CORPORATE INTEGRITY AGREEMENT
BETWEEN THE
OFFICE OF INSPECTOR GENERAL
OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
AND
AMERICHOICE OF PENNSYLVANIA, INC.

I. PREAMBLE

AmeriChoice of Pennsylvania, Inc. (ACPA) hereby enters into this Corporate Integrity Agreement (CIA) with the Office of Inspector General (OIG) of the United States Department of Health and Human Services (HHS) to promote compliance by its officers, directors, employees, contractors, and agents with the statutes, regulations, and written directives of Medicaid, and all other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) (Federal health care program requirements). Contemporaneously with this CIA, ACPA is entering into a Settlement Agreement with the United States, and this CIA is incorporated by reference into the Settlement Agreement.

II. TERM AND SCOPE OF THE CIA

A. The period of the compliance obligations assumed by ACPA under this CIA shall be three years from the effective date of this CIA, unless otherwise specified. The effective date shall be the date on which the final signatory executes this CIA (Effective Date). Each one-year period, beginning with the one-year period following the Effective Date, shall be referred to as a "Reporting Period."

B. Sections VI, VII, VIII, IX, and X shall expire no later than 120 days after the United States' receipt of: (1) ACPA's final annual report; or (2) any additional materials submitted by ACPA pursuant to the OIG's request, whichever is later.

C. The scope of this CIA shall be governed by the following definitions:

1. "Covered Persons" includes:

   a. all officers, directors, and employees of ACPA;

   b. all contractors and agents that provide or perform claims processing payments or claims review or editing functions, or

presentation of claims or reports to any Federal health care programs, including Medicaid, on behalf of ACPA; and

c. all of ACPA's employed medical staff.

Notwithstanding the above, this term does not include part-time or per diem employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to work more than 160 hours per year, except that any such individuals shall become "Covered Persons" at the point when they work more than 160 hours during the calendar year.

2. "Relevant Covered Persons" are defined as each Covered Person who is involved in the receipt, processing and adjudication of claims for services rendered to any Federal health care program.

III. CORPORATE INTEGRITY OBLIGATIONS

ACPA represents that prior to the execution of this CIA, it had established a Corporate Compliance Plan (the "Compliance Plan"). ACPA further represents that this Compliance Plan provides for policies and procedures aimed at ensuring that its participation in the Federal health care programs is in conformity with the statutes, regulations, and other directives applicable to those programs. ACPA agrees to maintain in full operation the Compliance Plan for the term of this CIA. The Compliance Plan may be modified by ACPA as appropriate, but at a minimum, shall comply with the integrity obligations enumerated in this CIA. ACPA's Compliance Plan shall include the following elements:

A. Compliance Officer and Committee.

1. *Compliance Officer.* ACPA represents that, pursuant to its Compliance Plan, it has appointed an individual to serve as its Compliance Officer and shall maintain a Compliance Officer for the term of the CIA. The Compliance Officer shall be responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements set forth in this CIA and with Federal health care program requirements. The Compliance Officer shall be a member of senior management of ACPA, shall make periodic (at least quarterly) reports regarding compliance matters directly to the Board of Directors of ACPA, and shall be authorized to report on such matters to the Board of Directors at any time. The Compliance Officer shall not be or be subordinate to the General Counsel or Chief Financial Officer. The Compliance Officer shall

be responsible for monitoring the day-to-day compliance activities engaged in by ACPA as well as for any reporting obligations created under this CIA.

ACPA shall report to the OIG, in writing, any changes in the identity or position description of the Compliance Officer, or any actions or changes that would affect the Compliance Officer's ability to perform the duties necessary to meet the obligations in this CIA, within 15 days after such a change.

2. *Compliance Committee.* ACPA represents that pursuant to its Compliance Plan, it has created a Compliance Committee to monitor the implementation of the Compliance Plan and to provide advice and recommendations to ACPA's Compliance Officer and Board of Directors on compliance issues, policies and procedures, and changes to the Compliance Plan. The Compliance Committee shall, at a minimum, include the Compliance Officer and other members of management necessary to meet the requirements of this CIA (e.g., senior executives of relevant departments). The Compliance Officer shall chair the Compliance Committee and the Committee shall support the Compliance Officer in fulfilling his/her responsibilities (e.g., shall assist in the analysis of the organization's risk areas and shall oversee monitoring of internal and external audits and investigations).

ACPA shall report to the OIG, in writing, any changes in the composition of the Compliance Committee, or any actions or changes that would affect the Compliance Committee's ability to perform the duties necessary to meet the obligations in this CIA, within 15 days after such a change.

B. Written Standards.

1. *Code of Conduct.* ACPA represents that pursuant to its Compliance Plan, it is governed by a written Code of Conduct. To the extent not already done, ACPA shall distribute the Code of Conduct to all Covered Persons within 90 days after the Effective Date. ACPA shall make the promotion of, and adherence to, the Code of Conduct an element in evaluating the performance of all employees. The Code of Conduct shall, at a minimum, set forth:

a. ACPA's commitment to full compliance with all Federal health care program requirements;

b. ACPA's requirement that all of its Covered Persons shall be expected to comply with all Federal health care program requirements and with ACPA's own Policies and Procedures as implemented pursuant to this Section III.B (including the requirements of this CIA);

c. the requirement that all of ACPA's Covered Persons shall be expected to report to the Compliance Officer or other appropriate individual designated by ACPA suspected violations of any Federal health care program requirements or of ACPA's own Policies and Procedures;

d. the possible consequences to both ACPA and Covered Persons of failure to comply with Federal health care program requirements and with ACPA's own Policies and Procedures and the failure to report such noncompliance; and

e. the right of all individuals to use the Disclosure Program described in Section III.D, and ACPA's commitment to nonretaliation and to maintain, as appropriate, confidentiality and anonymity with respect to such disclosures.

Within 90 days after the Effective Date, each Covered Person shall certify, in writing, that he or she has received, read, understood, and shall abide by ACPA's Code of Conduct. New Covered Persons shall receive the Code of Conduct and shall complete the required certification within 30 days after becoming a Covered Person or within 90 days after the Effective Date, whichever is later.

ACPA shall periodically review the Code of Conduct to determine if revisions are appropriate and shall make any necessary revisions based on such review. Any revised Code of Conduct shall be distributed within 30 days after any revisions are finalized. Each Covered Person shall certify, in writing, that he or she has received, read, understood, and shall abide by the revised Code of Conduct within 30 days after the distribution of the revised Code of Conduct.

2. *Policies and Procedures*. Within 120 days after the Effective Date, ACPA shall implement (to the extent it has not already done so) written Policies and Procedures regarding the operation of ACPA's compliance program and its compliance with Federal health care program requirements.

At a minimum, the Policies and Procedures shall address:

a. the subjects relating to the Code of Conduct identified in Section III.B.1; and

b. the need for compliance in connection with all submissions for professional medical services.

