

## **AFFILIATION AGREEMENT**

**by and between:**

**SEDGWICK COUNTY, KANSAS**

**and**

**MENTAL HEALTH ASSOCIATION OF SOUTH CENTRAL KANSAS**

This Agreement made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between Sedgwick County, Kansas ("County") and the Mental Health Association of South Central Kansas, a Kansas not-for-profit corporation ("Contractor").

WITNESSETH:

**WHEREAS**, County, by and through its COMCARE Department ("COMCARE") is a licensed community mental health center, and a certified alcohol and drug treatment center; and

**WHEREAS**, COMCARE requires adult and child case management, adult peer support, parent support, case conference, wraparound facilitation (*i.e.*, coordination of all services for the client), psychosocial rehabilitation, and attendant care services for Sedgwick County residents with SED or SPMI; and

**WHEREAS**, County desires to engage Contractor to perform said services; and

**WHEREAS**, County and Contractor desire to state the terms and conditions under which Contractor will provide said services.

**NOW, THEREFORE**, in consideration of the mutual covenants, conditions and promises contained herein, the parties hereto agree as follows:

**1. Purpose and Scope of Work.** Contractor shall provide and maintain a program of adult and child case management, adult peer support, parent support, case conference, wraparound facilitation (*i.e.*, coordination of all services for the client), psychosocial rehabilitation, and attendant care services for Sedgwick County residents who are seriously mentally ill (hereinafter "consumer(s)"), in order to facilitate their reintegration into the community and to enable their functioning to the maximum extent of their capabilities. Services under this Agreement will be provided to individuals authorized for services through COMCARE. Contractor shall do, perform, and carry out in a satisfactory and proper manner, as determined by County, this purpose as well as the goals and objectives necessary to accomplish this purpose and Agreement in accordance with Appendix B, which is attached hereto and incorporated as if fully set forth herein. The parties agree that time is of the essence in Contractor's performance of this Agreement.

**2. Term.** The initial term of this Agreement shall commence on the date first written above and end on December 31, 2018. This Agreement may continue for a reasonable time after December 31, 2018, if both parties agree to continue operating under the terms of this Agreement while they are actively developing a contract for 2019.

3. **Incorporation of Documents.** Appendix A (Sedgwick County Mandatory Contractual Provisions Attachment), Appendix B (Purpose, Goals and Objectives) and Appendix C (KDADS Regulations) are attached hereto and are made a part hereof as if fully set forth herein.

### **General Terms and Conditions**

1. **Contractual Relationship.** It is agreed that the legal relationship between Contractor and County is of a contractual nature. Both parties assert and believe that Contractor is acting as an independent contractor in providing the goods and services and performing the duties required by County hereunder. Contractor is at all times acting as an independent contractor and not as an officer, agent, or employee of County. As an independent contractor, Contractor, or employees of Contractor, will not be within the protection or coverage of County's worker's compensation insurance, nor shall Contractor, or employees of Contractor, be entitled to any current or future benefits provided to employees of County. Further, County shall not be responsible for the withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by County to Contractor.

2. **Authority to Contract.** Contractor assures it possesses legal authority to contract these services; that resolution, motion or similar action has been duly adopted or passed as an official act of Contractor's governing body, authorizing the signing of this Agreement, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of Contractor to act in connection with the application and to provide such additional information as may be required.

3. **Compensation.** Contractor agrees to payment on a reimbursement basis. Payment will only be made for those services listed on a consumer's treatment plan that are also determined to be medically necessary, as that term is defined herein, by COMCARE staff. COMCARE shall communicate with Contractor regarding any errors pertaining to clinical transaction submission, treatment plan authorization and medication necessity. Payment shall be made in accordance with the following standard Medicaid affiliate rates for contracted services:

- A. **Case Management (T1017 and H0036-HA, HB, HH, HK, HJ):** Case management services will be paid at the rate of \$17.50 per fifteen minute unit for Community Psychiatric Support and Treatment (hereinafter "CPST"), \$21.00 per fifteen minute unit for CPST strength-based and employment support evidence-based programs, \$22.00 per 15 minute unit of CPST integrated-dual diagnosis evidence-based programs, and \$10.83 per 15 minute unit for Targeted Case Management (hereinafter "TCM"). Billing for any of the evidence-based programs may only occur after a program fidelity review has been completed and confirmed by the Kansas Department of Aging and Disability Services (hereinafter "KDADS") or its designee. Contractor expressly understands and agrees that Contractor's child/youth case management program is limited to no more than 184 clients at any given time during the contract term. Exceptions to the child/youth case management limit may be made if mutually agreed upon by County and Contractor.
- B. **Psychosocial Rehabilitation (H2017-HQ, H2017-TJ and H2017):** Psychosocial rehabilitation services will be reimbursed at the rate of \$4.00 per 15 minute unit for adult group services, \$6.05 per 15 minute unit for children's groups, and \$7.00 per 15 minute unit of individual psychosocial rehabilitation services. Group psychosocial rehabilitation is limited to the units outlined in the Managed Care Organization (hereinafter "MCO") contracts per calendar year, or a combination of group psychosocial rehabilitation and group peer support, unless exception is made by the consumer's managed care company.

