

Medi-Cal Managed Care Program (MCMCP)  
***PARTICIPATING BEHAVIORAL HEALTH PRACTITIONER AGREEMENT***

This AGREEMENT is effective upon final execution of both parties between BLUE CROSS OF CALIFORNIA, dba ANTHEM BLUE CROSS and Affiliates (“ANTHEM”) and the County of El Dorado (“PRACTITIONER”).

**I. RECITALS**

- 1.1 ANTHEM is a California corporation licensed by the Department of Managed Health Care to operate a health care service plan pursuant to the Knox-Keene Health Care Service Plan Act of 1975 and the Rules of the Department of Managed Health Care promulgated there under (California Health & Safety Code, Sections 1340 to 1399.64 and California Code of Regulations, Sections 1300.43 to 1300.99, collectively, the “Knox-Keene Act”), including without limitation to issue benefit agreements covering the provision of health care services and to enter into agreements with PRACTITIONER.
- 1.2 PRACTITIONER is a duly licensed physician, psychologist, clinical social worker, marriage-family therapist, clinical professional counselor, psychiatric mental health nurse, or psychiatric mental health nurse practitioner.
- 1.3 ANTHEM intends by entering into this Agreement to make available quality behavioral health care to persons under the Medi-Cal Managed Care Program (“MCMCP”) by contracting with PRACTITIONER. PRACTITIONER intends to provide such quality health care in a cost-efficient manner.

**II. DEFINITIONS**

- 2.1 “Affiliate(s)” means a corporation or other organization owned or controlled either directly or through parent or subsidiary corporations, by ANTHEM, or under common control with ANTHEM.
- 2.2 “Behavioral Health Services” means services for the evaluation and treatment of Mental Disorders and/or Chemical Dependency.
- 2.3 “Benefit Agreement(s)” means the “Member Services Guide/Evidence of Coverage,” which describes and explains the health care benefits that ANTHEM provides, indemnifies, or administers for Members.
- 2.4 “Chemical Dependency” generally means those conditions, not including those covered as Mental Disorders, in the International Classification of Diseases as diagnostic codes 290-319. These conditions include, but are not limited to: (1) psychoactive substance induced mental disorders; (2) psychoactive substance use dependence; and (3) psychoactive substance use abuse. Chemical Dependency does not include addiction to, or dependency on, tobacco or food substances (or dependency on items not ingested).
- 2.5 “Council for Affordable Quality Healthcare Universal Provider Datasource (CAQH UPD)” is an online registration service which is the industry standard for collecting provider data used in credentialing.
- 2.6 “Emergency” means a sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including without limitation severe pain) such that the patient may reasonably believe that absence of immediate medical or psychiatric attention could reasonably result in any of the following:

- (1) Placing the patient's health in serious jeopardy or immediate danger of patient harming others; or
- (2) Other serious medical or psychiatric consequences; or
- (3) Serious impairment to bodily functions; or
- (4) Serious and/or permanent dysfunction of any bodily organ or part.

For behavioral health purposes, the above definition shall not apply, and "Emergency" shall mean a sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity which the Member reasonably perceives could result in the Member's actions causing harm to the Member or placing others in danger, unless immediate transport, supervision, or intervention by a public safety representative or licensed medical professional is obtained.

- 2.7 "Facility" means any general acute hospital, psychiatric hospital, psychiatric health facility, chemical dependence recovery hospital, residential treatment center, day treatment facility, or other BLUE CROSS care facility, or outpatient setting.
- 2.8 "Hospital/Facility Services" means those acute care inpatient, residential, rehabilitation, and hospital day treatment outpatient services, which are covered by a Benefit Agreement, providing coverage for mental or nervous disorders, psychiatric disorders, or substance abuse. Hospital/Facility Services do not include long-term non-acute care.
- 2.9 "MCMCP Participating Medical Group" is a legal entity organized under the laws of the State of California and comprised of PRACTITIONERS who desire to provide and arrange for health services to persons who are enrolled in MCMCP under Capitation arrangements
- 2.10 "Medi-Cal Managed Care Program" (MCMCP) means a direct care prepayment plan offered by ANTHEM to eligible Medi-Cal beneficiaries.
- 2.11 "Medically Necessary" shall mean health care services that a PRACTITIONER, exercising prudent clinical judgment, would provide to a patient for the purpose of preventing, evaluating, diagnosing or treating an illness, injury, disease or its symptoms, and that are:
  - (a) in accordance with generally accepted standards of medical practice;
  - (b) clinically appropriate, in terms of type, frequency, extent, site and duration, and considered effective for the patient's illness, injury or disease; and
  - (c) not primarily for the convenience of the patient, PRACTITIONER, or other health care provider, and not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of that patient's illness, injury or disease.

For these purposes, "generally accepted standards of medical practice" means standards that are based on credible scientific evidence published in peer-reviewed medical literature generally recognized by the relevant medical community, PRACTITIONER Specialty Society recommendations, and the views of PRACTITIONERS practicing in relevant clinical areas and any other relevant factors. The foregoing definition of "Medically Necessary" shall be inapplicable to the extent that a different definition is required by a self-funded group, any applicable government contract or law or regulation.

To determine whether care is "clinically appropriate," the following minimum standards relevant to mental health care must be met:

- (i) There is a diagnosis as defined by standard diagnostic nomenclatures (DSM IV or its equivalent in ICD-9-CM) and an individualized treatment plan appropriate for the Member's illness or condition; and
- (ii) There is a reasonable expectation that the Member's illness, condition, or level of functioning will be stabilized, improved, or maintained through ambulatory care, through treatment known to be effective for the Member's illness; custodial care is not typically a Covered Service; and