To the extent ACPA has not already done so, within 120 days after the Effective Date, the relevant portions of the Policies and Procedures shall be distributed to all individuals whose job functions relate to those Policies and Procedures. Appropriate and knowledgeable staff shall be available to explain the Policies and Procedures.

At least annually (and more frequently, if appropriate), ACPA shall assess and update as necessary the Policies and Procedures. Within 30 days after the effective date of any revisions, the relevant portions of any such revised Policies and Procedures shall be distributed to all individuals whose job functions relate to those Policies and Procedures.

C. Training and Education.

1. *General Training.* Within 120 days after the Effective Date, ACPA shall provide at least one hour of General Training to each Covered Person. This training, at a minimum, shall explain ACPA's:

a. CIA requirements; and

b. ACPA's Compliance Program (including the Code of Conduct and the Policies and Procedures as they pertain to general compliance issues).

New Covered Persons shall receive the General Training described above within 30 days after becoming a Covered Person or within 90 days after the Effective Date, whichever is later. After receiving the initial General Training described above, each Covered Person shall receive at least one hour of General Training annually.

2. *Specific Training.* Within 120 days after the Effective Date, each Relevant Covered Person shall receive at least two hours of Specific Training in addition to the General Training required above. This Specific

Training shall include a discussion of:

a. the obligation to receive, process, and adjudicate in a timely and accurate manner claims for services rendered to Federal health care program beneficiaries;

b. the personal obligation of each individual involved in the claim processing and payment process to ensure that such billings are accurate;

c. applicable reimbursement statutes, regulations, and program requirements and directives, including 31 Pa. Code 154.18;

d. the legal sanctions for improper billings (including the submission of false or inaccurate information);

e. examples of proper and improper claims intake, payment and adjudication practices; and

f. the personal obligation of each individual to ensure that claims intake, payment and adjudication meets Federal health care program requirements and ACPA's policies.

Relevant Covered Persons shall receive this training within 30 days after the beginning of their employment or becoming Relevant Covered Persons, or within 120 days after the Effective Date, whichever is later. An ACPA employee who has completed the Specific Training shall review a new Relevant Covered Person's work, to the extent that the work relates to the preparation or submission of claims for reimbursement from any Federal health care program, until such time as the new Relevant Covered Person completes his or her Specific Training. After receiving the initial Specific Training described in this Section, each Relevant Covered Person shall receive at least one hour of Specific Training annually.

3. *Certification.* Each individual who is required to attend training shall certify, in writing, or in electronic form, if applicable, that he or she has received the required training. The certification shall specify the type of training received and the date received. The Compliance Officer (or designee) shall retain the certifications, along with all course materials. These shall be made available to the OIG, upon request.

4. *Qualifications of Trainer.* Persons providing the training shall be knowledgeable about the subject area.

5. *Update of Training.* ACPA shall annually review the training, and, where appropriate, update the training to reflect changes in Federal health care program requirements, any issues discovered during internal audits or the IRO Review, and any other relevant information.

6. *Computer-based Training.* ACPA may provide the training required under this CIA through appropriate computer-based training approaches. If ACPA chooses to provide computer-based training, it shall make available appropriately qualified and knowledgeable staff or trainers to answer questions or provide additional information to the individuals receiving such training.

7. *Credit for Prior Training.* For the purpose of this Section, ACPA shall receive credit for any general training or specific training provided to Covered Persons and/or relevant covered persons within four months preceding the Effective Date.

D. Disclosure Program.

ACPA represents that it has established a Disclosure Program that includes a mechanism (e.g., a toll-free compliance telephone line) to enable individuals to disclose, to the Compliance Officer or some other person who is not in the disclosing individual's chain of command, any identified issues or questions associated with ACPA's policies, conduct, practices, or procedures with respect to a Federal health care program believed by the individual to be a potential violation of criminal, civil, or administrative law or Medicaid contract. ACPA shall appropriately publicize the existence of the disclosure mechanism (e.g., via periodic e-mails to employees or by posting the information in prominent common areas).

The Disclosure Program shall emphasize a nonretribution, nonretaliation policy, and shall include a reporting mechanism for anonymous communications for which appropriate confidentiality shall be maintained. Upon receipt of a disclosure, the Compliance Officer (or designee) shall gather all relevant information from the disclosing individual. The Compliance Officer (or designee) shall make a preliminary, good faith inquiry into the allegations set forth in every disclosure to ensure that he or she has obtained all of the information necessary to determine whether a further review should be conducted. For any disclosure that is sufficiently specific so that it reasonably:

(1) permits a determination of the appropriateness of the alleged improper practice; and (2) provides an opportunity for taking corrective action, ACPA shall conduct an internal review of the allegations set forth in the disclosure and ensure that proper follow-up is conducted.

The Compliance Officer (or designee) shall maintain a disclosure log, which shall include a record and summary of each disclosure received (whether anonymous or not), the status of the respective internal reviews, and any corrective action taken in response to the internal reviews. The disclosure log shall be made available to the OIG, upon request.

E. Ineligible Persons.

1. *Definitions*. For purposes of this CIA:

a. an "Ineligible Person" shall include an individual or entity who:

i. is currently excluded, debarred, suspended, or otherwise ineligible to participate in the Federal health care programs or in Federal procurement or nonprocurement programs; or

ii. with regard to whom ACPA receives actual notice that such individual or entity has been convicted of a criminal offense that falls within the ambit of 42 U.S.C. § 1320a-7(a), but has not yet been excluded, debarred, suspended, or otherwise declared ineligible.

b. "Exclusion Lists" include:

i. the HHS/OIG List of Excluded Individuals/Entities (available through the Internet at http://oig.hhs.gov); and

ii. the General Services Administration's List of Parties Excluded from Federal Programs (available through the Internet at http://epls.arnet.gov).

c. "Screened Persons" include prospective and current officers, directors, employees, contractors, and agents of ACPA.

2. *Screening Requirements*. ACPA shall ensure that all Screened Persons are not Ineligible Persons, by implementing the following screening requirements.

a. ACPA shall screen all Screened Persons against the Exclusion Lists prior to engaging their services and, as part of the hiring or contracting process, shall require such persons to disclose whether they are an Ineligible Person.

b. ACPA shall screen all Screened Persons against the Exclusion Lists within 90 days after the Effective Date and on an annual basis thereafter.

c. ACPA shall implement a policy requiring all Screened Persons to disclose immediately any debarment, exclusion, suspension, or other event that makes that person an Ineligible Person.

Nothing in this Section affects the responsibility of (or liability for) ACPA to refrain from billing Federal health care programs for items or services furnished, ordered, or prescribed by an Ineligible Person.

3. *Removal Requirement.* If ACPA has actual notice that a Screened Person has become an Ineligible Person, ACPA shall remove such person from responsibility for, or involvement with, ACPA's business operations related to the Federal health care programs and shall remove such person from any position for which the person's compensation or the items or services furnished, ordered, or prescribed by the person are paid in whole or part, directly or indirectly, by Federal health care programs or otherwise with Federal funds at least until such time as the person is reinstated into participation in the Federal health care programs.

