

**PURCHASE OF SERVICE AGREEMENT FOR  
RYAN WHITE ELIGIBLE HIV/AIDS CLIENTS**

**Between  
COUNTY OF CUYAHOGA, OHIO  
and  
ALCOHOL, DRUG ADDICTION and MENTAL HEALTH SERVICES  
BOARD OF CUYAHOGA COUNTY**

**THIS AGREEMENT** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between the County of Cuyahoga, Ohio ("**COUNTY**"), on behalf of the Department of Health and Human Services (**HHS**) Ryan White Part A Program and the Alcohol, Drug Addiction and Mental Health Services Board of Cuyahoga County (hereinafter referred to as "**PROVIDER**"), an agency of a political sub-division, with principal offices located at 1400 West 25<sup>th</sup> Street, Cleveland, Ohio. The following are the terms of the Agreement

**WITNESSETH THAT:**

**WHEREAS**, the **COUNTY** as the grantee and Chief Elected Official for the Part A transitional grant area consisting of Cuyahoga, Ashtabula, Geauga, Lake, Lorain, and Medina counties has established the Council as a planning body for person living with HIV/AIDS; and

**WHEREAS**, the Cuyahoga Regional HIV Services Planning Council, ("**COUNCIL**") is responsible for identifying the needs of individuals and families affected by HIV/AIDS; and

**WHEREAS**, the **COUNCIL** has determined that mental health services, substance abuse services, outpatient and residential, are needed for persons living with HIV/AIDS within the Part A six county transitional grant area (IGA) for the 2011 fiscal year; and

**WHEREAS**, it has been determined that the **PROVIDER** has the necessary experience and expertise to administer the services; and

**WHEREAS**, the **PROVIDER** provides services for persons living in the six county Part A IGA as identified above.

**NOW, THEREFORE**, the **COUNTY** and the **PROVIDER** hereto agree as follows:

**I. SCOPE OF SERVICES**

The **PROVIDER** accepts the relationship of trust and confidence from the **COUNTY**, and by this Agreement asserts that it shall provide mental health services, substance abuse treatment

services, residential and outpatient, for persons living with HIV/AIDS within the Part A six county transitional grant area (TGA) for the 2011 fiscal year (March 1, 2011 – February 29, 2012), with an option to extend for one year through February 28, 2013 .

## **II. FINANCIAL**

For the provision of all services and the delivery of all products required under this Agreement, the **COUNTY** shall reimburse the **PROVIDER** a total amount not to exceed \$ 5,000.00 for Mental Health services, a total amount not to exceed \$ 70,000.00 for Residential Substance Abuse Treatment services, and a total amount not to exceed \$ 75,000.00 for Outpatient Substance Abuse Treatment services. The **PROVIDER** agrees to contract with service provider agencies (hereinafter referred to as **Service Providers**) to provide said services, and to accept an award in the amount not to exceed \$150,000.00 in Ryan White Part A Funds, subject to the terms and conditions of this agreement.

- A. The **COUNTY** shall reimburse the **PROVIDER** for agreed upon treatment Services to eligible Part A clients delivered at **Service Providers** at the same rate reimbursement is made for services to Non-Part A clients.
- B. Upon execution of this agreement, **PROVIDER** shall submit to the **COUNTY** an itemized fee schedule listing service providers, services available and fees for those services for any and all service providers, services available and fees for those services for any and all services for which the **PROVIDER** may request reimbursement from the **COUNTY**.
- C. If at any time during the term of this agreement, services offered and/or rates for services between the **PROVIDER** and its **Service Providers** change, the **PROVIDER** may request to amend its fee schedule for reimbursement from the **COUNTY**. Such a request shall be made in writing by the **PROVIDER** to the **COUNTY** prior to any request for reimbursement at the amended rate(s).
- D. At no time shall the rate for services charged to the **COUNTY** exceed the current Medicaid reimbursement rate for said services.
- E. The **COUNTY** will have final discretion in accepting or renegotiating service reimbursement rates for services with the **PROVIDER**.
- F. The **PROVIDER** shall submit quarterly invoices to the **COUNTY** for payment. Payments will be made to the **PROVIDER** upon receipt of a completed signed invoice. Final requests for payment must be received no later than 45 calendar days after the end of the agreement period. Any requests made after this date may not be reimbursed.

