



CONTRACT AMENDMENT COVER SHEET

Agency Tracking # 31865-00449	Edison ID 48607	Contract #	Amendment # 01
Contractor Legal Entity Name Department of Health			Edison Vendor ID

Amendment Purpose & Effect(s)
Extends Term, Increases Maximum Liability, and Updates Payment Methodology

Amendment Changes Contract End Date: YES NO **End Date:** June 30, 2017

TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A): **\$ 2,940,000.00**

Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2016	\$435,600.00	\$1,306,800.00			\$1,742,400.00
2017	\$735,000.00	\$2,205,000.00			\$2,940,000.00
TOTAL:	\$1,170,600.00	\$3,511,800.00			\$4,682,400.00

American Recovery and Reinvestment Act (ARRA) Funding: YES NO

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

CPO USE

Speed Chart (optional) TN00000459	Account Code (optional)
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**AMENDMENT #1 TO #48607
INTERAGENCY AGREEMENT BETWEEN THE STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION
AND
DEPARTMENT OF HEALTH**

This Amendment is made and entered by and between the State of Tennessee, Department of Finance and Administration, Division of Health Care Finance and Administration (HCFA), hereinafter referred to as the "Procuring State Agency" or "HCFA" and the Department of Health (TDH), hereinafter referred to as the "Contractor", "Contracting State Agency" or "TDH". For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. Contract Agreement Section B.1 is deleted in its entirety and replaced with the following:
 - B.1. This Interagency Agreement shall be effective on January 1, 2016 ("Effective Date"), and extend for a period of eighteen (18) months after the Effective Date ("Term"). The Procuring State Agency shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

2. Contract Section C.1 is deleted in its entirety and replaced with the following:
 - C.1. Maximum Liability. In no event shall the maximum liability of the Procuring State Agency under this Agreement exceed Four Million Six Hundred Eighty-Two Thousand Four Hundred Dollars (\$4,682,400.00). The payment methodology in Section C.3 shall constitute the entire compensation due the Contracting State Agency for the goods delivered and accepted or for services performed and all of the Contracting State Agency's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contracting State Agency.

3. Contract Section C.3 is deleted in its entirety and replaced with the following:
 - C.3. Payment Methodology.

For the period January 1, 2016 through June 30, 2016, the operating amount of this Agreement shall not exceed One Million Seven Hundred Forty-Two Thousand Four Hundred Dollars (\$1,742,400.00) (Refer to Attachment A) to be drawn down as follows:

 - a. The amount of Four Hundred Twenty-Six Thousand Three Hundred Dollars (\$426,300.00) shall be paid the Contractor upon execution of the original base Contract.
 - b. The amount of Seven Hundred Seventy-Six Thousand Dollars (\$776,000.00) shall be paid the Contractor on March 31, 2016.
 - c. The amount of Five Hundred Forty Thousand One Hundred Dollars (\$540,100.00) shall be paid the Contractor on June 30, 2016.

For the period July 1, 2016 through June 30, 2017, the operating amount of this Agreement shall not exceed Two Million Nine Hundred Forty Thousand Dollars (\$2,940,000.00) (Refer Attachment A.1) to be drawn down as follows:



a. The amount of Seven Hundred Seventy-Nine Thousand Seven Hundred Dollars (\$779,700.00) shall be paid the Contractor upon execution of Amendment 1 to the original base Contract.

b. The amount of Five Hundred Forty Thousand Seventy-Five Dollars (\$540,075.00) shall be paid quarterly to the Contractor, with payments to be made on September 30, 2016, December 31, 2016, March 31, 2017, and June 30, 2017.

4. Contract Attachment A.1., TDH Prenatal Presumptive Eligibility Expansion Annual Costs (July 1, 2016 - June 30, 2017), attached hereto is added as a new attachment.

Required Approvals. The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

Amendment Effective Date. The revisions set forth herein shall be effective June 30, 2016. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF:

DEPARTMENT OF HEALTH:

John J. Dreyzehner, MD, MPH / 3.11.16
SIGNATURE / DATE

John J. Dreyzehner, MD, MPH, FACOEM, COMMISSIONER

PRINTED NAME AND TITLE

DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE:

Larry B. Martin / 3/15/2016
LARRY B. MARTIN, COMMISSIONER DATE



ATTACHMENT A.1

TDH Prenatal Presumptive Eligibility Expansion Annual Costs (July 1, 2016 - June 30, 2017)