- (iii) The mental health services are not primarily for the avoidance of incarceration of the Member.
- 2.12 "Medical Services" means those Behavioral Health Services provided by a Participating Practitioner and covered by a Benefit Agreement, or, if PRACTITIONER is a physician, such other services rendered in treatment of illness or injury that the PRACTITIONER can render within the scope of PRACTITIONER's license.
- 2.13 "Member(s)" means "Eligible Beneficiaries", as defined in the contract between ANTHEM and the State Department of Health Services, who have enrolled in the Medi-Cal Managed Care Program
- 2.14 "Mental Disorders" means those conditions that affect thinking, perception, mood and behavior. A Mental Disorder is recognized primarily by symptoms or signs that appear as distortions of normal thinking, distortions of the way things are perceived, moodiness, sudden and/or extreme changes in mood, depression, and/or unusual behavior such as depressed behavior or highly agitated or manic behavior. Mental Disorders include, but are not limited to, the following: schizophrenia, manic-depressive and other conditions usually classified in the medical community as psychoses; depressive, phobic, manic and anxiety conditions (including panic disorders); bipolar affective disorders including mania and depression; obsessive-compulsive disorders; hypochondria, personality disorders (including paranoid, schizoid, dependent, anti-social and borderline); dementia and delirious states; post-traumatic stress disorder; adjustment reactions; reactions to stress; and anorexia nervosa. Any condition meeting this definition is a Mental Disorder no matter what the cause of the condition may be. Coverage of one or more of these conditions and other conditions may be specifically excluded in the Benefit Agreement.
- 2.15 "Participating MCMCP Hospital" means a hospital which has entered into an agreement to provide Hospital Services as a Participating MCMCP Provider.
- 2.16 "Participating Practitioner" means a licensed physician, psychologist, clinical social worker, marriage-family therapist, clinical professional counselor, psychiatric mental health nurse, or psychiatric mental health nurse practitioner who has entered into an agreement with BLUE CROSS to provide Medical Services to Members as a Participating MCMCP Provider and who is duly licensed in the State of California or other applicable State.
- 2.17 "Participating MCMCP Provider" means a hospital, other health facility, PRACTITIONER or other health professional which has entered into an agreement with ANTHEM to provide health care services for prospectively determined rates.
- 2.18 "PRACTITIONER Specialty Society" means a United States medical specialty society that represents diplomats certified by a board recognized by the American Board of Medical Specialties.
- 2.19 "Utilization Review" means a function performed by an organization or entity acting as an agent of ANTHEM, and selected by ANTHEM to review and approve whether Medical Services provided, or to be provided, are Medically Necessary.

### **III. RELATIONSHIP BETWEEN ANTHEM AND PRACTITIONER**

- 3.1 ANTHEM and PRACTITIONER are independent entities. Nothing in the Agreement shall be construed or be deemed to create a relationship of employer and employee or principal and agent or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the provisions of this Agreement.
- 3.2 ANTHEM and PRACTITIONER agree that PRACTITIONER shall maintain a PRACTITIONER/patient relationship with each Member that PRACTITIONER treats. PRACTITIONER shall be responsible solely to that Member for treatment and medical care.
- 3.3 Nothing in this Agreement is intended to be construed as encouraging PRACTITIONER to restrict Medically Necessary covered Medical Services or to limit clinical dialogue between PRACTITIONER and Members. PRACTITIONER may freely communicate with Members regarding the treatment options available to them, including medication treatment options, regardless of benefit coverage limitations. Nothing in this Agreement is intended to be construed,

or be deemed to create any rights or remedies in any third party, including but not limited to a Member or a Participating MCMCP Provider other than PRACTITIONER, except as otherwise provided herein.

- 3.4 PRACTITIONER consents to the memorializing of his/her legal obligations with ANTHEM and each particular Affiliate in one or more separate written agreements that shall not alter the substance of those obligations.
- 3.5 PRACTITIONER hereby acknowledges his/her understanding that this Agreement constitutes a contract between PRACTITIONER and ANTHEM as an independent corporation, operating under a license with the ANTHEM and Blue Shield Association, an Association of independent ANTHEM and Blue Shield Plans (the "Association"), permitting ANTHEM to use the ANTHEM service mark in the State of California and that ANTHEM is not contracting as the agent of the Association. PRACTITIONER further acknowledges and agrees that PRACTITIONER has not entered into this Agreement based upon representations by any other person other than ANTHEM and that no person, entity, or organizations other than ANTHEM shall be held accountable or liable to PRACTITIONER for any of ANTHEM' obligations to PRACTITIONER created under this Agreement. This section shall not create any additional obligations whatsoever on the part of ANTHEM, other than those obligations created under other provisions of this Agreement.
- 3.6 If PRACTITIONER is a Participating MCMCP Provider under any other ANTHEM Participating MCMCP Provider Agreement, this Agreement shall supersede such prior agreement and the provisions of this Agreement shall control.
- 3.7 PRACTITIONER hereby acknowledges and agrees that this Agreement shall govern and control the provision and financial responsibility for Medical Services rendered to Members that are assigned directly to ANTHEM. PRACTITIONER further acknowledges and agrees that the terms of this Agreement shall not be applicable for Members assigned to a MCMCP Participating Medical Group in counties where ANTHEM has delegated the financial responsibility for Medical Services to such Participating Medical Group.

ANTHEM reserves the right, in its sole discretion to delegate the financial responsibility for the provision of Medical Services to a MCMCP Participating Medical Group and in such instance PRACTITIONER shall not seek payment or coordination of care from ANTHEM. In the event of such delegation, PRACTITIONER further acknowledges and agrees that in order to continue to provide Medical Services to a Member PRACTITIONER may be required to enter into a direct agreement with Participating Medical Group. The policies and procedures of such delegated Participating Medical Group shall control for Medical Services and PRACTITIONER may be required to seek prior authorization and approval from the Member's assigned Participating Medical Group. Notwithstanding the foregoing, ANTHEM reserves the right, in its sole discretion, to withdraw any such delegated responsibility for Medical Services from any Participating Medical Group and in such instance the obligations of this Agreement for the Members shall automatically apply and be deemed in full force and effect.

#### **IV. PRACTITIONER SERVICES AND RESPONSIBILITIES**

- 4.1 PRACTITIONER shall provide to Members Medical Services which are Medically Necessary and will be reimbursed for those services which are in accordance with the applicable behavioral health benefits contained in the Member's Benefit Agreement and this Agreement. PRACTITIONER shall personally perform such Medical Services, except as otherwise provided herein. Member-specific benefit information can be obtained by logging on to BLUE CROSS' web site at [provideraccess.bluecrossca.com](http://provideraccess.bluecrossca.com) or by calling BLUE CROSS customer service.