- C. **Attendant Care (T1019-HE and T1019-HK):** Attendant Care services will be paid at the rate of \$6.15 per 15 minute unit. Contractor expressly understands and agrees that Serious Emotional Disturbance (hereinafter "SED") Waiver attendant care services must receive prior authorization and 1915(b) attendant care services must receive prior authorization and are limited to the available funding consistent with Medicaid guidelines. Contractor agrees to communicate to COMCARE regularly the number of children/youth referred for, but not yet receiving, attendant care services, and the number of inactive children/youth clients. Contractor reserves the right to limit the number of children/youth served in accordance with staffing resources and administrative capacity. Contractor agrees to notify County of such limitations. COMCARE agrees to maintain TCM responsibility for consumers who do not require CPST but need individual psychosocial rehabilitation or attendant care services.
- D. **Case Conference (99361):** Case conference services will be reimbursed at the rate of \$7.50 per 15 minute unit of case conference. Case conference services require prior authorization from COMCARE consistent with Medicaid guidelines.
- E. **Peer Support (H0038 and H0038-HQ):** Individual peer support services will be reimbursed at the rate of \$9.50 per 15 minute unit. Group peer support services will be reimbursed at the rate of \$4.00 per 15 minute unit. Group peer support is limited to 750 hours per calendar year, or a combination of group psychosocial rehabilitation and group peer support unless exception is made by the MCO.

Payment will only be made for those services listed on a client's treatment plan that are also determined to be medically necessary by COMCARE staff. COMCARE shall communicate with Contractor regarding any errors pertaining to clinical transaction submission, treatment plan authorization, and medication necessity.

Because Contractor agrees to payment on a reimbursement basis, payment of the established rate is contingent upon Contractor providing services consistent with Medicaid regulations and billing COMCARE the maximum allowed Medicaid charge for each service. Contractor agrees that failure to bill the full Medicaid rate may result in a reduction of the rate paid hereunder. COMCARE will bill Medicaid and shall pay Contractor in accordance with the payment terms provided herein.

Billing and service documentation must be provided to COMCARE no later than fourteen (14) days after the date of service. Submission of transactions over fourteen (14) days from date of service may not be eligible for reimbursement.

All clients must be pre-approved for reimbursement by County. Reimbursement for clients with Medicaid will occur upon receipt of payment to County from Medicaid.

Contractor agrees that it will not charge clients covered by Medicaid for all or any part of covered services provided pursuant to this Agreement, and that covered clients are not liable for payments to Contractor if the State does not pay COMCARE for any reason.

If COMCARE's payment on a Medicaid claim is reduced by a primary payer payment and/or disallowed, which causes COMCARE not to be reimbursed the full Medicaid allowable for that claim, the payment to Contractor will be reduced accordingly. COMCARE will calculate the percent of the Medicaid allowable for the claim that was paid to COMCARE (less any late billing fees) and will pay Contractor the same percent of its contracted rate.

Contractor agrees to notify COMCARE of consumers in service that lose Medicaid coverage. Any decisions regarding referral or payment for services to these consumers will be made on a case by case basis. County agrees to reimburse Contractor the affiliate rate for individual psychosocial rehabilitation and attendant care services provided to consumers without insurance coverage, excluding spend down, or other means to pay when referred for these services by COMCARE or if otherwise authorized by COMCARE for these services at the established rate.

In all cases where Contractor is the primary case manager, Contractor agrees to provide COMCARE staff with the consumer's treatment plan within fourteen (14) days of the effective date. Contractor has authorization to deliver services to individuals identified in the Cooperative Agreement to Benefit Homeless Individuals (hereinafter "CABHI") Grant in accordance with the following requirements:

- In collaboration with KDADS, Contractor will participate as a site which provides integrated/coordinated treatment, recovery support, and permanent supported housing to individuals who experience chronic homelessness and have co-occurring serious mental illness and substance use disorders (including veterans).
- It is understood by both parties that if participants have Medicaid coverage, such coverage will be utilized to pay for outpatient therapy and medication services.

**4. Home and Community Based Medicaid Waiver.** Contractor agrees to provide therapeutic services for children/youth with an SED and families in conformance with the Home and Community Based Medicaid (hereinafter "HCBS") Waiver programming.

Contractor may provide any service included in the HCBS Medicaid Waiver Services budget (see rates, listed below). Service approval by COMCARE Children's Services will be accomplished through involvement of the child/family team, including a wraparound facilitator. Approved services will be included in each individual youth's plan of care. The intent of provision of services within the plan of care is to facilitate stabilization of symptoms/behaviors that place a child at risk of institutionalization.

SERVICE	CODE	RATE PER 15 MINUTE UNIT
Wraparound Facilitation	H2021	\$9.27
Parent Support and Training Individual	S5110	\$8.50
Parent Support and Training Group	S5110-TJ	\$1.80
Attendant Care	T 1019 HK	\$6.15

Contractor understands that only those services that are pre-approved will be reimbursed. COMCARE's Children's Services staff will act as managers of each treatment plan to ensure clinical and fiscal responsibility. Contractor will not be paid for any services not pre-approved.