Region	# Sites	at \$8,000 per Site	2014 Presumptives	at \$100.00 per Presumptive	FY 17 Total
East	15	\$120,000	3118	\$311,800	\$431,800
Mid-Cumberland	17	\$136,000	3007	\$300,700	\$436,700
Northeast	8	\$64,000	1447	\$144,700	\$208,700
South Central	13	\$104,000	1494	\$149,400	\$253,400
Southeast	11	\$88,000	1267	\$126,700	\$214,700
Upper Cumberland	14	\$112,000	1436	\$143,600	\$255,600
West	21	\$168,000	1914	\$191,400	\$359,400
Total Rurals	99	\$792,000	13,683	\$1,368,300	\$2,160,300
Davidson	3	\$24,000	1826	\$182,600	\$206,600
Hamilton	4	\$32,000	910	\$91,000	\$123,000
Knox	3	\$24,000	1024	\$102,400	\$126,400
Madison	1	\$8,000	338	\$33,800	\$41,800
Shelby	7	\$56,000	1546	\$154,600	\$210,600
Sullivan	2	\$16,000	553	\$55,300	\$71,300
Total Metros	20	\$160,000	6197	\$619,700	\$779,700
State Totals	119	\$952,000	19,880	\$1,988,000	\$2,940,000



INTERAGENCY AGREEMENT SUMMARY

(Interagency Agreement between state agencies, including the University of Tennessee or Board of Regents colleges and universities)

Begin Date January 1, 2016	End Date June 30, 2016	Agency Tracking # 31865-00449	Edison ID 48607		
Contracting State Agency Name Department of Health					
CFDA # 93.778 Dept. of Health and Human Services/Title XIX					
Service Caption Presumptive Eligibility					
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Agreement Amount
2016	\$435,600.00	\$1,306,800.00			\$1,742,400.00
TOTAL:	\$435,600.00	\$1,306,800.00			\$1,742,400.00
American Recovery and Reinvestment Act (ARRA) Funding: <input type="checkbox"/> YES <input type="checkbox"/> NO					
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations. 				<i>CPO USE - IA</i>	
Speed Chart (optional)		Account Code (optional)			

INTERAGENCY AGREEMENT BETWEEN THE STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION
AND
DEPARTMENT OF HEALTH

This Interagency Agreement (Interagency Agreement), by and between the State of Tennessee, Department of Finance and Administration, Division of Health Care Finance and Administration (HCFA), hereinafter referred to as the "Procuring State Agency" or "HCFA" and the Department of Health (TDH), hereinafter referred to as the "Contractor", "Contracting State Agency" or "TDH" is for the provision of eligibility determination services as further defined in the "SCOPE OF SERVICES."

WHEREAS, HCFA is the Single State agency for the administration of medical assistance services, including the TennCare and CoverKids programs, in the State of Tennessee, in accordance with Titles XIX and XXI of the Social Security Act, which is managed through HCFA, as provided at T.C.A. §§ 71-5-104 and 71-3-1104 and related Executive Orders; and

WHEREAS, HCFA and TDH agree that this Interagency Agreement does not constitute any delegation by HCFA of Medicaid policy and decision making authority; and

WHEREAS, Section 1902, paragraph (5) of the Social Security Act, sets forth that the determination of eligibility for medical assistance under the plan shall be made by the State or local agency administering the Medicaid state plan approved under Titles I, IV, X, XIV. TDH is designated under the above cited federal law and State Plan to determine presumptive eligibility for pregnant women under Title XIX of the Social Security Act and to provide application assistance to all pregnant women for TennCare, CoverKids, and other insurance affordability programs; and

WHEREAS, HCFA and TDH have a common interest in assuring that eligible persons gain access to medical services.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties do hereby enter into this Interagency Agreement according to the provisions set forth herein.

A. SCOPE OF SERVICES:

- A.1. The Contracting State Agency shall provide all goods, services or deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Interagency Agreement.
- A.2. HCFA authorizes TDH and its designated contract agencies to assist in the administration of the HCFA program authorized under Title XIX and under Section 1115 of the Social Security Act. This designation is to perform TennCare presumptive eligibility determinations for pregnant women in accordance with 42 CFR 435.1103 and the approved Desk Guide. Such activities shall include, but not be limited to:
 - a. Accepting and processing TennCare presumptive eligibility applications for pregnant women. The application process shall be completed and transmitted to HCFA within five (5) business days and shall include:
 1. Assisting applicants in the completion of temporary TennCare presumptive eligibility applications;
 2. Making a determination on applicants' presumptive eligibility applications;
 3. Submitting application determination results to HCFA; and