- 4.2 PRACTITIONER shall, to the extent possible, seek, accept and maintain evidence of assignment of benefits for the payment of Medical Services provided to Members by PRACTITIONER under the applicable Benefit Agreement
- 4.3 PRACTITIONER agrees to admit or arrange for admission of Members only to Participating MCMCP Hospitals unless otherwise determined by PRACTITIONER and agreed to in writing by ANTHEM. In case of an Emergency, as that term is defined in this Agreement, PRACTITIONER agrees to use a Participating MCMCP Hospital whenever possible. Other exceptions to the use of Participating MCMCP Hospitals shall be approved pursuant to the provisions of Section 7.
- 4.4 PRACTITIONER agrees to refer Members to other Participating MCMCP Providers unless otherwise determined by PRACTITIONER and agreed to in writing by ANTHEM.
- 4.5 If PRACTITIONER, in any case other than an Emergency, admits or arranges for admission of a Member to a non-Participating MCMCP Hospital or refers a Member to a non-Participating MCMCP Provider, PRACTITIONER will obtain authorization from ANTHEM Utilization Review Program as set forth in the MCMCP Provider Operations Manual.

Additionally, PRACTITIONER agrees:

- (1) To use his or her best efforts to require any non-Participating MCMCP PRACTITIONER to whom a Member is referred to abide by the terms of this Agreement.
  - (2) To provide for the availability of emergency services twenty four (24) hours a day, seven (7) days a week and to arrange for coverage by another PRACTITIONER, in the event of PRACTITIONER's illness, vacation or other absence from his or her practice and, if such covering PRACTITIONER is not a Participating MCMCP PRACTITIONER, to use PRACTITIONER's best efforts to cause such covering PRACTITIONER to abide by the terms of this Agreement.
  - (3) That unless ANTHEM explicitly agrees otherwise, he or she is a Participating MCMCP Provider at all locations and under all tax identification numbers. Furthermore, PRACTITIONER agrees to notify ANTHEM in writing of each separate tax identification number under which PRACTITIONER receives compensation
- 4.6 PRACTITIONER agrees to participate in the Utilization Review provided in Section 7, and with such amendments as PRACTITIONER may be notified of, and to abide by decisions resulting from that review subject to rights of reconsideration, review and arbitration provided in .5.
  - 4.7 PRACTITIONER agrees to provide a completed application for any PRACTITIONERs(s) added by registering each PRACTITIONER with CAQH UPD to enable ANTHEM to consider the qualifications of such added PRACTITIONER(s) for participation in the ANTHEM' MCMCP. CAQH UPD can be accessed through internet website at [www.caqh.org](http://www.caqh.org). PRACTITIONER also agrees to complete a PRACTITIONER information packet and submit to ANTHEM 120 days prior to addition of such PRACTITIONER.

In the event of any change in its principal place of business, PRACTITIONER shall notify ANTHEM at least forty-five (45) days prior to such change.

- 4.8 PRACTITIONER agrees that policies must be in place for utilization of allied health personnel including nurse practitioners, PRACTITIONER assistants and medical assistants.
- 4.9 PRACTITIONER agrees that PRACTITIONER's medical practice must be readily accessible to Members.
- 4.10 PRACTITIONER will use best efforts to prescribe drugs to Members that are contained in the ANTHEM established pharmaceutical formulary.
- 4.11 PRACTITIONER agrees to cooperate with ANTHEM' administration of its quality improvement program and internal quality of care review and grievance resolution procedures as set forth in the MCMCP Providers Operations Manual.

- 4.12 PRACTITIONER shall comply with all applicable state and federal laws and regulations relating to the delivery of Medical Services including, but not limited to, the applicable requirements specified in the California Welfare and Institutions Code, Article 5.9, beginning with Section 14189, Title 22 California Code of Regulations, Division 3, Subdivision 1, Chapters 3, 4, 4.5 and 6.
- 4.13 PRACTITIONER shall submit all reports required by ANTHEM necessary to comply with MCMCP requirements, as set forth in Exhibit B-I (attached and incorporated herein by reference).
- 4.14 PRACTITIONER agrees to communicate results of all Utilization Review pre-service review decisions to the Member.
- 4.15 PRACTITIONER agrees to comply with all requirements set forth in the MCMCP Providers Operations Manual available on ANTHEM' Internet web site at [www.bluecrossca.com](http://www.bluecrossca.com). The MCMCP Provider Operations Manual is incorporated herein by this reference.
- 4.16 PRACTITIONER agrees that if PRACTITIONER does not maintain active hospital privileges at a Participating MCMCP Hospital, PRACTITIONER must provide an acceptable arrangement, or agree to work with ANTHEM to establish and maintain a plan that ensures continuity of care at all times including after-hours, weekend and hospital coverage.
- 4.17 PRACTITIONER agrees to maintain the capacity to accept assignment of a minimum of two hundred (200) Members. This requirement applies to primary care PRACTITIONERS.
- 4.18 PRACTITIONER's primary consideration shall be the quality of the health care services rendered to Members. PRACTITIONER shall not discriminate against any Member in the provision of Medical Services on the basis of sex, marital status, sexual orientation, race, color, religion, ancestry, national origin, disability, health status, health insurance coverage, utilization of medical or mental health services or supplies, or other unlawful basis including without limitation, the filing by such Member of any complaint, grievance, or legal action against PRACTITIONER.
- 4.19 As required by Title 28 CCR Section 1300.67.8(f), PRACTITIONER agrees to display in a prominent place in each reception and waiting area a notice informing Members how to contact BLUE CROSS, file a complaint with ANTHEM, obtain assistance from the Department of Managed Health Care, and seek an independent medical review. A reception and waiting area shall be defined as a room used for the purpose of Members waiting to receive services from PRACTITIONER. The notice shall be displayed in English and in any individually identifiable language that is spoken in the home by ten percent (10%) or more of the households in the U.S. Postal Service zip code in which the reception or waiting area is located, according to the US Census Bureau's Census 2000 Summary File 3, Quick Table -- P16 for the appropriate zip code. The notice shall be in a form prescribed, provided and translated by the Department of Managed Health Care for posting. The notice and translations can be found at [www.dmhc.ca.gov](http://www.dmhc.ca.gov) and are available for downloading and printing. Display of a notice provided by the Office of the Patient Advocate containing the Information required by this Section and in the appropriate language(s) will be considered compliance with this provision.

## **V. ANTHEM SERVICES AND RESPONSIBILITIES**

- 5.1 ANTHEM agrees to pay PRACTITIONER compensation pursuant to the provisions of Section VI.
- 5.2 ANTHEM agrees to grant PRACTITIONER the status of "Participating MCMCP PRACTITIONER", to identify PRACTITIONER as a Participating MCMCP PRACTITIONER on informational materials to Members, and to facilitate the direction of such Members to PRACTITIONER.
- 5.3 ANTHEM agrees to continue listing PRACTITIONER as a Participating MCMCP PRACTITIONER until this Agreement is terminated.
- 5.4 ANTHEM agrees to provide PRACTITIONER with a list of all Participating MCMCP PRACTITIONERS, Participating MCMCP Hospitals and other Participating MCMCP Providers.
- 5.5 ANTHEM agrees to provide appropriate identification cards for Members.