4. *Pending Charges and Proposed Exclusions.* If ACPA has actual notice that a Screened Person is charged with a criminal offense that falls within the ambit of 42 U.S.C. §§ 1320a-7(a), 1320a-7(b)(1)-(3), or is proposed for exclusion during his or her employment or contract term, ACPA shall take all appropriate actions to ensure that the responsibilities of that person have not and shall not adversely affect the accuracy of any claims submitted to any Federal health care program.

F. Notification of Government Investigation or Legal Proceedings.

Unless otherwise ordered by a court, within 30 days after discovery, ACPA shall notify the OIG, in writing, of any ongoing investigation or legal proceeding known to ACPA conducted or brought by a governmental entity or its agents involving an allegation that ACPA has committed a crime or has engaged in fraudulent activities. This notification shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding. Unless

otherwise ordered by a court, ACPA shall also provide written notice to the OIG within 30 days after the resolution of the matter, and shall provide the OIG with a description of the findings and/or results of the investigation or proceedings, if any.

G. Reporting.

1. *Overpayments.*

a. Definition of Overpayments. For purposes of this CIA, an "Overpayment" shall mean the amount of money ACPA has received in excess of the amount due and payable under any Federal health care program requirements.

b. Reporting of Overpayments. If, at any time, ACPA identifies or learns of any Overpayment, ACPA shall notify the payor (e.g., Medicare fiscal intermediary or carrier) within 30 days after identification of the Overpayment and take remedial steps within 60 days after identification (or such additional time as may be agreed to by the payor) to correct the problem, including preventing the underlying problem and the Overpayment from recurring. Also, within 30 days after identification of the Overpayment, ACPA shall repay the Overpayment to the appropriate payor to the extent such Overpayment has been quantified. If not yet quantified, within 30 days after identification, ACPA shall notify the payor of its efforts to quantify the Overpayment amount along with a schedule of when such work is expected to be completed. Notification and repayment to the payor shall be done in accordance with the payor's policies, and, for Medicare contractors, shall include the information contained on the Overpayment Refund Form, provided as Appendix A to this CIA. Notwithstanding the above, notification and repayment of any Overpayment amount that routinely is reconciled or adjusted pursuant to policies and procedures established by the payor should be handled in accordance with such policies and procedures.

2. *Reportable Events.*

a. Definition of Reportable Event. For purposes of this CIA, a "Reportable Event" means anything that involves:

i. a substantial Overpayment; or

ii. a matter that a reasonable person would consider a probable violation of criminal, civil, or administrative laws applicable to any Federal health care program for which penalties or exclusion may be authorized.

A Reportable Event may be the result of an isolated event or a series of occurrences.

b. Reporting of Reportable Events. If ACPA determines (after a reasonable opportunity to conduct an appropriate review or investigation of the allegations) through any means that there is a Reportable Event, ACPA shall notify OIG, in writing, within 30 days after making the determination that the Reportable Event exists. The report to OIG shall include the following information:

i. If the Reportable Event results in an Overpayment, the report to OIG shall be made at the same time as the notification to the payor required in Section III.G.1, and shall include all of the information on the Overpayment Refund Form, as well as:

(A) the payor's name, address, and contact person to whom the Overpayment was sent; and

(B) the date of the check and identification number (or electronic transaction number) by which the Overpayment was repaid/refunded;

ii. a complete description of the Reportable Event, including the relevant facts, persons involved, and legal and Federal health care program authorities implicated;

iii. a description of ACPA's actions taken to correct the Reportable Event; and

iv. any further steps ACPA plans to take to address the Reportable Event and prevent it from recurring.

IV. REVIEW PROCEDURES

A. *General Description.*

1. Retention of Independent Review Organization. Within 60 days after the Effective Date, ACPA shall retain an entity (or entities), such as an accounting, auditing, or consulting firm (hereinafter "Independent Review Organization" or "IRO"), to perform reviews to assist ACPA in assessing and evaluating ACPA's compliance with the claims payment obligations set forth in paragraph III.2 of the Settlement Agreement and with other requirements applicable to managed care organizations doing business with Medicare, Medicaid, and other Federal health care programs, and with certain other obligations set forth in this CIA and the Settlement Agreement. Each IRO retained by ACPA shall have expertise in the processing, adjudication, reporting and other aspects of the claims payment process, as well as all other requirements applicable to managed care organizations doing business with Medicare, Medicaid, and other Federal health care programs and in the general requirements of the Federal health care program(s) from which ACPA seeks reimbursement. Each IRO shall assess, along with ACPA, whether it can perform the IRO review in a professionally independent fashion taking into account any other business relationships or engagements that may exist.

2. Claims Reviews. ACPA, through its internal audit personnel, shall conduct annual reviews to analyze ACPA's compliance with the obligations set forth in paragraph III.2 of the Settlement Agreement and other requirements applicable to managed care organizations doing business with Medicare, Medicaid, and other Federal health care programs ("Claims Review") and, to the extent applicable, shall analyze whether ACPA sought payment for certain unallowable costs ("Unallowable Cost Review"). The Claims Reviews shall be conducted pursuant to the Claims Review Workplan developed pursuant to section IV.B below. At a minimum the Claims Review shall include a Discovery Sample and, if necessary, a Full Sample of claims submitted to ACPA to determine whether ACPA complied with the claims payment obligations set forth in paragraph III.2 of the Settlement Agreement. The claims shall be reviewed based on the supporting documentation available at ACPA's office or under ACPA's control and applicable regulations and guidance to determine whether each claim was correctly handled.

a. *Discovery Sample.* ACPA shall randomly select a sample of 100

claims to be reviewed. If the Error Rate for the Discovery Sample is less than 5%, no additional sampling is required. (Note: The guidelines listed above do not imply that this is an acceptable error rate. Accordingly, ACPA should, as appropriate, further analyze any errors identified in the Discovery Sample. ACPA recognizes that OIG or any other HHS component, in its discretion and as authorized by statute, regulation, or other appropriate authority may also analyze or review Claims included, or errors identified, in the Discovery Sample or any other segment of the universe.) If the Discovery Sample indicates that the Error Rate is 5% or greater, a Full Sample shall be reviewed.

b. *Full Sample.* If necessary, ACPA, or the IRO if section IV.A.5 applies, shall perform an additional sample of claims using commonly accepted sampling methods and in accordance with the workplan.

c. *Systems Review.* If the Discovery Sample identifies an Error Rate of 5% or greater, ACPA or the IRO, or the IRO if section IV.A.5 applies, shall also conduct a Systems Review. Specifically, for each claim in the Discovery Sample and Full Sample that resulted in an error, ACPA, or the IRO, if applicable, shall perform a "walk through" of the system(s) and process(es), that generated the claim to identify any problems or weaknesses that may have resulted in the identified error. ACPA, or the IRO, if applicable, shall provide its observations and recommendations on suggested improvements to the system(s) and the process(es) that generated the claim.

3. Frequency of Claims Review. The Claims Review shall be performed annually and shall cover each of the Reporting Periods. ACPA, or the IRO if section IV.A.5 applies, shall perform all components of the Claims Review. The IRO shall perform a verification review, described in Section IV.A.4, below.