- G. Each invoice will include the date of service, Ryan White Part A client identification number, service provider, service delivered, description of service, length of service, units of service and unit cost, for each separate service being invoiced.
- H. The **PROVIDER** acknowledges and agrees that this funding cannot be used to supplant in part or in full other federal, state or local government funding, cannot be utilized for prevention activities, nor can it fund the difference between charges and reimbursement that is considered full payment for services rendered i.e. Medicaid and or other third party insurance. Payment made to the **PROVIDER** will be for the purchase of services provided to eligible individuals and will not duplicate claims made by selected **Services Providers** to other sources of public funds and or payers for the same service. The **PROVIDER** agrees that the payments received by the **PROVIDER** shall be considered payment in full.

### III. TERMS AND CONDITIONS:

- A. The **COUNTY** will accept the selection of treatment service providers by the **PROVIDER** subject to the terms and conditions below.
- B. None of the services covered by this agreement shall be contracted to any agency or organization in Cuyahoga County, other than selected **Service Provider(s)**.
- C. The **Service Provider(s)** selected may be changed and/or modified as needed to meet program goals and objectives, upon mutual agreement of the **COUNTY**, the **PROVIDER** and the **Service Providers**. No program changes shall modify or change the terms and conditions of the **Service Provider's** contract with the **PROVIDER**.
- D. The **PROVIDER** shall perform the following functions with regard to this agreement, including but not limited to:
  - a. Serve as the fiscal agent for the disbursement and monitoring of funds
  - b. Monitor services to verify adherence to federal, state and county regulations
  - c. Ensure that statistical records, clinical records and program reports are consistent with the requirements identified in the Ohio Department of Mental Health and Ohio Department of Alcohol and Drug Addiction Services standards and requirements outlined in this agreement.

- E. Through the **PROVIDER's** agreement and/or implementation procedures with selected **Service Providers**, and through continuous quality improvement monitoring, the **PROVIDER** shall ensure the following:
- a. That the funding provided through this agreement will be used only for the activities specified.
  - b. The **PROVIDER** shall assure that the **Service Providers** maintain all appropriate certifications required for providing identified mental health and substance abuse treatment services in the State of Ohio.
  - c. The **PROVIDER** shall notify the Grant Manager in writing whenever the services are materially revised.
  - d. Necessary records and accounts including financial and property controls shall be maintained and made available for audit purposes.
  - e. The **PROVIDER** will insure that selected providers adhere to confidentiality stipulations set forth in Ohio law and the Health Insurance Portability and Accountability Act (HIPAA). Additionally, the **PROVIDER** shall make available, with appropriate releases of information, any records generated by **Service Provider** as requested.
  - f. **Service Providers** shall ensure that any personal or monitoring information for any participant made available shall be used only for the purpose of carrying out the provisions of this agreement. Participant information shall not be divulged to any person except as may be necessary for the performance of the agreement.
  - g. The **PROVIDER** shall insure that selected **Services Providers** determine Part A eligibility status, including insurance status and eligibility for Medicaid coverage prior to the provision of service. Under this agreement, Mental Health services will be provided for indigent or underinsured individuals with HIV/AIDS and their families.
  - h. The **PROVIDER** shall participate in the comprehensive planning process for the organization and delivery of HIV-related health and support services developed by the Cuyahoga Regional HIV Services Planning Council.
  - i. The **PROVIDER** insures that selected **Service Providers** will complete all Ryan White Part A intake forms and reports within specified timelines as required.
- F. In the event that any Services Provider with an active Part A caseload discontinues providing services at any time during this agreement, the **PROVIDER** shall assure that a transition plan is made and executed to assist clients in receiving treatment at another **Service Provider**.
- G. The **PROVIDER** shall assist the **COUNTY** or its designee in developing new or integrating existing quality management systems capable of

measuring the quality of services, adherence to mental health standards and client outcomes as required by ODMH and ODADAS.

