

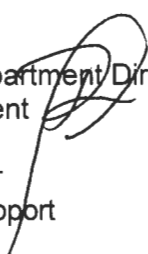


Interoffice Memorandum

AGENDA ITEM

June 21, 2023

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

THRU: Raul Pino, MD, MPH, Department Director
Health Services Department 

FROM: Claudia Yabrudy, Manager
Fiscal and Operational Support
Contact: (407) 836-6583

SUBJECT: Magellan Rx Management, LLC Participating Pharmacy Agreement
Consent Agenda – July 11, 2023

The Ryan White AIDS Drug Assistance Program (ADAP) is a federally funded program run by the Florida Department of Health that provides medication, including antiretrovirals, to individuals with HIV. Traditionally, when individuals in this program are incarcerated, ADAP stops providing medication and the county starts to provide medication through the Corrections Health Services Division (CHS). However, a recent rule change, now allows ADAP to ship medication to our pharmacy, which can then be dispensed to eligible individuals at no cost to the county.

The Orange County Pharmacy at Corrections recently became an ADAP approved pharmacy and in order to receive medications for eligible patients, the County needs to enter into an agreement with ADAP's pharmacy benefit manager MagellanRx Management. MagellanRX Management will check individuals' eligibility for the program and will provide CHS medication to dispense.

We are requesting approval to enter into an agreement with Magellan Rx Management in order to be able to receive medications for ADAP eligible clients while incarcerated.

ACTION REQUESTED: Approval and execution of Participating Pharmacy Agreement by and between Magellan Rx Management, LLC and Orange County, Florida and authorization for the Mayor or designee to sign amendments to this agreement. **(Fiscal and Operational Support Division)**

Cc: John Goodrich, Deputy Director, Health Services Department

PARTICIPATING PHARMACY AGREEMENT

This AGREEMENT is made and entered into by and between Magellan Rx Management, LLC, for itself and on behalf of its current and future subsidiaries and Affiliates (“PBM”) and Orange County, Florida on behalf of itself and all of its retail pharmacy provider subsidiaries and affiliates (“PHARMACY”). PBM and Pharmacy will each be referred to individually as a “Party” and together as the “Parties.”

WHEREAS, PBM administers pharmacy networks for its clients.

WHEREAS, PHARMACY owns and operates one or more retail pharmacies.

WHEREAS, PHARMACY desires to participate in one or more PBM retail networks, in accordance with the terms hereof.

NOW THEREFORE, the Parties agree as follows:

1. DEFINITIONS

1.1 “Affiliates” means a Person that Controls or owns a Party, is Controlled or owned by a Party, or is under common ownership or Control with a Party.

1.2 “Ancillary Charge” means the charge, in addition to the Co-payment, which a Covered Individual is required to pay to PHARMACY when a Covered Individual and/or a Covered Individual’s Physician requires that a Covered Drug be dispensed which is not in conformance with the Formulary or the Plan Sponsor’s Benefit Plan.

1.3 “Average Wholesale Price” or “AWP” means the average wholesale price of a Covered Drug based on pricing files received by PBM from MediSpan or other nationally recognized price source designated by PBM.

1.4 “Benefit Plan” means the group health plan, insurance plan, prescription drug plan or other benefit plan or program underwritten, maintained or administered by a Plan Sponsor that covers the dispensing of prescription medications or supplies by PHARMACY to Covered Persons.

1.5 “Brand Name Drug” means any prescription drug that is not a Generic Drug as defined herein.

1.6 “Compounded Drug” means a prescription medication that requires the dispensing pharmacist to produce an extemporaneously produced mixture containing at least one federal legend drug, the end product of which is not available in an equivalent commercial form. For purposes of this Agreement, a prescription is not a Compounded Drug if it is only reconstituted in accordance with the manufacturer’s instructions or if the only ingredient added to the prescription is water, alcohol or a sodium chloride solution or is prepared in bulk. Notwithstanding the foregoing, Compounded Drugs shall be subject to the terms and conditions specified in the applicable Benefit Plan.

1.7 “Control(s)” or “Controlled” as used in connection with a Party or Affiliate means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person.

1.8 “Co-payment” means a dollar amount that a Covered Person is responsible for paying to PHARMACY for a Covered Drug and includes coinsurance and deductibles as indicated by the POS system.

1.9 “Covered Drug” means any legend drug and any other drug or item which is ordered by a Physician by means of a Prescription Order or Refill and which is compensable under the terms of a Covered Person’s Benefit Plan.