4. IRO Verification Review. The IRO shall conduct a review of at least 20% of the sampling units reviewed by ACPA in its internal Claims Review ("Verification Review").

As part of ACPA's Annual Report, the IRO shall submit a report that

verifies that the requirements outlined in Section IV and in Appendix B to this CIA have been satisfied and shall report the results, sampling unit by sampling unit, of the Verification Review performed.

5. IRO Claims Reviews: Following its review of ACPA's Annual Report, if, in its sole discretion, OIG determines that ACPA's internal reviews were not satisfactory, OIG can require that all aspects of future Claims Reviews be done by the IRO.

6. Frequency of Unallowable Cost Review. To the extent applicable, the IRO shall perform the Unallowable Cost Review for the first Reporting Period.

7. Retention of Records. The IRO and ACPA shall retain and make available to OIG, upon request, all work papers, supporting documentation, correspondence, and draft reports (those exchanged between the IRO and ACPA) related to the reviews.

B. *Claims Review Workplan.* Within 60 days after the IRO's retention, ACPA and the IRO shall submit to OIG a proposed work plan for the first annual claims review. The OIG shall approve or modify the proposed work plan within 30 days of submission.

C. *Claims Review Report.* Depending on whether ACPA conducted an internal Claims Review with an IRO Verification Review or the IRO conducted the Claims Review, ACPA and/or the IRO shall prepare a report based upon the Claims Review performed (the "Claims Review Report"). Information to be included in the Claims Review Report shall be detailed as part of the Claims Review Workplan submitted pursuant to Section IV.B above. The following information shall be included in the Claims Review Report for each Discovery Sample and Full Sample (if applicable).

1. *Claims Review Methodology.*

a. Sampling Unit. A description of the Item as that term is utilized for the Claims Review.

b. Claims Review Population. A description of the Population subject to the Claims Review

c. Claims Review Objective. A clear statement of the objective intended to be achieved by the Claims Review.

d. Sampling Frame. A description of the sampling frame, which is the totality of Items from which the Discovery Sample and, if any, Full Sample has been selected and an explanation of the methodology used to identify the sampling frame.

e. Source of Data. A description of the specific documentation relied upon by when performing the Claims Review.

f. Review Protocol. A narrative description of how the Claims Review was conducted and what was evaluated.

2. *Statistical Sampling Documentation.*

a. The number of Items appraised in the Discovery Sample and, if applicable, in the Full Sample.

b. A copy of the printout of the random numbers generated by the "Random Numbers" function of the statistical sampling software used by the IRO.

c. A copy of the statistical software printout(s) estimating how many Items are to be included in the Full Sample, if applicable.

d. A description or identification of the statistical sampling software package used to select the sample and determine the Full Sample size, if applicable.

3. *Claims Review Findings.*

a. Narrative Results.

i. A description of ACPA's claims payment processing system(s), including the identification, by position description, of the personnel involved in claims payment processing.

ii. A narrative explanation of ACPA's and the IRO's findings and supporting rationale (including reasons for errors, patterns noted, etc.) regarding the Claims Review, including the results of the Discovery Sample, and the results of the Full Sample (if any).

b. Quantitative Results.

i. Total number and percentage of instances in which the IRO determined that errors were made.

ii. Error Rate in the sample.

4. *Systems Review.* Observations, findings, and recommendations on possible improvements to the system(s) and process(es) that generated the errors

5. *Credentials.* The names and credentials of the individuals who: (1) designed the statistical sampling procedures and the review methodology utilized for the Claims Review; and (2) performed the Claims Review.

D. *Unallowable Cost Review.* To the extent applicable, the IRO shall conduct a review of ACPA's compliance with the unallowable cost provisions of the Settlement Agreement. The IRO shall determine whether ACPA has complied with its obligations not to charge to, or otherwise seek payment from, Federal or State payors for unallowable costs (as defined in the Settlement Agreement) and its obligation to identify to applicable Federal or State payors any unallowable costs included in payments previously sought from the United States, or any State Medicaid program. This unallowable cost analysis shall include, but not be limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by ACPA or any of its subsidiaries. To the extent such cost reports, cost statements, information reports or payment requests, even if already settled, have been adjusted to account for the effect of the inclusion of the unallowable costs, the IRO will determine if such adjustments were proper. In making this determination, the IRO may need to review cost reports and/or financial statements from the year in which the Settlement Agreement was executed, as well as from previous years.

E. *Unallowable Cost Review Report.* If applicable, the IRO shall prepare a report based upon the Unallowable Cost Review performed. The Unallowable Cost Review Report shall include the IRO's findings and supporting rationale regarding the Unallowable Costs Review and whether ACPA has complied with its obligation not to charge to, or otherwise seek payment from, Federal or State payors for unallowable costs (as defined in the Settlement Agreement) and its obligation to identify to applicable Federal or State payors any unallowable costs included in payments previously sought from such payor.

F. *Validation Review.* In the event the OIG has reason to believe that: (a) ACPA's Claims Review or Unallowable Cost Review fails to conform to the requirements of this

CIA; or (b) ACPA and/or the IRO's findings or Claims Review results are inaccurate, the OIG may, at its sole discretion, conduct its own review to determine whether the Claims Review or Unallowable Cost Review complied with the requirements of the CIA and/or the findings or Claims Review results are inaccurate ("Validation Review"). ACPA agrees to pay for the reasonable cost of any such review performed by the OIG or any of its designated agents so long as it is initiated before one year after ACPA's final submission (as described in section II) is received by the OIG.

Prior to initiating a Validation Review, the OIG shall notify ACPA of its intent to do so and provide a written explanation of why the OIG believes such a review is necessary. To resolve any concerns raised by the OIG, ACPA may request a meeting with the OIG to discuss the results of any Claims Review or Unallowable Cost Review submissions or findings; present any additional or relevant information to clarify the results of the Claims Review or Unallowable Cost Review to correct the inaccuracy of the Claims Review; and/or propose alternatives to the proposed Validation Review. ACPA agrees to provide any additional information as may be requested by the OIG under this section in an expedited manner. The OIG will attempt in good faith to resolve any Claims Review or Unallowable Cost Review with ACPA prior to conducting a Validation Review. However, the final determination as to whether or not to proceed with a Validation Review shall be made at the sole discretion of the OIG.

G. *Independence Certification.* The IRO shall include in its report(s) to ACPA a certification or sworn affidavit that it has evaluated its professional independence with regard to the Claims Review or Unallowable Cost Review and that it has concluded that it was, in fact, independent.

V. NEW BUSINESS UNITS OR LOCATIONS

In the event that, after the Effective Date, ACPA changes locations or sells, closes, purchases, or establishes a new business unit or location related to the furnishing of items or services that may be reimbursed by Federal health care programs, ACPA shall notify the OIG of this fact as soon as possible, but no later than within 30 days after the date of change of location, sale, closure, purchase, or establishment. This notification shall include the address of the new business unit or location, phone number, fax number. Each new business unit or location shall be subject to all the requirements of this CIA.