## **VI. PROVIDER RESPONSIBILITY**

- A.** The **PROVIDER** shall participate in no fewer than one (1) and no greater than four (4) site visits per funded program year. Audits will include an administrative review of fiscal and programmatic components and a service review of quality of care standards and health outcomes. Key personnel involved in service delivery and direct supervision of RW Act services and all appropriate agency and client records should be available for site visits. **PROVIDERS** whose audit results show significant non-compliance with fiscal and/or program standards will be required to prepare a corrective action plan and are subject to a second audit to review improvement. Organizations whose performance continues below compliance standards are subject to additional sanctions including a reduction in current funding, the termination of the service contract or payback of reimbursement for services determined to be ineligible or undocumented.
- B.** The **PROVIDER** agrees to provide to the **COUNTY** reports relative to the effective operation of the program. The **PROVIDER** shall ensure accountability for the services identified in this agreement by submitting service and fiscal reports.
- a.** Semi-Annual Program Reports are required from each provider for each funded service.
  - b.** Annual Administrative Reports, the Ryan White HIV/AIDS Data Report (RDR) and Ryan White HIV/AIDS Program Services Report (RSR), are required by The U.S. Department of Health and Human Services, HIV/AIDS Resources Services Administration. The format will be provided to each service **PROVIDER** with instructions on completion and submission requirements.
  - c.** Comply with data entry requirements for reporting into required systems (i.e., CAREWare, HRSA reporting systems).
  - d.** Other additional information may be requested at any time by the **COUNTY**. The **COUNTY** may provide specific formats for submitting reports which the **PROVIDER** will be required to follow.
- C.** **Maintenance of Effort.** The **PROVIDER** certifies that the services being reimbursed by Part A are not available from the **PROVIDER** on a non-reimbursable basis or for less than the unit cost negotiated with Part A, or reimbursable in part or in full by any other third party. The **PROVIDER** certifies that they will not use Part A funds to supplant non-federal funds for services.

**D. Funding Exclusions And Restrictions.**

- a. Pursuant to Section 2605 (a)(6) of the RW Act, funds cannot be used to pay for any item or service that can reasonably be expected to be paid under any State compensation program, insurance policy, Federal or State health benefits program, or by any entity that provides health services on a prepaid basis. The Ryan White Part A Program is the "payer of last resort." This means providers must make reasonable efforts to identify and secure other funding sources outside of Ryan White legislation funds, whenever possible. Part A funds are intended to be "the payer of last resort" for the provision of care. Providers are responsible for verifying an individual's eligibility by investigating and eliminating all other potential billing sources for each service, including public insurance programs, or private insurance. RW Act funds may not be used to supplant partial reimbursements from other sources to make up any un-reimbursed portion of the cost of such services.
- b. If the **PROVIDER** elects to use RW Act funds for services, which are eligible for both third party reimbursement and grant funding, the **PROVIDER** must have a system in place to bill and collect from the appropriate third party payer. Only if the client has been determined to not be eligible for reimbursement from Medicaid or other third party payers, may the grantee use grant funds to provide these services. The **PROVIDER** may use RW Act funds while a Medicaid eligibility determination is pending, but must back bill Medicaid during the retroactive period of enrollment. The **COUNTY** reserves the right to audit records and or require proof that grant funds are not being used to support clients enrolled in third party reimbursement programs. Under Section 2604 (e), the grantee can only contract with Medicaid certified providers if the service is covered under Medicaid.
- c. The **PROVIDER** warrants that payments received from the **COUNTY** for services under this contract shall be considered payment in full for such services and that no additional claims or payments shall be sought or received by another payor source for any part or all of such services
- d. The **PROVIDER** shall not use RW Act funds in order to:
  - i. Support the costs of operating clinical trials of investigational agents or treatments;
  - ii. Cover the costs of funeral, burial, cremation or other related expenses;
  - iii. Purchase clothing;
  - iv. Make payments directly to recipients of services,
  - v. Support legal services for criminal defense;
  - vi. Provide direct maintenance expenses of privately owned vehicles or any other costs associated with a vehicle, such as lease or loan payments, vehicle insurance, or license registration fees;

- vii. Purchase or improve land, or to purchase, construct, or make permanent improvement to any building, except for minor remodeling;
- viii. Pay property taxes.