1.10 “Covered Person” means an individual who is enrolled in Plan Sponsor’s Benefit Plan that entitles the individual to obtain or purchase Covered Drugs through PBM’s Pharmacy network under the terms of the PBM’s contract with a Plan Sponsor and the Plan Sponsor’s Benefit Plan.

1.11 “Drug Utilization Review” means the process whereby the therapeutic effects and cost effectiveness of various drug therapies are reviewed, monitored, and acted upon within the scope of this Agreement.

1.12 “Effective Date” means the date this Agreement becomes effective, as listed on the Signature Page.

1.13 “Formulary” means the list of certain Covered Drugs consistent with the PBM’s or, if applicable, Plan Sponsor’s prescription drug formulary, which may be dispensed by PHARMACY to a Covered Person. The Formulary is subject to periodic review and modification by PBM.

1.14 “Generic Drug” means a prescription drug designated by PBM as “Generic” under its then current standard policies and/or applicable claim platform.

1.15 “Maximum Allowable Cost List” or “MAC List” means the reimbursement paid to PHARMACY by PBM for a multiple source prescription drug. MAC values are subject to regular review and modification by PBM.

1.16 “Medication Error” means any dispensing error or medication(s) processed other than in accordance with the physician prescription.

1.17 “NADAC” means the National Average Drug Acquisition Cost, as published by CMS.

1.18 “Person” means any individual, business entity, government entity, organization, or other legal entity.

1.19 “Pharmacy Network” means the PBM network of participating pharmacies provided to Plan Sponsors and Covered Persons and to which PHARMACY belongs pursuant to the Pharmacy Network Fee Schedule(s).

1.20 “Physician” means and includes Doctor of Medicine or other health care professional who is legally authorized to prescribe drugs and medications in the state in which the individual is licensed.

1.21 “Plan Sponsor” means the health plan, employer, or other entity that offers a Benefit Plan to Covered Persons and has contracted with PBM to administer the pharmacy benefits covered by the Benefit Plan.

1.22 “Point-of-Sale” or “POS” means the telecommunication system used to adjudicate and communicate information regarding claims, Covered Drugs, Formulary, authorized Physicians, drug utilization, Ancillary Charges, Co-payments, or any other amounts collectible by PHARMACY from a Covered Person and amounts payable to PHARMACY.

1.23 “Prescription Charge” means the total compensation payable to PHARMACY as set forth in Fee Schedules (or as otherwise agreed to) for a prescription whether paid entirely by PBM or partly by PBM and partly by a Covered Person as an Ancillary Charge or Co-payment.

1.24 “Prescription Order” or “Refill” means a lawful request by the Covered Person’s Physician to dispense drugs.

1.25 “Usual and Customary Charge” means the amount charged to a cash customer by the dispensing pharmacy at the time of dispensing, exclusive of sales tax.

2. OBLIGATIONS OF PHARMACY

2.1 Participation in Retail Pharmacy Networks. PHARMACY shall participate in PBM’s retail Pharmacy Networks for which a Network Fee Schedule has been executed, describing the terms and conditions of such participation.

2.2 Dispensing of Covered Drugs. PHARMACY shall provide its services to Covered Persons in as timely a manner as provided to other customers. PHARMACY shall comply with the Formulary in dispensing a Covered Drug as communicated to PHARMACY via the POS system unless PHARMACY is: (i) otherwise directed by a Physician via a Prescription Order or Refill; (ii) prohibited by state law; (iii) otherwise directed by PBM via POS; (iv) otherwise directed by the Covered Person; or (iv) in the professional judgment of the dispensing pharmacist, such prescription should not be filled. Prior to filling a Prescription Order or Refill that is not in compliance with the Formulary, PHARMACY shall use reasonable efforts to contact the Physician and inquire of the Physician if the Prescription Order or Refill can be changed to a Covered Drug that is in compliance with the Formulary.

2.3 Eligibility Verification. PHARMACY shall require each person requesting a Covered Drug to present an identification card and/or other forms of identification. PHARMACY will review the identification Card; use the PBM’s POS system to verify eligibility for Covered Drugs under the Benefit

Plan; and make a good faith effort to identify other forms of coverage, especially when the Plan Sponsor is a payor of last resort.

2.4 Store Location. PHARMACY's services hereunder shall be provided at the location(s) provided by PHARMACY to PBM in an electronic format upon execution of this Agreement. PHARMACY will ensure any updates are made to NCPDP and communicated to PBM within 30 days prior to any new store opening or 90 days prior to any closing under this Agreement.

