

THE STATE OF TEXAS §
 §
 COUNTY OF FORT BEND §

AGREEMENT BETWEEN FORT BEND COUNTY AND OAK BEND MEDICAL GROUP
FOR INDIGENT MEDICAL SERVICES

THIS AGREEMENT is made and entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and Oak Bend Medical Group (hereinafter "Group"), authorized to conduct business in the State of Texas.

WITNESSETH:

WHEREAS, Group is a Texas non-profit corporation and authorized to practice medicine by the Texas State Board of Medical Examiners; and,

WHEREAS, Group desires to provide and/or arrange to provide medical services to Eligible Residents in Fort Bend County through a written agreement with County; and,

WHEREAS, County has determined that this Agreement is for personal or professional services and therefore exempt from competitive bidding under Chapter 262, TEXAS LOCAL GOVERNMENT CODE.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged and confessed by the parties hereto, the parties hereby agree as follows:

I.
DEFINITIONS

- 1.01 "Eligible Resident" shall mean a Fort Bend County resident determined to meet the financial criteria, as determined by County.
- 1.02 "Department" shall mean the Texas Department of State Health Services.
- 1.03 "Primary Care" shall mean care that is provided by Group to Eligible Residents with any diagnosed or undiagnosed sign, symptom, or health concern, and includes health promotion, disease prevention, health maintenance, counseling, patient education, diagnosis and treatment of acute and chronic illnesses healthcare, and shall include minor procedures, testing and injections.

II.
APPLICABLE LAW

- 2.01 This Agreement is subject to the provisions of the Texas Indigent Health Care and Treatment Act ("the Act"), Section 61.001 et seq., TEXAS HEALTH & SAFETY CODE.

- 2.02 Nothing in this Agreement shall be construed as increasing County's responsibility for the treatment of indigents, including the dollar limit per individual Eligible Resident, beyond that contained in the Act.

III. ELIGIBILITY & DISPUTES

- 3.01 Group will provide Primary Care for County Eligible Residents to Eligible Residents that are inpatient at OakBend Medical Center.
- 3.02 In the event Group and County are unable to agree as to the eligibility of any person seeking medical treatment, Group or County may submit the matter to the Department as provided in Section 61.004 of the Act.

IV. SCOPE OF SERVICES

- 4.01 County's Responsibilities:
- A. In advance of treatment, County shall screen and register County residents in accordance with the provisions of the Act and County's internal procedures.
 - B. County shall provide each Eligible Resident with a card that identifies the individual as an Eligible Resident.
 - C. County shall refer Eligible Residents through its Indigent Health Care Office to Group for Primary Care. Nothing in this Agreement shall prevent County from referring Eligible Residents to providers other than Group.
 - D. County shall refer all newly qualified indigent clients who live west of Highway 6 and Ditch H to Group for primary care services.
- 4.02 Group Responsibilities:
- A. Group shall comply with County's Indigent Health Care Department's referral process a copy of which is attached as Exhibit A to this Agreement.
 - B. Group shall verify client eligibility and promptly notify County's FBCIHC Manager, of clients awarded Medicaid.
 - C. Group shall fill out assistance applications forms for Eligible Residents to include but is not limited to applications for food stamps, disability, prescriptions (RX), unless Group determines that an Eligible Resident is not eligible for assistance due to medical reasons. Group shall promptly forward a copy of the referral submissions to County's FBCIHC Manager
 - D. Group will provide Primary Care to Eligible Residents in accordance with the terms of this Agreement.
 - E. Group will provide (or make an appropriate referral to a County approved Preferred Provider), these Annual Health Screening Benefits / Well Care once per year, per Eligible Resident:
 - 1. Mammograms, including interpretation by radiologist at a Preferred Provider;
 - 2. Pap smear including office visit and HPV vaccine, age nineteen (19) years and older;
 - 3. Bone density testing including office visit;
 - 4. Colon Rectal and prostate screenings which include office visit, diagnostic proctoscopy, occult blood work and prostate specific antigen (P.S.A.) test;

