

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement" or "Settlement Agreement") is made by and between the Department of Health Care Services ("DHCS," or the "Department") and Health Net of California, Inc. and Health Net Community Solutions, Inc. (collectively known as "Health Net"). DHCS and Health Net shall be referred to collectively herein as the "Parties."

WHEREAS, the Parties have entered into contracts pursuant to which Health Net provides services for DHCS under the State of California's Medi-Cal program, in exchange for reimbursement by DHCS at rates that are established pursuant to the terms of said contracts and under state and federal law; and

WHEREAS, Health Net has filed Notices of Dispute with respect to certain rate years in connection with the rates established and paid to it by DHCS, and the parties remain in litigation with respect to these matters; and

WHEREAS, the Parties desire to resolve all pending Notices of Dispute and litigation related thereto; and

WHEREAS, the Parties desire to agree upon other mechanisms for enhancing the efficiency of the Medi-Cal program while ensuring compliance with DHCS and federal requirements regarding such programs;

NOW THEREFORE, in consideration of the foregoing facts and premises, and the mutual covenants and agreements contained herein, the Parties hereby agree as follows:

Section 1. MEDI-CAL CONTRACTS

- a. DHCS agrees to extend the terms of all existing Medi-Cal managed care contracts between it and Health Net, defined below, for an additional five years, such that said contracts shall expire on the following schedule:
 - Contract number 07-65847: Extension through December 31, 2018, for Sacramento County
 - Contract number 03-76182: Extension through March 31, 2019, for Los Angeles County
 - Contract number 09-86157: Extension through June 30, 2020, for San Diego County
 - The recently awarded Central Valley Two-Plan Model Commercial Health Plan contract (as evidenced in the Notice of Intent to Award dated May 4, 2012, awarding such contract to Health Net): Extension through December 31, 2022, for Kern, Stanislaus, Tulare, and San Joaquin Counties.
- b. The Department shall not be prohibited from terminating said contracts pursuant to the provisions of Exhibit E, Attachment 2, Section 14.A of Health Net's Two-Plan Contracts and Exhibit E, Attachment 2, Section 13.A. of Health Net's Geographic Managed Care Contracts, provided, however, that in the event the Department exercises such right with respect to any of the aforementioned contracts, it shall forfeit the option to extend (or, if any extension has been exercised, exercise any further extensions) the term of the Settlement Account Agreement set forth in Section 2 and Attachment A hereof. For purposes of this agreement, any termination of the aforementioned contracts pursuant to a final, appeal-exhausted court order that the contract extensions set forth in this Section 1 are not enforceable shall not result in the forfeiture of the option to extend the term of the Settlement Account Agreement if Health Net enters into a new contract with the Department subsequent to the court order for the same lines of business and geographic areas and containing substantially similar terms other than the end date of the contract.

- c. If the Department enters into a new, replacement, or future contract with Health Net, other than the four contracts set forth in Section 1.a (including any Medi-Cal expansions in geographic areas covered by any of those four contracts), such a new, replacement, or future contract shall not be subject to the terms of Sections 3 and/or 4 of this Settlement Agreement unless the Department expressly agrees, in writing, that such a new, replacement, or future contract shall be subject to the terms of Section 3 and/or 4 of this Settlement Agreement.

Section 2: SETTLEMENT ACCOUNT AGREEMENT:

The Parties agree to enter into and be bound by the terms of the Settlement Account Agreement set forth in Attachment "A," which is incorporated by reference as if its terms were fully set forth herein. Any amounts payable by the Department pursuant to the terms of the Settlement Account Agreement shall be due to Health Net ninety (90) days following Health Net's transmittal to the Department of its final calculation of the amount payable (the "Payment Due Date"). If the Department does not pay Health Net by the Payment Due Date, such non-payment shall constitute a severable breach of this Agreement such that (a) interest shall begin to accrue on the 90th calendar day following the Payment Due Date at six percent (6%) per annum and (b) notwithstanding this severable breach of the Payment Due Date, all provisions of this Agreement shall remain in full force and effect in accordance with their terms. This settlement payment is intended to pertain to and resolve the rate years covered by this Agreement as set forth in Section 5, herein.