- 5.6 ANTHEM shall use reasonable efforts to provide Members assigned to PRACTITIONER (if PHYSICIAN is a PCP) at least thirty (30) days prior notice of any termination of this Agreement. ANTHEM shall provide timely notification to Members who have seen PRACTITIONER in the last six (6) months (if PRACTITIONER is a specialist) of any termination of this Agreement.
- 5.7 Notwithstanding any other provision herein to the contrary, ANTHEM agrees to give PHYSICIAN at least ninety (90) business days prior notice of any change by ANTHEM of a material term of this Agreement (except for any change necessary to comply with state or federal law or regulations and a shorter timeframe for compliance is required.)

If PRACTITIONER desires to negotiate the change (except for any change necessary to comply with state or federal law or regulations), PRACTITIONER shall notify ANTHEM in writing within thirty (30) business days after receipt of ANTHEM's notice. If (a) PRACTITIONER does so notify ANTHEM and the parties are unable to agree to such change or (b) PRACTITIONER does not exercise his/her right to negotiate the change, PRACTITIONER may provide ANTHEM with written notice that it desires to terminate this Agreement within ninety (90) business days after receipt of ANTHEM's notice. PRACTITIONER agrees that ANTHEM may withdraw its notice of change at least 25 calendar days prior to the effective date of the change thereby canceling PRACTITIONER's election to terminate this Agreement. If PRACTITIONER provides ANTHEM with a written termination notice pursuant to this paragraph and ANTHEM does not so withdraw its notice of change, this Agreement shall terminate as of the effective date of such change, notwithstanding the provisions of Section XII of this Agreement. If PRACTITIONER does not so elect to terminate this Agreement, PRACTITIONER shall be subject to the change ninety (90) business days after the date of ANTHEM's notice (except for any change necessary to comply with state or federal law regulations and a shorter timeframe for compliance is required).

## **VI. COMPENSATION AND BILLING**

- 6.1 PRACTITIONER shall seek payment only from ANTHEM for the provision of Medical Services, subject to the coordination of benefit provisions of the applicable Benefit Agreement and subject to the provision of Sections 3.7 and 3.8 above. In the event that ANTHEM fails to pay PRACTITIONER for the provisions of Medical Services as provided herein, the Member shall not be liable to PRACTITIONER for any sums owed by ANTHEM. PRACTITIONER shall not invoice or balance bill a Member for any difference between PRACTITIONER's billed charges and the reimbursement paid by ANTHEM for Medical Services provided to the Member.
- 6.2 PRACTITIONER shall agree to accept the fee schedule as provided in Exhibit B, attached to and made part of this Agreement, or PRACTITIONER's covered billed charges, whichever is less, as payment in full for all Medical Services provided to Members. Exhibit B identifies the compensation for Members, as applicable, for services being provided by PRACTITIONER. Such payment shall be for Medical Services provided on or after the effective date of this Agreement. PRACTITIONER agrees not to bill, charge or otherwise seek additional surcharges, payments, or compensation from Members for Medical Services. If ANTHEM receives notice that PRACTITIONER bills, charges or otherwise seeks and/or receives additional surcharges, payments, or compensation from Members other than those permissible as provided herein, ANTHEM shall take appropriate action, including without limitation, requiring PRACTITIONER to cease such actions and to promptly refund any amount thus received to the person who paid it. PRACTITIONER agrees to hold harmless the state of California and Members in the event ANTHEM cannot or will not pay for Medical Services performed by PRACTITIONER unless PRACTITIONER meets eligibility requirements to operate as Rural Health Clinic (RHC) as defined by **42 U.S.C. 1395** or a Federally Qualified Health Center (FQHC) as defined by **42 U.S.C 254b** where PRACTITIONER may choose to seek monetary grants from the State allocated for these entities.

- 6.3 Subject to the provisions of Section 5.7 above, each year, ANTHEM may change the applicable fee schedule.
- 6.4 PRACTITIONER shall bill ANTHEM on forms and in a manner acceptable to ANTHEM no later than one hundred eighty (180) days of performing the Medical Services or ANTHEM may deny payment. PRACTITIONER shall furnish, on request, all information reasonably required by ANTHEM to verify and substantiate the provision of Medical Services and the charges for such services. ANTHEM reserves the right to review all such information submitted by PRACTITIONER when necessary and in accordance with this Agreement.
- 6.5 ANTHEM shall pay PRACTITIONER within thirty (30) days of receipt of billings which are accurate, complete and otherwise in accordance with Section 6.4.
- 6.6 ANTHEM may recover any amount paid by ANTHEM to PRACTITIONER under this Agreement determined subsequently by ANTHEM to have been an overpayment, or any amount owed by PRACTITIONER to ANTHEM for any reason, by: (i) notifying PRACTITIONER of the overpayment or amount owed and requesting a refund from PRACTITIONER, in accordance with applicable law or regulations, and then (ii) deducting from and setting off any amount or amounts due and payable from ANTHEM to PRACTITIONER at any time under this Agreement or any other agreement between ANTHEM and PRACTITIONER, or for any other reason, an amount or amounts equal to such overpayment to or amount owed by PRACTITIONER, in accordance with applicable law or regulations. The MCMCP Provider Operations Manual specifies the procedures concerning recoveries.

## **VII. UTILIZATION REVIEW**

- 7.1 ANTHEM may establish a Utilization Review (“UR”) program which shall seek to assure that Hospital Services or Medical Services provided to Members are Medically Necessary. The Utilization Review shall follow the procedures described on Exhibit C, attached to and made part of this Agreement, a copy of which PRACTITIONER acknowledges receiving at least fifteen (15) business days prior to the execution of this Agreement. ANTHEM may change UR procedures by delivering amendments to, or a replacement for, Exhibit C in accordance with Section 5.7 above. The ANTHEM Quality Management Committee shall be part of the UR program.
- 7.2 Utilization Review for Medical Services will include:
  - (1) “Preadmission review or “pre-service review” to determine whether a scheduled inpatient admission or a scheduled treatment is Medically Necessary. Preadmission review procedures and pre-service review procedures can be obtained by contacting ANTHEM.
  - (2) “Admission Review” to determine whether an unscheduled inpatient admission or an admission not subject to preadmission review is Medically Necessary.
  - (3) “Concurrent review” to determine whether a continued inpatient hospital stay or treatment is Medically Necessary.
  - (4) “Retrospective review” to determine whether inpatient medical services or treatments were Medically Necessary.
- 7.3 ANTHEM may conduct pre-referral review with regard to referrals for specialty services.
- 7.4 ANTHEM shall not retrospectively deny as not Medically Necessary any inpatient hospital stay approved under 2. (1), (2) or (3).
- 7.5 PRACTITIONER may appeal a Utilization Review decision. The appeal shall be commenced by requesting reconsideration by the organization or entity making the initial decision. If PRACTITIONER is not satisfied with that result, a review by ANTHEM shall be requested. If PRACTITIONER continues not to be satisfied, PRACTITIONER’s remedy shall be arbitration as provided in Exhibit D.