VI. IMPLEMENTATION AND ANNUAL REPORTS

A. Implementation Report. Within 150 days after the Effective Date, ACPA shall submit a written report to OIG summarizing the status of its implementation of the

requirements of this CIA (Implementation Report). The Implementation Report shall, at a minimum, include:

1. the name, address, phone number, and position description of the Compliance Officer required by Section III.A, and a summary of other noncompliance job responsibilities the Compliance Officer may have;

2. the names and positions of the members of the Compliance Committee required by Section III.A;

3. a copy of ACPA's Code of Conduct required by Section III.B.1;

4. a copy of all Policies and Procedures required by Section III.B.2;

5. the number of individuals required to complete the Code of Conduct certification required by Section III.B.1, the percentage of individuals who have completed such certification, and an explanation of any exceptions (the documentation supporting this information shall be available to OIG, upon request);

6. the following information regarding each type of training required by Section III.C:

a. a description of such training, including a summary of the topics covered, the length of sessions and a schedule of training sessions;

b. the number of individuals required to be trained, percentage of individuals actually trained, and an explanation of any exceptions.

A copy of all training materials and the documentation supporting this information shall be available to OIG, upon request.

7. a description of the Disclosure Program required by Section III.D;

8. the following information regarding the IRO(s): (a) identity, address, and phone number; (b) a copy of the engagement letter; (c) a summary and description of any and all current and prior engagements and agreements between ACPA and the IRO; and (d) the proposed start and completion dates of the Claims Review and Unallowable Cost Review, if applicable;

9. a certification from the IRO regarding its professional independence and/or objectivity with respect to ACPA;

10. a description of the process by which ACPA fulfills the requirements of Section III.E regarding Ineligible Persons;

11. the name, title, and responsibilities of any person who is determined to be an Ineligible Person under Section III.E; the actions taken in response to the screening and removal obligations set forth in Section III.E; and the actions taken to identify, quantify, and repay any overpayments to Federal health care programs relating to items or services furnished, ordered or prescribed by an Ineligible Person;

12. a list of all of ACPA's locations (including locations and mailing addresses); the corresponding name under which each location is doing business; the corresponding phone numbers and fax numbers;

13. a description of ACPA's corporate structure, including identification of any parent and sister companies, subsidiaries, and their respective lines of business; and

14. the certifications required by Section VI.C.

B. Annual Reports. ACPA shall submit to the OIG annually a report with respect to the status of, and findings regarding, ACPA's compliance activities for each of the three Reporting Periods (Annual Report). Each Annual Report shall include, at a minimum:

1. any change in the identity, position description, or other noncompliance job responsibilities of the Compliance Officer and any change in the membership of the Compliance Committee required by Section III.A;

2. a summary of any significant changes or amendments to the Policies and Procedures required by Section III.B.2 and the reasons for such changes (e.g., change in contractor policy) and copies of any compliance-related Policies and Procedures;

3. the number of individuals required to complete the Code of Conduct certification required by Section III.B.1, the percentage of individuals who have completed such certification, and an explanation of any exceptions (the documentation supporting this information shall be available to OIG, upon request);

4. the following information regarding each type of training required by Section III.C:

a. a description of such training, including a summary of the topics covered, the length of sessions and a schedule of training sessions;

b. number of individuals required to be trained, percentage of individuals actually trained, and an explanation of any exceptions.

A copy of all training materials and the documentation supporting this information shall be available to the OIG, upon request.

5. a complete copy of all reports prepared pursuant to Section IV, along with a copy of the IRO's engagement letter;

6. ACPA's response and corrective action plan(s) related to any issues raised by the reports prepared pursuant to Section IV;

7. summary and description of any and all current and prior engagements and agreements between ACPA and the IRO, if different from what was submitted as part of the Implementation Report;

8. a certification from the IRO regarding its professional independence and/or objectivity with respect to ACPA;

9. a summary of Reportable Events (as defined in Section III.G) identified during the Reporting Period and the status of any corrective and preventative action relating to all such Reportable Events;

10. a summary of the disclosures in the disclosure log required by Section III.D that relate to Federal health care programs;

11. any changes to the process by which ACPA fulfills the requirements of Section III.E regarding Ineligible Persons;

12. the name, title, and responsibilities of any person who is determined to be an Ineligible Person under Section III.E; the actions taken by ACPA in response to the screening and removal obligations set forth in Section III.E; and the actions taken to identify, quantify, and repay any overpayments to Federal health care programs relating to items or services relating to items or services furnished, ordered or prescribed by an Ineligible Person;

13. a summary describing any ongoing investigation or legal proceeding required to have been reported pursuant to Section III.F. The summary shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding;

14. a description of all changes to the most recently provided list of ACPA's locations (including addresses) as required by Section V.; the corresponding name under which each location is doing business; the corresponding phone numbers and fax numbers; and

15. the certifications required by Section VI.C.

The first Annual Report shall be received by the OIG no later than 60 days after the end of the first Reporting Period. Subsequent Annual Reports shall be received by the OIG no later than the anniversary date of the due date of the first Annual Report.

C. Certifications. The Implementation and Annual Reports shall include a certification by the Compliance Officer that:

1. to the best of his or her knowledge, except as otherwise described in the applicable report, ACPA is in compliance with all of the requirements of this CIA;

2. he or she has reviewed the Report and has made reasonable inquiry regarding its content and believes that the information in the Report is accurate and truthful; and

3. ACPA has complied with its obligations under the Settlement Agreement: (a) not to resubmit to any Federal health care program payors any previously denied claims related to the Covered Conduct addressed in the Settlement Agreement, and not to appeal any such denials of claims; (b) not to charge to or otherwise seek payment from Federal or State payors for unallowable costs (as defined in the Settlement Agreement); and (c) to identify and adjust any past charges or claims for unallowable costs.

D. Designation of Information. ACPA shall clearly identify any portions of its submissions that it believes are trade secrets, or information that is commercial or financial and privileged or confidential, and therefore potentially exempt from disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. ACPA shall refrain from

identifying any information as exempt from disclosure if that information does not meet the criteria for exemption from disclosure under FOIA.

VII. NOTIFICATIONS AND SUBMISSION OF REPORTS

Unless otherwise stated in writing after the Effective Date, all notifications and reports required under this CIA shall be submitted to the following entities:

OIG:
Administrative and Civil Remedies Branch
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services
Cohen Building, Room 5527
330 Independence Avenue, S.W.
Washington, DC 20201
Telephone: 202.619.2078
Facsimile: 202.205.0604

ACPA:
James F. Dougherty, Compliance Officer
AmeriChoice of Pennsylvania
The Wanamaker Building
100 Penn Square East, 9th Floor
Philadelphia, PA 19107
Telephone: 215.832.4500
Facsimile: 215.832.4583

Unless otherwise specified, all notifications and reports required by this CIA may be made by certified mail, overnight mail, hand delivery, or other means, provided that there is proof that such notification was received. For purposes of this requirement, internal facsimile confirmation sheets do not constitute proof of receipt.

