

**MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
THE DIVISION OF MEDICAID
IN THE OFFICE OF THE GOVERNOR
STATE OF MISSISSIPPI
AND
THE MISSISSIPPI BOARD OF PHARMACY**

(Prescription Monitoring Program Claims Data Sharing)

THIS MEMORANDUM OF UNDERSTANDING, hereinafter referred to as the “MOU”, is made and entered into by and among the **DIVISION OF MEDICAID in the OFFICE OF THE GOVERNOR**, an administrative agency of the **STATE OF MISSISSIPPI**, hereinafter referred to as “DOM”, and the **MISSISSIPPI BOARD OF PHARMACY**, hereinafter referred to as “BOP.” The parties have prepared this MOU to allow their respective vendors to share Medicaid Prescription Monitoring Program (“PMP”) claims data directly in accordance with Miss. Code Ann. § 73-21-127.

WHEREAS, On January 1, 2014, DOM and the University of Mississippi entered into a Contract for the provision of retrospective drug utilization review, Drug Utilization Review Board facilitation, analytical support for clinical rule development and special projects, and second level appeals for the prior authorization (“PA”) process, as well as other related services (collectively referred to herein as “DUR”);

WHEREAS, On October 26, 2015 DOM amended said contract due to a need for obtaining PMP claims data on Medicaid program recipients from the BOP, as authorized by Miss. Code Ann. § 73-21-127;

NOW THEREFORE, in cooperative furtherance of the mutual interests and responsibilities of the parties hereto, this MOU is entered into by and between the parties upon the following terms, provisions, and conditions, to-wit:

I. OBJECTIVES:

- A.** BOP’s respective PMP vendor will provide claims data directly to DOM’s respective vendor, pursuant to its authority under Miss. Code Ann. § 73-21-127.
- B.** DOM’s respective vendor will act on DOM’s behalf for purposes of receipt of the claims data.
- C.** The method by which the BOP’s PMP vendor will identify Medicaid claims data is as follows:
 - i.** DOM’s DUR vendor will send a beneficiary file to the BOP’s PMP vendor. The respective vendor, in turn, will match those records to the entire PMP claims database, thereby identifying all claims of Medicaid

beneficiaries. The claims will then be sent to DOM's DUR vendor for analysis. This method shall be utilized to ensure that the Medicaid claims data is current for each period requested and to acknowledge that this will be an ongoing process.

- II. BILLING:** Each party will bear its own costs in association with this MOU.
- III. TERM:** The term of this MOU shall commence on December 15, 2015 and shall remain in force through October 31, 2018, unless terminated earlier by any party in accordance with paragraph VIII, Termination. This MOU may be renewed for two (2) successive one (1) year terms if mutually agreed upon in writing by DOM and BOP prior to the end of the then current term.
- IV. COORDINATION OF SERVICES:** The parties will support cooperation in the above-noted Objectives to further the specific goals in accordance with the provisions of this MOU and with Mississippi and federal law. Each party intends to utilize reasonable efforts to implement this MOU, and each party commits to appoint representative members to move forward with consideration of the issues herein described.
- V. RELATIONSHIP OF PARTIES:** It is expressly understood and agreed that this MOU is in no way based on an employer-employee relationship.
- VI. NON-ASSIGNMENT AND SUBCONTRACTING:** Neither party will be independently obligated or liable under this MOU to any party. BOP understands and agrees that it shall not assign, transfer, delegate, or subcontract, either in whole or in part, with respect to any of its rights, benefits, obligations, interests, or duties under this MOU without the prior written consent of DOM.
- VII. MODIFICATION OR AMENDMENT:** Modifications or amendments to this MOU may be made upon mutual agreement of the Parties, in writing signed by the Parties hereto and approved as required by law.
- VIII. TERMINATION:** Any party may terminate this MOU at any time, with or without cause, by giving written notice to the other party of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. No party will be liable to any other party for termination of this MOU.
- IX. AVAILABILITY OF FUNDS:** It is expressly understood and agreed that the obligation of all parties to proceed under this MOU is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of federal and/or state funds for the operation of DOM.
- X. SEVERABILITY:** It is understood and agreed by the parties hereto that if any part, term or provision of this MOU is by the courts or other judicial body held to be illegal or in conflict with any law of the State of Mississippi or any federal law, the validity of the remaining portions or provisions shall not be affected and the obligations of the parties

shall be construed in full force as if the MOU did not contain that particular part, term, or provision held to be invalid.