2.5 Non-Discrimination. PHARMACY shall not discriminate against a Covered Person in the provision of services for any reason, as required by applicable law and regulation.

2.6 Co-Payments. This section left intentionally blank.

2.7 Drug Utilization Program. PHARMACY will participate in any Drug Utilization Review program or activities of PBM or Plan Sponsors or Benefit Plans.

2.8 Signature Log. PHARMACY will maintain a signature log compliant with PBM's Provider Manual and applicable law; such information will include the Covered Person's name, prescription number, Price paid by the Covered Person and the date and time that the Covered Drug was dispensed to the Covered Person or the Covered Person's representative.

2.9 Professional Judgment. PHARMACY shall exercise professional judgment in accordance with all applicable laws and regulatory requirements in the dispensing of a Covered Drug.

2.10 Exclusion Status. PHARMACY shall comply with the provisions of all applicable state, local, and federal laws and regulations. PHARMACY warrants and represents that at the time of execution of this Agreement, neither it nor any of its employees, contractors, subcontractors or agents are ineligible persons identified on the Office of Inspector General's (OIG), List of Excluded Individuals/Entities and SAM lists. Pharmacy will maintain a policy and procedure to ensure that verifications of all employees, contractors, subcontractors or agents are conducted upon hire and at least monthly thereafter. In the event PHARMACY or any employees, subcontractors or agents thereof becomes an ineligible person after entering into this Agreement or otherwise fails to disclose ineligible person status, PHARMACY shall have an obligation to: (1) immediately notify PBM in writing of such ineligible person status, and (2) immediately remove such individual, entity or location that is responsible for, or involved with, PHARMACY'S business operations related to this Agreement. Claims for drugs dispensed by an ineligible person shall not be eligible for reimbursement hereunder.

2.11 Licensure and Credentialing. PHARMACY agrees that as part of this agreement, pharmacy will maintain current and unrestricted state and federal licenses, including but not limited to pharmacy license, DEA License and that each pharmacist and pharmacy technicians shall maintain all federal, state, and local approvals, licenses, permits and certifications. PHARMACY shall promptly notify PBM of any suspension, revocation of, condition placed on, limitation of, qualification placed on, or other restriction

on any Pharmacy Requirement. PHARMACY shall ensure that all pharmacists who are employed or subcontracted by PHARMACY and who dispense a Covered Drug to a Covered Person are properly licensed to practice and are appropriately insured and credentialed and that such pharmacists perform their duties in accordance with applicable standards of professional ethics and practice. PHARMACY understands that PBM records the credentials of PHARMACY as attested to by PHARMACY upon entering into this Agreement and periodically thereafter. PHARMACY shall provide copies of such credentials, for each location, no less than 2 weeks prior to store opening in accordance with PBM's credentialing policy outlined in the Provider manual and will participate in PBM's recredentialing yearly thereafter. PBM may suspend or terminate PHARMACY in the event that PHARMACY does not comply with PBM's credentialing policies and procedures.

2.12 PBM's Provider Manual. PHARMACY shall comply with PBM's Provider Manual, which is posted on PBM's website and updated from time to time. Such Provider Manual is incorporated into this Agreement by reference.

2.13 Cooperation. PHARMACY agrees to cooperate fully with any applicable Covered Person grievance, complaint or appeal rights. PHARMACY will fully cooperate with, and provide information requested by PBM, to enable PBM or Plan Sponsors to conduct and resolve complaints, grievances, and appeals that may be raised by Covered Persons, Plan Sponsors or other providers regarding the provision of Covered Drugs by PHARMACY. This provision shall survive the termination of this Agreement.

2.14 Medication Error. Within twenty-four (24) hours of identifying a medication error, PHARMACY shall report the Medication Error to PBM in accordance with PBM's Provider Manual.

2.15 Penalties. If PHARMACY is deemed non-compliant with the Agreement, certain penalties may apply including, but not limited to, fees, interest, penalties, damages, or other charges imposed upon PBM by governmental entities, regulatory authorities and/or Plan Sponsors. PBM has the right to deduct any such amounts from any amounts payable to PHARMACY.

3. COMPENSATION

3.1 Compensation. PHARMACY shall accept as payment in full for Covered Drugs dispensed under the terms of this Agreement to Covered Persons, the amounts set forth in the Fee Schedules to this Agreement.