- E. **Program Income.** The RW Act legislation requires grantees to collect and periodic report information on program income. The program income is to be returned to the respective Ryan White HIV/AIDS Program and used to provide eligible services to eligible clients. "Program income is gross income—earned by a recipient, sub-recipient, or a contractor under a grant—directly generated by the grant-supported activity or earned as a result of the award. Program income includes, but is not limited to, income from fees for services performed (e.g., direct payment, or reimbursements received from Medicaid, Medicare and third-party insurance); and income a recipient or sub-recipient earns as the result of a benefit made possible by receipt of a grant or grant funds, e.g., income as a result of drug sales when a recipient is eligible to buy the drugs because it has received a Federal grant."
- a. As specified on the Part A notice of grant award (NGA), program income must be added to funds committed to the project or program and used to further eligible project or program objectives." Grantees are responsible for ensuring that sub-recipients have systems in place to account for program income, and for monitoring to ensure that sub-recipients are tracking and using program income consistent with grant requirements. All program income must be reported monthly as a part of the request for payment process.
- F. **Financial Systems, Records, and Audit.** The **PROVIDER** agrees to adhere to the requirements pursuant to Office of Budget and Management (OBM) Circular Numbers A-87, A-122, A-21 for cost principles, A-102, A-110 for administrative requirements and A-133 for audit requirements. The **PROVIDER** shall submit to the **COUNTY** and Annual Compliance OBM Circular A-133 if the annual expenditure exceeds \$500,000.00. **PROVIDER** with annual expenditures under \$500,000 must submit the most recent independent auditor's report.
- G. **Availability and Retention of Records.** **PROVIDER** shall maintain and preserve all records related to this agreement and the administration of the program for a period of three (3) years from the ending date of this contract. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three (3) year period, the **PROVIDER** shall retain the records until completion of the action and all issues which arise from it or until the end of the three (3) year period, whichever is later.

**H. Safeguarding of Client and Client Records.**

- a. **PROVIDER** agrees that the use or disclosure by any party of any information concerning service recipients for any purpose not directly related with the administration of the **COUNTY** or **PROVIDER'S** responsibilities with respect to purchased services is prohibited except upon the expressed written consent of the individual being served.
- b. **PROVIDER** agrees to comply with the Health Insurance Portability and Accountability Act (HIPAA) and all its relevant provisions in relation to the delivery, recording and billing of client health care and other applicable related clinical social services reimbursed by RW Act funds.
- c. **PROVIDER** agrees to comply with all federal and state laws applicable to the **COUNTY** and/or consumers of RW Act funded services concerning the confidentiality of the consumers. The **PROVIDER** understands that Ohio law prohibits anyone from soliciting, disclosing, receiving, using, or knowingly permitting, or participating in the use of any information regarding a public assistance recipient for any purpose not directly connected with the administration of a public assistance program. R.C. 5101.27(A). See also Ohio Administrative Code 5101:1-1-03. Under R.C. 5101.00(B), whoever violates R.C. 5101.27(A) is guilty of a misdemeanor of the first degree.

**VII: GENERAL PROVISIONS**

- A. **Publicity.** In any publicity release or other public reference, including a media release, information pamphlets, etc., on the services provided under this agreement, it will be clearly stated that the project is administered by the **COUNTY** and funded by the U.S. Department of Health and Human Services. Copies of any such materials should be sent to the **COUNTY**.
- B. **Civil Rights.**
  - a. **PROVIDER** agrees to comply with the provisions of Title VI and Title VIII of the Civil Rights Act (42 USC 2000d and 2000e), the Age Discrimination in Employment Act (29 USC 620 et seq.), the Equal Pay Act (29 USC 206 (d)), the Rehabilitation Act (29 USC 794), Title IX of the Education Amendments Act 1972 (20 USC 1618), the Age Discrimination Act (42 USC 6101), the Americans Disabilities Act (Public Law 101 - 336), and other applicable nondiscrimination regulations (29 CFR 34.20). The **PROVIDER** assures further that no portion of its program will in any way discriminate against, deny benefits to, deny employment to, or exclude from participation any person on the ground of race, color, national origin,



religion, age, sex, handicap, or political affiliation or belief. Efforts shall be made to make programs and facilities accessible to eligible qualified handicapped and disabled persons; and

- b. **PROVIDER** covenants that this Agreement is subject to the Equal Employment Opportunity Resolution No. 1985, adopted by Cuyahoga County on July 24, 1975, and the rules and regulations issued there under, which resolution, rules, and regulations are incorporated by this reference as if fully rewritten.

