

INTERAGENCY AGREEMENT¹
between
DEPARTMENT OF VETERANS AFFAIRS
VETERANS HEALTH ADMINISTRATION
CONSOLIDATED MAIL OUTPATIENT PHARMACY
and
DEPARTMENT OF HEALTH AND HUMAN SERVICES
INDIAN HEALTH SERVICE

for
THE USE OF THE VETERANS HEALTH ADMINISTRATION'S CONSOLIDATED
MAIL OUTPATIENT PHARMACY SYSTEM BY THE INDIAN HEALTH SERVICE

I. PURPOSE

This agreement will provide a centralized prescription filling center for Indian Health Service (IHS) and tribal health facilities through Department of Veterans Affairs (VA), Veterans Health Administration's (VHA) Consolidated Mail Outpatient Pharmacy system (CMOP).

The IHS and VHA (collectively, the parties) are entering into this agreement for their mutual benefit with Tribal health programs as third-party beneficiaries. Title I tribes have buyback authority through the Consolidated Appropriations Act of 2014, Pub. L. No. 113-76, 128 Stat. 5 (2014) and subsequent Appropriation Acts, to the extent such Acts continue to authorize the IHS to provide goods and services to Tribes and Tribal Organizations on a reimbursable basis. Likewise, Title V tribes have buyback authority through 25 U.S.C. § 458aaa-7. The IHS, through the National Supply Service Center, will act as a payment conduit for orders placed by Tribal health facilities.

An IHS or Tribal pharmacist will process, reconcile and electronically release non-urgent, chronic medication orders to the VHA CMOP for dispensing and shipping. The participating facility will have the ability to follow and track these medications through the dispensing process via an Internet Website. The technical aspects of this process will be based on those already utilized between the VHA CMOP and individual VHA medical facilities.

II. AUTHORITY

- A.** The Economy Act of 1932, 31 U.S.C. § 1535, as amended, and as prescribed by Federal Acquisition Regulation (FAR) Subpart 17.5. The requesting organization, the IHS, has considered the requirements of FAR 17.502 and 17.503(a) and (b) and has provided a determination and findings (D and F) pursuant thereto.
- B.** 38 U.S.C. § 8126. Limitation on prices of drugs procured by the Department of Veterans Affairs and certain other Federal agencies.

¹ Per agreement of the parties, this document sets forth the general terms and conditions of the IAA and will be used in lieu of FMS form 7600A.

- C. The Snyder Act, 25 U.S.C. § 13.

III. IDENTIFICATION NUMBER

For purposes of Indian Health Service (IHS) internal administrative needs, this Agreement will carry the following identification number 2-OD-17-0008.

IV. RELATED AGREEMENT

- A. Memorandum of Understanding between the VHA and the IHS, dated June 24, 2003.
- B. Memorandum of Agreement between the VHA and the IHS on Health Information Technology Sharing, dated September 24, 2008.
- C. Supplemental Project Agreement to the Memorandum of Agreement (MOA) between the VHA and the IHS on Health Information Technology Sharing: Use of the Veteran's Health Administration Consolidated Mail Outpatient Pharmacy System by the Indian Health Service.
- D. Interconnection Security Agreement between the VA and the Department of Health and Human Services (DHHS), dated September 22, 2008.
- E. VA Prime Vendor Contract V797P-12-D-0001, dated May 10, 2012.

V. SUPERSESION

This Agreement supersedes the previous Interagency Agreement regarding the use of the VHA's CMOP system by the Indian Health Service, dated March 19, 2010.

VI. SCOPE

- A. This agreement facilitates the use of the VHA CMOP by those IHS Areas and tribal health programs, which sign agreements with CMOP.
- B. The CMOP will dispense medication orders received from the participating facilities to the requesting facility or directly to the patient in accordance with the terms of this agreement. VHA will provide program support, including training and contract management.

VII. PERIOD OF AGREEMENT

This agreement becomes effective upon the last signature of the parties for a period of one calendar year. This agreement will be automatically extended for additional one-year periods on its anniversary date unless either party gives the other 60-calendar-day written notice of intent to modify or terminate this agreement.