4. For those desiring assistance, assisting pregnant women with the completion of any or all components of the TennCare application at the federally facilitated marketplace (FFM) for ongoing TennCare coverage.
 - b. Notifying enrollees, in writing, of the presumptive eligibility determination and, for those approved, of the need to complete the full application process within the required timeframe in order to maintain ongoing TennCare coverage;
 - c. Explaining to applicants in simple terms the HCFA program and its benefits;
 - d. Assisting individuals who are ineligible for TennCare to apply for CoverKids:
 1. If the pregnant woman has an Social Security Number (SSN), TDH shall help her with the online application; and
 2. If the pregnant woman does not have an SSN, TDH shall fax her application to the CoverKids "hotline" fax number;
 - e. Ensuring that appropriate accommodations are offered to individuals with disabilities and limited English proficiency and comply with the HCFA policies and procedures related to accommodations.
- A.3 TDH shall provide eligibility services in at least one county/metro health department (or contract with third parties operating such a facility) in each of the 95 counties in Tennessee at which at least two staff members are trained, certified, and otherwise able to provide the assistance requirements described in Section A.2.
- A.4 TDH shall ensure that all such staff members described in A.3 complete the Certified Application Counselor (CAC) training, register as CAC, and maintain their CAC certification at all times in which such individuals provide these services. Further, TDH shall ensure the assistance provided by such individuals conforms to all applicable Federal and State regulations.
- A.5. TDH rules, standards, policies and methods for determination of presumptive eligibility for medical assistance shall be consistent with the State and Federal objectives of the Title XIX Program and consistent with Federal and State law including any waivers thereto granted under the HCFA Demonstration Project. TDH shall provide HCFA any proposed revisions to the Desk Guide for HCFA's review and approval prior to implementation. HCFA will provide a written response to TDH regarding the proposed revision within ten (10) business days, or within a timeframe as may be mutually agreed upon by HCFA and TDH, in situations where timeframes require a shorter or longer response time. HCFA will make all reasonable efforts to review and approve the proposed changes within that timeframe. TDH shall promulgate, with HCFA's collaboration and approval, any necessary rules pertaining to determination of eligibility for medical assistance consistent with federal and state laws and regulations, the HCFA Demonstration project and HCFA policies and procedures.
- A.6. TDH agrees to maintain records necessary for the proper and efficient administration of Title XIX functions performed under this Interagency Agreement. The records shall include, but not be limited to, eligibility records, documentation of quality control and records needed to meet all State and Federal requirements.
- A.7. TDH shall prepare ad hoc and quarterly reports concerning applications and eligibility, and maintain data files necessary for HCFA to comply with federal statistical reporting requirements. The quarterly reports are required for HCFA's reports to the Center for Medicare and Medicaid Services (CMS) and/or the Department of Health and Human Services (DHHS) and shall be submitted to HCFA on or before the twenty-first (21st) day of the month following the preceding calendar year quarter. In a manner to be agreed upon by both parties, TDH shall document (a) each individual to whom TDH provided assistance described herein (b) and every individual to whom TDH offered such assistance but who refused the offer. Further, TDH shall report

aggregate numbers of (a) and (b) by county on a quarterly and an annual basis within 30 days following the associated reporting period.

- A.8. HCFA and TDH personnel shall meet no less than once yearly to review enrollment trend reports, reports of issues needing resolution, application and appeal volume reports, hearing decisions and the performance of the activities under this Interagency Agreement. HCFA shall notify TDH in writing of any specific performance deficiencies and request a Corrective Action Plan (CAP). TDH shall respond in writing with a CAP within thirty (30) days of receipt of such notification and implement and monitor the CAP after it has been approved by HCFA.
- A.9. HCFA will notify TDH staff regarding HCFA program issues and changes that pertain to the implementation of this Interagency Agreement. HCFA will inform TDH of any changes in State or Federal laws or regulations as well as changes in HCFA policies and procedures that may affect the delivery of services under this Interagency Agreement.
- A.10. TDH agrees to comply with all applicable obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH) under the American Recovery and Reinvestment Act of 2009 (ARRA) and their accompanying regulations, and as amended and as dictated within the Federal Register by their designated due dates.
- A.11. In addition to the responsibilities set forth elsewhere in this Interagency Agreement, TDH shall be responsible for performance of the following requirements and obligations under this Interagency Agreement:
 - a. provide administrative support to the HCFA program;
 - b. provide to the administrators and staff of its own offices and its designated contract agencies any other advice and instructions that HCFA deems necessary to the proper and efficient conduct of the Medicaid activities described in this Interagency Agreement; and
 - c. continually monitor the provision of all required services according to this Interagency Agreement, including but not limited to, sufficient quality review to assure that all applicable State and Federal laws, HCFA rules and policies, and State and Federal court orders are being complied with by TDH and its designated contract agencies.

