

AGENT AGREEMENT
(between HealthPlus and Agent)

THIS AGREEMENT, effective the date appointment is procured through the Office of Financial and Insurance Regulation ("OFIR"),¹ is between HEALTHPLUS OF MICHIGAN, INC., a non-profit corporation ("HPM") and _____ ("Agent"), an agent licensed to engage in business as an insurance agent by the State of Michigan and having its principal office at:

(Street Address)

(City, State and Zip Code)

WHEREAS, HPM is a health maintenance organization licensed as such under the laws of the State of Michigan; and

WHEREAS, Agent is an accident and health insurance agent licensed under the laws of the State of Michigan to act as such in connection with the sale or marketing of health benefits;

NOW THEREFORE, the parties agree as follows:

In consideration of the mutual promises herein contained and other good and valuable consideration, the parties agree as follows:

1. APPOINTMENT OF AGENT - GENERAL POWERS AND DUTIES
 - A. HPM appoints Agent as an agent with authority to solicit applications for issuance of HPM's plans.
 - B. Agent agrees that it will be covered by an errors and omissions policy of insurance to such an extent as is consistent with currently accepted practice within the insurance business.
 - C. Agent agrees to notify HPM of any termination, suspension, or expiration of its license to engage in the health insurance business within the State of Michigan.
 - D. Agent will comply with HPM's underwriting regulations and other pertinent rules and regulations.
 - E. Agent agrees to obtain a subscription rate quote from HPM prior to submitting or presenting any rate quote to any account.
 - F. Neither Agent nor its employees or sub-agents will make representations with respect to HPM's benefit coverage except as may be contained in the written

¹ Appointment date through OFIR by HPM: _____, _____ (to be filled in by HPM ONLY).

material prepared and furnished to the Agent by HPM and will make no oral or written alteration, modification or waiver of any of the terms or conditions applicable to that coverage without the express prior written consent of HPM.

- G. Agent agrees that all printed matter, applications, sales literature and other written material which HPM may furnish will remain the property of HPM, subject at all times to its control, and will be returned to HPM upon demand.
- H. Agent, its employees or sub-agents, will not employ or make use of any advertisement or material in which HPM's name and/or corporate symbols are contained, without the express prior written consent of HPM.
- I. Agent will indemnify and save harmless HPM from any and all claims, liability, costs, damage or expense, for or on account of any damage or loss, occurring by reason of any failure by the Agent, its employees or sub-agents to comply with this Agreement, or actions in soliciting business for HPM.
- J. For the period of this Agreement and for two (2) years after termination or nonrenewal of same, Agent will not divulge any confidential information which it has obtained, by reason of its association with HPM, about the business of HPM.
- K. Agent may not appoint sub-agents under this Agreement without the express written consent of HPM, and will exercise all authority conferred herein personally or through its employees and no others.
- L. Agent agrees that all Groups enrolled under this Agreement will be billed directly by HPM unless expressly otherwise written, and not through any intermediary, including Agent.
- M. Agent agrees to give reasonable notice to HPM of open enrollment meetings and to allow an HPM marketing representative to be present at all open enrollment meetings.
- N. Agent will not reward or remunerate any person for procuring or inducing business, furnishing leads or prospects. Agent will not sell or attempt to sell HPM benefits by means of intimidation or threats, whether expressed or implied. Agent will not induce the purchase of health benefits by means of a promise to sell goods, to lend money, to provide services, or a threat to not do so.
- O. HPM and Agent agree that HPM (and not Agent) will communicate with HPM subscribers concerning the program administration.

2. COMPENSATION

- A. HPM agrees to pay to Agent commissions on subscription rates paid to HPM on accounts solicited by Agent. Such commissions will be paid in accordance with Exhibit 1 of this Agreement.
- B. Commissions will be deemed earned when the subscription rates on which they are based are paid to HPM. Commissions are payable only on adjusted rates actually paid to HPM during any given plan year.