VIII. FINDINGS

- A.** The use of this interagency agreement is in the best interest of the Government.
- B.** The services cannot be obtained by the IHS as conveniently or economically by contracting directly with a private source.
- C.** The services do not require additional contract action by the VHA. Medication dispensed via this agreement will be appropriately acquired under existing VA pharmaceutical supply contracts, which include the IHS as an eligible ordering activity. However, the VA is specifically authorized by the General Services Administration to negotiate and manage Federal Supply Schedule (FSS) contracts for pharmaceuticals on behalf of other Federal agencies, including the IHS.

IX. GENERAL PROVISIONS

- A.** The intent of this agreement is to cost-effectively expand clinical and support capabilities of the participating facilities through use of VHA CMOP resources and by combining participating facilities prescription needs with VHA's. Improved efficiencies will be gained through more efficient and effective use of staff, reduction in medication error costs, and reduction in medication error litigation.
- B.** Nothing in this agreement shall be construed to shift the ultimate responsibility of any patient care from the ordering facility, its physicians, and its other healthcare professionals. It is further understood the agreement shall not impair the priority access of the VA or the IHS beneficiaries to health care provided through their respective program; the quantity or range of quality of health care services provided to the beneficiaries by the respective health care programs; or the eligibility of beneficiaries to receive health care through their respective programs. The terms of the agreement shall not in any way alter or affect congressional mandates imposed on the parties as governed by applicable law, regulation or policy. Moreover, the intent of this agreement is to expand the ability of each party to better and more efficiently meet its obligations to its respective beneficiaries.
- C.** The VHA and the IHS will comply with all applicable Federal laws and regulations regarding the confidentiality of health information. Medical records of the IHS patients are Federal records and are subject to some or all of the following laws: the Privacy Act of 1974, 5 U.S.C. § 552a; Privacy Act Regulations, 45 C.F.R. Part 5b; the Freedom of Information Act, 5 U.S.C. § 552; the Drug Abuse Prevention, Treatment, and Rehabilitation Act, 42 U.S.C. § 290dd-2; Confidentiality of Alcohol and Drug Abuse Patients Records, 42 C.F.R. Part 2; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act, 42 U.S.C. § 4541; the Administrative Simplification

requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 C.F.R. Parts 160 and 164. All requests for release of information shall be in writing. All requirements of HIPAA will be met before there is any sharing of identifiable patient information.

- D. The participating facilities and CMOP agree to sign agreements detailing specific operational issues that will be adhered to by each party. These agreements will be similar as those signed by the VHA Medical Centers serviced by CMOP.
- E. The IHS, through the National Supply Service Center, will act as a payment conduit for orders placed by tribal health programs.
- F. Nothing contained herein shall be construed to obligate the IHS or the VHA to any expenditure or obligation of funds in excess of, or in advance of, appropriations in accordance with the Anti-Deficiency Act, 31 U.S.C. § 1341.
- G. Requests for amendments to this agreement will be directed to the agreement administration staff listed on Attachment A. All other communications shall be limited to the appropriate points of contact, also listed on Attachment A.
- H. The IHS and VHA agree to take immediate action to resolve issues and disagreements that arise in accomplishing work under this agreement in accordance with FAR 17.504(c). In the event that disagreements arise that cannot be resolved by the signatories, then the parties will submit such disagreements to their respective legal representatives for resolution under mutually acceptable procedures, which may include third-party alternative dispute resolution procedures.

X. RESPONSIBILITIES

- A. VHA will:
 - 1. Receive and dispense the participating facility's medication orders sent electronically from the IHS national pharmacy software located at the IHS facility in accordance with Federal law (including data storage) and recognized national pharmacy standards (e.g., United States Pharmacopeia, American Pharmaceutical Association, American Society of Health Systems Pharmacists, etc.). Drug availability will be in accordance with the commonly used CMOP product list as indicated in the VA's National Drug File (NDF) and is subject to the ten (10) or more prescription minimum monthly usage before a product will be stocked.
 - 2. Ship completed prescription orders directly to the participating facility or directly to the patient as pre-approved by the facility point of contact listed in Attachment A to the IHS Area's Interagency Agreement with CMOP.
 - 3. Maintain the standards set by The Joint Commission at CMOP facilities servicing the participating facilities.