## **VIII. RECORDS MAINTENANCE, AVAILABILITY, INSPECTION AND AUDIT**

- 8.1 ANTHEM, the Department of Health Services (“Department”), Department of Health and Human Services (DHHS), the Department of Justice (“DOJ”) and the Department of Managed Health Care shall have access (which includes inspection, examination and copying) to the extent permitted by state and federal law, at reasonable times upon demand to the books, records, including encounter data, and papers of PRACTITIONER at PRACTITIONER’s office or such other mutually agreeable location in California relating to the services PRACTITIONER provides to Members, to the cost thereof, and to payments PRACTITIONER receives from Members or others on their behalf. PRACTITIONER shall maintain such records in a form maintained in accordance with the general standards applicable to such book or record keeping and provide such information to ANTHEM, the Department, DHHS, DOJ and the Department of Managed Health Care as may be necessary for ANTHEM’s compliance with the requirements of this Agreement and the Knox-Keene Act. PRACTITIONER shall maintain such records in a system that permits prompt retrieval of information for at least five (5) years from the close of the current fiscal year in which the date of service occurred, and such obligations shall not be terminated upon a termination of this Agreement, whether by rescission or otherwise.

Subject to all applicable laws relating to privacy, confidentiality, and privileged documents and communications, PRACTITIONER shall only make a Member’s information including but not limited to medical records available upon reasonable request to each PRACTITIONER or practitioner treating the Member, for Utilization Review purposes, and to ANTHEM or as consented by the Member or an authorized representative of the Member.

This Section 8.1 will not be construed to prevent PRACTITIONER from releasing information which PRACTITIONER has taken from such medical records to organizations or individuals taking part in research, experimental, educational or similar programs, if no Member identifiable information is released and such release complies with all applicable laws.

- 8.2 Ownership and access to records of Members shall be controlled by applicable law.
- 8.3 All records must be maintained in a system that permits prompt retrieval of information. Medical records are to be legible, documented accurately in a timely manner and readily accessible.
- 8.4 PRACTITIONER agrees to maintain and make available to the Department, upon request, copies of all subcontracts and to ensure that all subcontracts are in writing and require the subcontractor to comply with the requirements set forth at Section 8.1 herein.
- 8.5 In the event this Agreement is terminated, PRACTITIONER agrees to assist ANTHEM in the transfer of Member medical care including making available to the Department and ANTHEM copies of medical records, patient files, and any other pertinent information held by PRACTITIONER necessary for efficient case management of Members, as determined by the Director of the Department of Health Services. The parties acknowledge that the cost of reproduction required by this provision will not be billed to Members.

## **IX. LIABILITY, INDEMNITY AND INSURANCE**

- 9.1 Subject to ANTHEM’ obligations under its contract with the Department, neither ANTHEM nor PRACTITIONER nor any of their respective agents or employees shall be liable to third parties for any act or omission of the other party.
- 9.2 PRACTITIONER, at its sole expense, agrees to maintain adequate insurance for professional liability and comprehensive general liability. In lieu of any insurance required by this section, PRACTITIONER shall maintain the ability to respond to any and all damages which would be covered by such insurance.
- 9.3 Upon request by ANTHEM, PRACTITIONER shall provide ANTHEM with copies of insurance policies or evidence of the ability to respond to any and all damages as provided in Section 9.2.

## **X. MARKETING, ADVERTISING AND PUBLICITY**

- 10.1 ANTHEM shall use its best efforts to encourage Members to use the services of PRACTITIONER
- 10.2 ANTHEM shall have the right to use the name of PRACTITIONER for purposes of informing Members and prospective Members of the identity of Participating MCMCP PRACTITIONERS. The materials using the name of PRACTITIONER shall be made available for review by the ANTHEM PRACTITIONER Relations Committee prior to use.
- 10.3 Except as provided in Section 10.2, ANTHEM and PRACTITIONER each reserve the right to and the control of the use of its name and all symbols, trademarks or service marks presently existing or later established. In addition, except as provided in Section 10.2, neither ANTHEM nor PRACTITIONER shall use the other party's name, symbols, trademarks or service marks in advertising or promotional materials or otherwise without the prior written consent of that party and shall cease any such usage immediately upon written notice of the party or on termination of this Agreement, whichever is sooner.

## **XI. DISPUTE RESOLUTION**

- 11.1 ANTHEM and PRACTITIONER agree to meet and confer in good faith to resolve any problems or disputes that may arise under this Agreement.
- 11.2 In the event that any problem or dispute concerning the terms of this Agreement, other than a Utilization Review decision as provided for in Section VII, is not satisfactorily resolved, ANTHEM and PRACTITIONER agree to arbitrate such problem or dispute. Such arbitration shall be initiated by either party making a written demand for arbitration on the other party. The arbitration will be conducted by the American Arbitration Association under the Commercial Rules of the American Arbitration Association, unless otherwise mutually agreed in writing by ANTHEM and PRACTITIONER. PRACTITIONER and ANTHEM agree that the arbitration results shall be binding on both parties in any subsequent litigation or other dispute.
- 11.3 Notwithstanding anything to the contrary contained herein, PRACTITIONER may, in addition to or in lieu of requesting a meet and confer and then arbitration as provided in this Section XI, file a provider dispute as provided in the provider dispute resolution section of the MCMCP Provider Operations Manual.