- C. Commissions will be paid on a calendar year monthly basis within thirty (30) days after HPM receives payment of the subscription rates on which they are based.
- D. HPM will maintain a record for all accounts subject to this Agreement. Said record will list one agent for each account, unless otherwise agreed by HPM.
- E. Commissions for accounts will be payable to the Agent giving the first quote to an account; provided, however, that in the event a dispute arises as to the person entitled to a commission, such commission, if otherwise due, will be paid by HPM only to the Agent of record for the account.
- F. Commissions for subscription rates paid for second and subsequent plan years will be payable only if this Agreement continues to be in effect, Agent is or continues to be recognized as the Agent of record by the account, Agent participates in the renewal of the account, and Agent assists in the continuation and proper administration of the account in any manner satisfactory to the company.
- G. Subject to the termination provisions set forth in this Agreement, commissions will not be payable unless and until the premium charges to which they apply are received by HPM and Agent has complied with the terms of the Agreement and guidelines set out in HPM's underwriting regulations.
- H. Any indebtedness of Agent to HPM will be a first lien against any commission due the Agent under this Agreement, and such commission will be applied first to liquidate such indebtedness before being paid to the Agent.
- I. HPM will have the right to discontinue writing or to alter the coverage under any contract executed between a Group and HPM according to the terms of the contract. If HPM rescinds the contract with a Group and returns premium charges, Agent will repay to HPM, on demand, the amount of commissions he or she has received on the returned premium charges.
- J. No commissions will be payable under this Agreement until the Agent's appointment is procured with OFIR.

3. RELATIONSHIP BETWEEN THE PARTIES

- A. The relationship of the Agent and its employees or sub-agents to HPM is and will be that of an independent contractor. As such, Agent is responsible for all expenses incurred pursuant to the Agent's exercising of the agency created hereunder, unless the reimbursement of such expenses has first been expressly authorized by HPM in writing.
- B. Nothing contained in this Agreement will be construed as creating the relationship of employer-employee between the parties.

4. REPORTS AND AUDITS

- A. HPM agrees to remit to Agent a Commission Statement on a monthly basis depicting the premium charges collected and commissions paid thereon.

- B. Agent agrees to remit to HPM such reports of its activities at such time and on such form as are required by HPM.
- C. HPM will have the right to audit Agent and Agent will have the right to audit the billing and collection of its accounts at such reasonable time and place as is agreed upon by both parties. Such agreement is not to be unreasonably withheld.
- D. Agent agrees to reimburse HPM for the expenses of any audit arising out of the fraud or intentional misrepresentation of Agent or its employees or sub-agents.

5. LICENSES AND TAXES

Agent will obtain any and all licenses required by the State of Michigan or local laws or regulations and will pay all license, income, self-employment, unemployment, and any and all other taxes and levies upon the business of the Agent and will save harmless HPM from all liability for the same.

6. TERMINATION AND ASSIGNMENT

- A. This Agreement may be canceled at any time, by either party, by the giving of ninety (90) days prior written notice. Termination will take effect from the expiration of the notice so given. In the event of termination, the commissions payable hereunder will be paid to the Agent only so long as the Agent is recognized by the Group as the Agent of Record. In order to qualify for the continued payment of commissions beyond the effective date of termination, Agent will furnish to HPM a current Agent of Record letter thirty (30) days prior to the anniversary following termination of each Group on which commissions were payable hereunder as of such termination date. Agent agrees that for any year an Agent of Record letter is not so provided and for any year(s) thereafter (whether an Agent of Record letter is provided or not), Agent will be entitled to no further commission payments under this Agreement as to such Group.
- B. This Agreement will automatically terminate if, at any time, the license granted to the Agent from the State of Michigan is suspended or canceled and/or if the Agent breaches any provision guidelines set out in HPM's underwriting regulations and guidelines, as amended from time to time.
- C. Upon termination of the Agreement, all material furnished to Agent by HPM will be promptly returned to HPM.
- D. This Agreement will not be assigned by the Agent without the prior written consent of HPM.
- E. This Agreement will inure to the benefit of any successor(s) in interest of HPM or the Agent.

7. MISCELLANEOUS

- A. Governing Law. This Agreement will be governed by and enforced in accordance with laws of the State of Michigan.

- B. Notices. All notices and other communications required or permitted under this Agreement will be in writing and will be deemed given when delivered personally or by registered or certified mail (return-receipt requested), addressed as follows (or any other address that is specified in writing by either party):

If to Agent: (Address)

If to HPM:

HealthPlus Of Michigan, Inc.
2050 S. Linden Road
P.O. Box 1700
Flint, Michigan 48501-1700

- C. Enforcement. Each of the parties will have the right at all times to enforce the provisions of this Agreement in strict accordance with the terms hereof notwithstanding any conduct or custom on its part in refraining from doing so at any time. The failure of either party at any time to enforce its rights hereunder strictly in accordance with the same will not be construed as having created a custom contrary to the specific provisions hereof or as having in any way modified or waived the same.
- D. Headings. The headings in this Agreement are for convenience only and do not in any way limit or amplify the terms or conditions of this Agreement.
- E. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements relating to this Agreement. No amendment or modifications will be binding unless in writing and duly executed by authorized representatives of both parties.
- F. Severability. The provisions of this Agreement will be severable, and if any provision of this Agreement is held to be invalid or unenforceable, it will be construed to have the broadest interpretation which would make it valid and enforceable. Invalidity or unenforceability of one provision will not affect any other provision of this Agreement.
- G. Counterparts. This Agreement may be executed in one or more counterpart copies, each of which will be deemed an original and all of which will together be deemed to constitute one agreement.