HCFA RESPONSIBILITIES:

- A.12. In addition to HCFA responsibilities set forth elsewhere in this contract, HCFA shall be responsible for performance of the following requirements and obligations under this contract:
 - a. HCFA will provide TDH with the claim categories and other information to which expenditure data must adhere for billing to HCFA;
 - b. Should TDH fail or refuse to undertake corrective action as requested by HCFA, HCFA may withhold payment for that portion of the TDH program that HCFA deems deficient.
- A.13. To the extent practicable prior to finalization of program or procedural changes relating to eligibility, HCFA will allow TDH to comment on any drafts of policies, standards, methods, and procedures of suggested changes.
- A.14. The parties shall confer at least annually regarding the grant amount described in Section C.1 and adjust the amount to reflect changes in utilization.

B. INTERAGENCY AGREEMENT TERM:

- B.1. This Interagency Agreement shall be effective on January 1, 2016 ("Effective Date"), and extend for a period of six (6) months after the Effective Date ("Term"). The Procuring State Agency shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.
- B.2. Renewal Options. This Interagency Agreement may be renewed upon satisfactory completion of the Term. The State reserves the right to execute renewal options under the same terms and conditions for a period not to exceed twenty-four (24) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the Procuring State Agency under this Agreement exceed One Million Seven Hundred Forty-Two Thousand Four Hundred Dollars (\$1,742,400.00). The payment methodology in Section C.3 shall constitute the entire compensation due the Contracting State Agency for the goods delivered and accepted or for services performed and all of the Contracting State Agency's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contracting State Agency.
- C.2. Compensation Firm. The payment rates and the maximum liability of the Procuring State Agency under this Agreement are firm for the duration of the Agreement and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The operating amount of this agreement shall not exceed One Million Seven Hundred Forty-Two Thousand Four Hundred Dollars (\$1,742,400.00) (refer to Attachment A) to be drawn down as follows:
- a. The amount of Four Hundred Twenty-Six Thousand Three Hundred Dollars (\$426,300.00) shall be paid the Contractor upon approval of the Contract.
 - b. The amount of Seven Hundred Seventy-Six Thousand Dollars (\$776,000.00) shall be paid the Contractor on March 31, 2016.
 - c. The amount of Five Hundred Forty Thousand One Hundred Dollars (\$540,100.00) shall be paid the Contractor on June 30, 2016.
- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. A payment by the Procuring State Agency shall not prejudice the Procuring State Agency's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the Procuring State Agency shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.
- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Procuring State Agency, on the basis of audits conducted in accordance with the terms of this Interagency Agreement, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The Procuring State Agency reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any Interagency Agreement between the Contractor and the Procuring State Agency any amounts, which are or shall become due and payable to the Procuring State Agency by the Contractor.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The Procuring State Agency and the Contracting State Agency are not bound by this Agreement until it is signed by the agency head or the agency head's designee. Each agency's legal counsel shall review and approve the Agreement as to form and legality.
- D.2. Modification and Amendment. Any modifications, amendments, renewals or extensions shall be in writing, signed, and approved by all parties who signed and approved this Agreement.
- D.3. Termination for Convenience. This Agreement may be terminated by either party by giving written notice to the other, at least thirty (30) days before the effective date of termination. Should the Procuring State Agency exercise the option of terminating this Agreement for convenience, the Contracting State Agency shall be entitled to compensation for all goods delivered and accepted or satisfactory and authorized services completed as of the termination date. Should the Contracting State Agency exercise this provision, the Procuring State Agency shall have no liability to the Contracting State Agency except for those goods delivered and accepted or those units of service that were satisfactorily completed by the Contracting State Agency. The final decision as to the acceptability of goods or whether units of service were satisfactorily completed shall be determined by the Procuring State Agency in its sole discretion.
- D.4. Subject to Funds Availability. This Agreement is subject to the appropriation and availability of state and/or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Procuring State Agency reserves the right to terminate this Agreement upon written notice to the Contracting State Agency. Said termination shall not be deemed a breach of this Agreement by the Procuring State Agency. Upon receipt of the written notice, the Contracting State Agency shall cease all work associated with this Agreement. Should such an event occur, the Contracting State Agency shall be entitled to compensation for all satisfactory and goods delivered and accepted or authorized services completed as of the termination date. Upon such termination, the Contracting State Agency shall have no right to recover from the Procuring State Agency any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.5. Completeness. This Agreement is complete and contains the entire understanding between the parties relating to this subject matter, including all the terms and conditions of the parties' agreement. There are no other prior or contemporaneous agreements that modify, supplement, or contradict any of the express terms of the agreement.
- D.6. Communications and Contacts. All instructions, notices, consents, demands, or other communications shall be made in writing and directed to the following designated contact persons:

