**

**a. Medicaid Rules and Limitations**

The Contractor shall adhere to the following Medicaid rules and limitations.

- I. Designate Medicaid State Match, from state-funded awards that shall be allocated and identified on a County issued Authorization.
- II. Ensure that their designated Medicaid State Match is sufficient to cover their expenditures for covered Medicaid chemical dependency treatment services during the Contract's period of performance.
- III. Ensure covered Medicaid chemical dependency treatment services for Medicaid-eligible patients are not charged as non-Medicaid expenditure. Any such expenditure under this Contract shall constitute an overpayment.
- IV. Maintain a Core Provider Agreement with the Health Care Authority (HCA).
- V. Ensure that policies and procedures are established and utilized to screen all potential Medicaid-eligible patients for Medicaid eligibility, and adhere to those Contractor's policies and procedures.
- VI. Ensure that potential Medicaid-eligible patients are referred to DSHS Community Services Office (CSO), to the Health Plan Finder Website

<http://www.wahbexchange.org>, or to Whatcom Alliance for Healthcare Advancement (WAHA) to apply for medical assistance.

- VII. The Contractor shall charge all covered Medicaid-eligible patient services as Medicaid expenditures through the State's Medicaid payment system, ProviderOne. No subcontracts are allowed under this agreement.
- VIII. With the exception of (x.) below, Title-XIX (Medicaid) eligible patients are not charged any fees for any reason including, but not limited to appointments for:
  - (a) Screening
  - (b) Brief risk intervention therapy
  - (c) Interim services
  - (d) Assessments
  - (e) Individual sessions
  - (f) Group sessions
- IX. The County does not reimburse for services titled Alcohol and other Drug Information School (ADIS).
- X. The Contractor and the County acknowledge that the amount identified in the Contract Authorization as the Medicaid Set-aside is an estimate which will require periodic review based on the flow of patient eligibility categories; the Contractor and the County shall work together when updating the amount of set-aside.

**b. Outpatient Treatment (WAC 388-877 & 388-877B)**

The Contractor shall ensure outpatient substance use disorder services are provided to eligible patients according to the requirements identified in WAC.

**c. Other treatment – Access to Services**

Subject to availability of funds, treatment services to eligible persons shall not be denied regardless of their:

1. The person's drug(s) of choice.
2. Use of legally prescribed medications.
3. The fact that that a person is using over the counter nicotine cessation medications or actively participating in a Nicotine Replacement Therapy regimen.
4. Washington State resident's County of residence. The Contractor shall, subject to available funds and service availability, serve all eligible Washington State residents who may be transient and require services.

**d. Interim Services (42 USC 300x-23 and 45 CFR 96.126)**

- (1) Ensure interim services are provided by the agency, or referred outside the agency for services the agency is not qualified to provide, for pregnant and parenting women and intravenous drug users.
  - (a) Interim services shall be made available within 48 hours of seeking treatment for pregnant and parenting women and intravenous drug users.
  - (b) Admission to treatment services for the intravenous drug user shall be provided within 14 days after the patient makes the request, regardless of funding source.
  - (c) If there is no treatment capacity within 14 days of the initial patient request, the Contractor shall have up to 120 days, after the date of such request, to admit the patient into treatment, while offering or referring to interim services within 48 hours of the initial request for treatment services. Interim services must be documented in TARGET and include, at a minimum:
    - i. Counseling on the effects of alcohol and drug use on the fetus for the pregnant patient.
    - ii. Prenatal care for the pregnant patient.
    - iii. Human immunodeficiency virus (HIV) and tuberculosis (TB) education.
    - iv. HIV or TB treatment services if necessary for an intravenous drug user.

The interim service documentation requirement is specifically for the admission of priority populations with any funding source; and any patient being served with SAPT (also known as SABG) Block Grant funds.

- (2) A pregnant woman who is unable to access residential treatment due to lack of capacity and is in need of detoxification, can be referred to a Chemical Using Pregnant (CUP) program for admission, typically within 24 hours.

**e. Waiting List and Initial Appointment Requirements**

All publicly funded agencies shall:

- (1) Collect patient information as required on the DBHR TARGET Data Elements Waiting List-First Contact form, DSHS Form #04-444.
- (2) Enter the "Date of First Contact" into TARGET, at least every seven (7) days, by collecting data at the time the patient first contacts the agency to request services and is given a specific date for when services will begin.

**f. Tuberculosis Screening, Testing, and Referral**

42 USC 300x-24 (a) and 45 CFR 96.127

(1) The Contractor shall either directly, or through arrangements through other entities, make tuberculosis services available to each individual receiving chemical dependency treatment funded through the federal SAPT Block Grant. Services must include tuberculosis counseling, testing, and treatment.

(a) Follow the Centers for Disease Control TB Guidelines located at:  
<http://www.dshs.wa.gov/pdf/dbhr/certforms/TB-TAGuidelines.pdf>

(b) Follow the Tuberculosis Infection Control Program Model Policies for Chemical Dependency Treatment Agencies in Washington State, located at:  
<http://www.dshs.wa.gov/pdf/dbhr/certforms/TBPolicy.pdf>

(2) WAC 246-101-101 requires all health care providers to report every case of tuberculosis to the local health department immediately at the time of diagnosis or suspected diagnosis.

**g. Determine Patient Financial Eligibility: Low-income Services**

(1) The Contractor shall ensure that all persons applying for services supported by County Community Services are screened for financial eligibility and shall:

(a) Conduct and document an inquiry regarding each patient's continued financial eligibility no less than once each month.

(b) Document the evidence of each financial screening in individual patient records.

(c) Refer clients to Health Plan Finder Website for eligibility determination at  
<http://www.wahbexchange.org> Health Plan Finder Website

(2) Low-income

Contractor shall determine financial eligibility for patients.

**Charging Fee Requirements – Low-income Patients**

(a) If any service defined in this Contract is available free of charge from the Contractor to persons who have the ability to pay, the Contractor shall ensure the County is not charged for low-income patients.

(b) The Contractor shall ensure that persons who have a gross monthly income (adjusted for family size) that does not exceed the 220% of the Federal Poverty Guidelines are eligible to receive services partially supported by funds included in this Contract. The Contractor shall use the following Low Income Service Eligibility Table to determine the fees for low-income eligible services.

## Gross Monthly Income and Percent of FPL by Family Size

		A	B	C	D
Federal Poverty Level		up to 150%	151-175%	176-200%	201-220%
Family Size	Annual				
1	\$11,770	\$1,471	\$1,716	\$1,962	\$2,158
2	\$15,930	\$1,991	\$2,323	\$2,655	\$2,921
3	\$20,090	\$2,511	\$2,930	\$3,348	\$3,683
4	\$24,250	\$3,031	\$3,536	\$4,042	\$4,446
5	\$28,410	\$3,551	\$4,143	\$4,735	\$5,209
6	\$32,570	\$4,071	\$4,750	\$5,428	\$5,971
7	\$36,730	\$4,591	\$5,356	\$6,122	\$6,734
8	\$40,890	\$5,111	\$5,963	\$6,815	\$7,497
For family units with more than 8 members add \$347 for each member					
		A	B	C	D
Sliding Fee Scale		Patient Payment			
per Assessment		\$2.00	\$3.00	\$4.00	\$5.00
per Individual session		\$2.00	\$3.00	\$4.00	\$5.00
per group session, regardless of hours		\$2.00	\$3.00	\$4.00	\$5.00

- (c) The Contractor shall charge fees in accordance with the Low-income Service Eligibility Table to all patients receiving assessment and treatment services that are determined through a financial screening, to meet the requirements of the Low-income Service Eligibility Table.
- (d) If a Contractor determines that the imposition of a fee on an individual will preclude the low-income eligible patient from continuing treatment, the fee requirement may be waived by the Contractor.
- (e) The minimum fee per counseling visit is \$2.00. The maximum fee per service is the reimbursement cost of the service provided in Exhibit C of the contract (Outpatient Substance Abuse Treatment Rates).
  - i. Indigent patients are exempt from this fee requirement.
  - ii. Interim Services are exempted from this fee requirement.