VIII. OIG INSPECTION, AUDIT, AND REVIEW RIGHTS

In addition to any other rights the OIG may have by statute, regulation, or contract, the OIG or its duly authorized representative(s) may examine or request copies of ACPA's books, records, and other documents and supporting materials and/or conduct on-site reviews of any of ACPA's locations for the purpose of verifying and evaluating: (a) ACPA's compliance with the terms of this CIA; and (b) ACPA's compliance with the requirements of the Federal health care programs in which it participates. The documentation described above shall be made available by ACPA to the OIG or its duly

authorized representative(s) at all reasonable times for inspection, audit, or reproduction. Furthermore, for purposes of this provision, the OIG or its duly authorized representative(s) may interview any of ACPA's employees, contractors, or agents who consent to be interviewed at the individual's place of business during normal business hours or at such other place and time as may be mutually agreed upon between the individual and the OIG. ACPA shall assist the OIG or its duly authorized representative(s) in contacting and arranging interviews with such individuals upon the OIG's request. ACPA's employees may elect to be interviewed with or without a representative of ACPA present.

IX. DOCUMENT AND RECORD RETENTION

ACPA shall maintain for inspection all documents and records relating to reimbursement from the Federal health care programs, or to compliance with this CIA, for four years (or longer if otherwise required by law).

X. DISCLOSURES

Consistent with HHS's FOIA procedures, set forth in 45 C.F.R. Part 5, the OIG shall make a reasonable effort to notify ACPA prior to any release by the OIG of information submitted by ACPA pursuant to its obligations under this CIA and identified upon submission by ACPA as trade secrets, or information that is commercial or financial and privileged or confidential, under the FOIA rules. With respect to such releases, ACPA shall have the rights set forth at 45 C.F.R. § 5.65(d).

XI. BREACH AND DEFAULT PROVISIONS

ACPA is expected to fully and timely comply with all of its CIA obligations. In the event ACPA fails to comply with any of its CIA obligations, in addition to the United States' remedies set forth in the Settlement Agreement, the OIG may seek stipulated penalties or exclusion pursuant to the following provisions and procedures:

A. Stipulated Penalties for Failure to Comply with Certain Obligations. As a contractual remedy, ACPA and the OIG hereby agree that failure to comply with certain obligations as set forth in this CIA may lead to the imposition of the following monetary penalties (hereinafter referred to as "Stipulated Penalties") in accordance with the following provisions.

1. A Stipulated Penalty of $2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day ACPA fails to

establish and implement any of the following obligations as described in Section III:

a. a Compliance Officer;

b. a Compliance Committee;

c. a written Code of Conduct;

d. written Policies and Procedures;

e. the training of Covered Persons;

f. a Disclosure Program;

g. Ineligible Persons screening and removal requirements; and

h. Notification of Government investigations or legal proceedings.

2. A Stipulated Penalty of $2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day ACPA fails to engage an IRO, as required in Section IV.

3. A Stipulated Penalty of $2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day ACPA fails to submit Implementation and Annual Reports to the OIG in accordance with the requirements of Section VI by the deadlines for submission.

4. A Stipulated Penalty of $2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day ACPA fails to submit the annual Claims Review Report in accordance with the requirements of Section IV.

5. A Stipulated Penalty of $1,500 for each day ACPA fails to grant access to the information or documentation as required in Section VIII. (This Stipulated Penalty shall begin to accrue on the date ACPA fails to grant access.)

6. A Stipulated Penalty of $5,000 for each false certification submitted by or on behalf of ACPA as part of its Annual Report, additional

documentation to a report (as requested by the OIG), or otherwise required by this CIA.

7. A Stipulated Penalty of $1,000 for each day ACPA fails to comply fully and adequately with any obligation of this CIA. The OIG shall provide notice to ACPA, stating the specific grounds for its determination that ACPA has failed to comply fully and adequately with the CIA obligation(s) at issue and steps ACPA shall take to comply with the CIA. (This Stipulated Penalty shall begin to accrue 10 days after ACPA receives this notice from the OIG of the failure to comply.) A Stipulated Penalty as described in this Subsection shall not be demanded for any violation for which the OIG has sought a Stipulated Penalty under Subsections 1-6 of this Section.

B. Timely Written Requests for Extensions. ACPA may, in advance of the due date, submit a timely written request for an extension of time to perform any act or file any notification or report required by this CIA. Notwithstanding any other provision in this Section, if the OIG grants the timely written request with respect to an act, notification, or report, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until one day after ACPA fails to meet the revised deadline set by the OIG. Notwithstanding any other provision in this Section, if the OIG denies such a timely written request, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until three business days after ACPA receives the OIG's written denial of such request or the original due date, whichever is later. A "timely written request" is defined as a request in writing received by the OIG at least five business days prior to the date by which any act is due to be performed or any notification or report is due to be filed.

C. Payment of Stipulated Penalties.

1. *Demand Letter.* Upon a finding that ACPA has failed to comply with any of the obligations described in Section XII.A and after determining that Stipulated Penalties are appropriate, the OIG shall notify ACPA of: (a) ACPA's failure to comply; and (b) the OIG's exercise of its contractual right to demand payment of the Stipulated Penalties (this notification is referred to as the "Demand Letter").

2. *Response to Demand Letter.* Within 10 days after the receipt of the

Demand Letter, ACPA shall either: (a) cure the breach to the OIG's satisfaction and pay the applicable Stipulated Penalties; or (b) request a hearing before an HHS administrative law judge (ALJ) to dispute the OIG's determination of noncompliance, pursuant to the agreed upon provisions set forth below in Section XI.E. In the event ACPA elects to request an ALJ hearing, the Stipulated Penalties shall continue to accrue until ACPA cures, to the OIG's satisfaction, the alleged breach in dispute. Failure to respond to the Demand Letter in one of these two manners within the allowed time period shall be considered a material breach of this CIA and shall be grounds for exclusion under Section XI.D.

3. *Form of Payment.* Payment of the Stipulated Penalties shall be made by certified or cashier's check, payable to: "Secretary of the Department of Health and Human Services," and submitted to the OIG at the address set forth in Section VIII.

4. *Independence from Material Breach Determination.* Except as set forth in Section XI.D.1.c, these provisions for payment of Stipulated Penalties shall not affect or otherwise set a standard for the OIG's decision that ACPA has materially breached this CIA, which decision shall be made at the OIG's discretion and shall be governed by the provisions in Section XI.D, below.

D. Exclusion for Material Breach of this CIA.

1. *Definition of Material Breach.* A material breach of this CIA means:

a. a failure by ACPA to report a Reportable Event, take corrective action, and make the appropriate refunds, as required in Section III.G;

b. a repeated or flagrant violation of the obligations under this CIA, including, but not limited to, the obligations addressed in Section XI.A;

c. a failure to respond to a Demand Letter concerning the payment of Stipulated Penalties in accordance with Section XI.C.; or

d. a failure to engage and use an IRO in accordance with Section IV.