- C. **Subcontract Authority and Subcontracting.** **PROVIDER** may enter into subcontract agreements with other agencies, however, all subcontract agreements must be approved by the **COUNTY**. Subcontractor records must be available for review as described in Section 18. Sub-contracts that change the services, service definitions, service delivery locations or service rates are not permitted under any circumstances.

All subcontracting agencies are subject to the same terms, conditions, and covenants contained herein. The subcontractor shall comply with those rules set forth in the RW Act. No such subcontracts shall in any case release the **PROVIDER** of his liability under this contract.

- D. **Suspension Or Debarment Clause.** **PROVIDER** hereby represents and certifies that it, any partner, officer, or director, has not been excluded by suspension or debarment from entering into any contract with this public entity whereby federal funds will be paid, or suspended or debarred from contracting with this public entity for any other reason. It is acknowledged that any such suspension or debarment will result in voiding this contract, and **COUNTY** will not be liable for any damages whatsoever.

- E. **Insurance.** **PROVIDER** shall maintain a standard form policy or policies of insurance covering its officers, employees and agents as their interests may appear against claims of personal injury, or death and property damage.

- F. **Grievance Procedures.** **PROVIDER** shall provide the **COUNTY** with written notification of any perceived deviation as noted in the grievance procedures. Where complaints cannot be resolved, the **PROVIDER** may initiate the grievance process which shall consist of mediation and, if necessary, binding arbitration. Notification should be sent to:

**Rick Werner, Project Director**  
Office of Health & Human Services  
310 W. Lakeside Avenue, Suite 500

Cleveland, OH 44113

- G. Violation/Breach of Agreement.** This contract is subject to administrative, contractual or legal remedies for violation or breach of contract terms caused by the **PROVIDER**.
- H. Termination.** Upon thirty (30) calendar days written notice to the other party, either party may terminate this agreement.
- I. Amendment of Contract.** The terms of this agreement including dates, services, reimbursement rates and unit costs, total reimbursable amounts and other provisions may be amended at any time upon amendment signed by both parties
- J. Law.** This agreement is subject to and will be interpreted in accordance with all applicable Federal, State and Local laws.
- K. Notice.** All notices and communications provided or hereunder shall be in writing and sent via the United States Postal Services, first class prepaid, to the following or to such other addresses as may be furnished in writing by either party to the others:

<b>If to the COUNTY:</b>	Laureen Atkins, Grant Manager Ryan White Part A Program Office of the County Administrator - Health & Human Services 4261 Fulton Parkway Cleveland, OH 44144 (216) 635-2938
--------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<b>If to the PROVIDER:</b>	<u>William Denihan</u> ALCOHOL, DRUG ADDICTION AND MENTAL HEALTH SERVICES BOARD OF CUYAHOGA COUNTY 1400 West 25 <sup>th</sup> St., Third Floor Cleveland, OH 44113 (216) 241-3400
----------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Any such notice or communication shall be deemed effective as of the date of mailing, provided, however, that all notices or other communications shall be given verbally at the earliest practical time to the parties entitled to such notice.

L. **Electronic Signature(s).** By entering into this Contract the **PROVIDER**, its officers, employees, subcontractors, sub-grantees and agents agree to conduct this transaction by electronic means by agreeing that all documents requiring **COUNTY** signatures may be executed by electronic means, and that the electronic signatures affixed by the **COUNTY** to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. The **PROVIDER** also agrees on behalf of the aforementioned entities and persons, to be bound by the provisions of Chapters 304 and 1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with the electronic signature policy of Cuyahoga County.

IN WITNESS WHEREOF, the parties hereto execute this Agreement as of the date first written above.

County of Cuyahoga, Ohio  
Edward FitzGerald, County Executive

By: Ed FitzGerald/ok  
2011-12-08 16:08:19  
Edward FitzGerald, County Executive

Alcohol, Drug Addiction, and Mental  
Health Services Board of Cuyahoga  
County

By: W. M. Denihan  
Signature

William M. DENIHAN  
Printed Name

CEO

Title