



Centers for Medicare & Medicaid Services
Center for Medicare & Medicaid Innovation

2810 Lord Baltimore Drive, Suite 130
Baltimore, MD 21244



Memorandum of Understanding Between the
Centers for Medicare & Medicaid Services and
Payer in relation to the Maryland Primary Care Program

September 12, 2019

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
CENTERS FOR MEDICARE & MEDICAID SERVICES
AND PAYER IN RELATION TO THE MARYLAND PRIMARY CARE PROGRAM**

I. Purpose and Scope

The purpose of this Memorandum of Understanding (“**MOU**”) between the Centers for Medicare & Medicaid Services (“**CMS**”) and payer (the “**Payer**”) is to outline each party’s respective commitments to the goals of the Maryland Primary Care Program (“**MDPCP**”). This MOU is not intended to constitute a legally binding or enforceable agreement or commitment on either party.

CMS is implementing the Maryland Total Cost of Care Model (“**Model**”) under section 1115A of the Social Security Act (“**Act**”), which authorizes CMS, through its Center for Medicare and Medicaid Innovation (“**Innovation Center**”), to test innovative payment and service delivery models that have the potential to reduce Medicare, Medicaid, or Children’s Health Insurance Program expenditures while maintaining or improving the quality of beneficiaries’ care.

The Maryland Primary Care Program (“**MDPCP**”) is an initiative under the Model that is designed to provide patient-centered care for Medicare fee-for-service (“**FFS**”) beneficiaries who reside in Maryland aimed at reducing costs and improving the quality of care for Maryland Medicare beneficiaries in a manner that is aligned with the goals of the Model. MDPCP is a multi-payer initiative and includes an arm for Medicare FFS beneficiaries (“**MDPCP-FFS**”), as well as an arm for patients who are the Members of other Third-Party Payers (“**MDPCP-OP**”). Through MDPCP-OP, selected Third-Party Payers have the opportunity to further the goals of the initiative for their own Members who are cared for by MDPCP Practices. Broadly, the MDPCP aims to achieve better care, smarter spending, and healthier people.

MDPCP will test whether a core set of enhanced patient services centered on care coordination, combined with payment reform, enhanced data to guide practice improvement, and the meaningful use of health information technology can improve beneficiary health and achieve high quality care at a lower cost. Payer commits to the activities described in sections IV through VIII below in establishing an approach to achieve coordinated care that is aligned with the approach developed by CMS for purposes of MDPCP-FFS, in order to transform the way primary care services are delivered and financially supported in Payer’s Partner Practices.

The Payer will apply these commitments to as many Lines of Business that the Payer offers in Maryland as possible, including, but not limited to the following (as applicable): commercial insurance plan, health insurance marketplace plan, Medicare Advantage, Medicaid/CHIP managed care plan, state/federal high risk pool, third party administration (TPA)/ administrative services only (ASO). The Payer will also use its best efforts to add additional Lines of Business to MDPCP-OP throughout the term of this MOU (defined in section II).

I. Definitions

“Comprehensive Primary Care Functions of Advanced Primary Care” means the five functions that a MDPCP Practice must perform under the terms of the MDPCP Practice Agreement with CMS to transform to beneficiary-centered and team-based primary care. The Comprehensive Primary Care Functions of Advanced Primary Care include: access and continuity; care management; comprehensiveness and coordination across the continuum of care; patient and caregiver experience; and planned care for health outcomes.

“Learning Network” means CMS’ learning system and resources for MDPCP participants under MDPCP-FFS.

“Line of Business” means a health insurance product or plan offered by a Third-Party Payer.

“MDPCP Practice” means an entity that executed an MDPCP Practice Participation Agreement with CMS to participate in MDPCP.

“MDPCP Practice Participation Agreement” means the participation agreement between an MDPCP Practice and CMS pursuant to which the MDPCP Practice complies with the requirements of the MDPCP.

