



**AHCP**  
America's Health Care Plan

Discover the  
**DIFFERENCE**  
with AHCP



### AGENT INFORMATION

Legal Name: \_\_\_\_\_

Last

First

MI

Address: \_\_\_\_\_

Street Address

Apartment/ Unit #

City

State

Zip Code

Home Phone: \_\_\_\_\_ Business Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_

SSN: \_\_\_\_\_ Tax ID: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

### UPLINE & COMMISSION

Direct Up-line/ Manager: \_\_\_\_\_ DP: \_\_\_\_\_

Commission Level: \_\_\_\_\_ (Unsure? Contact your up-line)

How did you hear about AHCP?

Online     Job Posting     Drip Marketing     Referral \_\_\_\_\_  
(Name of Referral)

Advance Options:     Earned Commission

### APPOINTMENT INSTRUCTIONS

Appointment Checklist for: **Anthem GA**

- Page 1    AHCP Appointment Coversheet (this page)
- Page 2    Producer Appointment Data Sheet
- Page 3-12    Agent Agreement
- Page 13-23    Business Associate Agreement
- Page 24-32    Medicare Advantage and Part D Broker Contract Addendum
- Page 33    Direct Deposit Authorization (Commissions paid by AHCP)
- Page 34    W9
- Page 35-38    AHCP Producer Agreement

Additional Requirements

- Copy of Licenses
- Copy of E&O Insurance Certificate
- Supporting documentation for any "Yes" answers to background questions

### RETURN INSTRUCTIONS

**Scan Email Option:** Send to [contracting@ahcpsales.com](mailto:contracting@ahcpsales.com)

**Fax Option:** 888-781-0586

**Mailing Address:** 1100 NW Compton Dr. 2<sup>nd</sup> Floor Beaverton, OR 97006

# Producer Appointment Data Sheet



## SECTION 1: FORM PURPOSE

New appointment     Change    Selling Medicare plans?  Yes     No

## SECTION 2: PRODUCER INFORMATION

First name	M.I.	Last name	Social security no./Government ID no.		
Date of birth (MM/DD/YYYY)	National Producer No. (NPN)	Home phone no.	Home fax no.		
Business name			Tax ID no.		
Business phone no.* Ext.	Business fax no.	Firm/agency National Producer No. (NPN)**	Agency principal date of birth***		
Residence mailing address (no P.O. box)		City	State	ZIP code	County
Business mailing address		City	State	ZIP code	County
Physical business mailing address (if different from business mailing address)		City	State	ZIP code	County
I prefer to receive mailings at: <input type="checkbox"/> Residence mailing address <input type="checkbox"/> Business mailing address <input type="checkbox"/> Physical business mailing address					
Personal email address			Business email address*		

Previous names. Have you used any other names or aliases in the last seven (7) years?  Yes     No    If Yes, please list any/all such names.

Previous first name	Previous middle name	Previous last name

\* For communication purposes, both phone number and email address are required.

\*\* Required only if requesting an appointment for a firm/agency.

\*\*\* Required only if requesting an appointment in Georgia.

## SECTION 3: APPOINTMENT INFORMATION

Type of appointment    Is firm/agency incorporated?  Yes     No  
 Individual     Firm/agency    If Yes, type of corporation:  Sole proprietor     LLC     LLP     S-Corporation

## SECTION 4: COMMISSION ASSIGNMENT — Complete this section if commissions are to be assigned to an agency or corporation

Agency/corporation name	Tax ID no.
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## SECTION 5: COMMISSION HIERARCHY — If applicable

Brokerage General Agency (BGA) name	BGA broker ID no. or BGA broker code
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**Privacy Policy:** Your privacy is important to us. We do not sell or share any personal information contained in this document with any third parties, with exception of providing information to state or government agencies for the express use of obtaining licenses or licensing information. We reserve the right to disclose your personally identifiable information as required by law and/or to comply with a judicial proceeding, court order, or legal process served on our company. We shall not be held responsible for any personal information obtained illegally by a third party via fax, e-mail, or other online transmittal.

Life and Disability products are underwritten by Greater Georgia Life Insurance Company (GGL) using the trade name Anthem Life, independent licensee of the Blue Cross and Blue Shield Association. Blue Cross and Blue Shield of Georgia, Inc. and Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. are independent licensees of the Blue Cross and Blue Shield Association. The Blue Cross and Blue Shield names and symbols are registered trademarks of the Blue Cross and Blue Shield Association.



**DO NOT COMPLETE**  
 Effective Date to be assigned by Company.  
 \_\_\_\_\_ day of \_\_\_\_\_.

## AGENT AGREEMENT

This Agreement, made and entered into between Blue Cross and Blue Shield of Georgia, Inc., Blue Cross Blue Shield Healthcare Plan of Georgia, and Greater Georgia Life Insurance Company, corporations organized and existing under the laws of the State of Georgia and having their principal offices in the City of Atlanta, State of Georgia (herein after referred to as “Company”)(and \_\_\_\_\_ Agent (hereinafter referred to as “Agent”).

In consideration of the covenants and agreements herein set forth, Company hereby grants to Agent, as its agent, the authority and power, subject to the terms, conditions and limits herein set forth, which are severally and mutually agreed upon, to solicit applications for insurance with Company.

The authorization granted to Agent is limited to the territory in which Agent and Company are properly licensed and authorized to carry-out the transactions contemplated herein. This authority shall be non-exclusive, and Company may grant such authority as it may determine.

### I. DUTIES

The duties and obligations of the Agent under this Agreement shall inure to the benefit of the Company, its successors or assigns.

Subject to the terms and limitations of this Agreement, Agent agrees to:

1. Solicit and procure applications for life insurance, and accident and sickness insurance, as authorized by Company and to collect the first premiums therefore provided that Agent is properly licensed to transact such insurance business;
2. Deliver policies, assist Company in keeping policies in force, and extend such other service to policyholders and their beneficiaries as is proper and customary under Company’s rules and methods of operations;
3. Prospect for, contract, with Company’s approval, train and supervise agents at Agent’s discretion. Agent shall be responsible for all licensing fees, salaries, travel expenses, benefits, commissions and any and all other expenses of such agents.
4. Deliver renewal notifications in a timely manner, in accordance with Georgia laws;
5. Provide the policyholder with adequate information regarding benefits and benefit changes to the policy, including conducting enrollment meetings at point of sale as well as annual open enrollment meeting if requested by the Policyholder;
6. Abide by the Standards of Business Conduct as provided by the Company and all applicable terms thereof for itself, its employees and agents appointed with the Company under this contract; and

7. Abide by the Business Associate duties as set by Company in compliance with privacy and security standards of the Health Insurance Portability and Accountability Act of 1996, Title V. of the Gramm-Leach Bliley act and applicable state legislation and regulations, as amended from time to time.

## **II. RESPONSIBILITIES**

It is understood and agreed that Agent will:

Be governed by all Company rules, regulations and instructions together with the insurance laws and regulations of the State of Georgia, and any other applicable laws;

2. Treat all money received and collected by Agent for Company as property held in trust and remit such collections to Company in accordance with its procedures;
3. Account for all policies, receipts, papers, records, and property received by Agent from Company, its policyholders, and representatives;
4. Aid in the care and conservation of Company's business and provide prompt service to policyholders;
5. Indemnify and hold Company harmless from any losses, damages, costs and liabilities suffered or incurred by Company which may be caused by Agent's acts, negligence or dishonesty;
6. At all times, during the term of this Agreement, keep in force, at Agent's own expense, the following insurance: Commercial General Liability Insurance with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury and property damage to include personal injury and contractual
7. Maintain Professional Liability (Errors & Omissions) insurance for \$1,000,000 per occurrence and in the aggregate; and
8. Provide the applicable declarations page(s) or certificate of insurance on an annual basis, or when requested by Company, verifying these coverages and limits. Said policies may not be materially modified or cancelled except after thirty (30) days prior written notice to Company.

## **III. LIMINATIONS OF AUTHORITY**

It is understood and agreed that Agent's authority extends no further than stated in this Agreement. Agent has no authority, implied or otherwise, to:

1. Make, alter or discharge any contract;
2. Waive forfeiture;
3. Extend the time for payment of any premium;
4. Waive payment of any premium;
5. Accept notes in payment of any premium;

6. Obligate company for payment of any debts;
7. Issue any receipt of any kind except as authorized by the rules of Company;
8. Accept any past due premium without the specific authority of Company;
9. Pay or allow, or offer to pay or allow, as inducement to any person whom Company insures, any rebate of premium or consideration of any inducement not specified in the policy;
10. Commingle with his or her own funds any monies or funds received or collected on behalf of an applicant for the Company's insurance policies, nor shall Agent establish any bank account to hold such funds;
11. Submit applications to the Company on behalf of other Agents, except as set forth herein. If Agent submits applications on another Agent's behalf, all commissions paid or payable by the Company to Agent or any designees of Agent for that policy, shall be forfeited. Company then, among other remedies, may cancel this Agreement and offset forfeited commission against other commissions payable to Agent or Agent's designees. The provisions of this Section III.11 shall not be construed in such a way that Agent shall be prohibited from submitting applications or business produced by Agent's bona fide employees, provided, however, that Agent's employees are properly licensed and appointed with the Company to produce applications of the type submitted;
12. Institute any legal proceeding involving Company in any manner, unless such proceeding shall have been approved in writing by an officer of Company;
13. Use to the detriment of the Company, any information about the business of the Company, which Agent has obtained due to Agent's association with the Company. This is applicable for the term of this Agreement and indefinitely thereafter. Agent recognizes that a remedy at law for any breach or threatened breach by Agent of this Section III.13 will be inadequate by its nature and if Agent violates this section, the Company shall be entitled to injunctive and other appropriate remedies otherwise available under this Agreement and otherwise at law or in equity.
14. Employ any medical examiner for examination of an applicant except as provided by Company rules.
15. Company, at its sole discretion, may specify or limit those products that the Agent may solicit.

#### **IV. EXPENSES**

All expenses incurred by Agent in connection with activities pursuant to this Agreement, including all licensing fees, shall be borne by Agent.

#### **V. ASSIGNMENT**

This Agreement and the payments accruing under it may not be assignable without Company's prior written consent.