Section 3. ADMINISTRATIVE CONTRACT MODIFICATIONS

- a. Administrative Tolerance Ranges: DHCS agrees to work with Health Net in good faith to identify and implement specific operational efficiencies and, to the extent necessary, revise any contract between Health Net and DHCS to reflect such operational efficiencies. The operational efficiencies may include, but not be limited to (i) the consolidation of multiple audits regularly conducted by, or on behalf of, DHCS in connection with the administration of the Medi-Cal program; (ii) methods to streamline new member mailings to achieve a reduction in mailing and material costs; and (iii) establishment of "administrative tolerance ranges" (e.g., 95 – 98%) as constituting administratively acceptable performance standards. DHCS and Health Net will discuss in good faith the metrics for which 100 percent performance standards currently exist, detailed in Attachment B, to determine which, if not all, shall be subject to a determined "administrative tolerance range."
- b. Administrative Audits: DHCS agrees to define the types, purpose, and frequency of regular audits in connection with the administration of the Medi-Cal program that DHCS performs, has control over, or that are conducted on its behalf through an Inter-Agency Agreement, with the intent of limiting and consolidating duplicative and potentially burdensome plan audits and to ensure greater efficiencies for the audits that are conducted. These audits include audits performed by DHCS as well as some performed by the Department of Managed Health Care. For purposes of effectuating its obligations under this Section 3(b), DHCS agrees to create a matrix (the "Audit Matrix") in which it will identify specific, required regular Medi-Cal program audits that it performs, has control over, or that are conducted on its behalf through an Inter-Agency Agreement (such as MCR, Administration, Quality, and Financial), and will set forth a specific scheduled timetable for such regular audits. Additionally, DHCS will exercise due diligence and make good-faith reasonable efforts to coordinate the scheduling of audits with audits conducted by entities outside of DHCS' control. DHCS and Health Net recognize that the audit

requirements related to the duals integration project have not yet been established and are subject to federal approval and federal oversight. DHCS agrees to include the regular audits required for the duals integration project into the Audit Matrix described in this section, and to comply with the other obligations under this Section 3(b) relating to audits to the extent allowable under the duals program.

Nothing in this Agreement shall preclude DHCS from conducting a special audit of Health Net in the event that significantly adverse clinical, financial, or quality indicators warrant intervention, and Health Net has failed to correct the adverse situation in a timely manner.

- c. Encounter Data Submission: DHCS and Health Net agree on the importance of timely and accurate reporting of encounter data, while at the same time recognize the complexities of acquiring such data. As such, DHCS and Health Net will work together in good faith to develop and agree upon an "administrative tolerance range" for submitted encounter data (less than the 100 percent currently required), to develop a mutually agreeable level of encounter submission measurement, and to adjust any penalty provisions accordingly. The encounter "administrative tolerance range" will be structured similarly to that for the performance standards described in Section 3(b) above.
- d. The Parties agree that, to the extent the Department enters into an administrative contract modification with another contracting plan, whether by contract, settlement agreement, or otherwise, Health Net shall, at its option, be entitled to adopt such modifications in lieu of or in addition to the terms set forth in this Section 3.

Section 4. LIMITATION ON RETROACTIVE RATE REDUCTIONS

DHCS hereby represents that the process it follows for developing capitated rates for Managed Care Organizations participating in Medi-Cal's Two-Plan and Geographic Managed Care models is attached hereto as Attachment "C". The Department acknowledges and agrees that Health Net was not involved in the creation of Attachment C and Health Net does not acknowledge its accuracy or compliance with DHCS' legal and contractual obligations. DHCS agrees that any rate reductions related to (a) imposition of copayment policies, (b) elimination of covered benefits and/or services and/or (c) future DHCS initiated provider rate reductions, shall occur prospectively only, and following CMS approval. However, the limitations set forth in the preceding sentence shall not apply to those payment reductions imposed via legislation through Assembly Bill (AB) 97 (2011-2012 Reg. Sess., Chapter 3). For any rate calculation, whether retroactive or prospective, Health Net reserves the right to challenge such rates or rate changes, except as otherwise set forth in Section 5 of this Settlement Agreement. The Parties further agree that nothing in this Agreement affects the obligations of the Department to calculate and pay actuarially sound rates to Health Net and, other than as set forth herein, nothing in the Agreement expands or reduces DHCS' authority to implement retroactive or prospective rate reductions. The Parties further agree that, notwithstanding this Section 4, the Department shall implement retroactive rate adjustments as required by federal law, regulation, or policy and subject to the right of Health Net to challenge the implementation of such rates or rate changes. The Parties further agree that, to the extent the Department agrees to any limitation on retroactive rate adjustments with another contracting plan, whether by contract, settlement agreement, or otherwise, Health Net shall, at its option, be entitled to the same limitations in lieu of, or in addition to, the terms set forth in this Section 4. The parties also agree that the rates paid to Health Net for services and programs provided to individuals through the Duals Demonstration Project are excluded from Section 4 of this Agreement.