3.2 Billing. PHARMACY shall submit claims for Pharmacy Services in a manner and format specified by PBM and will comply with all standards approved by the NCPDP and in accordance with applicable law. PHARMACY shall submit claims for payment via POS, or resubmit rejected or adjusted claims, within 90 days of the dispensing of a Covered Drug, or lesser period of time if required by the Benefit Plan. PBM shall not incur any liability under this Agreement to pay any claim not submitted within the time frames set forth in this Section 3.2. Any Covered Drug which is not received by the Covered Person must be reversed within 14 days from date of submission and shall be subject to audit pursuant hereto. PHARMACY shall pay its own costs, charges, and fees related to on-line communications by PHARMACY of claims or other information to PBM or its delegate.

3.3 Payment. PBM will process claims approved via POS twice a month and generate payment to PHARMACY within an average of 30 days from the date of claim submission. PBM will make such payment via electronic fund transfer or by check or other automated clearinghouse method acceptable to PHARMACY, which provides for funds to be available for use by PHARMACY within the time frame required herein. PBM will pay PHARMACY from funds provided to PBM by Plan Sponsors. The Plan Sponsor is the ultimate guarantor of payments to PHARMACY for Covered Drugs dispensed to Covered Persons. PBM's financial obligation or liability to PHARMACY is limited to the payments received by PBM from Plan Sponsor. PBM will use commercially reasonable efforts to ensure that all Plan Sponsors receiving PHARMACY's services hereunder have the financial ability to fulfill their payment obligations for such services and will notify PHARMACY promptly upon the development of any information it receives or concern it otherwise develops to the contrary. PBM will use commercially reasonable efforts to pursue PBM's contractual rights to collect payment and any applicable late-payment interest from the Delinquent Plan Sponsor.

3.4 Overpayment. Any overpayments made by PBM to PHARMACY for any reason shall be recovered by PBM on demand or by offset against amounts owed by PBM to PHARMACY. Examples of overpayments include, but are not limited to, payment for a Non Covered Person, duplicate payment or payment processing error. In the event Pharmacy disputes PBM's determination of an overpayment within ten (10) business days of receiving such determination, PBM shall provide the Pharmacy an opportunity to be heard, and the Parties will make a mutual determination on the alleged overpayment.

3.5 Third Party Liability. When PBM determines that a third party is liable for services provided by Pharmacy, PBM may reverse the claim and recover any amounts previously paid by PBM for such services. Pharmacy shall then bill the third party for such services. In the event Pharmacy disputes PBM's determination of an overpayment within ten (10) business days of receiving such determination, PBM shall provide the Pharmacy an opportunity to be heard, and the Parties will make a mutual determination on the alleged overpayment.

3.6 Suspension of Payments. PBM may withhold payment due hereunder, where there is a reasonable suspicion of fraud or as directed by a governmental entity. The payment of such Claims shall not become due and owing until such issues have been resolved.

4. CONFIDENTIALITY

4.1 Confidential Information. The parties agree to keep confidential any information (in tangible or intangible form in any storage medium and information not recorded in any tangible form or storage medium) that may be exchanged by the Parties, including this Agreement, financial terms for reimbursement, Formulary, MAC List, and any information that the receiving Party should reasonably understand to be confidential. The Parties acknowledge and agree that the term Confidential Information as used in this Agreement does not include aggregated and/or non-client specific information that is maintained and/or disclosed by either Party in the normal course of its business operations. Each Party will keep the other Party's Confidential Information confidential and shall not release any Confidential Information to any other Person without the written consent of the other Party unless: (i) the receiving Party needs to disclose such information to perform its obligations under this Agreement or (ii) is required to disclose Confidential Information by law, regulation, or court order, in which case, the receiving Party shall provide the other Party prior written notice of such disclosure sufficient to allow the other Party to take action to protect such Confidential Information.

4.2 Protected Health Information. The Parties agree to comply with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended, all applicable requirements and obligations under HIPAA governing any uses and disclosures of all Protected Health Information (“PHI”) that may occur as a result of this Agreement as applicable to each Party. Each Party warrants it will maintain and protect the confidentiality of all PHI in accordance with its obligations under HIPAA and all applicable federal and state laws and regulations. However, nothing herein will limit either Party’s use of any aggregated Covered Person information that does not contain PHI.

5. BOOKS AND RECORDS

5.1 Record Maintenance and Retention. PHARMACY shall maintain and retain all required and appropriate records, including prescription records and reports, and transaction records and all other records relating to the performance of this Agreement and services rendered to Covered Persons for a period required by Law

5.2 Access to Records. Each Party shall provide the other Party with access to records as reasonably required for the performance of this Agreement.