The Procuring State Agency:

Darin J. Gordon, Deputy Commissioner
Department of Finance and Administration
Bureau of TennCare
310 Great Circle Road
Nashville, Tennessee 37247-6501
Telephone # (615) 507-6362
FAX # (615) 532-5236

The Contractor:

Leslie Humphreys, Assistant Commissioner
Department of Health

Andrew Johnson Building
710 James Robertson Parkway
Nashville, TN 37243
Telephone # (615) 741-4139

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- D.7. Termination for Cause. If the Contracting State Agency fails to properly perform its obligations under this Interagency Agreement in a timely or proper manner, or if the Contracting State Agency violates any terms of this Interagency Agreement, the Procuring State Agency shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services.
- D.8. Subcontracting. The Contracting State Agency shall not assign this Interagency Agreement or enter into a subcontract for any of the services performed under this Interagency Agreement without obtaining the prior written approval of the Procuring State Agency. Notwithstanding any use of approved subcontractors, the Contracting State Agency shall be the prime contractor and shall be responsible for all work performed.
- D.9. Monitoring. The Contracting State Agency's activities conducted and records maintained pursuant to this Interagency Agreement shall be subject to monitoring and evaluation by the Procuring State Agency, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Contracting State Agency shall submit brief, periodic, progress reports to the Procuring State Agency as requested.
- D.11. State and Federal Compliance. The Contracting State Agency shall comply with all applicable state and federal laws and regulations in the performance of this Agreement.
- D.12. Headings. Section headings are for reference purposes only and shall not be construed as part of this Agreement.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the Procuring State Agency or acquired by the Contractor on behalf of the Procuring State Agency shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Interagency Agreement; previously possessed by the Contractor without written obligations to the Procuring State Agency to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the Procuring State Agency's information; or, disclosed by the Procuring State Agency to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions

of agents of the Procuring State Agency or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Interagency Agreement.

E.2. HIPAA Compliance. The State and the Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Interagency Agreement.

- a. The Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Interagency Agreement.
- b. The Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Interagency Agreement so that both parties will be in compliance with the Privacy Rules.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and the Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Interagency Agreement is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.
- d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

E.3. Business Associate. Contractor hereby acknowledges its designation as a business associate under HIPAA and agrees to comply with all applicable HIPAA regulations. In accordance with the HIPAA regulations, the Contractor shall, at a minimum:

- a. Comply with requirements of the HIPAA, including, but not limited to, the transactions and code sets, privacy, security, and identifier regulations. Compliance includes meeting all required transaction formats and code sets with the specified data sharing agreements required under the regulations;
- b. Transmit/receive from/to its providers, subcontractors, clearinghouses and HCFA all transactions and code sets required by HIPAA in the appropriate standard formats, utilizing appropriate and adequate safeguards, as specified under the law and as directed by HCFA so long as HCFA direction does not conflict with the law;
- c. Agree that if it is not in compliance with all applicable standards defined within the transactions and code sets, privacy, security and all subsequent HIPAA standards, that it will be in breach of this Interagency Agreement and will then take all reasonable steps to cure the breach or end the violation as applicable. Since inability to meet the transactions and code sets requirements, as well as the privacy and security requirements can bring basic business practices between HCFA and the Contractor and between the Contractor and its

providers and/or subcontractors to a halt, if for any reason the Contractor cannot meet the requirements of this Section, HCFA may terminate this Interagency Agreement.