### **h. Screening and Assessment**



The Contractor shall ensure that:

- (1) The GAIN-SS screening tool shall be used for conducting the integrated comprehensive screen on all new patients and the GAIN-SS scores shall be documented in TARGET.
- (2) If the results of the GAIN-SS are indicative of the presence of a co-occurring disorder, this information shall be considered in the development of the treatment plan including appropriate referrals.
- (3) Documentation of the quadrant placement during the assessment process and again upon discharge are entered into the TARGET database.
- (4) The maximum number of DBHR-funded assessments provided to each client, within a one (1) year period, is two (2). In the event an additional medically necessary assessment is required, contact the County Contract Administrator for an exception.

**i. Withdrawal Management**

- (1) The approved Contractor may provide withdrawal management services to patients qualifying for those services.
- (2) The Contractor shall ensure that facilities have a protocol established on how they will serve methadone patients who need withdrawal management from other substances.
- (3) Withdrawal Management specific services are described in a separate contract, but all eligibility, income and other requirements apply as indicated by that contract.

**j. Youth Outpatient Services (WAC 388-877 & 388-877B)**

(1) Service Eligibility

The Contractor shall ensure:

- (a) Services are provided to youth ages 10 through 17.
- (b) The age at which a youth may self-refer for treatment without parental consent is 13 years of age.
- (c) Patients under age 10 may be served with the approval of the County and DSHS.
- (d) Young adult patients, age 18 through 20 who, based on developmental needs, may be more appropriately served in a youth outpatient treatment setting. The case file shall contain documentation supporting the clinical decision.
- (e) The case files of youth served in an adult setting shall contain documentation

supporting the clinical decision to place the youth in an adult setting.

(2) Youth Family Support Services

(a) The Contractor shall ensure that young adults who have been approved for youth treatment shall be billed as youth patients.

(b) Youth funds may be used for family support services using Fiscal/Program Requirements codes (BARS Codes) including:

i. 566.57 Youth Group Therapy (youth and young adults ages 10 through 20).

ii. Services to family members of persons admitted to treatment and costs incurred to provide supervised recreational activities in conjunction with a chemical dependency outpatient program. Family Services shall be coded as family support services and Supervised Therapeutic Recreation shall be coded as group therapy.

iii. 566.58. Youth Individual Therapy (youth and young adults ages 10 through 20).

This also includes services to family and significant others of persons in treatment. These expenses should be coded as defined in the TARGET Data dictionary.

(3) The Contractor shall ensure Fiscal/Program Requirements coding instructions are followed for billing purposes.

(4) Title-XIX funding for youth in treatment

The Contractor shall ensure:

(a) Treatment services provided to youth are billed under Title-XIX unless the youth is determined to be ineligible for this funding.

(b) Documentation identifying a youth as ineligible for Title-XIX is documented within the patient case file.

(5) Early Periodic Screening, Diagnosis, and Treatment (EPSDT) Services

The Contractor shall refer Title-XIX eligible youth that have not previously received an EPSDT health screen to an EPSDT primary health care provider for an EPSDT health screen.

(6) Assessment Services

The Contractor shall ensure that each youth receives a multi-dimensional assessment per Chapter 388-877 & 388-877B WAC: Requirements for substance use disorder assessments.

(7) Treatment Services

For youth that meet the financial and eligibility standards for publicly-funded chemical dependency treatment services the Contractor shall ensure:

- (a) Youth outpatient services include treatment appropriate for substance use disorder mild in addition to substance use disorder moderate and severe.
  - (b) Youth outpatient services address the needs of youth waiting for placement in youth residential treatment, and youth requiring aftercare following youth residential treatment.
  - (c) Their agency is involved in the continuum of services and the treatment planning for youth they have referred to residential treatment programs.
- (8) Youth Outpatient Services, described in the Statement of Work above, will be delivered in accordance with the DSHS Guiding Principles listed below:

Guiding Principles for Youth Services

- (a) Family and Youth Voice and Choice: Family and youth voice, choice and preferences are intentionally elicited and prioritized during all phases of the process, including planning, delivery, transition, and evaluation of services.
- (b) Family-focused and Youth-centered: Services and interventions are family- focused and child-centered from the first contact with or about the family or child.
- (c) Team-based: Services and supports are planned and delivered through a multi-agency, collaborative teaming approach. Team members are chosen by the family and connected to them through natural, community, and formal support and service relationships. The team works together to develop and implement a plan to address unmet needs and work toward the family's vision.
- (d) Natural Supports: The team actively seeks out and encourages the full participation of team members drawn from family members' networks of interpersonal and community relationships (e.g. friends, neighbors, community and faith-based organizations). The recovery plan reflects activities and interventions that draw on sources of natural support to promote recovery and resiliency.
- (e) Collaboration: The system responds effectively to the behavioral health needs of multi-system involved youth and their caregivers, including children in the child welfare,

juvenile justice, developmental disabilities, substance use disorder treatment, primary care, and education systems.

- (f) Culturally Relevant: Services are culturally relevant and provided with respect for the values, preferences, beliefs, culture, and identity of the youth and family and their community.
- (g) Individualized: Services, strategies, and supports are individualized and tailored to the unique strengths and needs of each youth and family. They are altered when necessary to meet changing needs and goals or in response to poor outcomes.
- (h) Outcome-based: Based on the family's needs and vision, the team develops goals and strategies, ties them to observable indicators of success, monitors progress in terms of these indicators, and revises the plan accordingly. Services and supports are persistent and flexible so as to overcome setbacks and achieve their intended goals and outcomes.

**k. Intravenous Drug Users Outpatient Services (IVDU)**

(42 USC 300x-23 and 45 CFR 96.126)

- (1) Outreach is provided to IVDUs. The County meets this federal requirement with an opiate outreach program provided through by an opiate case manager, except that:
  - (a) Outreach activities shall be specifically designed to reduce transmission of HIV and encourage IVDUs to undergo treatment.
  - (b) Outreach models shall be used, or if no models are available which apply in the local situation, an approach is used which reasonably can be expected to be an effective outreach method.
  - (c) Outreach activities may include:
    - i. Street outreach activities
    - ii. Formal education
    - iii. Risk-reduction counseling at the treatment site
- (2) Agencies are required to ensure risk reduction counseling to IVDUs and formal education about the risk of infection and symptoms associated with diseases spread through blood borne pathogens.
- (3) Assessment and treatment services are provided to IVDU patients (42 USC 300x-22 and 45 CFR 96.128)

- (a) Comprehensive substance use disorder assessment and treatment services shall be provided to male and non-pregnant women no later than 14 days after the service has been requested by the individual.
- (b) Interim Services are provided to male and non-pregnant women if the patient cannot be placed in treatment within 14 days and comprehensive services are not immediately available.

## **I. Pregnant, Post-partum and Parenting Persons Outpatient Services**

The Contractor shall ensure:

### **(1) Parenting Persons**

- (a) Persons Identified as Parents or Parenting Persons include:
  - i. Persons currently under DSHS supervision who are attempting to regain custody of their children.
  - ii. Postpartum women for up to one-year post delivery.
- (b) Low-income eligibility applies to women who are pregnant or post-partum up to one year post delivery.
- (c) Contractors who are receiving SAPT grant funding give admission preference to pregnant and parenting persons who have been referred to treatment.
- (d) Upon request for services, pregnant, post-partum and parenting persons shall be offered Interim Services when comprehensive services are not immediately available.
- (e) Whenever possible, assign gender specific counselors as primary counselors for pregnant, postpartum, and parenting patients.
- (f) Make information/education available to treatment staff for addressing the specific issues related to pregnant, postpartum, and parenting patients.

