

Provider Agency Name \_\_\_\_\_

RRDC \_\_\_\_\_

Home and Community Based Services Medicaid Waiver  
Nursing Home Transition and Diversion (NHTD) and Traumatic Brain Injury (TBI)

## Agreement Between the New York State Department of Health and a Provider of Home and Community-Based Waiver Services

NEW YORK STATE DEPARTMENT OF HEALTH  
Division of Long Term Care

- NHTD Waiver  
 TBI Waiver

This Agreement is between the New York State Department of Health (NYSDOH) and \_\_\_\_\_ (Provider), who has been approved to provide New York State Home and Community-Based Services (HCBS). The Provider will receive a letter from NYSDOH listing waiver services that this provider is authorized to provide.

For the purpose of establishing eligibility for payment under Title XIX of the Federal Social Security Act, the Provider agrees to comply with all provisions of the New York State Social Services Law and regulations adopted under the authority of such law; the terms of the addenda attached to this contract and 42 CFR § 431.107; the standards of operation set forth in the NYSDOH Program Manual for the Home and Community Based Services (HCBS) waiver; and all revisions and updates to the Manual and this agreement.

The Provider also agrees to:

- I. Keep all records necessary to disclose the type and extent of services furnished to recipients and on request, furnish to DOH, its designees, the Secretary of the U.S. Department of Health and Human Services or the State Medicaid Fraud Control Unit, information regarding these services and payments claimed under Title XIX;
- II. Collect personal information concerning a waiver applicant or participant directly from the waiver applicant or participant, whenever applicable. The Provider must keep confidential all information contained in the applicant's or participant's records, regardless of the form in which records are maintained and/or stored, except when release is required to fulfill the contractual responsibilities set forth in this agreement. The use of information obtained by the Provider in the performance of its duties under this Agreement shall be limited to purposes directly connected with such duties;
- III. Treat all information collected and utilized for purposes of performing its responsibilities under this agreement by its officers, agents, employees and subcontractors, with particular emphasis on information relating to waiver applicants and participants, obtained as confidential information to the extent required by the laws and regulations of the State of New York, including the Personal Privacy Protection Law, when personal information is being collected on behalf of the New York State Department of Health;
- IV. Abide by all applicable federal and State laws, and regulations of DOH and the Department of Health and Human Services, including the Health Insurance Portability and Accountability Act (HIPAA);
- V. Report all revenues and expenses associated with the provision of waiver services using the forms and procedures established in the Program Manual;
- VI. Submit claims for waiver services in accordance with instructions issued, specifically ensuring that services billed as waiver services are not also billed to Medicaid under the existing State Plan services;
- VII. Submit claims for all waiver service(s), except Service Coordination and Environmental Modifications, only when the recipient is Medicaid eligible, an approved waiver participant, and residing in the community;
- VIII. Submit claims for Service Coordination only when the recipient is Medicaid eligible, and an approved waiver participant and residing in the community or, when a waiver participant is hospitalized, in accordance with the Program Manual;

- IX. Submit claims for prior authorized Environmental Modifications only when the recipient is Medicaid eligible, an approved waiver participant, and residing in the community.
- X. Attend fair hearings and comply with such fair hearing decisions in accordance with 18 NYCRR 358-6.4. Provide testimony within the scope of the agency/provider's capacity as an approved TBI provider, related to the service(s) provided and reimbursed by Medicaid.
- XI. Provider agencies may not function as landlords for waiver participants and must allow participants to select waiver services from all approved providers and support access to unbundled services.
- XII. When a provider is contacted by an individual inquiring about the HCBS waivers, the provider must refer the individual to the appropriate Regional Resource Development Center (RRDC) for information and referral. This will ensure that the individual is informed of their right to select waiver services from a list of approved service providers.

This Agreement is contingent upon renewal of the waiver by the Centers for Medicaid and Medicare Services. It shall be effective upon approval by NYSDOH and shall remain in effect until the agreement is terminated by either party. This Agreement may be terminated sooner by either party for any reason upon sixty (60) days' written notice to the other party or by DOH upon thirty (30) days' written notice for good cause shown. In the event that the Agreement is terminated, the Provider will cooperate with and assist NYSDOH or its designee in obtaining services determined to be necessary and appropriate for the waiver participants it has been serving until all participants have successfully chosen a new provider.

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Provider Agency

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Provider Address

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City

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State

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ZIP

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Authorized By

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Signature

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Date

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Contact Person

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Telephone Number

**Service Certification**

Issuance of a Provider Agreement constitutes certification of the covered services. It does not constitute a blanket commitment to sponsor unlimited services.