Section 5 . DISMISSAL OF CLAIMS

In consideration of the terms agreed to herein by the Department, Health Net hereby agrees that, within thirty days following execution by the Department of this Agreement, Health Net shall request and secure dismissal of the following pending actions:

- 2006-07: DHCS Office of Admin. Hearings and Appeals Case No. MC7-0407-518-RW;
- 2007-08: DHCS Office of Admin. Hearings and Appeals Case No. MC9-1008-479-MN;
- 2009-10: DHCS Office of Admin. Hearings and Appeals Case No. MC10-0210-684-MJN;
- 2010-11: DHCS Office of Admin. Hearings and Appeals Case Nos. MC11-0111-581-MH and MC11-0411-773-MR

Notwithstanding the foregoing, (1) Health Net's dismissal of the 2007-08 rate dispute, DHCS Office of Administrative Hearings and Appeals, Case No. MC9-1008-479-MN, does not affect Health Net's right to participate in any rate increases that the Department may issue to contracting plans should the Department not prevail in the provider litigation pertinent to the July 1, 2008 provider rate reductions; (2) Health Net does not release and hereby expressly preserves any claims it has relating to rates established for the Seniors and Persons with Disabilities ("SPD") populations for rate years 2010-2011 and 2011-2012; and (3) Health Net agrees that it shall not seek judicial review of the final decision issued in DHCS Office of Administrative Hearings and Appeals Case No. MC7-1006-229-FT.

In consideration of the terms agreed to herein by the Health Net, the Department agrees to, and within thirty days after execution of this Agreement by both Parties, shall dismiss its appeal in the 2003-04 and 2004-05 rate disputes, Third District Court of Appeal Case No. C068635. The Parties agree to request that the Superior Court replace the judgment in Sacramento County Superior Court Case No. 34-2008-80000056 with a stipulated judgment agreed to by the parties, attached hereto as Attachment D. In exchange for the aforementioned dismissal and the other consideration set forth herein, Health Net agrees that it shall not seek to enforce, or take any action to enforce the stipulated judgment in Attachment D in Sacramento County Superior Court Case No. 34-2008-80000056, provided that the Department complies with its obligations in this Agreement. Health Net further agrees that, upon receipt of any payments made by the Department pursuant to the Settlement Account Agreement, as required by this Settlement Agreement during its term, including any extensions, Health Net will promptly file with the court a Partial Satisfaction of Judgment and/or a Full Satisfaction of Judgment, as appropriate.

Section 6. LEGAL FEES AND COSTS: Each of the Parties waives any right to costs relating to any pending Notices of Dispute and related litigation, and agrees that it shall bear its own attorney fees related thereto.

Section 7. AUTHORITY TO ENTER INTO AGREEMENT; ENFORCEABILITY: DHCS and Health Net hereby warrant and represent to each other that they have full power and authority to enter into this Agreement, and comply with the obligations set forth herein, including but not limited to the Settlement Account Agreement and the extensions of the contracts as set forth in Section 1 (the "Medi-Cal Contracts"), and no other action on the part of either party is necessary to enter into this Agreement, the Settlement Account Agreement, or the Contract Extensions as set forth in Section 1.a. This Agreement, the Settlement Account Agreement, and the Contract Extensions as set forth in 1.a, each constitute a binding obligation on each party, enforceable in accordance with the terms of each, and with the terms of this Settlement Agreement.

Section 8. NO ADMISSION: Nothing herein shall be construed as an admission by any party hereto of any liability of any kind to the other party. DHCS and Health Net acknowledge that this Agreement is simply intended to resolve pending disputes, as set forth herein, without admitting any liability.

Section 9. ENTIRE AGREEMENT: This Agreement (including the Settlement Account Agreement incorporated by reference) contains the entire understanding of the Parties, and the Parties agree that there are no representations, covenants or undertakings other than those set forth herein. DHCS and Health Net each acknowledge that no other party or any agent or attorney of any other party has made any promise, representation, or warranty whatsoever, express or implied, not contained herein, concerning the subject matter hereof, to induce them to execute this Agreement, and they acknowledge that they have not executed this Agreement in reliance on any such promise, representation, or warranty not specifically contained herein.

Section 10. SUCCESSORS AND ASSIGNS: This Agreement and the covenants and conditions herein contained shall apply to, be binding upon, and inure to the benefit of the respective heirs, administrators, executors, legal representatives, assigns, successors, and agents of the Parties hereto.