### **(2) Substance Use Disorder Assessment Services to Pregnant Women**

The Contractor shall ensure assessment requirements in addition to standard assessment services:

- (a) Are provided within 48 hours of referral or request for services.
- (b) Include a review of the gestational age of fetus, mother's age, living

arrangements and family support data.

(c) Pregnant women identified through assessment to be eligible and appropriate for outpatient care shall be:

- i. Admitted to outpatient treatment services no later than seven (7) days after the assessment has been completed.
- ii. Provided a referral for prenatal care, if needed.
- iii. Assessed as priority for placement in an inpatient treatment program or a Chemical Using Pregnant (CUP) detoxification facility if identified as actively using alcohol or other substances in any stage of pregnancy.

(3) Services Specific to Pregnant Women and Women with Children (CFR Title 45, Part 96.124)

The Contractor shall ensure:

- (a) Pregnant women and women with children receiving treatment are treated as a family unit.
- (b) Provided directly or make arrangements for provision of the following services, when needed:
  - i. Primary medical care for women, including referral for prenatal care and, while the women are receiving such services, child care.
  - ii. Primary pediatric care including immunization for their children.
  - iii. Gender specific substance use disorder treatment and other therapeutic interventions for women which may address issues of relationships, sexual and physical abuse and parenting are provided and child care while the women are receiving these services.
  - iv. Therapeutic interventions for children in custody of women in treatment which may, among other things, address their developmental needs, their issues of sexual, physical abuse and neglect.
  - v. Sufficient case management and transportation to ensure women and their children have access to services provided by sections i. through iv.

(4) Services Specific to Post-partum Women.

The Contractor shall ensure:

- (a) Assessment and treatment services are provided within 14 days after the service has been requested.
- (b) Interim services shall include counseling on the effects of alcohol and drug use on the fetus.
- (c) Services may continue to be provided for up to one year postpartum.

(5) Services Specific to Parenting Persons

The Contractor shall ensure:

- (a) Assessment and treatment services are delivered no later than 120 days after the service has been requested.
- (b) Notification of the availability of childcare.

### **Locally Funded Services**

For the following locally funded services\*, please see Contract Exhibit C “Compensation” or the LST Tracking July 2014 for detailed information on billing documentation and TARGET data entry instructions.

#### **j. \*Enhanced Case Management**

Services designed to retain clients in treatment. Includes all services covered under case management.

Any contact (over the phone or in person) with another case manager, healthcare partner, or professional designed to coordinate care is considered Enhanced Case Management.

Enhanced Case Management must meet the following criteria:

- Services must be provided by a Chemical Dependency Professional (CDP) or a CDP Trainee under the supervision of a CDP or a person of higher education with clinical experience.
- Clinical necessity for care coordination must be documented in the treatment plan and progress notes.
- Services are not intended to pay for internal staffing or paperwork.

#### **k. \*Individual Engagement Therapy**

Individual Engagement Therapy is defined as any client contact over the phone by a clinician that is intended to motivate the client, to intervene with unhealthy behaviors, or to encourage a therapeutic relationship with the client. Services can be provided before client admission to treatment. Services must be provided by a Chemical Dependency Professional (CDP) or a CDP

Trainee under the supervision of a CDP or a person of higher education with clinical experience. Time spent writing one letter intended to re-engage a client in treatment will count towards progress.

For services provided prior to treatment:

- Service will be logged in an Engagement Log including the following information: client identification, date of service, hours of service in 15 minute increments, and motivational strategy used.
- The use of these services prior to treatment should include the following when appropriate. (Same as for Interim Services)
  - Counseling on the effects of alcohol and drug use on the fetus for the pregnant patient.
  - Prenatal care for the pregnant patient.
  - Human immunodeficiency virus (HIV) and tuberculosis (TB) education.
  - HIV or TB treatment services if necessary for an intravenous drug user.

For services provided after admission to treatment:

- Service shall be documented in the client progress note and tie back to the treatment plan.

## **I. \*Opiate Addiction Treatment Services (OATS)**

Services by a Physician:

This service is established to cover outpatient sessions provided by a physician for the evaluation and medication management of a patient who meets criteria for opiate dependence. The evaluation must include a history and an examination sufficient to document the need for service. OATS can only be provided by a physician who is federally certified to prescribe buprenorphine through an office-based practice. The physician shall observe federal, state, and local regulations regarding the practice of prescribing medication for the purposes of treating addiction. The physician must be in "good standing" with the state of Washington, Department of Health.

Billing by an Agency:

These services can be billed for low income clients who have no other insurance, including Medicaid. Clients must be admitted to a public funded state certified, Whatcom County-contracted chemical dependency treatment agency, which has incorporated a sliding fee schedule as required by the state. The reimbursement rate covers only the services provided by the physician. Clients are responsible for any and all medication costs once a prescription is issued by the physician.

Limitations on Authorized Services

OATS physician services can be billed for up to 6 months from the date of admission to the treatment facility. Agencies can request a waiver from the county for clinical necessity to receive a one-time extension of six additional months. The waiver must be submitted at least 15 days in advance of the waiver start date. The client file must document ongoing client need for treatment by a physician during both the initial period of treatment and for any ongoing approved treatment.



Agencies shall verify that only residents of Whatcom County are served by obtaining a copy of the driver's license and a current bill from the same address.

**m. \*Family Group Services**

This service is a professionally facilitated support group for family members of individuals who are chemically dependent and receiving services from the treatment agency. The service allows families in the community with no other resources to receive initial support for family addiction dysfunction.

The primary goal of this service is to assist parents, children, siblings or significant others to understand and cope with family dysfunction and the dynamics caused by addiction. The secondary goal is to engage the families in community resources (i.e. self-support groups, family and individual counseling.)

Services may include facilitation of a support group and providing information to assist families with changing dysfunctional roles and dynamics towards healthier coping behavior.

Assessments of group participants are not required as there are no on-going therapeutic services. On-going family and individual therapeutic services should be referred to community mental health providers. Family members may attend up to 12 group sessions.

The group must be facilitated by a Chemical Dependency Professional or licensed mental health professional with experience facilitating groups. The agency will maintain a file on each family (a family is considered a client) with notes for each group session.

Whatcom County residency must be verified for each client (head of household) by copying the Driver's license and a current bill from the same address.

**n. \*Continuing Education**

Continuing education provided to clinical staff should emphasize improving clinical competence and effectiveness with client populations. Priority is given to non-supervisory staff. Training in fidelity-based treatment practices and integrated medical and mental health care is strongly encouraged. Continuing Education funds shall be used only for trainings which are attended in person. Agencies are expected to promote equitable distribution of continuing education funds amongst direct services staff.

Restrictions on the use of training/continuing education funds:

- Eligible expenses include continuing education training for Chemical Dependency Professionals and Trainees.
- Covered trainings include only those accepted by the Washington State, Department of Health (DOH) Professional Licensing for continuing education requirements with restrictions noted below.
- May only be used for continuing education trainings within the state of Washington; out of state training is prohibited. Exceptions may be granted with prior approval by the County Administrator for trainings that occur in Portland, Oregon or British Columbia.

- Shall not be expended on agency/staff retreats, or support for planning or development of a conference.
- Shall not be used for any of the following; practicum, serving on panels or committees, public presentations, publication of writings or for basic trainee education as required by DOH.

Training is provided at the rate of up to \$2,000 per FTE, \$1000 per part time FTE.

**o. \*Animals as Natural Therapy for Youth**

The Contractor will partner with Animals as Natural Therapy (ANT); a Whatcom County non-profit organization dedicated to providing healing programs; to provide an eight week program for youth that will combine traditional outpatient substance abuse group therapy sessions with group therapy at Windy Acres, a 5-acre farm located at the edge of Bellingham. Four to eight youth will participate in each program. Participants will be 10-17 years old and will be selected from youth already involved in intensive outpatient or youth outpatient treatment programs or those returning from inpatient treatment. The program will include a two-hour group therapy session one day a week alternating between sessions in the Contractor's traditional treatment facility and at the Animals as Natural Therapy farm, with 4 sessions at each location. The program will be staffed by a CDP or CDPT with the addition of two instructors certified by Professional Association of Therapeutic Horsemanship International as well as licensed mental health counselor when at the ANT facility. Program goals include improving youth self-awareness in recovery, gaining self-esteem and emotional regulation, engaging in treatment, as well as building supportive community connections. Each participant will complete a pre and post survey to assess program effectiveness. A summary of survey results will be provided to the County within 4 weeks from program conclusion.