## **Addendum I**

### **Rights of Waiver Participants**

- (A) Providers of HCBS waiver services must protect and promote the exercise of basic rights for participants including their right to:
1. Select or change individual service provider(s) and/or choose to receive waiver services from different agencies or different providers within the same agency without affecting overall waiver eligibility;
  2. Participate in the planning of his or her services and supports. In addition to the Service Plan, plans for each waiver service must be developed, implemented and updated in accordance with the waiver participant's requests and with the requirements established in the Program Manual for the HCBS waiver;
  3. Be given a statement of the services available to the participant under the waiver;
  4. Be informed of when and how approved services described in the Service Plan will be provided, and the name and functions of any person and affiliated entity providing care and services;
  5. Refuse care, treatment and services after being fully informed of the consequences of such actions;
  6. Submit complaints about care and services provided or not provided and complaints concerning any aspect of the waiver program. Receive support and concerns and complaints about services and service providers. Such complaints may also be directed to the agency employing the service provider, any outside representative of the individual's choice or the New York State Department of Health, and must be investigated as outlined in the Program Manual. The resolution of such investigation must be provided to the participant. The participant may not be subjected to restraint, interference, coercion, discrimination or reprisal as a result of filing such complaint;
  7. Be treated with consideration, respect and full recognition of his or her dignity, property rights and individuality;
  8. Be afforded privacy, including confidential treatment of his or hers waiver related records, and the right to refuse the release of such records to any individual not authorized to have such records except in the case of the participant's transfer to a health care facility or as required by Medicaid requirements or any other applicable state or federal law;
  9. Be informed of the rights contained herein and the right to exercise such rights, in writing, prior to the initiation of care as evidenced by written documentation in the record maintained by each service provider who has ongoing contact with the participant; and
  10. Be advised in writing of the address and telephone number of the Service Coordinator, all service providers and their supervisors, the Regional Resource Development Specialist (RRDS), and the TBI Regional and State Complaint line;
- (B) Each provider agency must inform its personnel providing services to waiver participants of the rights of participants and the responsibility of all personnel to protect and promote the exercise of such rights.
- (C) If a participant lacks capacity to exercise these rights, the participant's legal guardian can exercise those rights.
- (D) If a participant has been adjudicated incompetent in accordance with State law, all rights and responsibilities specified in this addendum may be exercised by the appointed [committee or legal] guardian authorized to act on behalf of the participant.

## Addendum II

### Provision of HCBS Waiver Services

Each provider of waiver services MUST adhere to the following standards:

1. Services must be provided in accordance with the participant's assessed needs, accepted standards of quality and effectiveness, and the provider's recognized scope of practice and competence.
2. Services must be provided in a manner that promotes and does not jeopardize the participant's health and welfare.
3. A Service Plan for the participant must be developed, implemented and updated in accordance with the requirements established in the Program Manual for the HCBS waiver.
4. Services will be provided to participants without regard to race, religion, color, creed, gender, national origin, sexual orientation, marital status or disability.
5. Provider personnel shall be governed by the applicable federal and State labor laws and regulations.
6. Providers must refer the participant to the Service Coordinator for other health and social community resources which may benefit the participant.
7. The Provider must ensure that quality services are delivered in a timely manner and in accordance with the Service Plan.
8. Providers must respect and not interfere with the participant's right to choose services from approved providers.
9. Participant records must include documentation of changes in the participant's condition, adverse reactions, and problems. Any changes impacting the participant's environment, health and welfare must be noted and immediately reported to a supervisor and the participant's Service Coordinator. All records must be maintained in accordance with applicable law. NYSDOH and or its representatives reserve the right to review records at any time. Participant records shall also be made available to any State, federal or local government agency when mandated by State or federal law.
10. There must be effective communication among the Service Coordinator and all service providers to ensure that the participant's health and welfare are maintained in accordance with the Service Plan. The Provider will inform the waiver participant of information that will be shared among service providers.
11. The Provider will document all Serious Reportable and Recordable Incidents and follow the Incident Policy in the Program Manual.

The Regional Resource Development Specialist (RRDS) and Regional Resource Development Center (RRDC) staff, as designees of the NYSDOH, shall have full access to all provider records regarding a participant and the provision of HCBS waiver services.

I acknowledge the information presented in Addendum I and II of this Agreement.

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Provider Agency

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Contact Person

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Title

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Authorized By

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Signature

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Date

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Contact Person

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Telephone Number