## **VI. AGENT STATUS**

1. This Agreement shall not be construed as creating the relationship of employer/employee between Company and Agent. The relationship of Agent to the Company is and shall be that an independent contractor. Within the scope of Agent's authority, duties and responsibilities, Agent shall exercise independent judgment as to the persons from whom applications for insurance are solicited and the time, place and manner of such solicitation.
2. Agent understands and agrees that the purpose of extended or available training courses, sales methods and material's, prospect lead or similar aids and services shall assist Agent in the conduct of Agent's business. The purpose of such shall not be to give Company control over Agent's time, direction and manner, or means by which Agent shall conduct Agent's business.
3. Agent is neither required to devote full time to the performance of this Agreement nor perform the services personally. Agent is free to solicit business for other companies.

## **VII. COMPENSATION**

Company retains the right to change the commission rates and structure, including all new and in-force business, with 30 days prior notification, and such modified or replaced schedule shall apply to all other policies effective following the effective date of such modification or replacement.

Compensation may be subject to professional fees payments to the Georgia Department of Insurance, as allowable by the internal laws of the State of Georgia.

1. Agent shall receive commission (as defined in the Commission Schedule) in accordance with the terms and conditions of the Commission Schedule. The term "Commission Schedule" refers to that document created and maintained by the Company that details the manner and amounts that an Agent will be paid for the sale of a particular product. The referenced Commission Schedule(s) applicable to this Agreement are posted on the Company's website. Posted Commission Schedule(s) will be subject to change in accordance with this Agreement.
2. Compensation shall be payable only for so long as the Insured maintains a policy with Company and Agent remains the "Agent of Record" for the Insured, as recognized by both the Insured and Company.
3. Except as set forth in the Commission Schedule, commission will be paid to Agent by the Company:
  - a) Based on premium collected, earned and reconciled by the Company, and
  - b) Only if Agent has complied with the terms and conditions of this Agreement.
  - c) No commission shall be paid on any interest assessed on premiums.
  - d) Medical Underwriting Rate Adjustments will be part of the Commission Schedule.
4. The Company shall have the right to revise the premiums for any of its health insurance policies in accordance with the terms of such policies. If the Company cancels a health insurance policy and returns premiums, Agent shall repay to the Company, on demand, the full amount of the commission the Company has paid on the returned premiums. Company shall have the authority to recover overpayments from future commission payments.

5. In the event that an error is made in the calculation and/or payment of Compensation under this Agreement, regardless of who made the error or the reason for the error, the parties agree that the correction of the error requiring payments to Agent or recovery of payments from Agent shall be made retroactively for a maximum of twelve (12) months from the date the error was discovered by Company. This section shall not limit in any way Company's right to collect any indebtedness of Agent to Company, through offset of compensation or otherwise, for reasons other than error in calculations or payments.
6. Termination of this Agreement for cause shall immediately void the Company's obligations under this Section. Agent shall immediately notify the Company if the Agent's "Agent of Record" letter on any said business is revoked, terminated, or canceled. Agent agrees to repay to the Company any and all amounts paid by the Company to the Agent on any said business for dates of service after the effective date of any such revocation, termination, or cancellation.
7. Agent agrees to fully disclose to his or her group clients, subscribers or applicants for insurance, all reportable compensation Agent receives from Company to the extent and in the manner consistent with applicable federal or state laws, regulations and/or requirements regarding the disclosure of reportable compensation as required under any agreement with such group clients, subscribers or applicants for insurance and as required by Company's published policies concerning disclosure.

#### **VIII. COMMISSIONS ON CONVERSIONS OR EXCHANGES**

Notwithstanding any other provisions of this Agreement, commissions on conversions and exchanges shall be governed by the rules and practices which Company from time to time may establish. If a policy is converted or exchanged after termination of this Agreement, no further commissions of any kind will be paid to Agent with respect to such policy.

#### **IX. WITHDRAWAL OF POLICY FORMS**

Company reserves the right to discontinue, withdraw from sale, or change the commission rate on any existing policy or policy which may hereafter be offered for sale. However, any compensation due Agent after such discontinuance or change will not be affected.

#### **X. INDEBTEDNESS**

Company may offset against any claim for compensation hereunder any debts or charges now due or which may become due Company from Agent at any time. Such debts or charges shall be a first lien against any commissions due Agent under this Agreement. In the event commissions due Agent are insufficient to discharge Agent's indebtedness, the balance due, if any, shall be a debt which Agent hereby assumes and agrees to pay.

#### **XI. LAPSES AND RESTORATIONS**

If, while this Agreement is in force, a policy which Agent has a commission interest terminates and subsequently is restored, no commission shall thereafter be payable to Agent with respect to such policy, unless such restoration was effected solely through Agent's efforts. If a policy should lapse

and be restored after termination of this Agreement, then no further commissions shall be paid Agent with respect to the policy.

## **XII. CANCELLATION OF RECISSION OF POLICIES**

If a policy is cancelled by Company at the request of the insured or applicant for any reason whatsoever or if Company rescinds a policy on the grounds of misrepresentation in procurement, Company shall be the sole judge of Agent's commission interest in that policy.

## **XIII. UNDELIVERED POLICIES**

When an issued policy cannot be delivered to the insured and is returned to Company, Agent agrees to compensate Company as may be due under Company's procedural requirements then in effect.

## **XIV. CONFLICT WITH LAW OR REGULATION**

If at any time, the provisions of this Agreement conflict with any law, regulation or ruling of any applicable governmental entity, the Agreement may be modified without Agent's consent, to comply with such law, regulation or ruling.

## **XV NON-WAIVER**

Failure of Company to insist upon strict compliance with any terms of this Agreement or procedural requirements of Company shall not be construed as a waiver of any such terms or requirements. All terms and requirements shall continue in full force and effect.

## **XVI. SUPERCEDES ANY PRIOR AGREEMENT**

This is the entire Agreement (including any other attachments or addendums) between the Agent and the Company. This Agreement supercedes, terminates, and otherwise renders null and void any and all previous agreements (including Agent agreements, Single Case Agreements) and any and all prior representations and statements of Company, whether written, oral or implied, and now constitutes the entire agreement between the parties as of the effective date of this Agreement. Notwithstanding the foregoing, this Agreement does not affect any liability, obligation or indebtedness of Agent to Company or any liens created in connection therewith. Except as otherwise set forth herein, the terms and conditions of this Agreement shall be changed only by amendment issued to form a part of this Agreement, signed by the Company's authorized representative, and provided Agent in the manner set forth herein at least thirty (30) days prior to the effective date of the change. The Commission Schedule may be amended with thirty (30) days notice to Agent. Notice to Agent may be accomplished by Company by placing the amended fee schedule on Company's website (30) days prior to effective date of amendment. Company may provide notification by means of letter, newsletter, printed materials, electronic mail or other media.

## **XVII. TERMINATION PROVISIONS**

This Agreement is made subject to the following provisions with respect to termination and commissions after termination. This Agreement shall terminate:

1. Without cause, upon 30 days written notice to Agent by Company or 30 days written notice to Company by Agent.



2. In the event of Agent's death or total disability.
3. For cause, immediately upon the sole election of Company, if Agent at any time:
  - (a) Perpetrates any fraud or commits any act of dishonesty upon an applicant, policyholder, beneficiary of Company;
  - (b) Fails to promptly account for and pay to Company money due according to Company's records;
  - (c) Twists or attempts to twist any policyholder or Agent of Company;
  - (d) Violates or breaches any term of this Agreement; or
  - (e) Fails or refuses to surrender upon demand records or property of Company which may have come into Agent's hands as custodian or otherwise; or
  - (f) Agent's license to perform the functions required under this Agreement is suspended, cancelled, or revoked for cause by the State of Georgia or any regulatory body thereof; or
  - (g) Fails to furnish proof of licensing satisfactory to the Company within forty-eight (48) hours of a request by the Company for such proof; or
  - (h) Fails to maintain or provide proof of Errors and Omissions insurance coverage as required in this Agreement;
  - (i) Unprofessional or inappropriate conduct of the Agent as determined by the Company at its sole discretion.

Company reserves the right to cease paying commissions upon the effective date of cancellation of Agreement under termination provisions above.

#### **XVIII. COMPLIANCE WITH 18 U.S.C. §§ 1033 AND 1034**

- Agent certifies that Agent has not been convicted of any criminal felony.
- Agent has been convicted of a criminal felony. [Please attach a detailed explanation.]

#### **XIX. CONFIDENTIALITY AND DISCLOSURE OF PATIENT INFORMATION**

Agent, its sub-agents and employees (collectively, "Business Associate") agree to comply with the terms and conditions of the Business Associate Agreement which is incorporated by reference as if completely restated herein.

#### **XX. ADVERTISING, POLICY FORMS AND SERVICE MARKS**

1. Agent shall not re-market or package the Company's products without the express written consent of the Company. Agent has no authority, implied or otherwise to advertise or otherwise use Company logos, policies or other references, printed and/or electronic in any newspaper, periodical, circular, or other marketing communication materials, printed or electronic, except upon prior written approval of an officer of the Company.
2. Agent understands and agrees that the names "Blue Cross" and "Blue Shield" and the Blue Cross Blue Shield symbols and marks and all rights, titles and interests therein (including without limitation any service marks, copy right, patent, trademark and other intellectual property rights therein) (collectively, the "Marks") are the property of or licensed to Company, and Agent and employees receive no rights, title or interests in or to the Marks except as expressly set forth

herein. Agent shall not: (i) use, modify or alter the Marks; or (ii) alter, destroy or otherwise remove any proprietary notices or labels containing the Marks, in any manner, without the prior written consent of Company.

3. Company shall supply promotional materials and applications for policies and shall prescribe all policy forms and rates to be used in connection with performance under this Agreement. Agent agrees to use only those materials, applications, forms and rates provided by Company. Agent shall not, and shall not permit its agents, sub-Agents or employees to alter, modify or amend any promotional materials, applications, policy forms or rates provided by Company. In addition, no circular, advertisement, letterhead, telephone directory advertisement or other matter or materials that includes the name of or refers to the Company or the Marks, as defined below, shall be printed, published or used to include, but not limited to printed or electronic media, in any way, by Agent unless Company has given advance written approval thereof.
4. Other than sales literature, all material that the Company furnishes for Agent's use is confidential information and shall not be unnecessarily distributed or disclosed by Agent, without Company's written permission or except as may be required by law.
5. Liquidated Damages. Agent agrees that any unauthorized use of the Marks will injure Company, although the amount of damage would be difficult to determine. Therefore, Agent agrees to pay Company, as liquidated damages and not as a penalty, \$5,000.00 for each use of Company's Marks without Company's prior written consent plus \$50.00 for each day of each such unauthorized use. For the purpose of assessing the \$50.00 per day per use damages, each individual unauthorized appearance of the Marks shall be a separate unauthorized use. For example, and not limiting the generality of the foregoing, each individual copy of a newspaper advertisement containing an unauthorized use published on any one day shall be a separate unauthorized use and each individual copy of any edition of a telephone directory containing an unauthorized use on each day between the initial distribution of that edition and its replacement with another edition shall be a separate unauthorized use.