2. *Notice of Material Breach and Intent to Exclude.* The parties agree that a material breach of this CIA by ACPA constitutes an independent basis for ACPA's exclusion from participation in the Federal health care programs. Upon a determination by the OIG that ACPA has materially breached this CIA and that exclusion is the appropriate remedy, the OIG shall notify ACPA of: (a) ACPA's material breach; and (b) the OIG's intent to exercise its contractual right to impose exclusion (this notification is hereinafter referred to as the "Notice of Material Breach and Intent to Exclude").

3. *Opportunity to Cure.* ACPA shall have 30 days from the date of receipt of the Notice of Material Breach and Intent to Exclude to demonstrate to the OIG's satisfaction that:

a. ACPA is in compliance with the obligations of the CIA cited by the OIG as being the basis for the material breach;

b. the alleged material breach has been cured; or

c. the alleged material breach cannot be cured within the 30-day period, but that: (i) ACPA has begun to take action to cure the material breach; (ii) ACPA is pursuing such action with due diligence; and (iii) ACPA has provided to the OIG a reasonable timetable for curing the material breach.

4. *Exclusion Letter.* If, at the conclusion of the 30-day period, ACPA fails to satisfy the requirements of Section XI.D.3, the OIG may exclude ACPA from participation in the Federal health care programs. The OIG shall notify ACPA in writing of its determination to exclude ACPA (this letter shall be referred to hereinafter as the "Exclusion Letter"). Subject to the Dispute Resolution provisions in Section XI.E, below, the exclusion shall go into effect 30 days after the date of ACPA's receipt of the Exclusion Letter. The exclusion shall have national effect and shall also apply to all other Federal procurement and nonprocurement programs. Reinstatement to program participation is not automatic. After the end of the period of exclusion, ACPA may apply for reinstatement by submitting a written request for reinstatement in accordance with the provisions at 42 C.F.R. §§ 1001.3001-.3004.

E. Dispute Resolution

1. *Review Rights.* Upon the OIG's delivery to ACPA of its Demand Letter or of its Exclusion Letter, and as an agreed-upon contractual remedy for the resolution of disputes arising under this CIA, ACPA shall be afforded certain review rights comparable to the ones that are provided in 42 U.S.C. § 1320a-7(f) and 42 C.F.R. Part 1005 as if they applied to the Stipulated Penalties or exclusion sought pursuant to this CIA. Specifically, the OIG's determination to demand payment of Stipulated Penalties or to seek exclusion shall be subject to review by an HHS ALJ and, in the event of an appeal, the HHS Departmental Appeals Board (DAB), in a manner consistent with the provisions in 42 C.F.R. §§ 1005.2-1005.21. Notwithstanding the language in 42 C.F.R. § 1005.2(c), the request for a hearing involving Stipulated Penalties shall be made within 10 days after receipt of the Demand Letter and the request for a hearing involving exclusion shall be made within 25 days after receipt of the Exclusion Letter.

2. *Stipulated Penalties Review.* Notwithstanding any provision of Title 42 of the OIG Code or Title 42 of the Code of Federal Regulations, the only issues in a proceeding for Stipulated Penalties under this CIA shall be: (a) whether ACPA was in full and timely compliance with the obligations of this CIA for which the OIG demands payment; and (b) the period of noncompliance. ACPA shall have the burden of proving its full and timely compliance and the steps taken to cure the noncompliance, if any. The OIG shall not have the right to appeal to the DAB an adverse ALJ decision related to Stipulated Penalties. If the ALJ agrees with the OIG with regard to a finding of a breach of this CIA and orders ACPA to pay Stipulated Penalties, such Stipulated Penalties shall become due and payable 20 days after the ALJ issues such a decision unless ACPA requests review of the ALJ decision by the DAB. If the ALJ decision is properly appealed to the DAB and the DAB upholds the determination of the OIG, the Stipulated Penalties shall become due and payable 20 days after the DAB issues its decision.

3. *Exclusion Review.* Notwithstanding any provision of Title 42 of the OIG Code or Title 42 of the Code of Federal Regulations, the only issues in a proceeding for exclusion based on a material breach of this CIA shall be:

a. whether ACPA was in material breach of this CIA;

b. whether such breach was continuing on the date of the Exclusion Letter; and

c. whether the alleged material breach could not have been cured within the 30-day period, but that: (i) ACPA had begun to take action to cure the material breach within that period; (ii) ACPA has pursued and is pursuing such action with due diligence; and (iii) ACPA provided to the OIG within that period a reasonable timetable for curing the material breach and ACPA has followed the timetable.

For purposes of the exclusion herein, exclusion shall take effect only after an ALJ decision favorable to the OIG, or, if the ALJ rules for ACPA, only after a DAB decision in favor of the OIG. ACPA's election of its contractual right to appeal to the DAB shall not abrogate the OIG's authority to exclude ACPA upon the issuance of an ALJ's decision in favor of the OIG. If the ALJ sustains the determination of the OIG and determines that exclusion is authorized, such exclusion shall take effect 20 days after the ALJ issues such a decision, notwithstanding that ACPA may request review of the ALJ decision by the DAB. If the DAB finds in favor of the OIG after an ALJ decision adverse to the OIG, the exclusion shall take effect 20 days after the DAB decision. ACPA shall waive its right to any notice of such an exclusion if a decision upholding the exclusion is rendered by the ALJ or DAB. If the DAB finds in favor of ACPA, ACPA shall be reinstated effective on the date of the original exclusion.

4. *Finality of Decision.* The review by an ALJ or DAB provided for above shall not be considered to be an appeal right arising under any statutes or regulations. Consequently, the parties to this CIA agree that the DAB's decision (or the ALJ's decision if not appealed) shall be considered final for all purposes under this CIA.

XII. EFFECTIVE AND BINDING AGREEMENT

Consistent with the provisions in the Settlement Agreement pursuant to which this CIA is entered, and into which this CIA is incorporated, ACPA and the OIG agree as follows:

A. This CIA shall be binding on the successors, assigns, and transferees of ACPA.

B. This CIA shall become final and binding on the date the final signature is

obtained on the CIA.

C. Any modifications to this CIA shall be made with the prior written consent of the parties to this CIA.

D. The OIG may agree to a suspension of ACPA's obligations under the CIA in the event of ACPA's cessation of participation in Federal health care programs. If ACPA withdraws from participation in Federal health care programs and is relieved of its CIA obligations by the OIG, ACPA shall notify the OIG at least 30 days in advance of ACPA's intent to reapply as a participating provider or supplier with any Federal health care program. Upon receipt of such notification, the OIG shall evaluate whether the CIA should be reactivated or modified.

E. The undersigned ACPA signatories represent and warrant that they are authorized to execute this CIA. The undersigned The OIG signatories represent that they are signing this CIA in their official capacities and that they are authorized to execute this CIA.