“Member” means an individual who holds a contract with a Third-Party Payer providing for enrollment of the individual in a health plan offered by that Third-Party Payer.

“Payer Partner” means a Third-Party Payer operating in the state of Maryland that has signed an MOU with CMS outlining each party’s respective commitments to the goals of the MDPCP.

“Payer Partner Practice” means an MDPCP Practice that has entered into a Payer Partnership with a Third-Party Payer.

“Payer Partnership” means an arrangement between an MDPCP Practice and a Payer Partner.

“Performance Year” means the 12-month period of time that begins on January 1st of each year during the term of this MOU (defined in section II.A) and concludes on December 31st of that same year.

“Third-Party Payer” means an entity that provides, or pays the cost of, a health plan, to include the payer.

II. Term, Termination, Survival, Modification

- A. **Term.** This MOU will take effect when it is signed by both parties and will automatically terminate and be of no further force and effect upon the earlier of: (i) 11:59 PM ET on December 31, 2026; or (ii) the termination of this MOU by either party.
- B. **Termination.** Either party may terminate this MOU by providing at least 120 days' advance written notice to the other party. If the Payer does not implement the commitments set forth in this MOU, CMS reserves the right to immediately terminate this MOU and remove the Payer from all materials related to the MDPCP. CMS also may immediately or with advance notice terminate MDPCP, including MDPCP-OP, prior to December 31, 2026, at which time this MOU shall terminate automatically.
- C. **Survival.** Notwithstanding anything herein to the contrary, Section X through Section XIII shall survive expiration or termination of this MOU.
- D. **Modification.** This MOU may be modified or amended only in a written instrument signed by both parties.

III. Payer Partnership

- A. In advance of each Performance Year, CMS will provide the Payer with a list of MDPCP Practices. The list of MDPCP Practices will include MDPCP Practices participating in both tracks of the MDPCP. The Payer may elect to enter into a Payer Partnership with one or more MDPCP Practices identified on that list. Entering into a Payer Partnership with any given MDPCP Practice is at the discretion of the Payer and the MDPCP Practice.
- B. CMS may immediately or with advance notice terminate an MDPCP Practice's MDPCP Practice Participation Agreement with CMS pursuant to the terms of the MDPCP Practice Participation Agreement. Upon termination, the MDPCP Practice would also become ineligible to participate in MDPCP-OP, although the Payer would be able to choose to continue to include the practice in the Payer's alternative payment arrangements outside of MDPCP-OP.

IV. Commitment to Financial Incentives

- A. The Payer will provide enhanced claims- or non-claims-based payments, similar to the Care Management Fee (“**CMF**”) in MDPCP-FFS, as referenced in the most recent MDPCP Request for Applications available on the CMS website, to support its Payer Partner Practices in providing care not traditionally covered as billable services, such as non-visit based care or enhanced behavioral health services.
- B. The Payer will provide an at-risk performance-based incentive payment, similar to the Performance Based Incentive Payment (“**PBIP**”) in MDPCP-FFS as referenced in the MDPCP Request for Applications, that encourages accountability of its Payer Partner Practices based on the Payer Partner Practices’ performance on certain quality and utilization metrics (defined in section VI below).
- C. The Payer will provide a partially capitated payment, similar to the Comprehensive Primary Care Payment (“**CPCP**”) in MDPCP-FFS as referenced in the MDPCP Request for Applications, to its Payer Partner Practices participating in Track 2 of MDPCP-FFS to create a more predictable revenue stream and reduce dependence of its Payer Partner Practices on visit-based care for revenue.

V. Commitment to Care Management

The Payer will incentivize its Payer Partner Practices to target high-risk, high-need Members to ensure these Members receive longitudinal care management to reduce potentially avoidable utilization.