**p. Performance-based Goals**

The Contractor shall make progress toward, meet or exceed the statewide average 90 day retention rate as determined by DSHS. The 90-day retention performance measure will be determined by using a rolling 6-month average and be monitored on a monthly basis through SCOPE or a report generated by DSHS. Baseline outcomes for completion will be set according to the Contractor's past performance.

For purposes of this contract the word "progress" means achieving a minimum improvement increase of 1.5% in a fiscal quarter.

(6) Youth

- (a) Effective July 1, 2015, if the Contractor's baseline is in good standing at or above the statewide goal of 76.2% for 90-day retention, the Contractor shall maintain good standing.

If, during any monitored calendar quarter, the Contractor falls below the statewide goal, the

Contractor shall follow the process for correction in Section “r.” below.

- (b) Effective July 1, 2015, if the Contractor’s baseline for 90-day retention performance is lower than the statewide goal, the Contractor shall increase the 90-day retention performance rate by 10% of their individual baseline or reach the statewide goal, by the end of the fiscal contract year.

If, during any monitored calendar quarter, the Contractor does not demonstrate progress towards the expected 90 day-retention goal, the Contractor shall follow the process for correction in Section “s.” below.

(7) Adult

- (a) Effective July 1, 2015, if the Contractor is in good standing at or above the statewide average of 70.7% for 90-day retention, the Contractor shall maintain good standing.

If, during any monitored calendar quarter, the Contractor falls below the statewide goal, the Contractor shall follow the process for correction in Section “r.” below.

- (b) Effective July 1, 2015, if the Contractor’s baseline for 90-day retention performance is lower than the statewide goal, the Contractor shall increase the 90-day retention performance rate by 10% of their individual baseline or reach the statewide goal, by the end of the fiscal contract year.

If, during any monitored calendar quarter, the Contractor does not demonstrate progress towards the expected 90 day-retention goal, the Contractor shall follow the process for correction in Section “s.” below

**q. Performance falling below the statewide goal**

If performance outcome falls below the statewide goal or performance expectation within a calendar quarter, as determined through SCOPE or report generated by DSHS, the Contractor shall:

- (1) Submit a Performance Improvement Plan (PIP) to the County within 45 days of notice by the County.
- (2) Have 90 days to return to the original individual 90-day retention baseline percentage.
- (3) Submit an updated PIP requesting an additional 90 days for performance improvement to the County, if after the original 90 days, the 90-day retention baseline percentage has still not been reached.

**r. Performance starting below the statewide goal**

If performance outcome does not demonstrate progress toward the expected rate for 90-day retention within a calendar quarter, as determined through SCOPE or report generated by DSHS, the Contractor shall:

- (1) Submit a Performance Improvement Plan (PIP) to the County within 30 days of notice by County.
- (2) Have 90 days to demonstrate progress toward the expected rate for 90-day retention.
- (3) Submit an updated PIP requesting an additional 90 days for performance improvement to the County, if after the original 90 days, the 90-day retention baseline percentage has still not been reached.

**s. Performance Review**

- (1) If, at 180 days or at the end of the fiscal contract year, the Contractor has not met their performance expectations (maintaining performance at or above the average, increasing by 10% or returning to previous baseline percentage) the County shall re-procure for services.

**t. Capacity Management**

The statewide capacity baseline is calculated to be 69% individuals admitted into treatment within 14 days of first contact as entered in TARGET.

- (1) Compliance is maintaining an admission rate of 69% or greater within 14 days of first contact.
- (2) If Contractors are falling below 69% of admits within 14 days, the goal is to either improve their admission rate 5% or to the baseline, whichever improvement is less.
  - (a) In the event of a rate below 69%, DSHS will provide technical support in an effort to increase capacity.
  - (b) If the rate of admissions within 14 days is not increased by 5%, or the Contractor has not achieved the statewide baseline of 69 % within six months, the Contractor shall submit a Performance Improvement Plan within 30 days of notice from DSHS outlining their Performance Measures to increase their percentage of admissions within 14 days.

**u. Out-stationed Staff**

The Contractor shall ensure Out-stationed staff reports all client data in TARGET, monthly, using the DSHS TARGET Client Support Activities (Non-treatment) form.

**v. Case Management**

(WAC 388-877 and 388-877B)

The Contractor shall ensure:

- (1) Case Management Services being billed under the Contract shall only include the following activities:
  - (a) Services that assist patients in accessing needed medical, social, or education services
  - (b) Services designed to engage, maintain, and retain patients in treatment
  - (c) Case planning, case consultation, and referral for other services

(2) Requirements for Billing for Case Management Services are met as follows:

- (a) Low-income eligible patients

Case management services provided to patients eligible for low-income services and billed under this Contract may be provided by a Chemical Dependency Professionals (CDP), CDP Trainee, or other staff as deemed appropriate by the County.

- (b) Medicaid eligible patients

Case management services provided to patients who are Medicaid eligible and billed under this Contract shall be provided by a Chemical Dependency Professionals (CDP) or CDP Trainee, under the clinical supervision of a CDP.

- (c) Written documentation in the patient's case file giving date, duration, and referral information of each contact. The County shall maintain files and forms to document case management activities and services received and recorded in TARGET using form #DSHS 04-418 (REV.10/2006) which can be accessed through Provider page of the DSHS website at <http://www.dshs.wa.gov/BHSIAI>.
- (d) Referrals for service must include contact information of other agencies that are involved in providing services to the person.
- (e) Required release(s) of information are in the case file.
- (f) Documentation of the outcome of case management services.

(3) Limitations to billing for Case Management Services

The Contractor shall not bill for case management under the following situations:

- (a) If a pregnant woman is receiving maternity case management services under the First Steps Program.
  - (b) If a person is receiving HIV/AIDS Case Management Services through the Department of Health.
  - (c) If a youth is in foster care through the Division of Children and Family Services (DCFS).
  - (d) If a youth is on parole in a non-residential setting and under the Rehabilitation Administration (RA) supervision; youth served under the CODA program are not under RA supervision.
  - (e) If a patient is receiving case management services through any other funding source from any other system (i.e. Mental Health, Children's Administration, and Juvenile Justice and Rehabilitation Administration). For Medicaid billings, youth in foster care through the DCFS who are receiving case management services through DCFS.
  - (f) DSHS funds shall be the dollar of last resort for case management services.
- (4) The Contractor shall not bill for Case Management for the following activities:
- (a) Outreach activities
  - (b) Services for people in residential treatment
  - (c) Time spent by a CDP reviewing a CDP Trainee's file notes and signing off on them
  - (d) Time spent on internal staffing
  - (e) Time spent on writing treatment compliance notes and monthly progress reports to the court
  - (f) Direct treatment services or treatment planning activities as required in WAC 388-877 & 388-877B
  - (g) Maximum time limitations for services billed under the County Contract are as follows:
    - i. Case Management Services are limited to a maximum of five (5) hours per month per patient.
    - ii. Exceptions to the five-hour limitation may be granted on an individual basis based on the clinical needs of the individual patient. The County shall be responsible for monitoring and granting exceptions to the five-hour limit. Exceptions may not be granted to Medicaid-billed services.

## w. Other Required Services

### (1) Childcare Services (45 CFR 96.131).

The Contractor shall provide, directly or through arrangements with other public or nonprofit private entities, childcare to patients participating in assessment and treatment activities, and support activities such as support groups, parenting education and other supportive activities when those activities are recommended as part of the recovery process and noted in the patient's treatment plan.