ON BEHALF OF THE INSPECTOR GENERAL
OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

DATED: 6/21/05

BY: _____

LEWIS MORRIS
Chief Counsel to the Inspector General
Office of Inspector General
U. S. Department of Health and Human Services

ON BEHALF OF AMERICHOICE OF PENNSYLVANIA, INC.

DATED:_____ BY:_____
MARY MCSORLEY
Chief Executive Officer, ACPA

DATED: 6/29/05 BY: J. Sedwick Sollers
J. SEDWICK SOLLERS III, ESQ.
Counsel for ACPA

DATED: 6/29/05 BY: James Backstrom/mjc
JAMES A. BACKSTROM, ESQ.
Counsel for ACPA

ON BEHALF OF AMERICHOICE OF PENNSYLVANIA, INC.

DATED:_____

BY: _____
MARY MCSORLEY
Chief Executive Officer, ACPA

DATED:_____

BY: _____
J. SEDWICK SOLLERS III, ESQ.
Counsel for ACPA

DATED:_____

BY: _____
JAMES A. BACKSTROM, ESQ.
Counsel for ACPA

APPENDIX A

OVERPAYMENT REFUND

TO BE COMPLETED BY MEDICARE CONTRACTOR

Date:_____
Contractor Deposit Control #_____ Date of Deposit: _____
Contractor Contact Name:_____ Phone #_____
Contractor Address:_____
Contractor Fax:

TO BE COMPLETED BY PROVIDER/PHYSICIAN/SUPPLIER

Please complete and forward to Medicare Contractor. This form, or a similar document containing the following information, should accompany every voluntary refund so that receipt of check is properly recorded and applied.

PROVIDER/PHYSICIAN/SUPPLIERNAME_____
ADDRESS_____
PROVIDER/PHYSICIAN/SUPPLIER #_____ CHECK NUMBER#_____
CONTACT PERSON:_____ PHONE #_____
AMOUNT OF CHECK $_____ CHECK DATE_____

REFUND INFORMATION

For each Claim, provide the following:

Patient Name_____ HIC #_____
Medicare Claim Number_____ Claim Amount Refunded $_____
Reason Code for Claim Adjustment:_____ (Select reason code from list below. Use one reason per claim)

(Please list all claim numbers involved. Attach separate sheet, if necessary)

*Note: If Specific Patient/HIC/Claim #/Claim Amount data not available for all claims due to Statistical Sampling, please indicate methodology and formula used to determine amount and reason for overpayment:*_____

For Institutional Facilities Only:

Cost Report Year(s) _____
(If multiple cost report years are involved, provide a breakdown by amount and corresponding cost report year.)

For OIG Reporting Requirements:

Do you have a Corporate Integrity Agreement with OIG? _____ Yes
No

Reason Codes:

Billing/Clerical Error
01 - Corrected Date of Service
02 - Duplicate
03 - Corrected CPT Code
04 - Not Our Patient(s)
05 - Modifier Added/Removed
06 - Billed in Error
07 - Corrected CPT Code

MSP/Other Payer Involvement
08 - MSP Group Health Plan Insurance
09 - MSP No Fault Insurance
10 - MSP Liability Insurance
11 - MSP, Workers Comp.(Including Black Lung
12 - Veterans Administration

Miscellaneous
13 - Insufficient Documentation
14 - Patient Enrolled in an HMO
15 - Services Not Rendered
16 - Medical Necessity
17 - Other (Please Specify) _____

APPENDIX B

INDEPENDENT REVIEW ORGANIZATION

This Appendix contains the requirements relating to the Independent Review Organization (IRO) required by Section IV of the CIA.

A. IRO Engagement.

ACPA shall engage an IRO that possesses the qualifications set forth in Paragraph B, below, to perform the responsibilities in Paragraph C, below. The IRO shall conduct the review in a professionally independent and/or objective fashion, as set forth in Paragraph D. Within 30 days after OIG receives written notice of the identity of the selected IRO, OIG will notify ACPA if the IRO is unacceptable. Absent notification from OIG that the IRO is unacceptable, ACPA may continue to engage the IRO.

If ACPA engages a new IRO during the term of the CIA, this IRO shall also meet the requirements of this Appendix. If a new IRO is engaged, ACPA shall submit the information identified in Section VI.A.8 to OIG within 30 days of engagement of the IRO. Within 30 days after OIG receives written notice of the identity of the selected IRO, OIG will notify ACPA if the IRO is unacceptable. Absent notification from OIG that the IRO is unacceptable, ACPA may continue to engage the IRO.

B. IRO Qualifications.

The IRO shall:

1. assign individuals to conduct the Verification Review and, if applicable, the Claims Review and Unallowable Cost Review engagements, who have expertise in the claims payment process and other requirements applicable to managed care organizations doing business with Medicare, Medicaid, and other Federal health care programs;

2. assign individuals to design and select the Verification Review sample and, if applicable, the Claims Review sample who are knowledgeable about the appropriate statistical sampling techniques; and

3. have sufficient staff and resources to conduct the reviews required by the CIA on a timely basis.

C. IRO Responsibilities.

The IRO shall:

1. perform each Verification Review and, if applicable, each Claims Review in accordance with the specific requirements of the CIA;

2. follow all applicable Medicare, Medicaid, and other applicable rules and in making assessments in the Verification Review and, if applicable, the Claims Review;

3. if in doubt of the application of a particular Medicare, Medicaid, or other applicable policy or regulation, request clarification from the appropriate authority (e.g., fiscal intermediary or carrier);

4. respond to all OIG inquires in a prompt, objective, and factual manner; and

5. prepare timely, clear, well-written reports that include all the information required by Section IV of the CIA.

D. IRO Independence/Objectivity.

The IRO must perform the Verification Review and, if applicable, the Claims Review in a professionally independent and/or objective fashion, as appropriate to the nature of the engagement, taking into account any other business relationships or engagements that may exist between the IRO and ACPA.

E. IRO Removal/Termination.

1. *Provider.* If ACPA terminates its IRO during the course of the engagement, ACPA must submit a notice explaining its reasons to OIG no later than 30 days after termination. ACPA must engage a new IRO in accordance with Paragraph A of this Appendix.

2. *OIG Removal of IRO.* In the event OIG has reason to believe that the IRO does not possess the qualifications described in Paragraph B, is not independent and/or objective as set forth in Paragraph D, or has failed to carry out its responsibilities as described in Paragraph C, OIG may, at its sole discretion, require ACPA to engage a new IRO in accordance with Paragraph A of this Appendix.

Prior to requiring ACPA to engage a new IRO, OIG shall notify ACPA of its intent to do so and provide a written explanation of why OIG believes such a step is necessary. To resolve any concerns raised by OIG, ACPA may request a meeting with

OIG to discuss any aspect of the IRO's qualifications, independence or performance of its responsibilities and to present additional information regarding these matters. ACPA shall provide any additional information as may be requested by OIG under this Paragraph in an expedited manner. OIG will attempt in good faith to resolve any differences regarding the IRO with ACPA prior to requiring ACPA to terminate the IRO. However, the final determination as to whether or not to require ACPA to engage a new IRO shall be made at the sole discretion of OIG.