5.3 Audits. In accordance with applicable federal and state requirements and PBM’s audit requirements set forth in the pharmacy manual, PHARMACY shall permit PBM, the Comptroller General of the United States (“Comptroller”), the Department of Health and Human Services (“DHHS”), the Centers for Medicare & Medicaid Services (“CMS”), Plan Sponsors, and their respective duly authorized representatives or designees direct on-site access to review, audit, examine and reproduce PHARMACY’s books, records, prescription files, and other documentation pertaining to Covered Drugs for Covered Persons and/or PHARMACY’s compliance with this Agreement including, but not limited to, such records as are necessary for the evaluation of the quality, appropriateness, and timeliness of services performed under the Agreement and administrative, civil or criminal investigations and prosecutions. Records shall be made available for fiscal audit, medical audit, medical review, utilization review, and other periodic monitoring. PBM will provide PHARMACY with fifteen (15) calendar days prior notice, or such lesser or greater time as is required by law, of any onsite audit. PHARMACY shall provide records or copies of records within ten (10) calendar days from the date of such request or such shorter time required by law. If PBM or its designee is denied admission to the PHARMACY or if PHARMACY does not timely present requested documentation and records, PHARMACY may be assessed a reasonable audit fee or PBM may deem 100% of the claims to be audited as noncompliant and due and owing to PBM. PBM may report its audit findings to Plan Sponsors, appropriate governmental entities and/or regulatory agencies.

6. INSURANCE

PHARMACY, at its cost and expense, shall self-insure or procure and maintain at all times while this Agreement is in effect such policies of general and professional druggist liability insurance, and other insurance as shall be necessary to insure it and its employees against any claim or claims for damages arising by reason of personal injury or death occasioned directly or indirectly in connection with dispensing of Covered Drugs and all other activities by the PHARMACY in connection with and as

required by this Agreement. Each such policy shall be in an amount not less than \$1,000,000 per occurrence and \$3,000,000 in aggregate per policy year. A certificate or memorandum of insurance shall be provided to PBM upon request.

7. HOLD HARMLESS

7.1 PBM as to PHARMACY. PBM shall indemnify and hold PHARMACY, its shareholders, officers, directors, employees, agents, and Affiliates (each an "Indemnified Party") harmless against any claim, injury, damage, loss, expense (including attorneys' fees) demand, penalty, fines or judgment by a third party asserted against or incurred by any Indemnified Party arising out a breach of this Agreement or by the acts, omissions or negligence of PBM, its employees, or agents in carrying out PBM'S duties and obligations under the terms of this Agreement.

7.2 PHARMACY as to PBM. PHARMACY shall indemnify and hold PBM, its parent, officers, directors, employees, agents, and Affiliates (each an "Indemnified Party") harmless against any claim, injury, damage, loss, expense (including attorneys' fees) demand, penalty, fines or judgment by a third party asserted against or incurred by any Indemnified Party arising out of a breach of this Agreement or by the acts, omissions or negligence of PHARMACY, its employees, or agents in carrying out PHARMACY'S duties and obligations under the terms of this Agreement. PHARMACY shall notify PBM or its designated agent of any legal or administrative claim made or action filed against PHARMACY arising from this Agreement, by a Covered Person or otherwise which could affect the ability of PHARMACY to carry out this Agreement within ten (10) calendar days of receipt of such claim or action. Notwithstanding the foregoing, the Pharmacy's above indemnification is expressly limited to the amount set forth in Section 768.28(5), Florida Statutes, as amended by the Florida State Legislature. Nothing contained in this Section, or in any part of this Agreement, shall constitute a waiver of the County's sovereign immunity provisions or protections pursuant to Section 768.28, Florida Statutes.

7.3 PHARMACY as to Covered Persons. In no event, including, but not limited to, non-payment by PBM or PBM's insolvency or breach of this Agreement shall PHARMACY bill, charge, collect a deposit from or seek compensation from, or have any recourse against a Covered Person for Covered Drugs dispensed pursuant to this Agreement. This provision shall not prohibit PHARMACY from collecting the applicable Ancillary Charge and/or Co-payment indicated via POS as payable by a Covered Person. This Section is not intended to apply to Covered Drugs dispensed after this Agreement has been terminated or to non-Covered Drugs. This provision supersedes any oral or written agreement to the contrary now existing or hereinafter entered into between PHARMACY or a Covered Person or persons acting on a Covered Person's behalf.

8. TERM AND TERMINATION

8.1 Term. This Agreement shall commence on the Effective Date and shall remain in effect for an initial term of one (1) year and thereafter shall automatically renew for successive terms of one (1) year each.