## **XXI. REPORTS AND AUDITS**

1. Agent shall maintain at its principal office, files and records concerning this Agreement and books and records of all transactions between itself, its Agents, sub-Agents, employees, Company and the Individual/Group. These books and records shall be maintained in accordance with prudent standards of insurance record keeping. Company acknowledges that it accepts automated or electronic copies of files in lieu of hard copy files.
2. Agent shall maintain and may not destroy any and all books, accounts and records of Agent related to Company's Policies and the same shall be subject to audit and inspection by Company or its duly authorized representative at all times while this Agreement is in force and for seven (7) consecutive years after termination of this Agreement. Company may, at any time, make copies of or take extracts from such books, accounts and records, as it may deem necessary.
3. Agent shall fully cooperate with any audit or examination by any government or authorized agencies and shall allow access to books and records maintained by Agent pursuant to this Agreement. Agent shall notify Company within one (1) business day of any such audit or

examination subject to this Agreement. Company shall have the right to audit Agent during the term of this Agreement and for a seven (7) year period thereafter.

## **XXII. LICENSES AND TAXES**


1. Agent shall maintain all licenses required by the Company, the State of Georgia, and/or local laws and regulations to engage in business as an insurance agency, or Agent.
2. Agent will pay license, income, self-employment, unemployment, and any and all other taxes and levies upon the business of the Agent and will hold Company harmless against all liability for the same.
3. Agent agrees to notify the Company within one business day of any termination, suspension, or expiration of Agent's license, its employees' licenses, or its sub-Agents' licenses.
4. Agent also agrees to notify the Company within one business day of any regulatory sanctions imposed against the Agent, its Agents, sub-Agents or employees. Upon request, Agent will furnish to the Company written proof, satisfactory to the Company, of licensing.
5. Company reserves the right to require Agent to pay appointment and processing fees, if any, of Agent and/or its subagents, as communicated to Agent from time to time.

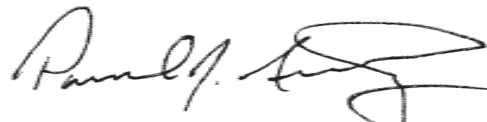
**XXIII. AMENDMENT AND MODIFICATION**

Company reserves the right to amend and/or modify this Agreement unilaterally upon thirty (30) days prior notification, including the referenced commission schedule(s). Company may provide notification by means of letter, newsletter, printed materials, electronic mail or other media.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Blue Cross and Blue Shield of Georgia, Inc.  
Blue Cross Blue Shield Healthcare Plan of Georgia  
Greater Georgia Life Insurance Company

By:   
Morgan Kendrick  
Authorized Officer of BCBSGa/BCBSHP  
President and GM, Sales

By:   
Patrick Murphy  
Authorized Officer of GGL  
Staff VP Life & Disability, Sales

I hereby accept the foregoing appointment and Agreement

\_\_\_\_\_  
Agent Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Agent Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## BUSINESS ASSOCIATE AGREEMENT

This agreement ("Agreement") is effective on the date executed by Business Associate and is between the Brokerage/Broker/ Agency/Agent named in the execution process of this Agreement ("Business Associate") and WellPoint, Inc. on behalf of its affiliates\* who are Covered Entities or Business Associates and who have a business relationship with Business Associate, if any (hereinafter collectively "Company"). The purpose of this Agreement is to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Parts 160-64), any applicable state privacy laws, any applicable state security laws, any applicable implementing regulations issued by the Insurance Commissioner or other regulatory authority having jurisdiction and the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the "HITECH Act") and any regulations adopted or to be adopted pursuant to the HITECH Act that relate to the obligations of business associates. Business Associate recognizes and agrees it is obligated by law to meet the applicable provisions of the HITECH Act.

All capitalized terms in this Agreement that are not defined in this Agreement will have the meaning ascribed to those terms by 45 C.F.R. Parts 160-164, or applicable insurance regulations that are applicable to Company's relationship with Business Associate.

### **A. Privacy of Protected Health Information and Nonpublic Personal Financial Information.**

1. **Permitted and Required Uses and Disclosures.** Business Associate is permitted or required to Use or disclose Protected Health Information ("PHI") it requests, creates or receives for or from Company (or another business associate of Company) only as follows:
  - a) **Functions and Activities on Company's Behalf.** Business Associate is permitted to request, Use and disclose PHI it creates or receives for or from Company (or another business associate of Company), consistent with the Privacy Rule and the HITECH Act, only as described in this Agreement, or other agreements during their term that may exist between Company and Business Associate.
  - b) **Business Associate's Operations.** Business Associate may Use PHI it creates or receives for or from Company as necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities. Business Associate may disclose such PHI as necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities only if:
    - (i) The Disclosure is Required by Law; or
    - (ii) Business Associate obtains reasonable assurance evidenced by written contract, from any person or organization to which Business Associate will disclose such PHI that the person or organization will:
      - a. Hold such PHI in confidence and Use or further disclose it only for the purpose for which Business Associate disclosed it to the person or organization or as Required by Law; and
      - b. Notify Business Associate (who will in turn promptly notify Company) of any instance of which the person or organization becomes aware in which the confidentiality of such PHI was breached.
  - c) **Data Aggregation Services.** If specifically directed by the Company, the Business Associate will provide Data Aggregation services relating to the Health Care Operations of the Company.

- d) Minimum Necessary and Limited Data Set. In any instance when Business Associate Uses, requests or discloses PHI under this Agreement or in accordance with other agreements that exist between Company and Business Associate, Business Associate shall utilize a Limited Data Set, if practicable. Otherwise, Business Associate may Use or disclose only the minimum amount of PHI necessary to accomplish the intended purpose, except that Business Associate will not be obligated to comply with this minimum necessary limitation with respect to:
- (i) Disclosure to or request by a Health Care Provider for Treatment;
  - (ii) Use for or Disclosure to an Individual who is the subject of Company's PHI, or that Individual's Personal Representative;
  - (iii) Use or Disclosure made pursuant to an authorization compliant with 45 C.F.R. §164.508 that is signed by an Individual who is the subject of Company's PHI to be used or disclosed, or by that Individual's Personal Representative;
  - (iv) Disclosure to the United States Department of Health and Human Services ("HHS") in accordance with Section C(5) of this Agreement;
  - (v) Use or Disclosure that is Required by Law; or
  - (vi) Any other Use or Disclosure that is excepted from the Minimum Necessary limitation as specified in 45 C.F.R. §164.502(b)(2).
- e) Use by Workforce. Business Associate shall advise members of its workforce of their obligations to protect and safeguard PHI. Business Associate shall take appropriate disciplinary action against any member of its workforce who uses or discloses PHI in contravention of this Agreement.

2. **Prohibitions on Unauthorized Requests, Use or Disclosure.**

- a) Business Associate will neither Use nor disclose Company's PHI it creates or receives from Company or from another Business Associate of Company, except as permitted or required by this Agreement or as Required by Law or as otherwise permitted in writing by Company. This Agreement does not authorize Business Associate to request, Use, disclose, maintain or transmit PHI in a manner that will violate 45 C.F.R. Parts 160-164.
- b) Business Associate will not develop any list, description or other grouping of Individuals using PHI received from or on behalf of Company, except as permitted by this Agreement or in writing by Company. Business Associate will not request, Use or disclose any list, description or other grouping of Individuals that is derived using such PHI, except as permitted by this Agreement or in writing by Company.

3. **Sub-Contractors and Agents.** Business Associate will require any of its subcontractors and agents to provide reasonable assurance, evidenced by written contract, that subcontractor or agent will comply with the same privacy and security obligations as Business Associate with respect to such PHI, including the obligations described in Section 4 herein.

4. **Information Safeguards.** Business Associate must implement, maintain and use a written information security program that contains the necessary administrative, technical and physical safeguards that are appropriate in light of the Business Associate's size and complexity in order to achieve the safeguarding objectives as detailed in Social Security Act § 1173(d) (42 U.S.C. § 1320d-2(d)), 45 C.F.R. Part 164.530(c), the HITECH Act and any other implementing regulations issued by the U.S. Department of Health and Human Services, as such may be amended from time to time and as required by the WellPoint Information Security Program. Business Associate shall notify Company should Business Associate determine it is unable to comply with any such law, regulation or official guidance. Further, Business Associate shall comply with any applicable state data security law. In furtherance of compliance with such requirements, Business Associate shall:

1. Maintain a privacy policy and procedure for Business Associate's organization, which must identify an officer of the organization that is responsible for enforcement.
2. All employees of Business Associate that handle or access PHI must undergo ongoing training regarding the safeguarding of PHI.
3. Ensure that any third party that Business Associate contracts with or relies upon for the provision of services to WellPoint also maintains a framework for compliance with the HIPAA Privacy and Security rules.
4. Implement a contingency plan for responding to emergencies and/or disruptions in your business, to ensure, to the extent reasonable, that services provided to WellPoint are not interrupted and the integrity and safety of all PHI is maintained.
5. Establish and implement a data back up program that ensures Business Associates' ability to provide Company with retrievable, exact copies of PHI, upon Company's request.
6. Maintain and exercise an audit plan to respond to internal and external security threats and violations. The audit plan should document the scope and frequency of audits and the audit procedure.
7. Document how security breaches that are discovered will be addressed.
8. Maintain technology policies and procedures that ensure the protection of PHI on hardware and software utilized by Business Associate.
9. Maintain all PHI received or created in paper form in a secure location with restricted access.
10. Utilize encryption for the electronic transmission of PHI to Company and/or to any other third party, as directed by Company or as required for the provision of services to Company.
11. To the extent that Business Associate stores, processes and/or transmits cardholder data (e.g., credit card numbers and other related information, as such term is defined by the Payment Card Industry, (PCI) Data Security Standards), Business Associate shall comply with all PCI Data Security Standards.