4. Ensure all added medication orders can be dispensed assuming medication stock is available and all technical aspects are sufficiently operable.
5. Maintain a goal of passing medication orders to the parcel delivery service within two days after filling of the order. Transit time to the participating facility or to the individual patient is dependent on the method of delivery selected. CMOP will collaborate with the participating facility on the selection of delivery method. Maintain the same timeliness standards for the provision of the participating facility's medications as for the provision of the VA's medications.
6. Package and deliver medications in accordance with CMOP's normal operating and quality procedures, to include back orders, substitutions, and lost medications.
7. Ensure maximum efficiency and order tracking through coordination of efforts between the participating facility and CMOP.
8. Provide VA website account access to the participating facility for prescription tracking purposes.
9. Collaborate with the IHS concerning the functional requirements of the interface between the IHS national pharmacy software and the CMOP prescription processing system.
10. Maintain a working relationship with the IHS and its pharmacy software vendor regarding closed loop tracking of prescriptions through the use of bar code technology and future radio frequency identification device tracking.
11. Route all requests for modification to the IHS Point of Contact (POC) as designated in Attachment A.
12. Invoice the drug cost at the same rate charged to VHA customers.
13. Provide thirty (30) days advance notification to the participating facilities for any cost/price change for administrative costs.
14. Provide support services for reconciliation of billing discrepancies.
15. Provide and maintain current POC and Agreement Administration (AA) staff information, Attachment A.
16. Provide monthly itemized electronic statements via e-mail to each facility's Chief Pharmacist and Finance Officer on the fifth calendar day of the month. Invoices shall detail the actual medication costs, applicable administrative fees, delivery costs for the orders placed by the facility, including supporting documentation for verification of accurate billing. Payment will be made via the Interagency Payment and Collection (IPAC) system and initiated by CMOP just prior to the end of the month with the electronic statements going out on the first work day of the month.
17. Drug costs incurred will be in accordance with the lowest applicable cost/pricing schedules that each participating facility is eligible for through the VA Prime Vendor Program including National Contract Drug pricing. Non-drug costs charged to the participating facility will match what is being charged to the VA Medical Centers serviced by the CMOP for current fiscal year.
18. The Intra-Governmental Payment and Collection (IPAC) system collection will be initiated by the servicing VHA CMOP.

19. The CMOP contracting office will maintain complete records of all IHS Area and tribal health program agreements and will monitor and report on each facility annually.
20. Conduct training for directors of the participating pharmacies concerning VHA CMOP operations.
21. Provide a quality control program which utilizes medication error prevention data in its control measures.
22. Package all medications to reduce the possibility of breakage, pilferage, and environment contamination, including freezing of liquid medications. Refrigerated or frozen items will receive special handling. Mailed packages will not be identified as containing pharmaceuticals.
23. Track package delivery status and work with carriers to resolve delivery delays to the extent possible.
24. Mask the description of the contents of cased products dispensed to patients to protect their privacy.
25. Generic pharmaceutical products will be dispensed by VHA CMOP unless only brand name product is available or there is a special exception approved by VHA's Pharmacy Benefit Management Strategic Health Care Group.
26. Maintain appropriate inventory levels to minimize out-of-stock situations and associated cancel-backs.

B. The IHS will:

1. Conduct the initial medication and/or supply use assessment by a licensed pharmacist on all prescriptions transmitted to CMOP that includes:
 - a. appropriateness of the drug, dose, frequency, and route of administration;
 - b. therapeutic duplications;
 - c. real or potential allergies or sensitivities;
 - d. real or potential interactions between the prescriptions and other medications, food, and laboratory values;
 - e. review of current or potential impact as evidenced by laboratory values;
 - f. other contraindications;
 - g. variation from organizational criteria for use;
 - h. checking for potential errors with look-alike/sound-alike drug pairs; and
 - i. other relevant medication-related issues or concerns.
2. Transfer accurate medication ordering data via the IHS prescription software, a system compatible with the CMOP processing system.
3. Provide medication consultation to the patient.
4. Maintain a working relationship with CMOP to reconcile problems with the medication ordering process, order discrepancies, shipping, and payments.
5. Provide and maintain current POC information (Attachment A).
6. Route all requests for modification to this agreement to the agreement administration staff designated in Attachment A.
7. Provide dates as needed for cross-training and coordination among the IHS Area and facility staff including IHS Chief Executive Officers, Administrative Officers, Financial Officers, Area Chief and Assistant Chief Pharmacists, and facilities pharmacists.