Section 11. SEVERABILITY: Other than as set forth in this Section 11, the provisions of this Agreement are severable, and should any provision hereof be held unenforceable for any reason, the balance of the provisions hereof shall remain in full force and effect. However, in the event that the Department's obligations under Section 1 or Section 2 of this Agreement are found by a court of competent jurisdiction to be unenforceable and/or invalid, in whole or in part, following exhaustion of any appeals, then the Department shall be obligated to pay to Health Net a settlement payment as set forth in Attachment A. The termination of any of the contracts set forth in Section 1.a, for any reason, including but not limited to, a final, appeal-exhausted court, order shall result in an obligation for the Department to pay Health Net the alternative minimum amount set forth in Attachment A unless, upon the termination of any of the aforementioned contracts, Health Net enters into a new contract with the Department, subsequent to the court order, for the same lines of business and containing substantially similar terms other than the end date of the contract, and the Department expressly determines, in writing, that such a new, replacement, or future contract shall be subject to the terms or provisions of this Settlement Agreement.

Such payment shall be made to Health Net within ninety (90) days following the effective date of any judgment triggering this payment obligation. In the event that DHCS does not make the payment by the date it is due, such non-payment shall constitute a severable breach of this Agreement such that (a) interest shall begin to accrue on the 90th calendar day following the date such payment is due at a rate of six percent (6%) per annum and (b) notwithstanding this severable breach, all provisions of this Agreement shall remain in full force and effect in accordance with their terms.

Section 12: CONSTRUCTION: This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the State of California. This Agreement has been, and shall be deemed to have been, jointly prepared by the Parties hereto, and any uncertainty or ambiguity found to exist herein shall be interpreted under the rules of interpretation of contracts as if each of the Parties participated equally in its preparation.

Section 13. COUNTERPARTS: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Photographic and/or facsimile copies of such signed counterparts may be used in lieu of originals for any purposes.

Section 14. ENFORCEMENT: The Parties agree that any action relating to disputes, claims or controversies between them regarding the validity, enforcement, interpretation or breach of this Agreement shall be commenced in, and the Parties hereby stipulate to the jurisdiction only of, the Superior Court for the County of Sacramento.

Section 15. END OF ENTIRE SETTLEMENT AGREEMENT TERM AND TERMINATION OF COURT JURISDICTION: In addition to the right of the Department to terminate the contracts described in Section 1.a of this Settlement Agreement, under the terms set forth in Section 1; the parties agree that this entire Settlement Agreement, and all of its obligations, shall fully terminate upon the earlier of the following :

- a. The arrival of January 1, 2023; or
- b. The termination of all of the contracts between DHCS and Health Net; whether initiated by DHCS, and/or Health Net, mutually or otherwise; and/or by way of a final, appeal-exhausted court order; and/or any other circumstance.

The parties further agree that, upon the occurrence of any event set forth in sub-paragraphs a. or b. in this section, above, no court will retain any jurisdiction over this Settlement Agreement, and the parties will not seek to either extend or enforce any court's jurisdiction over this Settlement Agreement beyond the time at which any of the events in sub-paragraphs a. or b. of this section have occurred. Moreover, once any of the events in subparagraphs a. and b. of this section have occurred, any new contracts between the Department and Health Net, executed after any of the events in subparagraphs a. and b. of this section have occurred, shall not in any way be governed by the terms of this Settlement Agreement unless expressly agreed to in writing by the Department and Health Net. Notwithstanding the foregoing, following a termination of this Settlement Agreement pursuant to this Section 15, the jurisdiction of Superior Court for the County of Sacramento as set forth in Section 14 shall remain in full force and effect for any actions, disputes, claims or controversies regarding the validity, enforcement, interpretation or breach of this Settlement Agreement to the extent they relate to any period of time in which this Settlement Agreement was in effect.

Section 16. AMENDMENT: This Agreement may be modified or amended only by a written instrument executed by all of the Parties hereto.

Section 17. PAYMENTS: The Department is obligated to make payments pursuant to this Agreement (including the Settlement Account Agreement incorporated by reference) subject to the appropriation of funds for that purpose by the State of California pursuant to normal recurring budget appropriation processes.

Section 18: PREVENTING AND RESOLVING RATE DISPUTES: The Parties agree that the current administrative and litigation processes for resolving disputes relating to rate setting is costly, burdensome, and time consuming. In order to minimize disputes and avoid litigation regarding the rate setting process to the extent possible, the Parties agree that it is in their mutual best interest to discuss options to avoid and resolve these issues. Accordingly, the Parties agree

November 2, 2012

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that they shall cooperate in good faith to resolve the issues described in this section within ninety (90) days of execution of this Agreement, or by such further time as the Parties may agree.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the below stated date(s).

California Department of Health Care Services

Original Signed by
Toby Douglas

By: _____
Its: Director

Date: November 2, 2012

Health Net of California, Inc.

By: [Signature]
Its: Chief Executive Officer

Date: November 2, 2012

Health Net Community Solutions, Inc.

By: [Signature]
Its: President

Date: November 2, 2012