Business Associate shall provide Company with information concerning the aforementioned safeguards and/or other information security practices as they pertain to the protection of Company's PHI, as Company may from time to time request. Upon reasonable advance request, Business Associate shall provide WellPoint access to Business Associate's facilities used for the maintenance or processing of PHI, and to its books, records, practices, policies and procedures concerning the Use and Disclosure of PHI, in order to determine Business Associate's compliance with this Agreement.

#### **B. PHI Access, Amendment and Disclosure Accounting.**

1. **Access.** Business Associate will promptly upon Company's request make available to Company or, at Company's direction, to the Individual (or the Individual's Personal Representative) for inspection and obtaining copies any PHI about the Individual which Business Associate created or received for or from Company and that is in Business Associate's custody or control, so that Company may meet its access obligations pursuant to and required by applicable law, including but not limited to 45 C.F.R. 164.524, and where applicable, the HITECH Act. Business Associate shall make such information available in electronic format where directed by the organization.
2. **Amendment.** Business Associate will, upon receipt of notice from Company, promptly amend or permit Company access to amend any portion of the PHI which Business Associate created or received for or from Company, pursuant to and required by applicable law, including but not limited to 45 C.F.R. Part 164.526.

Business Associate will not respond directly to an Individual's request for an amendment of their PHI held in the Business Associate's Designated Record Set. Business Associate will refer the Individual to Company so that Company can coordinate and prepare a timely response to the Individual.

3. **Disclosure Accounting.** So that Company may meet its Disclosure accounting obligations pursuant to and required by applicable law, including but not limited to 45 C.F.R. Part 164.528:

a) **Disclosure Tracking.** Business Associate will promptly, but no later than within seven (7) days of the Disclosure, report to Company for each Disclosure, not excepted from Disclosure accounting under Section B.3(b) below, that Business Associate makes to Company or a third party of PHI that Business Associate creates or receives for or from Company, (i) the Disclosure date, (ii) the name and (if known) address of the person or entity to whom Business Associate made the Disclosure, (iii) a brief description of the PHI disclosed, and (iv) a brief statement of the purpose of the Disclosure (items i-iv, collectively, the “disclosure information”). For repetitive Disclosures Business Associate makes to the same person or entity (including Company) for a single purpose, Business Associate may provide (x) the disclosure information for the first of these repetitive Disclosures, (y) the frequency, periodicity or number of these repetitive Disclosures and (z) the date of the last of these repetitive Disclosures. Business Associate further shall provide any additional information, to the extent required by the HITECH Act or any regulation adopted pursuant thereto.

b) **Exceptions from Disclosure Tracking.** Business Associate need not report Disclosure of information or otherwise account for Disclosures of PHI that this Agreement or Company in writing permits or requires (i) for the purpose of Company’s Treatment activities, Payment activities, or Health Care Operations (except where such recording or accounting is required by the HITECH Act), and as of the effective dates for any such requirements, (ii) to the Individual who is the subject of the PHI disclosed, to that Individual’s Personal Representative or to another person or entity authorized by the Individual (iii) to persons involved in that Individual’s Health Care or Payment for Health Care; (iv) for notification for disaster relief purposes, (v) for national security or intelligence purposes, (vi) to Law Enforcement Officials or Correctional Institutions regarding Inmates; or (vii) disclosed in a limited data set.

Business Associate need not report any Disclosure of PHI that was made before April 14, 2003.

c) Except as provided below in subsection d) below, Business Associate will not respond directly to an Individual’s request for an accounting of Disclosures. Business Associate will refer the Individual to Company so that Company can coordinate and prepare a timely accounting to the Individual.

d) **Disclosure through an Electronic Health Record.** However, when Business Associate is contacted directly by an individual based on information provided to the individual by Company, Business Associate shall make the accounting of disclosures available directly to the individual, but only if required by the HITECH Act or any related regulations.

4. **Confidential Communications and Restriction Agreements.** Business Associate will promptly, upon receipt of notice from Company, send an Individual’s communications to the identified alternate address. Business Associate will comply with any agreement Company makes that restricts Use or Disclosure of Company’s PHI pursuant to 45 C.F.R. §164.522(a), provided that Company notifies Business Associate in writing of the restriction obligations that Business Associate must follow. Company will promptly notify Business Associate in writing of the termination or modification of any confidential communication requirement or restriction agreement.



5. **Disclosure to U.S. Department of Health and Human Services.** Business Associate shall make its internal practices, books, and records relating to the Use and Disclosure of PHI received from Company (or created or received by Business Associate on behalf of Company) available to the Secretary of the United States Department of Health and Human Services, for purposes of determining Company's compliance with 45 C.F.R. Parts 160-164. Unless the Secretary directs otherwise, Business Associate shall promptly notify Company of Business Associate's receipt of such request, so that Company can assist in compliance with that request.

**C. Breach of Privacy and Security Obligations.**

1. **Reporting.** Business Associate will report to Company: (i) any Use or Disclosure of PHI (including Security Incidents) not permitted by this Agreement or in writing by Company;(ii) any Security Incident; (iii) any Breach, as defined in the HITECH Act; or (iv) any other breach of a security system, or the like, as such may be defined under applicable state law (collectively a "Breach"). Except as described in subparagraph "e)" below, Business Associate will, without unreasonable delay, but no later than within one business day after Business Associate's discovery of a Breach, make the report by sending a report to Business Associate's assigned service support unit or by such other reasonable means of reporting as may be communicated to Business Associate by Company, after Business Associate discovers such Breach. Business Associate shall cooperate with Company in investigating the Breach and in meeting Company's obligations under the HITECH Act, and any other security breach notification laws or regulatory obligations.
  - a) **Report Contents.** To the extent such information is available Business Associate's report will at least:
    - (i) Identify the nature of the non-permitted or prohibited access, Use or Disclosure, including the date of the Breach and the date of discovery of the Breach;
    - (ii) Identify the PHI accessed, used or disclosed, and provide an exact copy or replication of the PHI, as appropriate, in a format reasonably requested by Company, and to the extent available;
    - (iii) Identify who caused the Breach and who received the PHI;
    - (iv) Identify what corrective action Business Associate took or will take to prevent further Breaches;
    - (v) Identify what Business Associate did or will do to mitigate any deleterious effect of the Breach; and
    - (vi) Provide such other information, including a written report, as Company may reasonably request.
  - b) **Examples of Security Incidents.** Company requires prompt notification from Business Associate if Business Associate experiences any Security Incidents that impact the confidentiality, integrity or availability of Company data or information systems. Below are some examples:
    - (i) Business Associate's information systems are exposed to malicious code, such as a virus or worm, and such code could be transmitted to Company data or systems.
    - (ii) Unauthorized access is granted or obtained to servers or workstations that contain Company data or Business Associate discovers that Company data is being used, copied, or destroyed inappropriately.
    - (iii) Business Associate experiences an attack or the compromise of a server or workstation containing Company information requiring that it be taken offline.
    - (iv) Unauthorized access or disclosure has occurred involving Protected Health Information, which is an obligation under the HIPAA Privacy Rule.

- c) Unsuccessful Security Incidents. Except as noted in C. 1 (e) below, the parties acknowledge and agree that this section constitutes notice by Business Associate to Company of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below) for which no additional notice to Company shall be required. “Unsuccessful Security Incidents” shall include, but not be limited to, pings and other broadcast attacks on Business Associate’s firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI.
  - d) Breach of Unsecured Protected Health Information. A Breach of Unsecured Protected Health Information includes any Breach as defined in the HITECH act or regulations adopted pursuant thereto.
  - e) Medicare Vendor Reporting Requirements –To the extent that Business Associate is subject to any Center for Medicare and Medicaid (“CMS”) incident reporting requirements (including applicable timeframes for such reporting) as detailed in the services agreement between Company and Business Associate (including any amendments, exhibits or addenda), Business Associate shall comply with all such reporting requirements, in addition to those imposed hereby.
2. **Breach**. Without limiting the rights of the parties elsewhere set forth in the Agreement or available under applicable law, if Business Associate breaches its obligations under this Agreement, Company may, at its option:
- a) Exercise any of its rights of access and inspection under paragraph 4 of section A of this Agreement
  - b) Require Business Associate to submit to a plan of monitoring and reporting, as Company may determine appropriate to maintain compliance with this Agreement and Company shall retain the right to report to the Secretary of HHS any failure by Business Associate to comply with such monitoring and reporting; or
  - c) Immediately and unilaterally, terminate the Agreement, without penalty to Company or recourse to Business Associate, and with or without an opportunity to cure the breach. Company’s remedies under this Section and set forth elsewhere in this Agreement or in any other agreement between the parties shall be cumulative, and the exercise of any remedy shall not preclude the exercise of any other. If for any reason Company determines that Business Associate has breached the terms of this Agreement and such breach has not been cured, but Company determines that termination of the Agreement is not feasible, Organization may report such breach to the U.S. Department of Health and Human Services.
3. **Mitigation**. Business Associate agrees to mitigate to the extent practicable, any harmful effect that is known to Business Associate of any security incident related to PHI or any use or disclosure of PHI by Business Associate in violation of the requirements of this BA Agreement. To the extent Company incurs any expense Company reasonably determines to be necessary to mitigate any Breach or any other non-permitted use or disclosure of Individually Identifiable Information, Business Associate shall reimburse Company for such expense.

#### **D. Compliance with Standard Transactions.**

1. If Business Associate conducts in whole or part Standard Transactions, for or on behalf of Company, Business Associate will comply, and will require any subcontractor or agent involved with the conduct of such Standard Transactions to comply, with each applicable requirement of 45 C.F.R. Part 162 for which HHS has established Standards. Business Associate will comply by a mutually agreed date, but no later than the date for compliance with all applicable final regulations, and will require any subcontractor or agent involved with the conduct of such Standard Transactions, to comply, with each applicable requirement of the Transaction Rule 45 C.F. R. Part 162. Business Associate agrees to demonstrate compliance with the Transactions by allowing Company to test the Transactions and content requirements upon a mutually agreeable date. Business Associate will not enter into, or permit its subcontractors or agents to enter into, any trading partner agreement in connection with the conduct of Standard Transactions for or on behalf of Company that:
  - a) Changes the definition, data condition or use of a data element or segment in a Standard Transaction.
  - b) Adds any data elements or segments to the maximum defined data set;
  - c) Uses any code or data element that is marked "not used" in the Standard Transaction's Implementation Specification or is not in the Standard Transaction's Implementation Specification; or
  - d) Changes the meaning or intent of the Standard Transaction's Implementation Specification.
2. **Concurrence for Test Modification to Standard Transactions.** Business Associate agrees and understands that there exists the possibility that Company or others may request from HHS an exception from the uses of a Standard in the HHS Transaction Standards. If this request is granted by HHS, Business Associate agrees that it will participate in such test modification.
3. **Incorporation of Modifications to Standard Transactions** Business Associate agrees and understands that from time-to-time, HHS may modify and set compliance dates for the Transaction Standards. Business Associate agrees to incorporate by reference into this Agreement any such modifications or changes.
4. **Code Set Retention (Only for Plans).** Both parties understand and agree to keep open code sets being processed or used in the Agreement for at least the current billing period or any appeal period, whichever is longer.
5. **Guidelines and Requirements.** Business Associate further agrees to comply with any guidelines or requirements adopted by Company consistent with the requirements of HIPAA and any regulations promulgated thereunder, governing the exchange of information between Business Associate and the Company.