- XI. CONFIDENTIALITY:** The parties agree that they shall not use or disclose for any purpose any information concerning any beneficiary or provider of services that it may have access to or have knowledge of as a result of this MOU. However, the obligation of confidentiality shall not apply to information that is required to be disclosed pursuant to law or the legal process. This confidentiality MOU survives the term of the MOU.
- XII. APPLICABLE LAW:** This MOU shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of the State. BOP shall comply with applicable federal, state, and local laws, regulations, policies, and procedures as now existing and as may be amended or modified.
- XIII. RESOLUTION OF FACTUAL DISPUTES:** If possible, any dispute concerning a question of fact arising under this MOU shall be resolved through good faith negotiations between duly authorized representatives of DOM and BOP.
- XIV. INDEMNIFICATION:** As governmental entities, the parties' tort obligations are determined and controlled in accordance with Mississippi Code Annotated § 11-46-1 *et seq.*, including all defenses and exceptions contained therein.
- XV. NOTICES:** Any notice from one party to the other under this MOU shall be in writing and shall be sent to the other party by U.S. Mail, postage prepaid, at its principal business address, unless changed by either party hereto by written notice similarly given.
- XVI. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996:** All activities under this MOU shall be performed in accordance with all applicable Business Associate Agreement(s), Nondisclosure Agreement(s), and/or Data Use Agreement(s) entered into between the parties and all applicable federal and/or State of Mississippi laws, rules, and/or regulations including the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 (as amended by the Genetic Information Nondiscrimination Act (GINA) of 2008 and the Health Information Technology for Economic and Clinical Health Act (HITECH Act), Title XIII of Division A, and Title IV of Division B of the American Recovery and Reinvestment Act (ARRA) of 2009) and their implementing regulations at 45 C.F.R. Parts 160, 162, and 164, involving electronic data interchange, code sets, identifiers, and the security and privacy of protected health information, as may be applicable to the services under this MOU. Each party to this MOU shall treat all data and information to which it has access under this MOU as confidential information to the extent that confidential treatment of same is required under federal and State of Mississippi law and all applicable Business Associate Agreement(s), Nondisclosure Agreement(s), and/or Data Use Agreement(s) entered into between the parties, and shall not disclose same to a third party without specific written consent of the other party. In the event that either party receives notice that a third party requested divulgence of the confidential or

otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of the confidential or otherwise protected information, the party shall promptly inform the other party, and thereafter respond in conformity with such subpoena as required by applicable State of Mississippi and/or federal law, rules, regulations, and all applicable Business Associate Agreement(s), Nondisclosure Agreement(s), and/or Data Use Agreement(s) entered into between the parties. The provision herein shall survive the termination of the MOU for any reason and shall continue in full force and effect and shall be binding upon both parties and their agents, employees, successors, assigns, subcontractors, or any party claiming an interest in the MOU on behalf of, or under, the rights of the parties following termination.

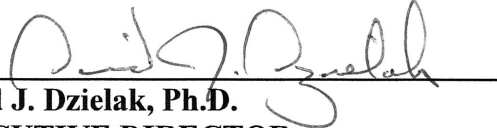
XVII. RECORDS RETENTION AND AUDIT PROCEDURES: BOP shall maintain all documents, reports, and all other records pertinent to this MOU for a period of six (6) years from conclusion of the work. However, if audit, litigation, or other legal action by or on behalf of the State or Federal Government has begun that is not completed at the end of the six (6) year period, or if audit findings, litigation, or other legal action has not been resolved at the end of the six (6) year period, the records shall be retained until resolution.

IN WITNESS WHEREOF, the parties have executed this MOU to be effective as of the date listed below.

FOR DOM:

**DIVISION OF MEDICAID
IN THE OFFICE OF THE GOVERNOR
STATE OF MISSISSIPPI**

BY:


**David J. Dzielak, Ph.D.
EXECUTIVE DIRECTOR**

FOR BOP:

MISSISSIPPI BOARD OF PHARMACY

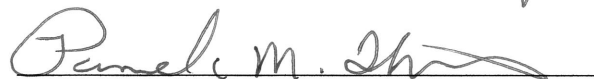
BY:


**Dana Crenshaw
PMP DIRECTOR**

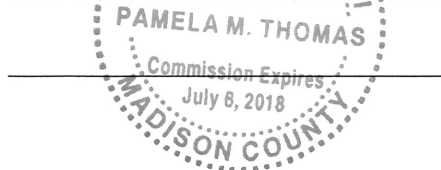
STATE OF MISSISSIPPI
COUNTY OF Hinds

THIS DAY personally came and appeared before me, the undersigned authority, in and for the aforesaid jurisdiction, the within named, **David J. Dzielak, Ph.D.**, in his official capacity as the duly appointed **Executive Director of the Division of Medicaid in the Office of the Governor**, an administrative agency of the State of Mississippi, who acknowledged to me, being first duly authorized by said agency that he signed and delivered the above and foregoing written Contractual MOU for Professional Services for and on behalf of said agency, and as its official act and deed on the day and year therein mentioned.

GIVEN under my hand and official seal of office on this the 25th day of February, A.D., 2016.


NOTARY PUBLIC

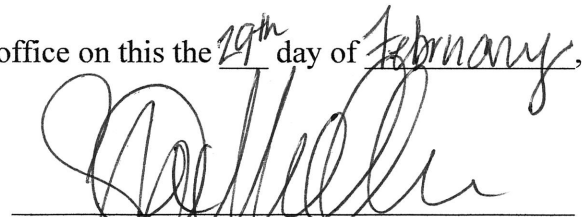
MY COMMISSION EXPIRES:



STATE OF MISSISSIPPI
COUNTY OF Hinds

THIS DAY personally came and appeared before me, the undersigned authority, in and for the aforesaid jurisdiction, the within named, **Dana Crenshaw** in her official capacity as the **PMP Director of the Mississippi Board of Pharmacy**, who acknowledged to me, being first duly authorized by said corporation that he/she signed and delivered the above and foregoing written MOU for and on behalf of said corporation, and as its official act and deed on the day and year therein mentioned.

GIVEN under my hand and official seal of office on this the 29th day of February, A.D., 2016.


NOTARY PUBLIC

MY COMMISSION EXPIRES:

April 13, 2019