## **XII. TERM AND TERMINATION**

- 12.1 When executed by both parties, this Agreement shall become effective as of the date noted on page 1 and shall continue in effect until terminated pursuant to this Agreement. Notwithstanding the aforementioned, this Agreement shall only become effective upon approval by the Department in writing or by operation of law where the State has acknowledged receipt of the proposed agreement and has failed to approve or disapprove the proposed agreement within sixty (60) calendar days of receipt. The parties agree the Department shall be notified in accordance with Section 13.4 herein in the event this Agreement is terminated.
- 12.2 Either party may terminate this Agreement, by giving at least one hundred twenty (120) days prior written notice. Nothing contained herein shall be construed to limit either party's lawful remedies in the event of a material breach of this Agreement. In the event of a material breach by PRACTITIONER, ANTHEM, in addition to any other available remedy, may require that PRACTITIONER promptly prepare and submit for ANTHEM's approval a corrective action plan that addresses the material breach. PRACTITIONER shall immediately implement such approved corrective action plan and provide ANTHEM with periodic status reports, as requested. After the effective date of termination, this Agreement shall remain in effect for the resolution of all matters unresolved at that date. Without limiting the foregoing, if this Agreement is terminated,

PRACTITIONER shall continue to provide and be compensated under the terms of this Agreement for Medical Services provided to Members who are under the care of PRACTITIONER at the time of that termination, until the services being rendered to that Member are completed or reasonable and medically appropriate provision is made for the assumption of such services by another Participating MCMCP Provider. In the event of termination, PRACTITIONER agrees to follow the Member notification procedures as set forth in the applicable MCMCP Provider Operations Manual.

12.3 In the event of termination of this Agreement by either party, PRACTITIONER shall not make any representations to Members that PRACTITIONER is a Participating MCMCP Provider.

**XIII. GENERAL PROVISIONS**

13.1 Assignment-No assignment of the rights, duties, or obligations of this Agreement shall be made by PRACTITIONER without the express written approval of a duly authorized representative of ANTHEM. Any attempted assignment in violation of this provision shall be void as to ANTHEM. Notwithstanding the aforementioned, PRACTITIONER agrees that any assignment or delegation of this Agreement shall be void unless prior approval is obtained from the Department of Health Services.

13.2 Binding on Successors in Interest-Subject to Section 12.1, the provisions of this Agreement and obligations arising hereunder shall extend to and be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of the parties hereto and their respective successors and assigns.

13.3 Waiver of Breach-Waiver of a breach of any provision of this Agreement shall not be deemed a waiver of any other breach of the same or different provision.

13.4 Notices-All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered to the party to whom notice is to be given either (i) by personal delivery (notice shall be deemed given on the date of delivery), (ii) by United Parcel Post (UPS) or other next day delivery service (notice shall be deemed given on the date of actual receipt), (iii) by first-class mail, postage prepaid certified or registered return receipt requested (notice shall be deemed given on the date of actual delivery) and (iv) by cablegram or telegram with confirmation of transmission (notice shall be deemed given on the date on the confirmation) and (v) facsimile transmission with confirmation (notice shall be deemed given on the date on the confirmation).

**To ANTHEM**

**With copies to:**

Provider Engagement & Contracting Processing Anthem State Sponsored Programs 2155 Oxnard Street- MS:CAAC08-8D Woodland Hills, California 91367	Legal Department – State Sponsored Business 2155 Oxnard Street Woodland Hills, California 91367 Attn: SSB Counsel Fax#: (818) 234-2344
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**To PRACTITIONER**

**With copies to:**

County of El Dorado Health and Human Services Agency 3057 Briw Road Placerville, CA 95667 Attn: Contracts Unit	County of El Dorado Procurement and Contracts Division 360 Fair Lane Placerville, CA 95667 Attn: Terri Daly, Purchasing Agent
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13.5 Severability-In the event any provision of this Agreement is rendered invalid or unenforceable by an Act of Congress or of the California Legislature or by any regulation duly promulgated by officers of the United States or of the State of California acting in accordance with law, or declared

- null and void by any court of competent jurisdiction, the remainder of the provisions of this Agreement shall, subject to Section 13.6, remain in full force and effect.
- 13.6 Effect of Severable Provision-In the event that a provision of this Agreement is rendered invalid or unenforceable or declared null and void as provided in Section 13.5 and its removal has the effect of materially altering the obligations of either party in such manner as, in the judgment of the party affected, (a) will cause serious financial hardship to such party; or (b) will cause such party to act in violation of its corporate Sections or Bylaws, the party so affected shall have the right to terminate this Agreement upon thirty (30) days prior written notice to the other party. The applicable provisions of Section 12 shall apply to such termination.
- 13.7 Entire Agreement-This Agreement, together with exhibits, contains the entire agreement between ANTHEM and PRACTITIONER relating to the rights granted and the obligations assumed by this Agreement. Any prior agreements, promises, negotiations or representations, either oral or written, relating to the subject matter of this Agreement not expressly set forth in this Agreement are of no force or effect.
- 13.8 Amendment-This Agreement or any Section or section of it may be amended at any time during the term of the Agreement by mutual written consent of duly authorized representatives of the parties. An amendment to this Agreement shall be submitted to the Department for prior approval at least thirty (30) days before the effective date of any proposed changes governing compensation, services, or term. Proposed changes which are neither approved nor disapproved by the Department shall become effective by operation of law thirty (30) days after the Department has acknowledged receipt or upon the date specified in the amendment, whichever is later.
- 13.9 Attorney's Fees-In the event that either ANTHEM or PRACTITIONER institutes any action, suit, or arbitration proceeding to enforce the provisions of the Agreement, each party shall pay one half of the arbitration costs and otherwise pay its own attorneys' fees and other costs.
- 13.10 Headings-The headings of Sections and sections contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- 13.11 Disclosure-PRACTITIONER agrees to furnish ANTHEM with the names of its officers, owners, stockholders owning more than ten percent (10%) of its stock and major creditors holding more than five percent (5%) of the debt of PRACTITIONER; this information shall become public record on file with the Department of Health Services.

PRACTITIONER agrees to comply with requirements set forth in the Federal Regulations set forth in 42 CFR 455.104-455.106 in reference to the Medicare, Medicaid, or Title XX service programs. PRACTITIONER certifies that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in any of such programs by any Federal agency or by any department, agency or political subdivision of the State. For purposes of this paragraph, "principal" means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence or substantive control over PRACTITIONER's operations. PRACTITIONER shall be required to submit a Disclosure of Ownership and Control Interest Statement during the initial contracting, recontracting and/or recredentialing process or upon request by ANTHEM. PRACTITIONER further agrees to notify ANTHEM within fourteen (14) days of any changes to the required disclosures.