8.2 Termination With or Without Cause. After the initial term, either party may terminate this Agreement at any time and without cause upon not less than sixty (60) days written notice to the other party. PBM may terminate or suspend this Agreement immediately at any time upon written notice to PHARMACY if: (i) PHARMACY'S license, certificate or permit to dispense Covered Drugs is
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Revised on 06/01/2021

revoked, terminated or suspended, and such revocation, termination or suspension materially impairs PHARMACY's ability to perform its obligations as set forth in this Agreement; (ii) PHARMACY fails to maintain the insurance required by this Agreement; (iii) the ownership or control of PHARMACY changes; (iv) PHARMACY engaged in any fraudulent activity related to this Agreement; or (v) PHARMACY is found to be engaged in behavior or who is practicing in a manner that poses a significant risk to the health, welfare, or safety of consumers or promotes fraud and abuse. In the event of a breach of this Agreement by either Party, the other Party may notify the Party of breach in writing specifying the manner in which this Agreement has been breached, and this Agreement shall terminate automatically thirty (30) days after such notice unless the breach has been cured to the reasonable satisfaction of the non-breaching Party.

8.3 Effect of Termination. Except as herein otherwise provided, this Agreement shall be of no further force or effect as of the date of termination except that each Party will remain responsible for any obligations or liabilities arising from activities carried on by such Party or its agents or employees during the period this Agreement was in effect. Sections 4, 5, and 7 shall survive the termination of this Agreement.

9. ADVERTISING

9.1 Pharmacy Use of PBM Name. PHARMACY may use PBM's name, trademark, service mark, and/or symbols to inform Covered Persons and the general public that PHARMACY is a participating provider to PBM. PBM retains the exclusive right to its names and logos, together with all distinctive trademarks and/or service marks. Upon termination of this Agreement, PHARMACY agrees to immediately discontinue the use of any name, symbol, or trademark belonging to PBM.

9.2 PBM Use of Pharmacy Name. PBM may list the address, telephone number, and hours of operation of each of PHARMACY's store locations in informational brochures or other publications PBM provides to Covered Persons or potential Covered Persons. PHARMACY retains the exclusive right to its names and logos, together with all distinctive trademarks and/or service marks. Upon termination of this Agreement, PBM agrees to immediately discontinue the use of any name, symbol, or trademark belonging to PHARMACY.

9.3 Restriction on Advertising. Neither Party may use the name of the other Party or its trademark in any promotion or advertising unless first approved in writing by such Party, except as provided in this Section 9.

10. NOTICES

10.1 PBM to Pharmacy. Any notices or other communications required or permitted hereunder may be sent by courier, facsimile (receipt of which is confirmed), electronically, or by regular U.S. Mail by PBM to PHARMACY at the address indicated in section 10.5 of this of this Agreement. This address may be changed by written notice thereof to PBM. Notices provided by PBM to PHARMACY will be considered to have been provided to all of PHARMACY's location.

10.2 Pharmacy to PBM. Any notices or other communications required or permitted hereunder may be sent by courier, facsimile (receipt of which is confirmed), electronically, or by regular U.S. Mail by PHARMACY to PBM at the address indicated in section 10.5 of this Agreement. This address may be changed by written notice thereof to PHARMACY.

10.3 Date of Notice. Any notices or other communications given hereunder shall be deemed given upon receipt.

10.4 Actual Notice. A Party may not use failure of the other Party to comply with the notice provisions of this Section 10 if the receiving Party has actual, timely notice of the substance of a communication.

10.5 Address of Notice. Notice shall be sent to the following address.

To PBM:

Magellan Rx Management
11013 West Broad St. Suite 500
Glen Allen, VA 23060
ATTN: VP, Network Development
COPY TO: General Counsel

To PHARMACY:

In accordance with the contact information on file with NCPDP

11. ASSIGNMENT

Pharmacy may not assign this Agreement, or subcontract or delegate any of the services or obligations hereunder, in full or in part, without PBM's written consent. Pharmacy acknowledges and agrees that any successor in interest shall assume responsibility for performance of all of Pharmacy's obligations pursuant to this Agreement, regardless of whether such obligations arose before or after such interest was acquired. Pharmacy shall promptly notify PBM in the event of a change of ownership or control. PBM may assign this Agreement to an Affiliate, or otherwise substitute or add an Affiliate as a (the) Party to this Agreement on written notice to Pharmacy.