8. EFFECTIVE DATE

This Agreement will be effective as of _____, _____,¹ and will continue in force until either party hereto elects to terminate it.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the day and in the year first above written.

HEALTHPLUS OF MICHIGAN, INC.

AGENT

By: _____

Signature: _____

Title: _____

Print name: _____

Date: _____

Date: _____

¹ To be filled in by HPM ONLY (appointment date through OFIR).

**EXHIBIT 1
TO AGENT AGREEMENT
COMMISSION SCHEDULE**

TERMS:

Number of Subscribers initially enrolled	Commission Level
Sole Proprietor	3.0% of monthly paid premium
2 to 99 eligible employees	5.0% of monthly paid premium
100+ eligible employees	3.0% of monthly paid premium
HealthPlus direct sold with Agency of Record Letter (Orphan Groups)	2.5% of monthly paid premium on effective date of Agent of Record assignment. At renewal, paid according to the base commission schedule.

1. These terms are available for group sales only.
2. Commissions are generated by the 30th of each month on all premiums due and collected from the previous month. Agent is responsible for reviewing the commissions paid by HPM. No adjustments will be made, due to errors, beyond ninety (90) days of the date commissions were first paid.
3. Commissions are payable on all business for which the Agent has an Agent of Record letter on the date said business becomes effective with HPM. However, in no event will commissions be paid retroactively.
4. The sale of a product upgrade or downgrade will not affect the above specified terms.
5. Agents that lose a group and subsequently reinstate it, do so at the above specified terms.
6. HPM may offer promotional incentives in addition to those outlined above when and how it sees fit.

Note:

HPM retains the right to establish production standards and other objective criteria to qualify for commissions or other incentives payable hereunder. Such standards and criteria will become effective upon being communicated in writing to Agent.

BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum to the Agent Agreement is between HealthPlus of Michigan, Inc., a non-profit corporation ("Covered Entity"), and _____, an agent licensed to engage in business as an insurance agent by the State of Michigan ("Business Associate"), for an effective date as required by 45 CFR § 164.502, et al.

WHEREAS, Covered Entity and Business Associate previously or contemporaneously entered into an Agent Agreement, with one Exhibit, and may have subsequently amended such Agent Agreement and Exhibits (all such Agreements, Exhibits and Amendments collectively referred to herein as the "Agreement");

WHEREAS, Covered Entity acknowledges that it is subject to the Standards for Privacy and Security of Individually Identifiable Health Information (45 CFR Parts 160 and 164) (the "Privacy and Security Rules") issued by the United States Department of Health and Human Services under the authority of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191;

WHEREAS, Business Associate provides services to Covered Entity as set forth in the Agreement. In the course of providing such services to Covered Entity, Business Associate may come into contact with, Use or Disclose Protected Health Information ("PHI") of Individuals;

NOW THEREFORE, Covered Entity and Business Associate agree as follows:

1. Legal Effect of this Addendum.

This Addendum shall be considered an amendment to the Agreement and this Addendum shall remain in effect during the entire period the Agreement is in effect. In addition, this Addendum may remain in effect subsequent to the termination of the Agreement, as provided in this Addendum.

2. Obligations of Business Associate.

- A. Business Associate agrees to not Use or Disclose PHI other than as permitted or required by this Addendum, the Agreement, or as Required By Law. In case of any conflict between this Addendum and the Agreement, this Addendum shall govern.
- B. Business Associate agrees to use appropriate safeguards to prevent inappropriate Use or Disclosure of PHI, other than as provided for by this Addendum.
- C. As required by 45 CFR § 164.530(f), Business Associate agrees to mitigate, to the extent practical, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the Privacy and Security Rules.
- D. Business Associate agrees to report to Covered Entity in writing any Use or Disclosure of the PHI not provided for by this Addendum and/or in violation of the Privacy and Security Rules within five (5) days of becoming aware of such Use or Disclosure.