- 13.12 Governing Law-This Agreement shall be construed and enforced in accordance with the laws of the State of California and all other laws, regulations and contractual obligations of ANTHEM. Without limiting the foregoing, ANTHEM is subject to the requirements of the Knox-Keene Act and any provision required to be in this Agreement there under shall bind ANTHEM and PRACTITIONER, whether or not expressly provided in this Agreement.
- 13.13 Administrator-The County Officer or employee with responsibility for administering this Agreement is Patricia Charles-Heathers, Ph.D., Assistant Director of Health Services.

IN WITNESS WHEREOF, ANTHEM and PRACTITIONER OR PRACTITIONER GROUP have executed this AGREEMENT on the dates set forth on Page 1 of this AGREEMENT for the parties below.

FOR ANTHEM OF CALIFORNIA

FOR PRACTITIONER OR PRACTITIONER GROUP

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

Norma Santiago  
\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

Chair, Board of Supervisors  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

94-6000511  
\_\_\_\_\_  
Tax Identification Number

\_\_\_\_\_  
Date

sk

## **EXHIBIT B**

### **PRACTITIONER REIMBURSEMENT**

#### **Medi-Cal**

Reimbursement for authorized Medical Services shall be at one hundred percent (100%) of the ANTHEM Medi-Cal proprietary fee schedule.

PRACTITIONER shall accept such reimbursement as payment in full for those Medical Services provided to Members.

## **EXHIBIT C**

### **UTILIZATION REVIEW PROCEDURES**

#### **I. INTRODUCTION**

- A.** ANTHEM has established a Utilization Review program to conduct Utilization Review as provided in Section VII. ANTHEM and/or any and all Review Organizations with which ANTHEM may contract shall establish and maintain review procedures and screening criteria which take into account locally acceptable professional standards for quality medical care.
- B.** The Utilization Review process has two primary objectives:
  - (1)** To assure that Hospital Services and Medical Services provided to Members are Medically Necessary; and
  - (2)** To assure that Hospital Services and Medical Services meet locally developed community standards for quality care and are provided at the appropriate level of care.

#### **II. DEFINITIONS**

The following definitions are in addition to any definitions provided in Section II of this Agreement:

- A.** "Notice of Action Letter" means a document on which is stated ANTHEM determinations regarding the Utilization Review performed pursuant to this Agreement.
- B.** "Working Day" means any day, Monday through Friday, excluding legal holidays.
- C.** "Review Coordinator" means a professionally qualified person who is competent to conduct initial review, data analysis and other functions involved in the Utilization Review performed pursuant to this Agreement.
- D.** "PRACTITIONER Advisor" means a validly licensed PRACTITIONER who is employed by or on contract to ANTHEM to carry out Utilization Review.
- E.** "Norms" means numerical or statistical measures of observed performance of health care services derived from aggregated information related to the health care services provided to a statistically significant number of persons, as developed by ANTHEM.
- F.** "Screening Criteria" means those written guidelines adopted by ANTHEM pursuant to this Exhibit C.

### III. RESPONSIBILITIES OF PARTICIPATING MCMCP PRACTITIONERS, PARTICIPATING MCMCP HOSPITALS AND ANTHEM

#### A. Responsibilities of ANTHEM.

(1) ANTHEM shall develop, update and maintain Screening Criteria.

- a. Screening Criteria shall be developed for the purpose of making an initial determination whether an inpatient hospital admission or continued inpatient hospital stay is Medically Necessary.
- b. Screening Criteria shall be based on professional expertise, current professional literature, and cumulative information on health care services provided within the community to a statistically significant number of persons.
- c. Screening Criteria shall be developed to enable the Review Coordinator to select for review by the PRACTITIONER Advisor only those cases which appear outside locally accepted professional norms.

(2) ANTHEM shall utilize professionally qualified review personnel to perform the duties of Review Coordinators. Such Review Coordinators shall have authority to use the Screening Criteria to provide preadmission authorization, admission approval and assign approved lengths of stay for Members' inpatient hospital admission and inpatient stay. A Review Coordinator shall have no authority to deny an inpatient hospital admission or inpatient stay.

(3) ANTHEM may determine that an inpatient hospital admission or continued inpatient hospital stay is not Medically Necessary but only with the concurrence of the PRACTITIONER Advisor after review of information contained in the Member's medical record and after consultation with the Participating MCMCP PRACTITIONER.

(4) ANTHEM shall make decisions on requests for non-urgent preadmission review in a timely fashion appropriate for the nature of the Member's condition, not to exceed five (5) Working Days of such receipt of the information reasonably necessary to make the determination. Such review decisions will be communicated to the requesting provider within twenty-four (24) hours of the decision and decisions resulting in denial, delay or modification of a requested medical service will be communicated to the Member within two (2) Working Days of the decision. A reference number shall be given to the Participating MCMCP PRACTITIONER or his or her authorized representative.

(5) ANTHEM shall respond to requests for reconsideration of denied preadmission requests by making a redetermination and communicating the results to the Participating MCMCP PRACTITIONER by telephone and in writing within five (5) Working Days of the request.

(6) ANTHEM shall conduct admission and concurrent review of certain Members' inpatient hospital admissions and continued inpatient hospital stays excluding CCS eligible cases.

(7) The Review Coordinator shall use the Screening Criteria to establish approved lengths of stay for inpatient hospital admissions. Review dates shall be noted in the electronic medical management record. If the Member continues to be an inpatient, an additional concurrent review shall be conducted on or before the noted review date, a redetermination made and, if appropriate a new review date established pursuant to this section. This process shall continue until either the Member is discharged or the PRACTITIONER Advisor determines that, based



on available information from the electronic medical management record and the Participating MCMCP PRACTITIONER, a continued inpatient hospital stay is not medically necessary.

(8) If the PRACTITIONER Advisor determines, on the basis of available information obtained from the Member's Medical Record and the Participating MCMCP PRACTITIONER, that a continued inpatient hospital stay is not approved, ANTHEM shall notify the Participating MCMCP Hospital and the Participating MCMCP PRACTITIONER in accordance with Subsection (4) above. Care shall not be discontinued until the Member's treating provider has been notified and an appropriate care plan has been agreed upon by such provider.

(9) If reconsideration of a denied continued inpatient hospital stay is requested, ANTHEM shall reconsider the decision and communicate it to the Participating MCMCP Hospital, the Participating MCMCP PRACTITIONER and Member, in writing within no more than twenty-four (24) hours of the request if the Member is an inpatient.