12. FORCE MAJEURE

A Party shall not be deemed to have breached this Agreement if its delay or failure to perform all or any part of its obligations hereunder results from a condition beyond its reasonable control including, without limitation, acts of God or the public enemy, flood or storm, strikes, power or communication line failure, statute, or rule or action of any federal, state or local government agency.

13. AMENDMENTS

Any terms required to comply with statutory or regulatory requirements do not require the consent of Pharmacy and will be effective immediately on the effective date of the requirement.

14. APPLICABLE LAW

This Agreement shall be governed by the laws of the State of Florida without regard to choice of law provisions. Notwithstanding the foregoing, PHARMACY's performance of services pursuant to this Agreement shall be subject to, and interpreted in accordance with, all applicable State laws, including State laws which may apply if PHARMACY is a governmental agency or affiliated therewith. The prevailing Party will be entitled to recover reasonable attorneys' fees to be determined by the judicial body. The attorneys' fees will be in addition to the amount of judgment or any other relief obtained by the prevailing Party.

15. TAXES

PHARMACY is solely responsible for payment of any wholesale distributor tax or any other excise or value added tax or governmentally instituted imposition however styled if based upon purchases at wholesale or prescriptions dispensed associated with the provision of prescription services by PHARMACY in connection with this Agreement. Plan Sponsor Benefit Plan will pay any applicable federal, state, or local sales tax liability or liability for governmental impositions based upon the sales of prescriptions dispensed or goods and services provided by PHARMACY to Covered Persons. PHARMACY must inform PBM of actual sales tax rate and method of calculation for each store location.

16. CONFLICTING DOCUMENTS

In the event of a conflict between the terms of this Agreement and any PBM's Participating Pharmacy policies or pharmacy manual, plan benefit contract, Covered Person enrollment form/contract, or Covered Person brochure, the terms of this Agreement will control. To the extent there is a conflict, such policy, manual, contract, enrollment form, or brochure, including any policy or procedure therein shall have no force or effect.

17. RELATIONSHIP BETWEEN PARTIES

17.1 Independent Entities. The relationship between PBM and PHARMACY is that of independent entities contracting for the sole purpose of carrying out the provisions of this Agreement

and nothing herein or otherwise shall be construed to create any other relationship including, without limitation, that of employee, agent or representative. 17.1 Independent Entities. The relationship between PBM and PHARMACY is that of independent entities contracting for the sole purpose of carrying out the provisions of this Agreement. 17.2 No Third Party Rights. This is an agreement between PBM and PHARMACY and is not intended to create any rights or remedies in favor of any other party including, without limitation, any Covered Person. The rights and obligations in connection with this Agreement will only be binding upon and inure to the benefit of the Parties hereto and their respective Affiliates. Nothing in this Agreement shall be construed as or deemed to create any right or remedy in any third party, including, but not limited to, a third party pharmacy benefit management entity, that is not a party to this Agreement or does not fall within the definition of an "Affiliate." 17.3 No Exclusivity. This Agreement does not represent an exclusive arrangement between PBM and PHARMACY. Either Party may, without limitation, enter into similar agreements with other Persons. 17.4 Lease of Network Permitted. PHARMACY consents and agrees that PBM may lease its Pharmacy Network to other entities including but not limited to payors, PBMs, Benefit Plans, and Plan Sponsors. PBM shall provide PHARMACY with notice of any lease arrangement.

MISCELLANEOUS PROVISIONS - This Agreement, Fee Schedules, and the Provider Manual (together with all addenda, attachments, exhibits, any other documents incorporated by reference) constitute the entire Agreement between PBM and Pharmacy relating to the subject matter herein and supersede any and all prior agreements or understandings between the Parties. The Provider Manual is available on PBM's website, <https://magellanrx.com/provider/> or such other address that PBM may designate to Pharmacy from time to time. Failure by either Party to exercise any of its rights arising in respect to any breach or violation of this Agreement shall not be a waiver of its right to exercise any rights arising in respect to any subsequent breach or violation. All waivers must be in writing and no waiver shall be a waiver of another or any other right. In the event any term or provision contained in this Agreement shall be determined to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other term or provision contained herein unless the absence of such provision materially prejudices a Party or denies a Party of a benefit it is entitled to receive under this Agreement.

19. ORGANIZATION AND AUTHORITY

Each Party is duly organized and in good standing, and has the power to carry on its respective business. The execution and delivery of this Agreement and the transactions contemplated hereunder have been authorized by all necessary action by each Party. Each Party represents and warrants that the individual signing this Agreement on its behalf is duly authorized to bind such party to all terms and conditions of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in duplicate by affixing the signatures of duly authorized representatives.