- d. Ensure that Protected Health Information (PHI) exchanged between the Contractor and HCFA is used only for the purposes of treatment, payment, or health care operations and health oversight and its related functions. All PHI not transmitted for these purposes or for purposes allowed under the federal HIPAA regulations shall be de-identified to secure and protect the individual enrollee's PHI;
- e. Report to HCFA's Privacy Office immediately upon becoming aware of any use or disclosure of PHI in violation of this Interagency Agreement by the Contractor, its officers, directors, employees, subcontractors or agents or by a third party to which the Contractor disclosed PHI;
- f. Specify in its agreements with any agent or subcontractor that will have access to PHI that such agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to the Contractor pursuant to this Section;
- g. Make its internal policies and procedures, records and other documentation related to the use and disclosure of PHI available upon request to the U.S. Secretary of Health and Human Services for the purposes of determining compliance with the HIPAA regulations;
- h. Create and adopt policies and procedures to periodically audit adherence to all HIPAA regulations;
- i. Agree to ensure that any agent, including a subcontractor, to whom it provides PHI that was created, received, maintained, or transmitted by or on behalf of HCFA agrees to use reasonable and appropriate safeguards to protect the PHI.
- j. If feasible, return or destroy all PHI, in whatever form or medium (including any electronic medium) and all copies of any data or compilations derived from and allowing identification of any individual who is a subject of that PHI upon termination, cancellation, expiration or other conclusion of the Agreement, and in accordance with this Section of this Interagency Agreement. The Contractor shall complete such return or destruction as promptly as possible, but not later than thirty (30) days after the effective date of the termination, cancellation, expiration or other conclusion of the Agreement. The Contractor shall identify any PHI that cannot feasibly be returned or destroyed. Within such thirty (30) days after the effective date of the termination, cancellation, expiration or other conclusion of the Agreement, the Contractor shall: (1) certify an oath in writing that such return or destruction has been completed; (2) identify any PHI which cannot feasibly be returned or destroyed; and (3) certify that it will only use or disclose such PHI for those purposes that make its return or destruction infeasible;
- k. Implement all appropriate administrative, physical and technical safeguards to prevent the use or disclosure of PHI other than pursuant to the terms and conditions of this Interagency Agreement and, including, but not limited to, privacy, security and confidentiality requirements in 45 CFR Parts 160 and 164;
- l. Set up appropriate mechanisms to limit use or disclosure of PHI to the minimum necessary to accomplish the intended purpose of the use or disclosure;
- m. Create and implement policies and procedures to address present and future HIPAA regulatory requirements as needed, including, but not limited to: use and disclosure of data; de-identification of data; minimum necessary access; accounting of disclosures; enrollee's right to amend, access, request restrictions; notice of privacy practices and right to file a complaint;

- n. Provide an appropriate level of training to its staff and employees regarding HIPAA related policies, procedures, enrollee rights and penalties prior to the HIPAA implementation deadlines and at appropriate intervals thereafter;
 - o. Track training of Contractor's staff and employees and maintain signed acknowledgements by staff and employees of the Contractor's HIPAA policies;
 - p. Be allowed to use and receive information from HCFA where necessary for the management and administration of this Interagency Agreement and to carry out business operations where permitted under the regulations;
 - q. Be permitted to use and disclose PHI for the Contractor's own legal responsibilities;
 - r. Adopt the appropriate procedures and access safeguards to restrict and regulate access to and use by Contractor's employees and other persons performing work for the Contractor to have only minimum necessary access to PHI and personally identifiable data within their organization;
 - s. Continue to protect and secure PHI and personally identifiable information relating to enrollees who are deceased; and
 - t. Track all security incidents as defined by HIPAA and periodically report such incidents to HCFA in summary fashion.
- E.4. Information Holders. HCFA and the Contractor are "information holders" as defined in TCA 47-18-2107. In the event of a breach of the security of Contractor's information system, as defined by TCA 47-18-2107, the Contractor shall indemnify and hold HCFA harmless for expenses and/or damages related to the breach. Such obligations shall include, but not be limited to, mailing notifications to affected enrollees. Substitute notice to written notice, as defined by TCA 47-18-2107(e)(2) and (3), shall only be permitted with HCFA's express written approval. The Contractor shall notify HCFA's Privacy Office immediately upon becoming aware of any security incident that would constitute a "breach of the security of the system" as defined in TCA 47-18-2107.
- E.5. Notification of Breach and Notification of Suspected Breach. - The Contractor shall notify HCFA's Privacy Office immediately upon becoming aware of any incident, either confirmed or suspected, that represents or may represent unauthorized access, use or disclosure of encrypted or unencrypted computerized data that materially compromises the security, confidentiality, or integrity of enrollee PHI maintained or held by the Contractor, including any unauthorized acquisition of enrollee PHI by an employee or otherwise authorized user of the Contractor's system. This includes, but is not limited to, loss or suspected loss of remote computing or telework devices such as laptops, PDAs, Blackberrys or other Smartphones, USB drives, thumb drives, flash drives, CDs, and/or disks.
- E.6. Authority. If other State or local agencies or offices perform services for TennCare, including the Contractor, these entities do not have the authority to change or disapprove any administrative decision of TennCare, or otherwise substitute their judgment for that of TennCare with respect to the application of policies, rules and regulations issued by TennCare.
- E.7. Applicable Laws, Rules, Policies and Court Orders. The Contractor agrees to comply with all applicable federal and State laws, rules, regulations, sub-regulatory guidance, executive orders, HCFA Waivers, and all current, modified or future Court decrees, orders or judgments applicable to the State's TennCare and CHIP programs. Such compliance shall be performed at no additional cost to the State.
- E.8. Disclosure of Personal Identity Information. The Contractor shall report to the State any instances of unauthorized disclosure of confidential information that come to the attention of the Contractor. Any such report shall be made by the Contractor within twenty-four (24) hours after

the instance has come to the attention of the Contractor. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals that are deemed to be part of a potential disclosure. The Contractor shall bear the cost of notification to individuals having personal identity information involved in a potential disclosure event, including individual letters and/or public notice.