## **E. Obligations upon Termination.**

1. **Return or Destruction.** Upon termination, cancellation, expiration or other conclusion of the Agreement, Business Associate will if feasible return to Company or destroy all PHI, in whatever form or medium (including in any electronic medium under Business Associate's custody or control), that Business Associate created or received for or from Company, including all copies of and any data or compilations derived from and allowing identification of any Individual who is a subject of the PHI. Business Associate will complete such return or destruction as promptly as possible, but not later than 30 days after the effective date of the termination, cancellation, expiration or other conclusion of Agreement. Business Associate will identify any PHI that Business Associate created or received for or from Company that cannot feasibly be returned to Company or destroyed, and will limit its further Use or Disclosure of that PHI to those purposes that make return or destruction of that PHI infeasible and will otherwise continue to protect the security any PHI that is maintained pursuant to the security provisions of this Agreement for so long as the PHI is maintained. Within such 30 days, Business Associate will certify in writing to Company that such return or destruction has been completed, will deliver to Company the identification of any PHI for which return or destruction is infeasible and, for that PHI, will certify that it will only Use or disclose such PHI for those purposes that make return or destruction infeasible.
2. **Continuing Privacy and Security Obligation.** Business Associate's obligation to protect the privacy and security of the PHI it created or received for or from Company will be continuous and survive termination, cancellation, expiration or other conclusion of this Agreement, so long as the data is maintained.

## **F. General Provisions.**




1. **Definitions.** The capitalized terms in this Agreement have the meanings set out in 45 C.F.R. Parts 160-164, as it may be amended from time to time. As of the execution date of this Agreement, the following are some of the relevant definitions set out in the Code of Federal Regulations.
  - a) **Disclosure** means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information.
  - b) **Electronic Media** means (1) Electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines. Private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered transmissions via electronic media, because the information being exchanged did not exist in electronic form before the transmission.
  - c) **Individual** means the person who is the subject of Protected Health Information.
  - d) **Individually Identifiable Health Information** means information that is a subset of Protected Health Information, including demographic information collected from an Individual; and
    - (i) is created or received by a Health Care Provider, Health Plan, Employer, or Health Care Clearinghouse; and
    - (ii) relates to the past, present or future physical or mental health 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

- a) that identifies the Individual; or
  - b) with respect to which there is a reasonable basis to believe the information can be used to identify the Individual.
- e) Protected Health Information ("PHI") means any information without regard to its form or medium, gathered by Business Associate in connection with Business Associate's relationship with Covered Entity that identifies an individual or that otherwise would be defined as Protected Health Information under HIPAA. :
- f) Security Incident means an attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system, involving Protected Health Information that is created, received maintained or transmitted by or on behalf of Company in electronic form.
- g) Use means, with respect to Individually Identifiable Health Information, the sharing, employment, application, utilization, examination, or analysis of such information with an entity that maintains such information.
2. **Amendment.** From time to time local, state or federal legislative bodies, boards, departments or agencies may enact or issue laws, rules, or regulations pertinent this Agreement. In such event, Business Associate agrees to immediately abide by all said pertinent laws, rules, or regulations and to cooperate with Company to carry out any responsibilities placed upon Company or Business Associate by said laws, rules, or regulations.
  3. **Conflicts.** The terms and conditions of this Agreement will override and control any conflicting term or condition of any other agreement between the parties with respect to the subject matter herein. All non-conflicting terms and conditions of the said other agreement(s) remain in full force and effect.
  4. **Owner of PHI.** Company is the exclusive owner of PHI generated or used under the terms of the Agreement.
  5. **Subpoenas.** Business Associates agrees to relinquish to Company control over subpoenas Business Associates receives with regard to PHI belonging to Company.
  6. **Disclosure of De-identified Data.** The process of converting PHI to De-identified Data (DID) is set forth in 45 C.F.R Part 164.514. In the event that Company provides Business Associate with DID, Business Associate shall not be given access to, nor shall Business Associate attempt to develop on its own, any keys or codes that can be used to re-identify the data. Business Associate shall only use DID as directed by Company.
  7. **Creation of De-identified Data.** In the event Business Associate wishes to convert PHI to DID, it must first subject its proposed plan for accomplishing the conversion to Company for Company's approval, which shall not be unreasonably withheld provided such conversion meets the requirements of 45 C.F.R. Part 164.514. Business Associate may only use DID as directed or otherwise agreed to by Company.
  8. **Assignment/Subcontract.** Company shall have the right to review and approve any proposed assignment or subcontracting of Business Associate's duties and responsibilities arising under the Agreement, as it relates to the Use or creation of PHI (or DID if applicable).

9. **Audit.** Company shall have the right to audit and monitor all applicable activities and records of Business Associate to determine Business Associate's compliance with the requirements relating to the creation or Use of PHI [and DID, if applicable] as it relates to the privacy and security sections of this Agreement.
10. **Intent.** The parties agree that there are no intended third party beneficiaries under this Agreement.
11. **Branding.** Business Associate understands and agrees that Business Associate may not use the WellPoint name or brand with the Blue names or brands in the implementation of this Agreement
12. **Indemnity.** Business Associate will indemnify and hold harmless Company and any Company affiliate, officer, director, employee or agent from and against any claim, cause of action, liability, damage, cost or expense, including attorneys' fees and court or proceeding costs, arising out of or in connection with any non-permitted or prohibited Use or Disclosure of PHI or other breach of this Agreement by Business Associate or any subcontractor, agent, person or entity under Business Associate's control.
  - a) **Right to Tender or Undertake Defense.** If Company is named a party in any judicial, administrative or other proceeding arising out of or in connection with any non-permitted or prohibited Use or Disclosure of PHI or other breach of this Agreement by Business Associate or any subcontractor, agent, person or entity under Business Associate's control, Company will have the option at any time either (i) to tender its defense to Business Associate, in which case Business Associate will provide qualified attorneys, consultants and other appropriate professionals to represent Company's interests at Business Associate's expense, or (ii) undertake its own defense, choosing the attorneys, consultants and other appropriate professionals to represent its interests, in which case Business Associate will be responsible for and pay the reasonable fees and expenses of such attorneys, consultants and other professionals.
  - b) **Right to Control Resolution.** Company will have the sole right and discretion to settle, compromise or otherwise resolve any and all claims, causes of actions, liabilities or damages against it, notwithstanding that Company may have tendered its defense to Business Associate. Any such resolution will not relieve Business Associate of its obligation to indemnify Company under Section F.12 of this Agreement.

This agreement is between the Business Associate and the Company. The signature below acknowledges each party's acceptance of the Business Associate Agreement form number BKR0001, Revision October 2009. The parties acknowledge and agree that (i) the signature provided by the parties shall be enforceable, and (ii) these documents shall constitute "original" documents when printed from electronic files and records established and maintained by either party in the normal course of business.

**IN WITNESS WHEREOF**, the Business Associate and the Company, through their authorized representatives, execute this Agreement in multiple originals, all of which together shall constitute one and the same instrument, to be effective as of the date signed by the Business Associate below:

	<b>WellPoint, Inc. on behalf of its affiliates*</b>
Name of Business Associate	Name of Company
Tax ID: _____	
<i>I understand that by signing below will have a legally binding effect on me or the agency on whose behalf I am signing.</i>	<i>Dennis Casey</i> SVP & President, Local Group Business
Signature	
Printed Name	<i>Mary Floyd</i> VP Sales, Individual Business
Title	
Date	<i>Pam Kehaly</i> President & GM, California

\*Company affiliates include the following described companies:

Anthem Blue Cross in California is the trade name of Anthem Blue Cross Life and Health Insurance Company and Blue Cross of California; Anthem Blue Cross and Blue Shield is the trade name for the following companies in: Colorado: Rocky Mountain Hospital and Medical Service, Inc. HMO products underwritten by HMO Colorado, Inc.; Connecticut: Anthem Health Plans, Inc.; Georgia: Blue Cross and Blue Shield of Georgia, Inc. and Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.; Indiana: Anthem Insurance Companies, Inc.; Kentucky: Anthem Health Plans of Kentucky, Inc.; Maine: Anthem Health Plans of Maine, Inc.; Missouri (excluding 30 counties in the Kansas City area): RightCHOICE® Managed Care, Inc. (RIT), Healthy Alliance® Life Insurance Company (HALIC), and HMO Missouri, Inc. RIT and certain affiliates administer non-HMO benefits underwritten by HALIC and HMO benefits underwritten by HMO Missouri, Inc. RIT and certain affiliates only provide administrative services for self-funded plans and do not underwrite benefits; Nevada: Rocky Mountain Hospital and Medical Service, Inc. HMO products underwritten by HMO Colorado, Inc., dba HMO Nevada.; New Hampshire: Anthem Health Plans of New Hampshire, Inc.; Ohio: Community Insurance Company; Virginia: Anthem Health Plans of Virginia, Inc. trades as Anthem Blue Cross and Blue Shield in Virginia, and its service area is all of Virginia except for the City of Fairfax, the Town of Vienna, and the area east of State Route 123.; Wisconsin: Blue Cross Blue Shield of Wisconsin (BCBSWi), which underwrites or administers the PPO and indemnity policies; CompCare Health Services Insurance Corporation (CompCare), which underwrites or administers the HMO policies; and CompCare and BCBSWi collectively, which underwrite or administer the POS policies. In 28 eastern and southeastern counties in New York, Empire Blue Cross Blue Shield and/or Empire Blue Cross, the trade names of Empire HealthChoice Assurance, Inc., underwrites and/or administers the PPO, EPO, POS and indemnity policies and Empire Blue Cross Blue Shield and/or Empire Blue Cross HMO, the trade name of Empire HealthChoice HMO, Inc., underwrites the HMO policies. Independent licensees of the Blue Cross and Blue Shield Association. ® ANTHEM is a registered trademark of Anthem Insurance Companies Inc. The Blue Cross and Blue Shield names and symbols are registered marks of the Blue Cross and Blue Shield Association.