The Contractor shall ensure:

- (a) Childcare and prenatal services are provided at the treatment facility or arrangements for provision of these services are made for patients receiving chemical dependency assessment and treatment services from subcontracted providers.
- (b) All parenting recipients of treatment services are informed that services are available and are offered such services while participating in treatment. Documentation regarding the offer and parent acknowledgement of such offer shall be maintained in the patient file.
- (c) Off-site childcare services (with the exception of care provided in the child's or relative's home) are delivered by childcare providers licensed or certified by the Department of Early Learning in accordance with WAC 170-296A.
- (d) Treatment subcontractors supply the parent with information to assist the parent in making a responsible decision regarding the selection of an off-site childcare provider when on-site childcare is not available. The information supplied by subcontractors shall include at a minimum:
  - i. Direction to the DEL website address for information on childcare services at <http://www.del.wa.gov/care>
  - ii. Direction to the DEL website address for information on selecting childcare services at: <http://www.del.wa.gov/carefind-facility/Default.aspx>
  - iii. Written verification indicating the location of the childcare services, the number of hours and length of child care authorization and the payment process for the type of care selected

### (2) Screens and Urinalysis (UA) Testing

#### (a) General Requirements

The Contractor shall ensure:

- i. Screens and UA testing is an allowable cost only within the context of a treatment plan.
- ii. Screens and UA tests are limited to no more than eight (8) tests per month for each patient. All UA tests paid for with public funds shall be documented in TARGET.
- iii. Medicaid Eligible Methadone Patients and Pregnant Women

Urinalysis testing is provided by the DSHS contracted vendor.

- iv. Low-income Eligible Patients

If UA testing on these patients is done by a laboratory other than the DSHS contracted vendor, the contractor shall use the testing standards identified on the County Minimum Urinalysis Testing Requirements document found accessing the Provider page of the DSHS Website: <http://www.dshs.wa.gov/bhsia/fact-sheets-bhsia-programs>.

- (b) Screens and UA Testing Standards and Protocols for Low-income Eligible Patients

The Contractor shall ensure the following standards and protocols are used as minimum requirements when contracting for urinalysis testing services with testing laboratories:

- i. Certification

The testing facility must maintain current laboratory certifications with the Department of Health and Human Services (HHS) and one of the following:

- (A) Substance Abuse and Mental Health Services Administration (SAMHSA)
- (B) Other national laboratory certification body

- ii. Screening Tests

- (A) Screening tests shall meet all forensic standards for certified laboratories.
- (B) The use of "Instant Test Kits" is allowed only as a screen and requires laboratory confirmation of positive test results.

- iii. Confirmation Testing

- (A) Gas Chromatography/Mass Spectrometry (GC/MS) or Liquid



Chromatography/Tandem Mass Spectroscopy must automatically confirm all positive screens, with the exception of methadone. For individuals on methadone, an immunoassay-screening reagent that detects EDDP (methadone) may be utilized.

(B) Confirmation testing is not required on negative tests. If a client requests confirmation of a negative test, it shall be done at the client's expense.

iv. Chain of Custody and Tampering

The laboratory shall provide a secure chain of custody for handling and processing of specimens. The laboratory's procedures shall be acceptable by a court of law.

v. Specimen Retention

Laboratories shall retain samples in a frozen condition, for those samples that tested positive, for a period of not less than six (6) months after the test results are sent to the provider.

All specimens subject to any court action shall be retained in a frozen condition until such time as the matter is disposed of by the court.

vi. Test Result Reporting

Initial results may be communicated by fax, carrier delivery, and mail or electronically downloaded. Results communicated other than with the original report must be confirmed by mailing the originals to the contractor where the specimen originated, upon request.

Negative results will be communicated to the contractor where the specimen originated within twenty-four hours from receipt of specimens at the laboratory.

Positive results will be communicated to the subcontractor where the specimen originated within seventy-two (72) hours receipt of specimens at the laboratory.

vii. Forms and Supplies

The laboratory shall supply order forms, and all other necessary supplies for sample collection and transportation, which are unique to the services provided.

(c) Alcohol Testing

Alcohol testing should be part of the drug testing panel only when the donor is suspect by odor or overt behavior.

(3) Tuberculosis Services (CFR 45 96.121, 96.127, WAC 388-877 & 388-877B)

(a) The County shall ensure all programs that receive SAPT block grant funds shall provide tuberculosis services whether directly or through arrangements with other entities.

(b) Tuberculosis services include but are not limited to:

- i. Counseling the individual with respect to tuberculosis
- ii. Screening to determine whether the individual has been infected with mycobacteria tuberculosis to determine the appropriate referral for treatment of the individual
- iii. Providing treatment for or referring the individuals infected by mycobacteria tuberculosis for appropriate medical evaluation and treatment

**x. Specific Eligibility and/or Funding Requirements for Criminal Justice Services.**

(1) The County shall provide court ordered substance use disorder assessment and treatment services for low-income or Medicaid eligible "repeat DUI offenders." Eligible individuals, defined as "repeat DUI offenders", must meet the following conditions:

- (a) Have a current offense for a violation of RCW 46.61.502 (Driving Under the Influence) or 46.61.504 (Physical Control of Vehicle Under the Influence).
- (b) Have at least one prior offense under RCW 46.61.5055 (14)(a).

(2) The Contractor may provide any of the following treatment services for adults and youth:

- (a) Community Intervention and Referral
- (b) Interim Services
- (c) Outreach
- (d) Crisis Services
- (e) Withdrawal Management Services
- (f) Involuntary Commitment
- (g) Outpatient Treatment
- (h) Opiate Substitution Treatment
- (i) Case Management
- (j) Assessment

- (k) Screens and UA tests limited to no more than eight (8) tests per month for each repeat DUI offender.
- (l) Expanded Assessment
- (m) Residential Treatment Services:
  - i. Intensive Inpatient
  - ii. Long Term Care
  - iii. Recovery House
  - iv. Parenting and Pregnant Women's Services including Residential Services and Therapeutic Childcare
  - v. Youth Intensive Inpatient Level1
  - vi. Youth Intensive Inpatient Level2
  - vii. Youth Recovery House
  - viii. Youth Acute Withdrawal Management
  - ix. Youth Sub-acute Withdrawal Management

(3) TARGET Requirements. The Contractor will document "repeat DUI Offender" services in TARGET using the following codes:

- (a) Contract Type- Criminal Justice
- (b) State Special projects- the Contractor shall use one of the following:
  - i. CJ- DUI Court- to be used in those cases where the client is enrolled in a state- recognized DUI Court.
  - ii. CJ - Non-DUI Court- to be used in those cases where the client is not enrolled in a state- recognized DUI Court.

(4) The Contractor shall maintain documentation in the client's file of the following:

- (a) That both the previous and current offense occurred within ten years of the arrest for the current offense; and
- (b) The order by a court that the client participates in substance use disorder assessment and treatment services for low-income or Medicaid eligible clients.

**y. Admission Priority Populations**

- (1) The Contractor shall ensure all services and activities provided under this Contract shall be designed and delivered in a manner sensitive to the needs of all diverse populations.

- (2) The Contractor shall ensure treatment admissions to all Medicaid eligible individuals as a service priority.
- (3) The Contractor shall ensure treatment admissions are prioritized in the order as follows, per the Substance Abuse Prevention and Treatment (SAPT) Block Grant (45 CFR 96.131 and 42 USC 300x-27):
  - a. Pregnant injecting drug users
  - b. Pregnant women with substance use disorders
  - c. Injecting drug users

**z. Transition of Services.**

The following requirements are established to ensure the transition of the responsibility to pay for and coordinate services to a Behavior Health Organization (BHO), Managed Care Organization (MCO) or other entity, as mandated by Second Substitute Senate Bill 6312, on the Implementation Date (currently April1, 2016, or as subsequently revised).

