

ATTACHMENT A

MODEL SAFETY NET PHARMACY ADDENDUM TO PHARMACY CONTRACT Version 2

1. Purpose of Safety Net Pharmacy Addendum.

The purpose of this Safety Net Pharmacy Addendum (“Addendum”) is to apply special terms and conditions to the agreement by and between _____ (herein "Part D Plan Sponsor") and _____ (herein “Provider”) for administration of Medicare Prescription Drug Benefit program at pharmacies and dispensaries of Provider authorized by Part D of Title XVIII of the Social Security Act, as amended by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), Pub. L. 108-173, and implementing regulations in Parts 403, 411, 417, 422 and 423 of Title 42, Code of Federal Regulations. To the extent that any provision of the pharmacy contract between the Part D Plan Sponsor and Provider is inconsistent with any provision of this Addendum, the provisions of this Addendum shall supersede all such pharmacy contract provisions.

2. Definitions.

For purposes of the pharmacy contract between Part D Plan Sponsor and Provider and this Addendum, the following terms and definitions shall apply:

- (a) The term "Part D Plan Sponsor" has the same definition as in 42 C.F.R. § 423.4. The term "Part D Plan" has the same definition as in 42 C.F.R. § 423.4;
- (b) The term "Provider" means an entity identified by name in Section 1 of this Safety Net Pharmacy Addendum that is: a Federally Qualified Health Center (FQHC), 340B covered entity, free-standing site that utilizes National Health Service Corps Providers, Rural Health Clinic (RHC), or other safety-net provider, which operates or contracts for pharmacy services from one or more pharmacies or dispensaries;
- (c) The term “Safety-Net Provider” means a provider that by mandate or mission organizes and delivers a significant level of healthcare and other health-related services to the uninsured, Medicaid, and other vulnerable populations. (Please refer to “Information for Part D Sponsors on Contracting with Safety Net Pharmacy Providers” for more detail);
- (d) The term “pharmacy contract between Part D Plan Sponsor and Provider” means the contract (as well as any addenda thereto) to which this Addendum is appended;
- (e) The term "Centers for Medicare and Medicaid Services" means the agency of that name within the U.S. Department of Health and Human Services;

(f) For the purposes of this Addendum, a Safety Net Pharmacy Provider refers to a pharmacy or dispensary that is owned or operated by a Provider or that a Provider contracts with for pharmacy services;

(g) The term Federally Qualified Health Center (FQHC) has the meaning given that term in §1905(l)(2)(B) of the Social Security Act as well as any implementing regulations;

(h) The term "340B Participating Provider" means a covered entity as defined in Section 340B(a)(4) of the Public Health Service Act [42 U.S.C. § 256b(a)(4)] that has enrolled in the 340B Drug Pricing Program;

(i) The term National Health Service Corps Provider has the meaning given to the term in §331(a) of the Public Health Service Act [42 U.S.C. §254d(a)];

(j) The term "Rural Health Clinic" (RHC) has the meaning given that term in §1861(aa)(2) of the Social Security Act;

(k) The term "dispensary" means a clinic where medicine is dispensed by a prescribing physician or other practitioner;

(l) The term "340B Drug Pricing Program" refers to the federal drug discount program established under Section 340B of the Public Health Service Act.

3. Persons Eligible for Services of Provider.

(a) The parties agree that the persons eligible for services of Provider shall be patients eligible for the Medicare prescription drug benefit under Part D of Title XVIII of the Social Security Act, as amended by the MMA, as well as under the implementing regulations in Part 423 of Title 42, Code of Federal Regulations;

(b) A Provider that participates in the 340B Drug Pricing Program may elect, but is not required, to provide pharmacy or dispensary services to persons who are not eligible under section 340B(a)(5)(B) of the Public Health Service Act and implementing guidelines; however, such Provider shall not dispense drugs purchased through the 340B Drug Pricing Program to such persons;

(c) Part D Plan Sponsor and Provider are permitted to establish a co-branded Part D drug benefit card that would be used exclusively by persons eligible for services of Provider at Provider's pharmacies;

(d) No clause, term or condition of the pharmacy contract between Part D Plan Sponsor and Provider shall be construed to change, reduce, expand or alter the eligibility of persons eligible for services of the Provider under this Section.

4. Governing Law.

The Part D Plan Sponsor's agreement and all addenda thereto shall be governed and construed in accordance with Federal law. In the event of a conflict between such agreement and all addenda thereto and Federal law, Federal law shall prevail.

5. Pharmacy/Dispensary Participation.

The pharmacy contract and this Addendum between Part D Plan Sponsor and Provider applies to all pharmacies and dispensaries operated by the Provider, as listed on this Addendum. A pharmacy is required to use a National Council for Prescription Drug Programs (NCPDP) provider number for reimbursement. To the extent a dispensary does not have a NCPDP provider number, it is required to use an NCPDP Alternate Site Enumeration Program (ASEP) number for reimbursement.

6. Acquisition of Pharmaceuticals.

Nothing in the pharmacy contract between Part D Plan Sponsor and Provider shall affect Provider's acquisition of pharmaceuticals from any source, including the Federal Supply Schedule and/or participation in the 340B Drug Pricing Program. Nor shall anything in such pharmacy contract require Provider to acquire drugs from the Part D Plan Sponsor or from any other source.

7. Point of Sale Processing.

Where the Part D Plan Sponsor's standard pharmacy contract contains provisions related to drug utilization review and/or generic equivalent substitution and Provider does not have the reasonable information technology capacity to comply with such provisions, then the provisions shall not apply to Provider.

8. Claims.

The Provider may submit claims to the Part D Plan Sponsor by telecommunication through an electronic billing system or through paper claims.

9. Hours of Service.

The hours of pharmacy services made available by the Provider shall be established by the Provider. At the request of the Part D Plan Sponsor, Provider shall provide written notification to the Part D Plan Sponsor of its hours of service.

10. Limited Formularies.

Providers that do not maintain, as a regular practice of doing business, a full formulary as defined by the Part D Plan Sponsor, shall not be held responsible for the provision of other formulary pharmaceuticals.

11. General Liability Insurance.

If the Provider currently has deemed status under the Federal Tort Claims Act, then such coverage for acts of the Provider shall be sufficient to satisfy the contract's malpractice liability insurance requirements and additional malpractice liability coverage shall not be required.

12. Terms.

This Addendum supplements and becomes a part of the Participating Pharmacy Agreement in effect between Provider _____ and Part D Plan Sponsor _____. Provider evidences its agreement to participate by signing below where indicated or by providing Covered Services in accordance herewith.

Provider agrees to participate in the _____ Part D Plan.

Signature

Date