## Medicare Advantage and Part D Broker Contract Addendum

### Attachment 1

#### Medicare Advantage and Medicare Part D Regulatory Exhibit

The following Medicare Advantage and Medicare Part D terms and conditions shall be incorporated into the Business Entity Insurance Producer Agreement between Anthem Insurance Companies, Inc. and applicable affiliates or clients requiring the services described herein (herein referred to as “Anthem”) and Entity Producer. These provisions shall only apply to services provided by Entity Producer to or for Anthem’s Medicare Advantage and/or Medicare Part D plans in accordance with and pursuant to the Medicare Modernization Act of 2003 (MMA) (Social Security Act Section 1860D-1 through 1860D-41), any subsequent amendments to the MMA and applicable regulations. In the event that there is a conflict between the attached Agreement and these Medicare Advantage and Medicare Part D terms and conditions, the Medicare Advantage and Medicare Part D terms and conditions shall control, but only as they relate to services provided to Covered Individuals enrolled in Anthem’s Medicare Advantage and/or Medicare Part D plans.

- 1. Federal Funds.** Consistent with, but not limited to, 42 C.F.R. 423.100, Entity Producer acknowledges that payments Entity Producer receives from Anthem to provide services to Medicare Advantage or Part D enrollees, are, in whole or part, from Federal funds. Therefore, Entity Producer and any of its subcontractors may be subject to certain laws that are applicable to individuals and entities receiving Federal funds.
- 2. Confidential Information.** Entity Producer recognizes that in the performance of its obligations under this Agreement it may be party to Anthem’s proprietary, confidential, or privileged information, including, but not limited to, information concerning Anthem’s members. Entity Producer agrees that, among other items of information, the identify of, and all other information regarding or relating to any of Anthem’s customers is confidential. Entity Producer agrees to treat such information as confidential and proprietary information of Anthem, and all such information shall be used by Entity Producer only as authorized and directed by Anthem pursuant to this Agreement, and shall not be released to any other person or entity under any circumstances without express written approval of Anthem. During and after the term of this Agreement, Entity Producer shall not disclose or use any of the information described in this Section for a purpose unrelated to the terms and obligations of this Agreement. Further, Entity Producer agrees to abide by all Federal and State laws regarding confidentiality and disclosure of Medicare Part D enrollee information. In addition, Entity

Anthem Blue Cross and Blue Shield is the trade name of: In Colorado: Rocky Mountain Hospital and Medical Service, Inc. In Connecticut: Anthem Health Plans, Inc. In Indiana: Anthem Insurance Companies, Inc. In Kentucky: Anthem Health Plans of Kentucky, Inc. In Maine: Anthem Health Plans of Maine, Inc. In Missouri (excluding 30 counties in the Kansas City area): RightCHOICE® Managed Care, Inc. (RIT), Healthy Alliance® Life Insurance Company (HALIC), and HMO Missouri, Inc. RIT and certain affiliates administer non-HMO benefits underwritten by HALIC and HMO benefits underwritten by HMO Missouri, Inc. RIT and certain affiliates only provide administrative services for self-funded plans and do not underwrite benefits. In Nevada: Rocky Mountain Hospital and Medical Service, Inc. In New Hampshire: Anthem Health Plans of New Hampshire, Inc. In Ohio: Community Insurance Company. In Virginia (serving Virginia excluding the city of Fairfax, the town of Vienna and the area east of State Route 123): Anthem Health Plans of Virginia, Inc. In Wisconsin: Blue Cross Blue Shield of Wisconsin (“BCBSWi”) underwrites or administers the PPO and indemnity policies; Compcare Health Services Insurance Corporation (“Compcare”) underwrites or administers the HMO policies; and Compcare and BCBSWi collectively underwrite or administer the POS policies. Independent licensees of the Blue Cross and Blue Shield Association. © ANTHEM is a registered trademark of Anthem Insurance Companies, Inc. The Blue Cross and Blue Shield names and symbols are registered marks of the Blue Cross and Blue Shield Association.



## Medicare Advantage and Medicare Part D Regulatory Exhibit (Continued)

Producer agrees to abide by the confidentiality requirements established by Anthem and CMS for the Medicare Advantage and/or Medicare Part D program.

3. **Inspection of Books and Records.** In accordance with, but not limited to, 42 C.F.R. 423.505(i) and/or 422.504(i), Entity Producer acknowledges that the Department of Health and Human Services (HHS), the Comptroller General, or their designees have the right to inspect, evaluate and audit any pertinent contracts, books, documents, papers, and records of Entity Producer, or its subcontractors or transferees involving transactions related to Anthem's Medicare Advantage and/or Medicare Part D contract through ten (10) years from the final date of the contract period or from the date of the completion of any audit, or for such longer period provided for in other applicable law, whichever is later. For the purposes specified in this provision, Entity Producer agrees to make available Entity Producer's premises, physical facilities and equipment, records relating to Anthem's Medicare Advantage and/or Medicare Part D enrollees, and any additional relevant information that CMS may require.
4. **Independent Status.** Entity Producer is an independent contractor and nothing contained in this Agreement shall be construed or implied to create an agency, partnership, joint venture, or employer and employee relationship between Entity Producer and Anthem. At no time shall either party make commitments or incur any charges or expenses for or in the name of the other party except as otherwise permitted by this Agreement.
5. **Subcontractors.** In accordance with, but not limited to, 42 C.F.R. 423.505(i)(3) and/or 422.504(i)(3)(ii), Entity Producer agrees that if Entity Producer enters into subcontracts to perform services under the terms of the Agreement, Entity Producer's subcontractors shall include an agreement by the subcontractor to comply with all of the Entity Producer's obligations in this Medicare Advantage and Part D Regulatory Exhibit and applicable terms in the Agreement.
6. **Federal and State Laws.** Consistent with, but not limited to, 42 C.F.R. 423.505(i)(4) & 423.505(i)(3)(iii), and/or 422.504(i)(4) & 422.504(i)(3)(iii), Entity Producer agrees to comply, and to require any of its subcontractors to comply, with all applicable Federal and State laws, regulations, CMS instructions, and policies relevant to the activities to be performed under the Agreement, including but not limited to, CMS Medicare Advantage and/or Medicare Part D marketing guidelines, and any requirements for CMS prior approval of materials. Further, Entity Producer agrees that any services provided by the Entity Producer or its subcontractors to Anthem's Medicare Advantage and Medicare Part D enrollees

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## Medicare Advantage and Medicare Part D Regulatory Exhibit (Continued)

will be consistent with and will comply with Anthem's Medicare Advantage and/or Part D contractual obligations.

7. **Compliance Program.** Anthem maintains an effective Compliance Program and Standards of Business Conduct, and requires its employees to act in accordance therewith. Anthem will provide a copy of its then current Standards of Business Conduct to Entity Producer upon request.
8. **Ineligible Persons.** Entity Producer warrants and represents that at the time of entering into this Agreement and/or when providing services to or for the benefit of Medicare Advantage and/or Medicare Part D members, neither he/she/it nor any of his/her/its employees, contractors, subcontractors or agents are ineligible persons identified on the General Services Administrations' List of Parties Excluded from Federal Programs (available through the internet at <http://www.epls.gov/>) and the HHS/OIG List of Excluded Individuals/Entities (available through the internet at <http://exclusions.oig.hhs.gov/>); or any subsequently provided or updated source that provides such information. In the event Entity Producer or any employees, subcontractors or agents thereof becomes an ineligible person after entering into this Agreement or otherwise fails to disclose his/her ineligible person status, Entity Producer shall have an obligation to (1) immediately notify Anthem of such ineligible person status and (2) within ten days of such notice, remove such individual from responsibility for, or involvement with, Anthem's business operations related to this Medicare Advantage and Medicare Part D attachment.

Anthem retains the right to provide notice of immediate termination of the Agreement to Entity Producer in the event it receives notice of Entity Producer's ineligible person status.

9. **Illegal Remunerations.** Entity Producer specifically represents and warrants that activities to be performed under the Agreement are not considered illegal remunerations (including kickbacks, bribes or rebates) as defined in § 1128B(b) of the Social Security Act.
10. **Termination-Regulatory Issues.** In accordance with, but not limited to, 42 C.F.R. 423.505(i)(5) and/or 422.504(i)(5), if during the term of the Agreement, Anthem concludes that it is necessary to cancel any of the activities to be performed under this Agreement in order to comply with Federal or State laws, regulations, or policies, Anthem may, at its discretion, cancel the activity and be relieved of any related obligations under the terms of the Agreement. If Anthem or Entity Producer concludes that it is necessary to reorganize or restructure any

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## Medicare Advantage and Medicare Part D Regulatory Exhibit (Continued)

of the activities to be performed under this Agreement in order to comply with Federal or State laws, regulations, or policies, Anthem or Entity Producer may request to renegotiate such terms.

11. **Oversight Responsibility.** Entity Producer acknowledges that Anthem shall oversee and monitor Entity Producer's performance of its responsibilities set forth in this Agreement on an ongoing basis and that Anthem is ultimately responsible to CMS for the performance of such services. Entity Producer further acknowledges that Anthem shall oversee and is accountable to CMS for the functions and responsibilities described in the Medicare Part D regulatory standards and ultimately responsible to CMS for the performance of all services.
12. **Revocation.** Entity Producer agrees that Anthem has the right to revoke this agreement if CMS or Anthem determines that Entity Producer has not performed the services satisfactorily and/or if requisite reporting and disclosure requirements are not otherwise fully met in a timely manner. Such revocation shall be consistent with the termination provisions of the Agreement.
13. **Approval of Materials.** Any printed materials, including but not limited to letters to Anthem's members, brochures, advertisements, telemarketing scripts, packaging prepared or produced by Entity Producer or any of its subcontractors pursuant to this Agreement must be submitted to Anthem for review and approval at each planning stage (*i.e.*, creative, copy, mechanicals, blue lines, etc.) to assure compliance with Federal, state, and Blue Cross/Blue Shield Association guidelines. Anthem agrees its approval will not be unreasonably withheld or delayed.
14. **Hold Harmless.** In accordance with, but not limited to, 42 C.F.R. 423.505(i) and 423.505(g), and/or 422.504(i)(3) and 422.504(g)(1) and (2), both parties agree that in no event, including but not limited to non-payment by Anthem, insolvency of Anthem or breach of the Agreement, shall Entity Producer bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against a Medicare Advantage and/or Medicare Part D Covered Individual or persons other than Anthem acting on their behalf for Covered Services provided pursuant to the Agreement. This provision does not prohibit the collection of supplemental charges or Copayments on Anthem's behalf made in accordance with the terms of the Medicare Advantage and/or Part D enrollee's benefits.