- a. For all DSHS Clients receiving services under this Contract, the Contractor shall cooperate with the County, DSHS and the BHO, MCO or other entity, by participating in the following activities:
  - (1) Identify all who are expected to be engaged in treatment on April1, 2016.
  - (2) Execute an agreement with the BHO, MCO or other entity that ensures protection of the Clients' confidential and Protected Health Information compliant with HIPAA and CFR 42 Part 2.
  - (3) For each transitioning client, and with client's written consent and proper release in accordance with CFR 42 Part 2 . Subpart C . 2.31 "Form of Written Consent" , provide current treatment information including:
    - (a) What services are being provided,
    - (b) Planned treatment end date,
    - (c) Services provider information,
    - (d) Treatment location, and
    - (e) Administrative records.
  - (4) Participate in the development of individual client transition plans.

(5) Other activities as requested by DSHS.

- b. The Agency is responsible for ensuring all services are completely transitioned by March 31<sup>st</sup> on this contract and that the agency is prepared to begin providing services and billing on April 1<sup>st</sup> to the BHO.

**aa. TARGET 2000 Requirements.**

(1) Access and Security Requirements

A TARGET User ID is assigned to an individual employee and not to the Agency as a whole; therefore the Contractor shall ensure:

- (a) At least one trained primary and one trained backup data operator must have a User ID from the secure Access Washington (SAW) system.
- (b) Procedures are implemented to ensure that there is no sharing of User IDs, pass phrases or TARGET logon information and that new employees requiring access do not make use of User IDs issued to others.
- (c) Computers that access TARGET shall be located in secure areas away from general public viewing and traffic.
- (d) The TARGET Helpdesk (888-461-8898)
- (e) The Contractor shall ensure:
  - i. The Helpdesk is notified within three (3) business days regarding a staff member who holds a User ID for access to TARGET who resigns or is terminated.
  - ii. The Helpdesk is notified when new staff needs access to TARGET data so an ID can be created.
  - iii. Relevant Contractor staff has access to the technical assistance through the TARGET Helpdesk to keep TARGET resources operational.
- (f) The Contractor may enter into a Qualified Service Agreement with another organization to meet TARGET Program Agreement reporting requirements and shall ensure section a. (1)-(4) above are included in the Service Agreement.
- (g) The instructions for new users are available through the DBHR website or through the TARGET Helpdesk.

(2) Data Protection

The Contractor shall:

- (a) Not share TARGET user ID's or passwords between staff members or other workers.

(b) Ensure that there is at least one trained back-up data-entry worker at the service agency throughout the Program Agreement period.

(c) Take due care to protect said data from unauthorized physical and electronic access.

(3) Data Disposition

The data provided to DSHS shall be maintained in a secure fashion until such time as the Department determines that it should be destroyed.

(4) Requirements for Patient and Client Treatment Encounter DATA

Documentation of non-compliance with any reporting requirements may result in corrective actions towards the Contractor or the withholding of funds.

The Contractor shall:

(a) Enter the date of first contact is input to TARGET within 3 days.

(b) Ensure the client service data is entered into TARGET within 7 days of date of service.

(c) Enter all information into TARGET on or before the 10th day of the month after the month in which service was provided.

(d) Ensure all reporting requirements are met.

(e) Enter full and complete patient and client information including but not limited to Interim Waiting List Services, Assessment Services and Treatment Services, is entered into TARGET.

(f) Provide special TARGET-based reports to the DSHS RA as requested

(g) Prior to the implementation of a new program of service, the Contractor and DSHS shall agree upon a program guidance/instruction document that will specify the process for reporting the service activity under that program.

(h) To ensure on-time payment of submitted invoices, all target data must be input no later than the 10th of the month after the month in which service was provided.

(i) Verification of TARGET data input will be made prior to payment.

## Exhibit A – Data Security Requirements

1. **Definitions.** The words and phrases listed below, as used in this Exhibit, shall each have the following definitions:
  - a. “Authorized User(s)” means an individual or individuals with an authorized business requirement to access DSHS Confidential Information.
  - b. “Hardened Password” means a string of at least eight characters containing at least one alphabetic character, at least one number and at least one special character such as an asterisk, ampersand or exclamation point.
  - c. “Unique User ID” means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase or other mechanism, authenticates a user to an information system.
  
2. **Data Transport.** When transporting DSHS Confidential Information electronically, including via email, the Data will be protected by:
  - a. Transporting the Data within the (State Governmental Network) SGN or Contractor’s internal network, or;
  - b. Encrypting any Data that will be in transit outside the SGN or Contractor’s internal network. This includes transit over the public Internet.
  
3. **Protection of Data.** The Contractor agrees to store Data on one or more of the following media and protect the Data as described:
  - a. **Hard disk drives.** Data stored on local workstation hard disks. Access to the Data will be restricted to Authorized User(s) by requiring logon to the local workstation using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards.
  - b. **Network server disks.** Data stored on hard disks mounted on network servers and made available through shared folders. Access to the Data will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on disks mounted to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

For DSHS Confidential Information stored on these disks, deleting unneeded Data is sufficient as long as the disks remain in a Secured Area and otherwise meet the requirements listed in the above paragraph. Destruction of the Data as outlined in Section 5. Data Disposition may be deferred until the disks are retired, replaced, or otherwise taken out of the Secured Area.

- c. **Optical discs (CDs or DVDs) in local workstation optical disc drives.** Data provided by DSHS on optical discs which will be used in local workstation optical disc drives and which will not be transported out of a Secured Area. When not in use for the contracted purpose, such discs must be locked in a drawer, cabinet or other container to which only Authorized Users have the key, combination or mechanism required to access the contents of the container. Workstations which access DSHS Data on optical discs must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- d. **Optical discs (CDs or DVDs) in drives or jukeboxes attached to servers.** Data provided by DSHS on optical discs which will be attached to network servers and which will not be transported out of a Secured Area. Access to Data on these discs will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on discs attached to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- e. **Paper documents.** Any paper records must be protected by storing the records in a Secured Area which is only accessible to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.
- f. **Remote Access.** Access to and use of the Data over the State Governmental Network (SGN) or Secure Access Washington (SAW) will be controlled by DSHS staff who will issue authentication credentials (e.g. a Unique User ID and Hardened Password) to Authorized Users on Contractor staff. Contractor will notify DSHS staff immediately whenever an Authorized User in possession of such credentials is terminated or otherwise leaves the employ of the Contractor, and whenever an Authorized User's duties change such that the Authorized User no longer requires access to perform work for this Contract.
- g. **Data storage on portable devices or media**
  - 1. Except where otherwise specified herein, DSHS Data shall not be stored by the Contractor on portable devices or media unless specifically authorized within the terms and conditions of the Contract. If so authorized, the Data shall be given the following protections:
    - i. Encrypt the Data with a key length of at least 128 bits
    - ii. Control access to devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics.
    - iii. Manually lock devices whenever they are left unattended and set devices to lock automatically after a period of inactivity, if this feature is available. Maximum period of inactivity is 20 minutes.



Physically secure the portable device(s) and/or media by:

- Keeping them in locked storage when not in use
- Using check-in/check-out procedures when they are shared, and
- Taking frequent inventories

2. When being transported outside of a Secured Area, portable devices and media with DSHS Confidential Information must be under the physical control of Contractor staff with authorization to access the Data.
3. Portable devices include, but are not limited to; smart phones, tablets, flash memory devices (e.g. USB flash drives, personal media players), portable hard disks, and laptop/notebook/netbook computers if those computers may be transported outside of a Secured Area.
4. Portable media includes, but is not limited to; optical media (e.g. CDs, DVDs), magnetic media (e.g. floppy disks, tape), or flash media (e.g. CompactFlash, SD, MMC).