5. Immunizations: Adult, age nineteen (19) years and older, immunization benefits are limited to annual flu shots, tetanus booster shots and HPV vaccine, including office visit; and
 6. Annual physicals to include urinalysis, lab work, blood work, stress test, electrocardiogram and chest x-rays.
- F. Annual Health Screening Benefits / Well Care will be reimbursed at TMHP rates whether Group performs the services or Group refers to a County approved preferred provider.
 - G. Group shall be responsible for all costs of providing treatment for Eligible Residents and shall coordinate with County to monitor medications, reduce the costs of unnecessary emergency room visits and referrals to specialists.
 - H. Group will provide Eligible Residents appointments with physicians Monday through Friday during normal business hours. Group shall schedule appointments for Eligible Residents as Group determines necessary, based upon excepted standards of care for each individual Eligible Resident. After hour coverage will be by phone 24 hours a day 7 days a week. Group shall be responsible for verifying eligibility prior to providing any services to an Eligible Resident, even if an eligibility card as described in Section 4.01(B) is provided at the time services are rendered. Failure to verify eligibility may result in the denial of payment for services.
 - I. Group shall seek to reduce the number of Eligible Residents who seek Primary Care or non-emergency treatment at hospital emergency rooms or urgent care clinics by 10 %.
 - J. Group agrees to provide County Risk Management Department with a current copy of Group's malpractice insurance. Subcontractors are required to meet the same insurance provisions as the Group, unless subcontractors are covered by Groups policies.
 - K. Group agrees to submit monthly invoices with accompanying CMS-1500 to County for services provided under this Agreement which shall be processed by County without reasonable delay.
 - L. Group agrees to provide monthly clinic performance reports. (See: Exhibit B for list of reports.
 - M. Group shall promptly notify County's FBCIHC Manager, of any changes (i.e. office hours/location, etc).

V.
FEE SCHEDULE

County agrees to pay to Group a monthly fee of \$2,200.00 each, for the services provided under this Agreement. The monthly payment shall be paid by County to Group no later than thirty (30) days after County's receipt of an invoice. In the event this Agreement shall commence or terminate on a date other than the first or last day of any calendar month, compensation to Group shall be prorated accordingly for the modified month.

VI.
TERM AND TERMINATION

- 6.01 This Agreement between County and Group shall be effective September 1, 2013 through September 30, 2015. This Agreement may renew upon written agreement of the parties. The contract rate for renewals of this Agreement shall be determined based on the average of the twenty four months ending the June 30 prior to the renewal date of this Agreement, applying TMHP rates, with the first renewal review to be held by May 30, 2014. The parties may mutually agree to a different base period for purposes of establishing a contract rate for a renewal of this Agreement if there has been substantive changes in the enrollment or utilization of services in the County's Indigent Care Program.
- 6.02 This Agreement may be terminated by either party for cause only, by giving thirty (30) days written notice to the other party.

VII.
LIABILITY INSURANCE

- 7.01 During the period of this Agreement, Group shall maintain, at its expense, insurance with limits no less than those prescribed below with a carrier having a rating with A.M. Best & Co of A-VII or better:
- A. General Liability (including Contractual Liability):
 - Bodily Injury and Property Damage \$1,000,000.00
 - Aggregate \$2,000,000.00
 - B. Automobile Liability:
 - Bodily Injury and Property Damage \$1,000,000.00
 - Limit per Occurrence
 - C. Worker's Compensations Statutory + \$1,000,000.00
Limit Employer's Liability
 - D. Medical Malpractice Liability insurance with limits not less than \$300,000 each claim \$600,000 annual aggregate.
- 7.02 With respect to the required insurances listed in Section 7.01, Group shall, if allowed by law and the insurance carrier:
- A. Name Fort Bend County as additional insured as their interests may appear, with the exception of worker's compensation insurance and professional liability insurance;
 - B. Provide County a waiver of subrogation regarding Group's worker's compensation insurance;
 - C. Provide County with a thirty (30) day advance written notice of cancellation or material change to said insurance; and,
 - D. Provide County with Certificates of Insurance evidencing required coverages upon acceptance of this Agreement by Commissioners Court

VIII.