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## Medicare Advantage and Medicare Part D Regulatory Exhibit (Continued)

- 15. Prohibition of Payment/Gifts/Incentives to Beneficiaries.** Entity Producer shall not provide or offer gifts or payments to a Medicare Advantage and/or Part D enrollee as an inducement to enroll in an Anthem Medicare Advantage and/or Part D Product. Notwithstanding this section, Entity Producer may provide an individual eligible for Medicare Advantage and/or Part D a gift of nominal value, so long as the gift is provided whether or not the individual enrolls in the plan. For purposes of this Agreement, nominal value is defined as an item having little or no resale value and which cannot be readily converted into cash. Generally nominal value gifts are worth less than \$15.00. In addition, while Entity Producer may describe legitimate benefits the individual eligible for Medicare Advantage and/or Part D may receive, Entity Producer is prohibited from offering or giving rebates, dividends or any other incentives, especially those that in any way compensate for lowered utilization of health services by such eligible individual. This includes, but is not limited to the fact the Entity Producer may not tie lowered or reduced premium costs for the Medicare Advantage and/or Part D enrollee to their decreased utilization of health services.
- 16. Unsolicited Contacts.** Entity Producer may not do any of the following:
- a. Place any outbound marketing calls to Members or to beneficiaries unless the beneficiary requested the call;
  - b. Place calls to former Members who have disenrolled or to current Members who are in the process of voluntarily disenrolling, to market plans or products;
  - c. Place calls to Members or beneficiaries to confirm receipt of mailed information, unless otherwise set forth herein;
  - d. Place calls to Members or beneficiaries to confirm acceptance of appointments made by third parties or independent agents;
  - e. Approach Members or beneficiaries in common areas (i.e. parking lots, hallways, lobbies, etc.)
  - f. Place calls or visit Members or beneficiaries who attended a sales event, unless the Member or beneficiary gave express permission at the event for a follow-up visit or call
- 16.1** Entity Producer may do the following:
- a. Place a call to a Member or beneficiary that they enrolled into an Anthem Medicare Advantage and/or Part D plan as long as the Member remains enrolled with the Anthem plan; or

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## Medicare Advantage and Medicare Part D Regulatory Exhibit (Continued)

- b. Place a call to a beneficiary who has expressly given permission for Entity Producer to contact them, for example by filling out a business reply card or asking a Customer Service Representative of Anthem to have an Entity Producer contact them. This permission by the beneficiary applies only to Anthem Medicare Advantage and/or Part D plans for the duration of that transaction or as otherwise indicated by the beneficiary.
- 16.2 **Outbound Scripts.** Any and all outbound scripts utilized by Entity Producer to contact beneficiaries on behalf of Anthem must be submitted to Anthem and to ultimately to CMS for review and approval prior to use in the marketplace. In addition, when conducting outbound calls, Entity Producer must ensure the scripts include a privacy statement clarifying that the beneficiary is not required to provide any information to Anthem or Entity Producer and that the information provided will in no way affect the beneficiary's membership in the Medicare Advantage and/or Part D Plan.
17. **Cross Selling is Prohibited.** Entity Producer understands and agrees that marketing non-health care related products (such as annuities and life insurance) to prospective enrollees during any Medicare Advantage and/or Part D sales activity or presentation is considered cross selling and is strictly prohibited.
18. **Scope of Entity Producer Appointments with Beneficiaries.** Entity Producer must clearly identify the types of products that will be discussed before marketing to a potential enrollee beneficiary and the beneficiary must agree to the scope of the appointment and such agreement must be documented by Entity Producer. For example, if a beneficiary attends a sales presentation and schedules an appointment, the Entity Producer must obtain written documentation signed by the beneficiary agreeing to the products that will be discussed during the appointment. In addition, appointments that are made by Entity Producer over the phone must be recorded in order to provide adequate documentation. Entity Producer will maintain the required documentation providing the scope of the appointment and will provide such documentation to Anthem upon request. Entity Producer further agrees that additional products may not be discussed unless the beneficiary requests the information and any additional lines of business that are not identified prior to the in-home appointment will require a separate appointment. Separate appointments cannot be re-scheduled until forty-eight (48) hours after the initial appointment. Entity Producer may, however, leave Anthem materials during the initial appointment so long as enrollment applications are not left with potential enrollees.

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## Medicare Advantage and Medicare Part D Regulatory Exhibit (Continued)

19. **Marketing in Health Care Settings.** Entity Producer is prohibited from conducting sales presentations and distributing and/or accepting enrollment applications in areas where patients primarily intend to receive health care services. These restricted areas generally include, but are not limited to, waiting rooms, exam rooms, hospital patient rooms, dialysis centers, and pharmacy counter areas (where patients wait for services or interact with pharmacy providers and obtain medication). Entity Producer may, however, conduct sales and marketing activities only in common areas of health care settings. Common areas include areas such as hospital or nursing home cafeterias, community or recreational rooms, conference rooms and space in a pharmacy outside of the area where patients wait for services or interact with pharmacy providers and obtain medication. For beneficiaries residing in long term care facilities, Entity Producer may only schedule an appointment if the beneficiary requested it.
20. **Sales/Marketing Prohibited at Educational Events.** Entity Producer may not include sales activities, including but not limited to distribution of marketing materials or distribution or collection of Anthem Medicare Advantage and/or Part D enrollment applications at educational events. Moreover, Entity Producer must include the following disclaimer on all materials advertising an educational event: “educational only and information regarding the a Medicare Advantage and/or Part D plan will not be available.” An educational event is one that is sponsored by a health insurance plan or by outside entities and are promoted to be educational in nature and have multiple vendors, such as health information fairs, conference expositions, state-or community-sponsored events.
21. **Prohibition on the Provision of Meals.** Entity Producer may not provide meals or subsidize meals for any prospective enrollee of a Medicare Advantage or Part D plan at any event or meeting at which plan benefits are being discussed and/or plan materials are being distributed. Entity Producer may provide refreshments and light snacks so long as the items provided could not be reasonably considered a meal and/or that multiple items are not being bundled and provided as if a meal. The following light snacks could generally be considered acceptable: fruit, raw vegetables, pastries, cookies or other small dessert items, crackers, muffins, cheese, chips, yogurt or nuts.
22. Entity Producer must provide the following disclosure or a substantially similar disclosure, prior to enrollment or at the time of enrollment, in writing, to a potential enrollee:

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## Medicare Advantage and Medicare Part D Regulatory Exhibit (Continued)

“The person that is discussing plan options with you is either employed by or contracted with Anthem. The person may be compensated based on your enrollment in a plan.”

23. Entity Producer warrants and represents that it is properly licensed, certified, and/or registered under applicable state laws to sell and/or market Medicare Advantage and/or Medicare Part D products.
24. Entity Producer is prohibited from employing discriminatory practices that preferentially enroll healthier beneficiaries, mislead beneficiaries or churn beneficiaries between Medicare Advantage and/or Medicare Part D plans. Entity Producer agrees to implement policies, procedures and monitoring activities that are consistent with these concepts noted in this provision.
25. Irrespective of any conflicting term or provision, Anthem shall not pay Entity Producer a Medicare Advantage and/or Medicare Part D commission rate that is based upon the value of the Medicare Advantage and/or Medicare Part D business generated for Anthem (i.e., profitability of the book of business). Entity Producer reimbursement for Medicare Advantage and/or Medicare Part D business shall not be tied or linked to a beneficiary's health risk profile.
26. Consistent with CMS guidance, Entity Producer agrees that Anthem may withhold or withdraw payment if a Medicare Advantage and/or Medicare Part D beneficiary dis-enrolls in an unreasonably short time frame (i.e., rapid dis-enrollment). An “unreasonably short time frame” is defined as less than 60 days after enrollment but may be a longer time period if Anthem reasonably determines it to be a longer period of time.
27. **Contracting Authority.** Each party to this Agreement warrants that it has full power and authority to enter into this Agreement and the person signing this Agreement on behalf of either party warrants that he/she has been duly authorized and empowered to enter into this Agreement.

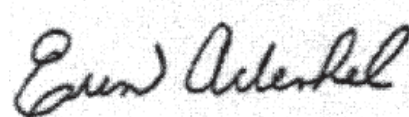
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**Medicare Advantage and Medicare Part D Regulatory Exhibit (Continued)**

**IN WITNESS WHEREOF**, the parties have executed this Agreement to be effective for the term set forth herein.

**Anthem Insurance Companies, Inc.**

\_\_\_\_\_  
By (Agent Signature) & Date



\_\_\_\_\_  
Title/Organization

Erin Ackenheil  
Vice President Sales  
Senior Business

\_\_\_\_\_  
Agent Name (Please print)

\_\_\_\_\_  
Agent Writing # (Tax ID#)

\_\_\_\_\_  
Agency tax ID# (if appl)

\_\_\_\_\_  
Social Security #

\_\_\_\_\_  
Business Address (Street, City, State, Zip )

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Agent Phone #

\_\_\_\_\_  
Agent Fax #

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### Authorization for Automatic Deposit

This form will update account information associated to commissions processed by AHCP. To update direct deposit information for commissions processed by an insurance carrier you must complete the carriers direct deposit authorization form. Forms are located in the AHCP Forms Library.

Agent or Agency Name	
Social Security Number or Tax ID Number	
Phone Number	Email Address
Please indicate transaction type: <input type="checkbox"/> Set-Up <input type="checkbox"/> Change <input type="checkbox"/> Cancel	
Please indicate type of account: <input type="checkbox"/> Checking <input type="checkbox"/> Savings	
Name of Financial Institution:	
Bank—City, State, Phone Number:	
Routing Number:	
Account Number:	

I hereby authorize AHCP to initiate direct deposit of commissions and, if necessary, make corrections for any entries made to my account in error.