PBM

PHARMACY

By:

Don Nagy

By:

Byron Brooks

Signature

Signature

Don Nagy

Byron Brooks

Name

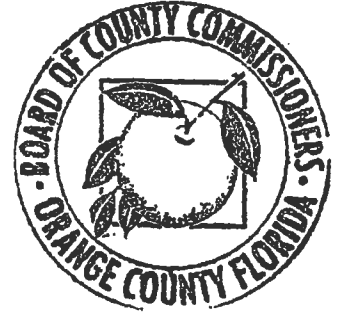
Name

VP Network Management

County Administrator

Title

Title



Address: 11013 West Broad St., Suite 500

Address: 3855 S. John Young Parkway

Glen Allen, VA 23060

Orlando, FL 32839

Attn:

Attn:

Phone: (480) 624-9339

Phone:

Fax: (888) 656-4139

Fax:

NCPDP #: 5755054

NPI: 1538376850

Or Chain

Code:

July 1, 2023

EFFECTIVE DATE:

TO BE COMPLETED BY PBM

Proprietary and Confidential

**Pharmacy Network Fee Schedule FLADAP Retail
Florida Department of Health AIDS Drug Assistance Program
Magellan Rx Management**

This Fee Schedule FLADAP Retail, is hereby incorporated into and made a part of the Participating Pharmacy Agreement.

PHARMACIES ("Pharmacy") listed below, agrees to participate in PBM's FLADAP Retail Network on the following terms and conditions:

Network Participation Requirements

1. Pharmacy shall maintain registration as a covered entity associated with the State of Florida, Department of Health's 340B identification in HRSA OPAIS.
2. The Parties agree that Florida Department of Health AIDS Drug Assistance Program Network Claims shall be subject to inventory replenishment through Magellan's contracted third-party administrator.
 - a. If in the event Covered Drug NDC, regardless of quantity cannot be fulfilled through replenishment within ninety (90) days, PBM shall provide Pharmacy an Off-Cycle Report ("OCR") including: (i) the prescription number associated with each claim; (ii) the dispensing pharmacy NCPDP number; (iii) the fill date; (iv) the 11-digit NDC; (v) the metric quantity of the drug:
 - i. Pharmacy shall reverse and reprocess claims from OCR in a timely fashion.
 - ii. PBM shall reimburse Pharmacy at Wholesale Acquisition Cost (WAC) plus the applicable Administration Fee(s).
3. Pharmacy shall apply commercially reasonable medication synchronization management to Covered Person's with multiple prescriptions and dates of fill and/or refill.
4. In the event Pharmacy delivers or mails to Member, Pharmacy shall submit with Other Amount Claim, submitted qualifier = 479-H8, "01" = delivery or "02" = shipping.
 - a. Except as provided in section (b) below, Pharmacy shall be reimbursed one (1) Shipping Fee per order applicable to Covered Person regardless of the number of prescriptions per order.
 - b. Additional Shipping Fees will be paid for new prescriptions as well as refill of prescriptions within the medication synchronization process.

Signature on following page

**Pharmacy Network Fee Schedule FLADAP Retail
Florida Department of Health AIDS Drug Assistance Program
Magellan Rx Management**

5. The Parties agree claims shall be subject to the applicable Administration Fees set forth in the table below.

	<u>Administration Fee</u>
Covered Drug non-Vaccine	\$15.50
Shipping Fee	\$15.00
Flu Vaccines	\$15.00
All Other Approved Vaccines *	\$20.00
COVID-19 Vaccine *	\$40.00

(*) Dependent upon Plan Sponsor formulary status

6. Except as amended herein, all other terms of the Agreement shall remain in full force and effect. If the terms of this Amendment conflict with any other term of the Agreement, the terms of this Amendment shall prevail. All capitalized terms not otherwise defined shall the same meaning as set for in the Agreement.

All PBM networks will have transaction fees of \$0.09 per paid claim assessed through the claim adjudication system and will automatically be deducted from each payment cycle.

IN WITNESS WHEREOF, the Parties have caused this Fee Schedule to be executed by duly authorized representatives.

Provider:

Byron Brooks

Name: (Signature)

Byron Brooks

Name: (Printed)

County Administrator

Title:

July 11, 2023

Date:

Byron Brooks

Legal Name of Provider:

NPI #: 1538376850

PBM:

Don Nagy

Name: (Signature)

Don Nagy

Name: (Printed)

VP, Network Development

Title: 07.14.2023

Date:

Effective Date to be determined by PBM: July 1, 2023