MISCELLANEOUS

- 8.01 The parties agree that this Agreement shall be construed in accordance with the laws of the State of Texas, and any action arising hereunder shall be brought in a court of competent jurisdiction in Fort Bend County, Texas.
- 8.02 To the extent either party comes into contact with information considered Protected Health Information ("PHI") under the privacy regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996, 45 CFR Part 164 ("HIPAA Privacy Regulations"), the parties agree to keep such information confidential in accordance with federal law.
- 8.03 The parties agree only to use and disclose PHI as required to be perform the services outlined in the Agreement or as "required by law," as that term is defined in the HIPAA Privacy Regulations. Neither party will use or further disclose PHI other than as permitted under this Agreement and both parties will use appropriate safeguards to prevent the use or disclosure of PHI for any reason other than as provided by this Agreement. Both parties agree to promptly notify the other of its corrective actions to cure any breaches as soon as possible. Both parties understand that either party may terminate this Agreement immediately if the other party's actions are not successful in remedying the breach and the non-breaching party pay report the problem to the Secretary of Health & Human Services. Both parties shall require any agents or subcontractors who receive PHI to be bound by the same restrictions and conditions outlined in this Agreement. Notwithstanding the foregoing, a party may use PHI if necessary for the proper management and administration of the party, or to carry out its legal responsibilities. Furthermore, a party may disclose PHI for the proper management and administration of the party, or to carry out its legal responsibilities, provided that in such cases: (1) disclosure of PHI is required by law, or (2) the party obtains reasonable assurances from the person to whom the information is to be disclosed that it will be held confidential and used or further disclosed only as required by law or if the party of any instances of which it is aware in which the confidentiality of the PHI has been breached.
- 8.04 The parties agree to comply with Sections 164.524 (Access to Individuals to PHI), 164.526 (Amendment of PHI), and 164.528 (Accounting of Disclosures of PHI) of the HIPAA Privacy Regulations. The parties agree to make their internal practices, books, and records relating to the use and disclosure of PHI received from or created or received by the other party available to the Secretary of Health & Human Services of the Secretary's designee for purposes of determining the other party's compliance with the HIPAA Privacy Regulations. After the parties have completed working with or using PHI provided by the other party, both parties agree to continue to protect PHI from wrongful uses and disclosures.
- 8.05 This Agreement may only be amended in writing, signed by both parties. The parties, however, agree to amend this Agreement from time to time, as necessary, in order to allow the parties to comply with the requirements of the HIPAA Privacy Regulations.
- 8.06 Nothing in this Agreement shall be construed to (i) create a partnership, joint venture or other joint business relationship between the parties or any of their affiliates, (ii) any fiduciary duty owed by one party to another party or any of its affiliates, or (iii) a relationship of employer and employee between the parties.
- 8.07 Failure or delay on the party of either party to exercise any right, power, privilege, or remedy hereunder shall not constitute a waiver thereof. No provision of this Agreement

may be waived by either party except by a writing signed by an authorized representative of the party making the waiver.

- 8.08 The provisions of this Agreement shall be severable, and if any provision of this Agreement shall be held or declared to be illegal, invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect as though such illegal, invalid or unenforceable provision had not been contained herein.
- 8.09 Nothing in this Agreement shall be considered or construed as conferring any right or benefit on a person not a party to this Agreement nor imposing any obligations on either party hereto to persons not a party to this Agreement.
- 8.10 Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the parties to comply with the HIPAA Privacy Regulations. The provision of this Agreement shall prevail over the provisions of any other agreement that exists between the parties that may conflict with, or appear inconsistent with, any provision of this Agreement or the HIPAA Privacy Regulations.
- 8.11 A citation in this Agreement to the Code of Federal Regulations shall be the cited sections as that section may be amended from time to time.
- 8.12 Notices shall be effective only when in writing and addressed as follows:

A. Oak Bend Medical Group
Donna Ferguson, C.O.O.
1750 Jackson Street
Richmond, Texas 77469

B. Honorable Robert E. Hebert
Fort Bend County Judge
301 Jackson, Suite 719
Richmond, Texas 77469

Karl Lavine
Indigent Health Care Manager
4520 Reading Road, Suite A
Rosenberg, Texas 77471

IX. INDEPENDENT CONTRACTOR

- 9.01 In the performance of work or services hereunder, Consultant shall be deemed an independent contractor, and any of its agents, employees, officers or volunteers performing work required hereunder shall be deemed solely as employees of Consultant.
- 9.02 Consultant and its agents, employees, officers or volunteers shall not, by performing work pursuant to this agreement, be deemed to be employees, agents or servants of the County and shall not be entitled to any of the privileges or benefits of County employment.

INDEMNIFICATION

- 10.01 By Group.

- A. GROUP SHALL SAVE HARMLESS COUNTY FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING, BUT ONLY TO THE EXTENT OR DEGREE ON A COMPARATIVE BASIS OF FAULT ARISING FROM ACTIVITIES OF THE GROUP, ITS AGENTS, CONTRACTORS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF GROUP OR ANY OF GROUP'S AGENTS, SERVANTS OR EMPLOYEES.
- B. GROUP SHALL ALSO SAVE HARMLESS COUNTY FROM AND AGAINST ANY AND ALL EXPENSES, ARISING FROM SAID CLAIMS OR LIABILITIES THAT MIGHT BE IMPOSED ON COUNTY AS THE RESULT OF SUCH NEGLIGENT ACTIVITIES BY GROUP, ITS AGENTS, CONTRACTORS OR EMPLOYEES.