VI. Commitment to Aligning Quality Measures

The Payer will require its Payer Partner Practices to report certain quality measures to the Payer that are the same or similar to the eQMs that CMS requires MDPCP Practices to report to CMS under the MDPCP-FFS as referenced in the most recent MDPCP Financial Methodologies Paper that CMS will share with the Payer prior to the start of the MDPCP performance year.

VII. Commitment to Data Sharing

The Payer will share with CMS and CMS’ contractors practice and de-identified patient cost and utilization data on Members attributed to (or seen by) the Payers’ Partner Practices for monitoring and evaluation purposes, as required under 42 C.F.R. 403.1110.

The Payer will offer its Payer Partner Practices the opportunity to request Member-level cost and utilization data to facilitate care management and follow-up for chronic and acute conditions in accordance with applicable law (including but not limited to the HIPAA Privacy Rule requirements in 45 CFR Part 160 and subparts A and E of Part 164).

VIII. Commitment to Practice Learning

The Payer agrees to participate in CMS' Learning Network and/or provide learning resources to support its Payer Partner Practices in performing the Comprehensive Primary Care Functions of Advanced Primary Care.

IX. Collaborative Engagement

- A. The Payer and CMS each agree not to use the other party's logos in any communications without prior approval and to use such logos only in accordance with applicable law. Nothing in this MOU alters CMS' Medicare Marketing Guidelines that apply to Medicare Advantage, Medicare Advantage Prescription Drug Plans, Prescription Drug Plans, and 1876 Cost Plans.
- B. The Payer and CMS will each make reasonable good faith efforts to resolve in a timely fashion any issue that compromises either party's ability to meet a commitment set forth in this MOU.
- C. The Payer agrees to report data that CMS determines is necessary to monitor and evaluate MDPCP (see 42 C.F.R. § 403.1110). Such data may be requested periodically by CMS or CMS' contractor and may include, but is not limited to, data related to Members in each Line of Business, per-Member-per-month non-visit-based payments made to Payer Partner Practices, enhanced claims-based payments made to Payer Partner Practices, information regarding the performance-based incentive payments paid to Payer Partner Practices, information regarding the partially-capitated payment methodology developed by the Payer for Track 2 MDPCP Practices under the MDPCP-FFS, and quality measure performance data reported to the Payer by its Payer Partner Practices.
- D. From time to time, CMS or a CMS contractor may contact the Payer to conduct an interview related to the monitoring and evaluation of the MDPCP. The Payer agrees to cooperate with any and all such interviews (see 42 C.F.R. § 403.1110).

X. Bearing of Costs and Expenses

Each party shall bear its own costs and expenses in connection with this MOU, including without limitation, its own expenses for drafting, reviewing and negotiating this MOU and for travel and accommodation. This MOU does not commit CMS to any obligation or expenditure of federal funds. Expenditures by CMS will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The Payer agrees that any supplies or services it provides pursuant to this MOU are provided without expectation of payment from CMS, and the Payer agrees to waive any and all claims for such payment. Furthermore, while the parties intend to cooperate with respect to the activities outlined herein, neither party will be required to commit funds, personnel, or resources under this MOU.

XI. No Third Party Beneficiaries

Nothing herein is intended or shall be construed to confer upon any person or entity other than the parties and their successors or assigns, any rights or remedies under or by reason of this MOU.

XII. No Assignment

Neither this MOU, nor any rights or obligations hereunder, may be assigned, delegated or conveyed by either party without the prior written consent of the other party.

XIII. Statutes, Regulations, and Rules

This MOU and all associated agreements will be subject to the applicable statutes, regulations, and rules under which CMS and the Payer operate.

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Each party is signing this MOU on the date stated opposite that party's signature. If a party signs but fails to date a signature, the date that the other party receives the signing Party's signature will be deemed to be the date that the signing party signed this MOU.

PAYER:

By: _____

Date: _____

Name of authorized signatory

Title of authorized signatory

CMS:

By: _____

Date: _____

Name of authorized signatory

Title of authorized signatory