8. Ensure "As Needed" orders, titrating orders, taper orders and range orders provide detailed patient instructions with defined dose and interval parameters.
9. Ensure that orders for supply items such as diabetic supplies, enteral nutrition and associated supplies, wound care supplies, incontinence appliances and supplies or ostomy supplies are ordered, measured, and fitted for the patient by a qualified prescriber, if applicable, prior to transmission to CMOP for processing and mailing to the patient.

XI. LIMITATIONS

CMOP will not accept standing orders, hold orders, automatic stop orders, resume orders, orders for compounded drugs or drug mixtures not commercially available or investigational medications.

XII. BILLING AND PAYMENT

- A. The IHS facilities will pay CMOP for the costs associated with the filling of prescriptions. Payment will be made immediately upon receipt of the bill through the IPAC method initiated by CMOP. Adjustments to the bill will be coordinated between the IHS and CMOP with any adjustments being applied to the following month's bill. Prior to sending any prescriptions to be filled, each participating facility will submit the following billing information to the servicing CMOP: Agency Location code, Vendor Code and accounting string along with a POC name, phone number and e-mail address. A bill submitted to the participating facility for payment is not subject to audit or certification in advance of payment but may be retroactively adjusted to reflect actual costs.
- B. Purchased and Referred Care funds may be used to purchase services under this agreement.

XIII. AMENDMENT

This agreement may be revised or amended only in writing with the signature approval of the parties to the agreement. Either party may modify or amend this agreement, or any part of its specific provisions, with signatory concurrence of the other party.

XIV. INTERPRETATION

- A. If the VA and the IHS are unable to agree about a material aspect of this agreement, the parties agree to engage in an effort to reach mutual agreement in the proper interpretation of this agreement, including amendment of the agreement, as necessary, by escalating the dispute within their respective organizations.

- B. If a dispute related to funding remains unresolved for more than ninety (90) calendar days after the parties have engaged in an escalation of the dispute, the parties agree to refer the matter to their respective Agency Chief Financial Officers with a recommendation that the parties submit the dispute to the CFO Council Intragovernmental Dispute Resolution Committee for review in accordance with Section VII of Attachment 1 to the Treasury Financial Manual, Volume 1, Bulletin No. 2007-03, Intragovernmental Transactions, Subject: Intragovernmental Business Rules, or subsequent guidance.

XV. TERMINATION

In the event of a cancellation or termination of this agreement, VHA shall not be liable for the IHS' share of any resulting costs unless the VA caused the termination by negligence or violation of any Federal rule, regulation, or statute. Any financial liability resulting from the actions of the IHS' facility in regard to the drugs and/or pharmacy services provided under this agreement shall be the responsibility of the IHS facility.

Accepted:

**Department of Veterans Affairs,
Veterans Health Administration**

By: /Kenneth L. Siehr/

Date: 12/15/2016

Accepted:

Indian Health Service

By: /Mary Smith/

Date: 12/12/2016

ATTACHMENT A

Primary Points of Contact (PPC) and Agreement Administration Staff (AA)

Department of Veterans Affairs

Kenneth L. Siehr, R.Ph., MPA
Deputy Chief Consultant PBM/CMOP
Pharmacy Benefits Management Service
Consolidated Mail Outpatient Pharmacy (CMOP)
Kenneth.Siehr@va.gov
414-897-2661

Indian Health Service

CAPT Todd Warren
IHS National CMOP Coordinator
Great Plains Area, Sioux San Indian Hospital
Rapid City, SD
Todd.Warren@ihs.gov
605-390-2371

CAPT Robert W. Hayes
Director, IHS National Supply Service Center
Oklahoma City, OK
Robert.Hayes@ihs.gov
405-951-6079

CAPT Kevin Brooks
IHS Principal Pharmacy Consultant
IHS HQ, Rockville, MD
Kevin.Brooks@ihs.gov
301-443-1820