10.02 By County.

- A. TO THE EXTENT PERMITTED BY LAW, COUNTY SHALL SAVE HARMLESS GROUP FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, BUT ONLY TO THE EXTENT OR DEGREE ON A COMPARATIVE BASIS OF FAULT ARISING FROM ACTIVITIES OF THE COUNTY, ITS AGENTS, CONTRACTORS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF COUNTY OR ANY OF COUNTY'S AGENTS, SERVANTS OR EMPLOYEES.
- B. TO THE EXTENT PERMITTED BY LAW, COUNTY SHALL ALSO SAVE HARMLESS GROUP FROM AND AGAINST ANY AND ALL EXPENSES, IN LITIGATION OR OTHERWISE, ARISING FROM SAID CLAIMS OR LIABILITIES THAT MIGHT BE IMPOSED ON GROUP AS THE RESULT OF SUCH NEGLIGENT ACTIVITIES BY COUNTY, ITS AGENTS, CONTRACTORS OR EMPLOYEES.

XI.
AUDIT

County or its authorized representative(s) shall have the right to review and audit all books, records, vouchers and documents of whatever nature related to Group's performance under this Agreement during the period of performance of this agreement and for three (3) years thereafter or for so long as there exists any dispute or litigation arising from this Agreement.

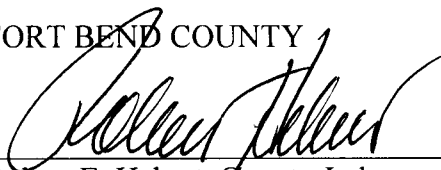
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Execution page follows

XII.
EXECUTION

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.


FORT BEND COUNTY



Robert E. Hebert, County Judge

Date: 9-10-2013

Reviewed:



Karl Lavine
Indigent Health Care Manager

ATTEST:



Dianne Wilson, County Clerk

OAK BEND MEDICAL GROUP



Authorized Agent- Signature

Joseph Freudenberger

Authorized Agent- Printed Name

President

Title

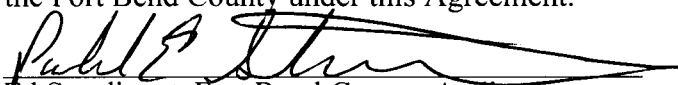
9/10/13

Date

MTR/Agreements/Health 06192013 08132013

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 52,800.00 to accomplish and pay the obligation of the Fort Bend County under this Agreement.



Ed Sturdivant, Fort Bend County Auditor

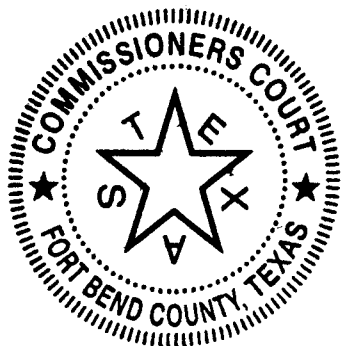


EXHIBIT - A

COUNTY'S INDIGENT HEALTH CARE DEPARTMENT'S REFERRAL PROCESS

To All Providers:

Below we have outlined the current referral process for Fort Bend County Indigent Health Care clients. If you have any questions, please feel free to contact us at (281) 238-3518

REFERRAL PROCESS

All clients are required to visit the Primary Care Physician assigned for their medical care, except in an emergency, when medically inappropriate, or if the service required is beyond the scope of their Primary Care Physician, in which case, their Primary Care Physician will issue a referral.

- ✓ If a client needs to see a specialist, their Primary Care Physician will issue a referral to that doctor. This referral is valid for any services rendered at the specialist office and any procedure that must be performed outside of the physician's office, such as outpatient / inpatient hospital services/surgery.
- ✓ If the referred to specialist, in turn, needs to refer the client to a different specialist, he/she must first notify their Primary Care Physician. Their Primary Care Physician will then issue a referral to the new specialist.
- ✓ If a client is seen in the hospital and follow-up care is recommended for a specific doctor, the client must contact their Primary Care Physician and notify them of the situation. Their Primary Care Physician will then make the decision to write the referral to that physician.
- ✓ If a client is seen in the hospital and is discharged with orders to return to that hospital for further outpatient services, the client must contact their Primary Care Physician and notify them of the situation. Again, the patient's Primary Care Physician will make the decision to write the referral.
- ✓ **All referral requests are to be faxed to 281-341-1528.**

Referrals are good for 95 days from the date the referral was written (**not** from the day of the patient's first appointment date). Specialists are required to verify eligibility and referral authorization numbers before a patient is seen. Primary Care Physicians can refer to the weekly active client list for eligibility.

Sincerely,

Karl A. Lavine

EXHIBIT – B

MONTHLY REPORTS

1. Client report of cancellations/no Shows and Re-schedules.
2. List of clients referred to ER (Monday – Friday).
3. List of clients that go to ER within two days of clinic visit/appointment.