**h. Data stored for backup purposes.**

1. DSHS data may be stored on portable media as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. Such storage is authorized until such time as that media would be reused during the course of normal backup operations. If backup media is retired while DSHS confidential information still exists upon it, such media will be destroyed at that time in accordance with the disposition requirements in Section 5. Data Disposition.
2. DSHS Data may be stored on non-portable media (e.g. Storage Area Network drives, virtual media, etc.) as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. If so, such media will be protected as otherwise described in this exhibit. If this media is retired while DSHS Confidential Information still exists upon it, the data will be destroyed at that time in accordance with the disposition requirements in Section 5. Data Disposition.

**4. Data Segregation**

- a. DSHS Data must be segregated or otherwise distinguishable from non-DSHS data. This is to ensure that when no longer needed by the Contractor, all DSHS Data can be identified for return or destruction. It also aids in determining whether DSHS Data has or may have been compromised in the event of a security breach. As such, one or more of the following methods will be used for data segregation.
- b. DSHS Data will be kept on media (e.g. hard disk, optical disc, tape, etc.) which will contain no non-DSHS data. And/or,
- c. DSHS Data will be stored in a logical container on electronic media, such as a partition or folder dedicated to DSHS Data. And/or,
- d. DSHS Data will be stored in a database which will contain no non-DSHS data. And/or,

- e. DSHS Data will be stored within a database and will be distinguishable from non-DSHS data by the value of a specific field or fields within database records.
- f. When stored as physical paper documents, DSHS Data will be physically segregated from non- DSHS data in a drawer, folder, or other container.
- g. When it is not feasible or practical to segregate DSHS Data from non-DSHS data, then both the DSHS Data and the non-DSHS data with which it is commingled must be protected as described in this exhibit.

**5. Data Disposition.** When the contracted work has been completed or when no longer needed, except as noted in Section 3. Protection of Data b. Network Server Disks above, Data shall be returned to DSHS or destroyed. Media on which Data may be stored and associated acceptable methods of destruction are as follows:

<b>Data stored on:</b>	<b>Will be destroyed by:</b>
Server or workstation hard disks, or	Using a “wipe” utility which will overwrite the Data at least three (3) times using either random or single
portable hard disks) excluding optical discs	Degaussing sufficiently to ensure that the Data cannot be reconstructed, or
Paper documents with sensitive or Confidential Information	Recycling through a contracted firm provided the contract with the recycler assures that the
Paper documents containing Confidential Information requiring special handling (e.g. protected health	On-site shredding, pulping, or incineration
Optical discs (e.g. CDs or DVDs)	Incineration, shredding, or completely defacing the readable surface with a coarse abrasive
Magnetic tape	Degaussing, incinerating or crosscut shredding

**6. Notification of Compromise or Potential Compromise.** The compromise or potential compromise of DSHS shared Data must be reported to the Whatcom County Contract Administrator (email: [JMitchel@co.whatcom.wa.us](mailto:JMitchel@co.whatcom.wa.us)) and the DSHS Contact designated in the Contract within one (1) business day of discovery. If no DSHS Contact is designated in the Contract, then the notification must be reported to the Contract Administrator and the DSHS Privacy Officer at [dshsprivacyofficer@dshs.wa.gov](mailto:dshsprivacyofficer@dshs.wa.gov). Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS

**7. Data shared with Subcontractors.** There are no subcontracts allowed on this agreement.

## Business Associate Agreement

### 1. Definitions.

- a. "Business Associate," as used in this Contract, means the "Contractor" and generally has the same meaning as the term "business associate" at 45 CFR 160.103. Any reference to Business Associate in this Contract includes Business Associate's employees, agents, officers, Subcontractors, third party contractors, volunteers, or directors.
- b. "Business Associate Agreement" means this HIPAA Compliance section of the Contract and includes the Business Associate provisions required by the U.S. Department of Health and Human Services, Office for Civil Rights.
- c. "Breach" means the acquisition, access, use, or disclosure of Protected Health Information in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the Protected Health Information, with the exclusions and exceptions listed in 45 CFR 164.402.
- d. "Covered Entity" means DSHS, a Covered Entity as defined at 45 CFR 160.103, in its conduct of covered functions by its health care components.
- e. "Designated Record Set" means a group of records maintained by or for a Covered Entity, that is: the medical and billing records about Individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or Used in whole or part by or for the Covered Entity to make decisions about Individuals.
- f. "Electronic Protected Health Information (EPHI)" means Protected Health Information that is transmitted by electronic media or maintained in any medium described in the definition of electronic media at 45 CFR 160.103.
- g. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as modified by the American Recovery and Reinvestment Act of 2009 ("ARRA"), Sec. 13400- 13424, H.R. 1 (2009) (HITECH Act).
- h. "HIPAA Rules" means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and Part 164.
- i. "Individual(s)" means the person(s) who is the subject of PHI and includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

- j. "Minimum Necessary" means the least amount of PHI necessary to accomplish the purpose for which the PHI is needed.
- k. "Protected Health Information (PHI)" means individually identifiable health information created, received, maintained or transmitted by Business Associate on behalf of a health care component of the Covered Entity that relates to the provision of health care to an Individual; the past, present, or future physical or mental health or condition of an Individual; or the past, present, or future payment for provision of health care to an Individual. 45 CFR 160.103. PHI includes demographic information that identifies the Individual or about which there is reasonable basis to believe can be used to identify the Individual. 45 CFR 160.103. PHI is information transmitted or held in any form or medium and includes EPHI. 45 CFR 160.103. PHI does not include education records covered by the Family Educational Rights and Privacy Act, as amended, 20 USCA 1232g(a)(4)(B)(iv) or employment records held by a Covered Entity in its role as employer.
- l. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system.
- m. "Subcontractor" as used in this HIPAA Compliance section of the Contract (in addition to its definition in the General Terms and Conditions) means a Business Associate that creates, receives, maintains, or transmits Protected Health Information on behalf of another Business Associate.
- n. "Use" includes the sharing, employment, application, utilization, examination, or analysis, of PHI within an entity that maintains such information.

**2. Compliance.** Business Associate shall perform all Contract duties, activities and tasks in compliance with HIPAA, the HIPAA Rules, and all attendant regulations as promulgated by the U.S. Department of Health and Human Services, Office of Civil Rights.

**3. Use and Disclosure of PHI.** Business Associate is limited to the following permitted and required uses or disclosures of PHI:

- a. **Duty to Protect PHI.** Business Associate shall protect PHI from, and shall use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 (Security Standards for the Protection of Electronic Protected Health Information) with respect to EPHI, to prevent the unauthorized Use or disclosure of PHI other than as provided for in this Contract or as required by law, for as long as the PHI is within its possession and control, even after the termination or expiration of this Contract.
- b. **Minimum Necessary Standard.** Business Associate shall apply the HIPAA Minimum Necessary standard to any Use or disclosure of PHI necessary to achieve the purposes

of this Contract. See 45 CFR 164.514 (d)(2) through (d)(5).