- E.9. Severability. If any terms and conditions of this Interagency Agreement are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Interagency Agreement are declared severable.
- E.10. Records. The Contractor shall maintain documentation for all charges under this Interagency Agreement. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Interagency Agreement, shall be maintained for a period of six (6) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- E.11. Social Security Administration (SSA) Required Provisions for Data Security. The Contractor shall comply with limitations on use, treatment, and safeguarding of data under the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget guidelines, the Federal Information Security Management Act of 2002 (44 U.S.C. § 3541, *et seq.*), and related National Institute of Standards and Technology guidelines. In addition, the Contractor shall have in place administrative, physical, and technical safeguards for data.
- a. The Contractor shall not duplicate in a separate file or disseminate, without prior written permission from TennCare, the data governed by the Interagency Agreement for any purpose other than that set forth in this Interagency Agreement for the administration of the TennCare program. Should the Contractor propose a redisclosure of said data, the Contractor must specify in writing to TennCare the data the Contractor proposes to redisclose, to whom, and the reasons that justify the redisclosure. TennCare will not give permission for such redisclosure unless the redisclosure is required by law or essential to the administration of the TennCare program.
 - b. The Contractor agrees to abide by all relevant federal laws, restrictions on access, use, and disclosure, and security requirements in this Interagency Agreement.
 - c. The Contractor shall provide a current list of the employees of such Contractor with access to SSA data and provide such lists to TennCare.
 - d. The Contractor shall restrict access to the data obtained from TennCare to only those authorized employees who need such data to perform their official duties in connection with purposes identified in this Interagency Agreement. The Contractor shall not further duplicate, disseminate, or disclose such data without obtaining TennCare's prior written approval.
 - e. The Contractor shall ensure that its employees:
 - (1) properly safeguard PHI/PII furnished by TennCare under this Interagency Agreement from loss, theft or inadvertent disclosure;
 - (2) understand that they are responsible for safeguarding this information at all times, regardless of whether or not the Contractor's employee is at his or her regular duty station;

- (3) ensure that laptops and other electronic devices/ media containing PHI/PII are encrypted and/or password protected;
- (4) send emails containing PHI/PII only if encrypted or if to and from addresses that are secure; and,
- (5) limit disclosure of the information and details relating to a PHI/PII loss only to those with a need to know.

Contractor employees who access, use, or disclose TennCare or TennCare SSA-supplied data in a manner or purpose not authorized by this Interagency Agreement may be subject to civil and criminal sanctions pursuant to applicable federal statutes.

- f. **Loss or Suspected Loss of Data** – If an employee of the Contractor becomes aware of suspected or actual loss of PHI/PII, he or she must immediately contact TennCare **within 1 hour** to report the actual or suspected loss. The Contractor will use the Loss Worksheet located at http://www.tn.gov/assets/entities/tenncare/attachments/phi_piiworksheet.pdf to quickly gather and organize information about the incident. The Contractor must provide TennCare with timely updates as any additional information about the loss of PHI/PII becomes available.

If the Contractor experiences a loss or breach of said data, TennCare will determine whether or not notice to individuals whose data has been lost or breached shall be provided and the Contractor shall bear any costs associated with the notice or any mitigation.

- g. TennCare may immediately and unilaterally suspend the data flow under this Interagency Agreement, or terminate this Interagency Agreement, if TennCare, in its sole discretion, determines that the Contractor has: (1) made an unauthorized use or disclosure of TennCare SSA-supplied data; or (2) violated or failed to follow the terms and conditions of this Interagency Agreement.

- h. **Legal Authority** – Federal laws and regulations giving SSA the authority to disclose data to TennCare and TennCare's authority to collect, maintain, use and share data with Contractor is protected under federal law for specified purposes:

- (1) Sections 1137,453, and 1106(b) of the Act (42 U.S.C. 1320b-7, 653, and 1306(b)) (income and eligibility verification data);
- (2) 26 U.S.C. 6103(l)(7) and (8) (tax return data);
- (3) Section 202(x)(3)(B)(iv) of the Act (42 U.S.C. 401(x)(3)(B)(iv))(prisoner data);
- (4) Section 205(r)(3) of the Act (42, U.S.C. 405(r)(3)) and Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, 7213(a)(2) (death data);
- (5) Sections 402,412, 421, and 435 of Pub. L. 104-193 (8 U.S.C. 1612, 1622, 1631, and 1645) (quarters of coverage data);
- (6) Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3 (citizenship data); and
- (7) Routine use exception to the Privacy Act, 5 U.S.C. 552a(b)(3)(data necessary to administer other programs compatible with SSA programs).