- E. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, created by or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply to Business Associate with respect to such information.
- F. If Business Associate receives PHI from Covered Entity in a Designated Record Set, Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner reasonably designated by Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements of 45 CFR § 164.524.
- G. If Business Associate receives PHI from Covered Entity in a Designated Record Set, Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity reasonably directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an Individual, and in the time and manner reasonably designated by Covered Entity.
- H. Business Associate agrees to make its PHI and internal practices, books, and records, including policies and procedures, relating to the Use and Disclosure of PHI received from, created by or received by Business Associate on behalf of Covered Entity available to the Covered Entity, or to the Secretary, in the manner lawfully designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy and Security Rules. Business Associate shall provide to Covered Entity a copy of any PHI that Business Associate provides to the Secretary concurrently with providing such PHI to the Secretary.
- I. Business Associate agrees to document its Disclosures of PHI and information related to such Disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.
- J. Business Associate agrees to provide to Covered Entity in a time and manner reasonably designated by Covered Entity, information collected in accordance with this Addendum, to permit Covered Entity to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.
- K. Business Associate (and its agents or subcontractors) shall only request, Use and Disclose the minimum amount of PHI necessary to accomplish the purpose of the request, Use or Disclosure.
- L. Business Associate agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity as required by 45 CFR § 164.314.
- M. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Electronic PHI, agrees to implement reasonable and appropriate safeguards to protect the PHI.

- N. Business Associate agrees to report to Covered Entity any Security Incidents to which Business Associate becomes aware.
- O. Business Associate acknowledges that Business Associate has no ownership rights with respect to the PHI.

3. Permitted Uses and Disclosures by Business Associate

Except as otherwise limited in this Addendum, Business Associate may Use or Disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement, provided that such Use or Disclosure would not violate the Privacy and Security Rules if done by Covered Entity.

4. Specific Use and Disclosure Provisions

- A. Except as otherwise limited in this Addendum, Business Associate may Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- B. Except as otherwise limited in this Addendum, Business Associate may Disclose PHI for the proper management and administration of the Business Associate, provided that such Disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is Disclosed that it will remain confidential and Used or further Disclosed only as Required By Law or for the purpose for which it was Disclosed to the person, and the person agrees to notify the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- C. Except as otherwise limited in this Addendum, Business Associate may Use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B).
- D. Business Associate may Use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR § 164.502(j)(1).

5. Obligations of Covered Entity

- A. Upon request, Covered Entity shall notify Business Associate of any limitation(s) in Covered Entity's Notice of Privacy Practices in accordance with 45 CFR § 164.520, to the extent that such limitation(s) may affect Business Associate's Use or Disclosure of PHI.
- B. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to Use or Disclose PHI, to the extent that such changes may affect Business Associate's Uses and Disclosure of PHI.
- C. Covered Entity shall notify Business Associate of any restriction to the Use or Disclosure of an Individual's PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.

- D. Covered Entity makes no warranty or representation that compliance by Business Associate with this Addendum, HIPAA or the Privacy and Security Rules will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

6. Permissible Requests by Covered Entity.

Covered Entity shall not request Business Associate to Use or Disclose PHI in any manner that would not be permissible under the Privacy and Security Rules if done by Covered Entity.

7. Term and Termination.

- A. Term. The term of this Addendum shall begin no earlier than April 14, 2003 in accordance with the Privacy and Security Rules and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this section.

- B. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

- (1) Provide a reasonable opportunity for Business Associate to cure the breach or end the violation and terminate this Addendum and the Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
- (2) Immediately terminate this Addendum and the Agreement if Business Associate has breached a material term of this Addendum and cure is not possible; or
- (3) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

- C. Effect of Termination.

- (1) Except as provided in paragraph 2 of this section, within sixty (60) days upon termination of this Addendum and/or the Agreement for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of PHI.
- (2) If Business Associate reasonably determines that returning or destroying PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of PHI is

infeasible, Business Associate shall extend the protections of this Addendum to such PHI and limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

8. Miscellaneous.

- A. Defined Terms. Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in 45 CFR Parts 160 and 164.
- B. Effect on Agreement. Except as otherwise specified by this Addendum, all terms and conditions of the Agreement shall continue to apply.
- C. Regulatory References. A reference in this Addendum to a section in the Privacy and Security Rules means the section as in effect or as amended, and for which compliance is required.
- D. Amendment. The Parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Rules and the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
- E. Survival. The rights and obligations of Business Associate under the termination provision of this Addendum shall survive the termination of this Addendum.
- F. Interpretation. Any ambiguity in this Addendum shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Rules.

AGREED TO ON BEHALF OF
HEALTHPLUS OF MICHIGAN

AGREED TO BY AGENT

By: _____

Signature: _____

Print Name: _____

Print Name: _____

Its: _____

Dated: _____

Dated: _____