(10) In making any determination regarding whether an inpatient hospital admission or a continued inpatient hospital stay is Medically Necessary, ANTHEM shall consider all relevant information provided by Participating MCMCP PRACTITIONER and/or Participating MCMCP Hospital. ANTHEM shall document its actions and the rationale for its determinations.

**B. Responsibilities of the Participating MCMCP PRACTITIONER:**

(1) To avoid denial of payment for inpatient services provided to MCMCP Members, the Participating MCMCP PRACTITIONER shall request a preadmission review from ANTHEM at least three (3) Working Days prior to a scheduled admission for inpatient services, or for a scheduled referral to a nonparticipating hospital. Requests for preadmission reviews for Acute Rehabilitation diagnoses and procedures shall be made at least five (5) Working Days prior to a scheduled admission.

(2) The Participating MCMCP PRACTITIONER shall request a preadmission/pre-service review from ANTHEM at least three (3) Working Days prior to a scheduled procedure for outpatient services in order to avoid denial of payment for such services provided to Members.

(3) At least the following information shall be provided by the Participating MCMCP PRACTITIONER to ANTHEM at the time of the request for preauthorization:

- |                                 |  |
|---------------------------------|--|
| a. patient's name and ID number | f. planned procedure or surgery,                                 |
| b. patient's age and sex,       | g. date of planned procedure or surgery                          |
| c. diagnosis                    | h. name of hospital to which the Member will be admitted         |
| d. reason for admission         | i. name and telephone number of Participating MCMCP PRACTITIONER |
| e. scheduled date of admission  | j. other information as may be requested by BLUE CROSS           |

(4) In cases of requests for organ/tissue transplants, the requesting Participating MCMCP PRACTITIONER shall complete and submit an extensive clinical questionnaire provided by ANTHEM, as well as submit copies of laboratory and other diagnostic testing documentation as requested by the PRACTITIONER Advisor.

**C. Participating MCMCP Hospital:**

(1) If the Participating MCMCP Hospital has not received notice of a preadmission/pre-service determination as required by this Agreement, at the time of a scheduled admission, it shall contact the Participating MCMCP PRACTITIONER or ANTHEM to request the determination. Any admission that requires preadmission/preservice review pursuant to this Agreement and has not received that review may be subject to retrospective denial. The information required for the preadmission/preservice review shall be the same as provided in III.B. (3) of this Exhibit C.

(2) The Participating MCMCP Hospital shall notify ANTHEM of the admission at the time the Member is admitted. If a Member is admitted on other than a Working Day, the Participating MCMCP Hospital shall notify ANTHEM of the admission by 8:00 a.m. on the morning of the next Working Day following the admission.

(3) The Participating MCMCP Hospital shall provide ANTHEM with all clinical information necessary to make a Utilization Review determination as requested by ANTHEM.

#### **IV. OTHER PROCEDURES AND INFORMATION**

##### **Responsibility for Payment Determination:**

The Utilization Review decision is solely for the purpose of determining whether Hospital Services or Medical Services are Medically Necessary. Claim processing and payment determination shall be the sole responsibility of ANTHEM in accordance with the applicable Benefit Agreement coverage.

#### **V. REFERRAL CARE**

##### **A. Scheduled Referral to Non-Participating Hospitals:**

(1) Any scheduled referrals for Hospital Services or Medical Services to non-participating hospitals require preauthorization review and approval by ANTHEM, if the Member is to receive the maximum benefit available under the MCMCP Benefit Agreement.

(2) Preadmission/preservice review for referral care shall be requested by the Participating MCMCP PRACTITIONER and shall be performed according to this Exhibit C. ANTHEM shall determine whether the services are Medically Necessary and whether they could be provided at a Participating MCMCP Hospital. ANTHEM shall not authorize inpatient hospital admission or continued inpatient hospital stays which could be provided at a Participating MCMCP Hospital in a manner consistent with the needs of the Member.

(3) ANTHEM shall provide notification of the determination regarding referral care by telephone and in writing on the Certification Letter, within three (3) Working Days of the request for preadmission/preservice review.

##### **B. Emergency admission to and continued hospital stay at non-participating hospitals shall be reviewed by ANTHEM to determine whether the stay is Medically Necessary and whether the Member should be transferred for continued care to a Participating Hospital in order to receive the maximum benefits available under the MCMCP Benefit Agreement.**

**VI. PARTICIPATING MCMCP PROVIDER COMMITTEE**

- A.** As necessary, ANTHEM may appoint a committee composed of representatives of Participating MCMCP Hospitals and Participating MCMCP PRACTITIONERS. The Committee shall be known as the MCMCP Participating Provider Committee (Committee) and may advise ANTHEM regarding MCMCP network issue.

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## **EXHIBIT D**

### **ARBITRATION FOR UTILIZATION REVIEW**

The initial decision regarding whether Hospital Services or Medical Services are Medically Necessary shall be made pursuant to 7.2. PRACTITIONER may appeal such a decision pursuant to the terms of 7.5. Arbitration under that section shall follow the procedures below.

- A.** PRACTITIONER agrees to submit any dispute concerning a Utilization Review decision, unresolved by reconsideration or review pursuant to the terms of 7.5, to binding arbitration. The arbitration shall be commenced by PRACTITIONER by making written demand on ANTHEM. The scope of that arbitration shall be limited to a determination of whether, or to what extent, benefits specified in the applicable Benefit Agreement were Medically Necessary or otherwise payable for the claim or claims in dispute.
  
- B.** The arbitration shall be conducted in Fresno, California by the Judicial Arbitration and Mediation Services ("JAMS") Rules of Procedure for Arbitration ("Rules") in effect on the date of the notice of dispute. The arbitration may be conducted by a single arbitrator mutually selected by the parties who has knowledge of and experience in healthcare industry matters. In the event the parties are unable to agree on the appointment of the arbitrator within forty-five (45) days after the demand to arbitrate is made, either party may petition the Superior Court for Fresno County to appoint an arbitrator in accordance with California Code of Civil Procedure 1281.6. The cost of arbitration, including but not limited to, the administrative fee and the arbitrator's fee, shall be shared equally by the parties. The prevailing party, as determined by the arbitrator, shall be entitled to reasonable attorney's fees and costs. The decision of the arbitrator shall be final and binding as to the parties, and may be enforced by any court having jurisdiction thereof. Each party agrees that the arbitration findings shall be binding upon any subsequent litigation.

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