This Section further carries out Section 1106(a) of the Act (42 U.S.C. 1306), the regulations promulgated pursuant to that section (20 C.F.R. Part 401), the Privacy of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget ("OMB") guidelines, the Federal Information Security Management Act of 2002 ("FISMA") (44 U.S.C. 3541 *et seq.*), and related National Institute of Standards and Technology ("NIST") guidelines, which provide

the requirements that the Contractor must follow with regard to use, treatment, and safeguarding data.

i. Definitions

- (1) "SSA-supplied data" – information, such as an individual's social security number, supplied by the Social Security Administration to TennCare to determine entitlement or eligibility for federally-funded programs (CMPPA between SSA and F&A; IEA between SSA and TennCare).
- (2) "Protected Health Information/Personally Identifiable Information" (PHI/PII) (45 CFR 160.103; OMB Circular M-06-19) – Protected health information means individually identifiable health information that is: (i) Transmitted by electronic media; (ii) Maintained in electronic media; or (iii) Transmitted or maintained in any other form or medium.
- (3) "Individually Identifiable Health Information" – information that is a subset of health information, including demographic information collected from an individual, and: (1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- (4) "Personally Identifiable Information" – any information about an individual maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual's identity, such as their name, Social Security Number, date and place of birth, mother's maiden name, biometric records, including any other personal information which can be linked to an individual.

E.12. Nondiscrimination Compliance Requirements.

- a. Contractor agrees that it shall comply with the applicable federal and State civil rights laws and regulations, which may include, but are not limited to, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and 42 U.S.C. § 18116. As part of this compliance no person on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classifications protected under federal or state laws shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of Contractor's obligation under its agreement with TennCare or in the employment practices of the Contractor.
- b. Contractor agrees that its civil rights compliance staff member will work directly with TennCare's Nondiscrimination Compliance Director in order to implement and coordinate nondiscrimination compliance activities. The Contractor shall provide to TennCare, within ten (10) days of signing this Contract, the name and contact information of its civil rights compliance staff member. If at any time that position is reassigned to another staff member, the new staff member's name and contract information shall be reported in writing to TennCare within ten (10) calendar days of assuming these duties.

IN WITNESS WHEREOF:

DEPARTMENT OF HEALTH:

John J. Dreyzehner, MD, MPH / 12.15.15
SIGNATURE / DATE

John J. Dreyzehner, MD, MPH, FACOEM, COMMISSIONER

PRINTED NAME AND TITLE

DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE:

Larry B. Martin / 12/18/15
LARRY B. MARTIN, COMMISSIONER / DATE

ATTACHMENT A

Prenatal Presumptive Eligibility Expansion (January 1, 2016 thru June 30th, 2016)

Region	# Sites	at \$8,000 per Site	2014 Presumptives	at \$100.00 per Presumptive	Total	Equipment Cost	Total 1st Year
East	15	\$60,000	1559	\$155,900	\$215,900	\$23,600	\$239,500
Mid-Cumberland	17	\$68,000	1504	\$150,400	\$218,400	\$27,900	\$246,300
Northeast	8	\$32,000	723	\$72,300	\$104,300	\$24,500	\$128,800
South Central	13	\$52,000	747	\$74,700	\$126,700	\$38,800	\$165,500
Southeast	11	\$44,000	634	\$63,400	\$107,400	\$25,800	\$133,200
Upper Cumberland	14	\$56,000	718	\$71,800	\$127,800	\$42,600	\$170,400
West	21	\$84,000	957	\$95,700	\$179,700	\$52,700	\$232,400
Total Rurals	99	\$396,000	6,842	\$684,200	\$1,080,200	\$235,900	\$1,316,100
Davidson	3	\$12,000	913	\$91,300	\$103,300	\$5,600	\$108,900
Hamilton	4	\$16,000	455	\$45,500	\$61,500	\$13,000	\$74,500
Knox	3	\$12,000	512	\$51,200	\$63,200	\$1,500	\$64,700
Madison	1	\$4,000	169	\$16,900	\$20,900	\$2,000	\$22,900
Shelby	7	\$28,000	773	\$77,300	\$105,300	\$7,800	\$113,100
Sullivan	2	\$8,000	277	\$27,700	\$35,700	\$6,500	\$42,200
Total Metros	20	\$80,000	3099	\$309,900	\$389,900	\$36,400	\$426,300
State Totals	119	\$476,000	9,941	\$994,100	\$1,470,100	\$272,300	\$1,742,400