**Agent Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**PLEASE INCLUDE A COPY OF A VOIDED CHECK**

## Request for Taxpayer Identification Number and Certification

**Give Form to the  
 requester. Do not  
 send to the IRS.**

<b>Print or type See Specific Instructions on page 2.</b>	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____  <input type="checkbox"/> Other (see instructions) ▶ _____	
	<input type="checkbox"/> Exempt payee	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number									

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number									

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

#### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.



## PRODUCER AGREEMENT

This MARKETING AGREEMENT (“Agreement”) is entered into by and between America’s Health Care/RX Plan AGENCY, Inc., a Delaware Corporation (“AHCP”) and \_\_\_\_\_, as Agent (“Agent”). The Agreement shall become effective upon Agent’s licensure and appointment.

1. Appointment. AHCP appoints Agent to act as marketer soliciting sales of products offered by and through AHCP and its authorized Carriers. “Carrier” means any insurance company or membership association with whom AHCP has entered into a master marketing agreement.

2. Relationship and Authority. The relationship of Agent to AHCP and scope of authority are set forth in the [Agent Guidelines](#). Agent and Sub-Agents must be properly licensed and approved and appointed by AHCP. “Sub-Agent” means a person or entity that has executed a Producer Agreement with AHCP. Sub-Agents may be solicited by Agent or assigned to Agent by AHCP. Once the Sub-Agent’s paperwork has been submitted and approved by AHCP, the Sub-Agent will be enrolled with all AHCP Carriers under the Agent. A Sub-Agent may not sell products from different AHCP Carriers under different Agents. Agent agrees to comply with the liability insurance requirements set forth in the [Agent Guidelines](#). Agent shall be solely responsible for paying all expenses incurred by Agent in performance of this Agreement, including all license fees, appointment fees, bond fees, and fees and taxes required by any federal, state, or local government. A Sub-Agent may submit a written request to AHCP to be transferred to another Agent if (1) the Sub-Agent has not sold business for at least six-months, and (2) has no outstanding balance with AHCP. If the Agent has sold business, they must obtain a written release from their current Agent. If the Sub-Agent has an outstanding debit balance, the new Agent must agree to assume liability for the balance before the transfer will be approved.

3. Commissions. Subject to all terms of the Agreement, AHCP or its delegate will compensate Agent with the commissions as determined by each Carrier. AHCP does not impose a vesting schedule on Agent. Agent is immediately vested per each Carrier’s requirements. AHCP will use reasonable efforts to provide vesting information from Carriers to Agent. Confirmation of 1st year and renewal percentage shall be made available to Agent upon written request to AHCP. Commissions may be modified by AHCP within ten (10) days notice to Agent as set forth in [Agent Guidelines](#). Commissions paid to Agent will be net of any commissions paid to the Sub-Agent. AHCP reserves the right to approve all commission percentage to Sub-Agents, which approval shall not be unreasonably withheld. No commission shall be deemed earned until the policy or membership agreement is issued, delivered, and accepted by the applicant. Commissions will not be paid until AHCP collects or received payment of its commission.

4. Advance Commissions/Debit Balances. AHCP or Carriers on AHCP’s behalf may, at its discretion, make advances to Agent in anticipation of future commissions subject to the rules set forth in [Agent Guidelines](#). Such advances will create debit balances, which both parties expressly agree are loans from AHCP. In consideration for the advance commissions, Agent agrees to repay to AHCP or their assigns, the debit balances and interest. AHCP reserves the right to charge interest on all debit balances. Agent is financially responsible to AHCP and their assigns, for any and all debit balances due by Agent, any Sub-Agent, or any Sub-Agent from with Agent receives an override. Agent and Sub-Agents shall assume the full and complete advance balance and debit balance of any Sub-Agent. In the event of a transfer of an Agent from one manager to another, debit balance will transfer to the new manager who agrees to assume financial responsibility for repayment. Coincident with that transfer, all rights to any future earned commissions attributable to the account, and tax benefits, will also be transferred to Agent. Agent shall submit to financial audits and will confirm debit balances upon written request from AHCP. **Agent expressly agrees to be bound by all rules and conditions set forth in [Agent Guidelines](#).**

5. Carrier Requirements. Agent will comply with all Carrier requirements, including providing information or executing forms. Failure to comply may result in forfeiture of commissions and appointment by Carrier.

6. Termination. This Agreement may be terminated without cause by either party upon thirty (30) days written notice. AHCP may terminate immediately “for cause” (as defined in [Agent Guidelines](#)) with written notice to Agent. If this Agreement is terminated for cause, then all of Agent’s right to any compensation shall be immediately terminated. Upon termination of this Agreement, AHCP may reassign, solicit, appoint or otherwise work with the Sub-Agents of Agent.

7. Exclusivity. During the term of the Agreement, AHCP should be the primary supplier of all products to be promoted and sold by Agent and Sub-Agents. Agent may be licensed with other insurance companies to sell other product lines. However, Agent may not recruit AHCP Agents to sell product lines of other insurance companies.

8. Premiums. Agent shall immediately remit all premiums collected or received by Agent and its Sub-Agents in accordance with the guidelines of AHCP. Initial premium may be presented with the application to be accepted by AHCP or Carrier.

9. Rolling Business. AHCP acknowledges that Agent must act in the client’s best interest when recommending changes of carriers. However, Agents agrees that the moving of a block of business to another carrier, for the sole purpose of generating or increasing commissions, is not permitted by AHCP.

10. Records. Agent shall keep records and provide reports as set forth in [Agent Guidelines](#). AHCP or Carrier will furnish Agent with a monthly statement of Agent’s account and will pay any amounts due, subject to other provisions of the Agreement. Agent must report any discrepancies and return payment without 30 days or payment will be deemed accepted.

11. Printed Material. AHCP will furnish all printed matter necessary for doing business under the Agreement. Agent and Sub-Agents will not use any materials referring to AHCP or Carriers without first securing written approval. All printed materials furnished are property of AHCP and shall be promptly returned upon request or when Agreement terminates.

12. Refunds and Rejections. Subject to state law, Carrier reserves the right to reject any applications for insurance without specifying cause, and to cancel, refuse to renew, or modify and policy. In such cases, all premiums will be refunded.

13. Discontinuance of Policy Forms. Without incurring any liability, AHCP or Carrier may discontinue, replace, or withdraw any policy. AHCP or Carrier may also determine commissions and renewal commissions on any policy not scheduled herein.

14. Proprietary Information. Agent agrees to fully comply with all requirements set forth in [Agent Guidelines](#).

15. Indemnity. Agent agrees to indemnify AHCP, Carrier, affiliates, shareholders, directors, officers, and employees and to hold them harmless from all expenses, liabilities, cost, causes of action, loss, damage, and expense, including attorney’s fees and costs of litigation, resulting from any breach of the Agreement or unauthorized, negligent or wrongful act, omission, statement, or presentation by Agent, Agent’s employees and Sub-Agents.

16. Assignment. AHCP may assign its rights to a third party. Agent may not, without the express prior written consent of AHCP, assign any of its rights, responsibilities or commissions. AHCP will have a superior, continuing security interest in all commissions prior to the right of any permitted assignee. Any assignment so authorized shall be subject to any and all indebtedness of Agent to AHCP then existing or thereafter accruing.

17. Security Interest. To secure the payment of any indebtedness and performance of Agent of all terms of the Agreement, Agent agrees to assign commissions to AHCP pursuant to the terms set forth in Addendum A.

18. Applicable Law. The Agreement shall be governed by the laws of Texas with exclusive venue in Tarrant County, Texas.

19. Partial Invalidity. If any provision of this Agreement is declared invalid for any reason, the invalidity of that provision shall not affect the validity of any other provision of this Agreement.

20. Entire Agreement. This Agreement, including Addendum A in the [Agent Guidelines](#), constitutes the entire agreement and supersedes and replaces any and all prior written or oral agreement between these parties. This Agreement may not be modified without written consent of both parties and shall be binding upon the successors and heirs of the parties hereto.

Executed as the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

By: \_\_\_\_\_  
**Agent's Signature** \_\_\_\_\_ **Print Name** \_\_\_\_\_

By:   
Aaron Goddard, Vice President  
America's Health Care/RX Plan Agency, Inc.

ADDENDUM A  
ASSIGNMENT OF COMMISSIONS AGREEMENT

AHCP agrees to provide Agents with the following benefits and services:

- Lead Marketing Credits for each issued policy where applicable (varies by product)
- Incentive trip credits
- Free replicated Website
- Training program, web conference, and training materials
- Marketing Materials for proprietary products
- Advances funded by AHCP
- Toll free agent service line
- Weekly newsletter that includes all Carrier updates in one place in addition to important announcements and weekly agent rankings.

In exchange for access to AHCP programs and services, Agent agrees to the assignment to AHCP of all commissions earned, subject to the following terms and conditions:

1. All earned commissions assigned to and received by AHCP are received on the Agent's behalf and will promptly be paid out in its entirety to the Agent pursuant to the commissions structure and advance commission agreement between AHCP and the Agent. All commission payments will be made by AHCP or its delegate.
2. Agent may, upon written notice to AHCP, opt out of receiving any advance commissions. AHCP will pay out to Agent all earned commissions.
3. AHCP reserves the right to modify commission or advance commission agreements to providing 10 days advance written notice to Agent.
4. Agent expressly acknowledges that advance commission from AHCP may result in debit balances being owed by Agent to AHCP. Agent understands that these debit balances are loans which are tied to Agent and must be repaid to AHCP. If AHCP determines that monthly commissions will not satisfy the debit balance within 10 months, AHCP may, upon written notice to Agent, use Agent's commissions from any AHCP Carrier to reduce any debit balances.
5. AHCP may not assign commissions to any unaffiliated party without Agent's express written consent.
6. This assignment only applies to commissions for AHCP business while this agreement is in effect. Subject to use of commission to repay debit balances owed, AHCP shall retain no interest in or control of business sold by Agent. AHCP expressly acknowledges that this agreement in no way changes or affects the Agent's status as "Agent of Record" for any business for which commissions have been assigned to AHCP.
7. This assignment may be revoked by Agent upon 30 days written notice to AHCP and the Carrier. Once revoked, Agent will be entitled to receive commissions from Carriers so long as all debit balances with AHCP have been paid.
8. AHCP does not impose a vesting schedule on Agent. Agent is immediately vested per Carrier's requirements. AHCP will use reasonable efforts to provide vesting information from Carriers to Agent.

Agent Signature \_\_\_\_\_

Date \_\_\_\_\_