- c. Disclosure as Part of the Provision of Services. Business Associate shall only Use or disclose PHI as necessary to perform the services specified in this Contract or as required by law, and shall not Use or disclose such PHI in any manner that would violate Subpart E of 45 CFR Part 164 (Privacy of Individually Identifiable Health Information) if done by Covered Entity, except for the specific uses and disclosures set forth below.
- d. Use for Proper Management and Administration. Business Associate may Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- e. Disclosure for Proper Management and Administration. Business Associate may disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached.
- f. Impermissible Use or Disclosure of PHI. Business Associate shall report to DSHS in writing all Uses or disclosures of PHI not provided for by this Contract within one (1) business day of becoming aware of the unauthorized Use or disclosure of PHI, including Breaches of unsecured PHI as required at 45 CFR 164.410 (Notification by a Business Associate), as well as any Security Incident of which it becomes aware. Upon request by DSHS, Business Associate shall mitigate, to the extent practicable, any harmful effect resulting from the impermissible Use or disclosure.
- g. Failure to Cure. If DSHS learns of a pattern or practice of the Business Associate that constitutes a violation of the Business Associate's obligations under the terms of this Contract and reasonable steps by DSHS do not end the violation, DSHS shall terminate this Contract, if feasible. In addition, If Business Associate learns of a pattern or practice of its Subcontractors that constitutes a violation of the Business Associate's obligations under the terms of their contract and reasonable steps by the Business Associate do not end the violation, Business Associate shall terminate the Subcontract, if feasible.
- h. Termination for Cause. Business Associate authorizes immediate termination of this Contract by DSHS, if DSHS determines that Business Associate has violated a material term of this Business Associate Agreement. DSHS may, at its sole option, offer Business Associate an opportunity to cure a violation of this Business Associate Agreement before exercising a termination for cause.
- i. Consent to Audit. Business Associate shall give reasonable access to PHI, its internal

practices, records, books, documents, electronic data and/or all other business information received from, or created or received by Business Associate on behalf of DSHS, to the Secretary of DHHS and/or to DSHS for use in determining compliance with HIPAA privacy requirements.

j. **Obligations of Business Associate Upon Expiration or Termination.** Upon expiration or termination of this Contract for any reason, with respect to PHI received from DSHS, or created, maintained, or received by Business Associate, or any Subcontractors, on behalf of DSHS, Business Associate shall:

- (1) Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
- (2) Return to DSHS or destroy the remaining PHI that the Business Associate or any Subcontractors still maintain in any form;
- (3) Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 (Security Standards for the Protection of Electronic Protected Health Information) with respect to Electronic Protected Health Information to prevent Use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate or any Subcontractors retain the PHI;
- (4) Not Use or disclose the PHI retained by Business Associate or any Subcontractors other than for the purposes for which such PHI was retained" and subject to the same conditions set out in the "Use and Disclosure of PHI" section of this Contract which applied prior to termination; and
- (5) Return to DSHS or destroy the PHI retained by Business Associate, or any Subcontractors, when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

k. **Survival.** The obligations of the Business Associate under this section shall survive the termination or expiration of this Contract.

#### **4. Individual Rights.**

a. **Accounting of Disclosures.**

(1) Business Associate shall document all disclosures, except those disclosures that are exempt under 45 CFR 164.528, of PHI and information related to such disclosures.

(2) Within ten (10) business days of a request from DSHS, Business Associate shall make

available to DSHS the information in Business Associate's possession that is necessary for DSHS to respond in a timely manner to a request for an accounting of disclosures of PHI by the Business Associate. See 45 CFR 164.504(e)(2)(ii)(G) and 164.528(b)(1).

- (3) At the request of DSHS or in response to a request made directly to the Business Associate by an Individual, Business Associate shall respond, in a timely manner and in accordance with HIPAA and the HIPAA Rules, to requests by Individuals for an accounting of disclosures of PHI.
- (4) Business Associate record keeping procedures shall be sufficient to respond to a request for an accounting under this section for the six (6) years prior to the date on which the accounting was requested.

b. Access

- (1) Business Associate shall make available PHI that it holds that is part of a Designated Record Set when requested by DSHS or the Individual as necessary to satisfy DSHS's obligations under 45 CFR 164.524 (Access of Individuals to Protected Health Information).
- (2) When the request is made by the Individual to the Business Associate or if DSHS asks the Business Associate to respond to a request, the Business Associate shall comply with requirements in 45 CFR 164.524 (Access of Individuals to Protected Health Information) on form, time and manner of access. When the request is made by DSHS, the Business Associate shall provide the records to DSHS within ten (10) business days.

c. Amendment.

- (1) If DSHS amends, in whole or in part, a record or PHI contained in an Individual's Designated Record Set and DSHS has previously provided the PHI or record that is the subject of the amendment to Business Associate, then DSHS will inform Business Associate of the amendment pursuant to 45 CFR 164.526(c)(3) (Amendment of Protected Health Information).
- (2) Business Associate shall make any amendments to PHI in a Designated Record Set as directed by DSHS or as necessary to satisfy DSHS's obligations under 45 CFR 164.526 (Amendment of Protected Health Information) .

## **5. Subcontracts and other Third Party Agreements**

In accordance with 45 CFR 164.502(e)(1)(ii), 164.504(e)(1)(i), and 164.308(b)(2), Business Associate shall ensure that any agents, Subcontractors, independent contractors or other third parties that create, receive, maintain, or transmit PHI on Business Associate's behalf,

enter into a written contract that contains the same terms, restrictions, requirements, and conditions as the HIPAA compliance provisions in this Contract with respect to such PHI. The same provisions must also be included in any contracts by a Business Associate's Subcontractor with its own business associates as required by 45 CFR 164.314(a)(2)(b) and 164.504(e)(5).



4. **Obligations.** To the extent the Business Associate is to carry out one or more of DSHS's obligation(s) under Subpart E of 45 CFR Part 164 (Privacy of Individually Identifiable Health Information), Business Associate shall comply with all requirements that would apply to DSHS in the performance of such obligation(s).
5. **Liability.** Within ten (10) business days, Business Associate must notify DSHS of any complaint, enforcement or compliance action initiated by the Office for Civil Rights based on an allegation of violation of the HIPAA Rules and must inform DSHS of the outcome of that action. Business Associate bears all responsibility for any penalties, fines or sanctions imposed against the Business Associate for violations of the HIPAA Rules and for any imposed against its Subcontractors or agents for which it is found liable.
6. **Breach Notification.**
  - a. In the event of a Breach of unsecured PHI or disclosure that compromises the privacy or security of PHI obtained from DSHS or involving DSHS clients, Business Associate will take all measures required by state or federal law.
  - b. Business Associate will notify DSHS within one (1) business day by telephone and in writing of any acquisition, access, Use or disclosure of PHI not allowed by the provisions of this Contract or not authorized by HIPAA Rules or required by law of which it becomes aware which potentially compromises the security or privacy of the Protected Health Information as defined in 45 CFR164.402 (Definitions).
  - c. Business Associate will notify the DSHS Contact shown on the cover page of this Contract within one (1) business day by telephone or e-mail of any potential Breach of security or privacy of PHI by the Business Associate or its Subcontractors or agents. Business Associate will follow telephone or e-mail notification with a faxed or other written explanation of the Breach, to include the following: date and time of the Breach, date Breach was discovered, location and nature of the PHI, type of Breach, origination and destination of PHI, Business Associate unit and personnel associated with the Breach, detailed description of the Breach, anticipated mitigation steps, and the name, address, telephone number, fax number, and e-mail of the individual who is responsible as the primary point of contact. Business Associate will address communications to the DSHS Contact. Business Associate will coordinate and cooperate with DSHS to provide a copy of its investigation and other information requested by DSHS, including advance copies of any notifications required for DSHS review before disseminating and verification of the dates notifications were sent.
  - d. If DSHS determines that Business Associate or its Subcontractor(s) or agent(s) is responsible for a Breach of unsecured PHI:
    - (1) requiring notification of Individuals under 45 CFR § 164.404 (Notification to Individuals), Business Associate bears the responsibility and costs for notifying the affected Individuals and receiving and responding to those Individuals' questions or requests for additional information;

- (2) requiring notification of the media under 45 CFR § 164.406 (Notification to the media), Business Associate bears the responsibility and costs for notifying the media and receiving and responding to media questions or requests for additional information;
- (3) requiring notification of the U.S. Department of Health and Human Services Secretary under 45 CFR § 164.408 (Notification to the Secretary), Business Associate bears the responsibility and costs for notifying the Secretary and receiving and responding to the Secretary's questions or requests for additional information; and
- (4) DSHS will take appropriate remedial measures up to termination of this Contract.

**6. Miscellaneous Provisions.**

- a. Regulatory References. A reference in this Contract to a section in the HIPAA Rules means the section as in effect or amended.
- b. Interpretation. Any ambiguity in this Contract shall be interpreted to permit compliance with the HIPAA Rules.