If Contractor believes, at any time, that there is a valid reason to change the amount of any pre-approved service on the plan of care, Contractor shall immediately contact the client's wraparound facilitator or case manager.

All billing for waiver services will be done by COMCARE. Pre-approved units of service must be reported on a regular basis after the provision of service has occurred, but no later than fourteen (14) days after the date of the service. Service information must be submitted to COMCARE in order for billing to occur. Upon receipt of the service information, COMCARE will reconcile the pre-approved units of service with the actual utilization of service. Subsequent billing will then be made to the State Medicaid fiscal agent. Payment to Contractor will be made only after payment is received by COMCARE from the State Medicaid fiscal agent.

Contractor shall cooperate with all COMCARE Children's Services waiver administrative activities including, but not limited to: applications, eligibility determination, referrals, gate keeping, dispute resolution, and quality assurance.

Contractor expressly understands and agrees that it is responsible for compliance with all Medicaid rules, regulations, standards, and expectations as included in the State of Kansas Medicaid plan for mental/behavioral health services.

**5. Medical Necessity.** Contractor expressly understands and agrees that all services provided under this Agreement must meet the definition of "medical necessity" in order to be reimbursed. For purposes of this Agreement, "medical necessity" is achieved by meeting all of the following criteria:

- A. **Authority.** The clinical intervention is recommended by the treating clinician and is determined to be necessary by the Secretary of the Kansas Department of Social and Rehabilitation Services or the Secretary's designee.
- B. **Purpose.** The clinical intervention has the purpose of treating a medical condition/mental illness.
- C. **Scope.** The clinical intervention provides the most appropriate supply or level of service, considering potential benefits and harms to the client.
- D. **Evidence.** The clinical intervention is known to be effective in improving health outcomes. The scientific evidence for each existing intervention shall be considered first and, to the extent possible, shall be the basis for determination of medical necessity. If no scientific evidence is available, professional standards of care shall be considered. If professional standards of care do not exist, or are outdated or contradictory, decisions about existing interventions shall be based on expert opinion. Coverage of existing interventions shall not be denied solely on the basis that there is an absence of conclusive scientific evidence. Existing interventions may be deemed to meet this regulation's definition of medical necessity in the absence of scientific evidence if there is a strong consensus of effectiveness and benefit expressed through up-to-date and consistent professional standards of care or, in the absence of those standards, convincing expert opinion.
- E. **Value.** The clinical intervention is cost-effective for this condition compared to alternative interventions, including no intervention. The term "cost-effective" shall not necessarily be construed to mean lowest price. An intervention may be clinically indicated and yet not be a covered benefit or meet the definition of medical necessity. Interventions that do not meet the definition of medical necessity may be covered at the choice of the Secretary or Secretary's designee. An intervention shall be considered cost-effective if the benefits and harms relative to costs represent an economically efficient use of resources for members with this condition. In the application of this criterion to an individual case, the characteristics of the individual member shall be determinative. "Medical necessity in psychiatric situations" means that there is a medical documentation that indicates that the person could be harmful to him or herself

or others if not under psychiatric treatment or that the person is disoriented to time, place or person.

**6. Referral and Authorization Procedures.** County and Contractor agree to the following referral and authorization procedures for individuals requiring services:

- A. **Adults.** All referrals for contracted services will come through COMCARE for authorization. This may occur at any time the client is receiving treatment at COMCARE. Referrals initiated by COMCARE will include a treatment plan authorizing services and opening of assignments in the medical record. The Mental Health Association (hereinafter "MHA") will obtain referrals and treatment plans from COMCARE's electronic medical record for cases in which COMCARE is the primary case management provider. Clients may request contracted services through Contractor. In these cases, Contractor will provide COMCARE with a copy of Contractor's intake, Severely and Persistently Mentally Ill (hereinafter "SPMI") Determination, and any other relevant documentation to support the request for services. The Director of Rehabilitative Services or their designee will authorize Contractor to provide contracted services. Authorization will be noted in the client's record.
- B. **Children/Youth.** Families/Guardians may request contracted services through Contractor. In these cases, Contractor will notify COMCARE of the request, and provide COMCARE with a copy of Contractor's intake, SED Determination and any other relevant documentation to support the request for services if determined necessary by COMCARE. The Director of Rehabilitative Services or their designee will authorize Contractor to provide contracted services.

**Single Primary Case Management Entity.** Recognizing that the services related to case management are core services, the client will have one primary case management provider agency as defined by County. Therefore, one contracting agency shall have the authority to deliver CPST and TCM per authorized client unless otherwise authorized by COMCARE.

- 1. COMCARE retains the ability to provide and bill TCM for case coordination across contracted providers and other resources.
- 2. The contracting agency acting as the case management agency is responsible for delivering any and all contracted services and support in a manner that assists clients in achieving their goals, including those related to independent living, employment and education, as well as other recovery related goals.
- 3. COMCARE's Community Crisis Center (hereinafter "CCC") retains the right to deliver and bill for Crisis Intervention services and hospitalization prevention activities.

**Delivery of Contracted Services.** Contractor will submit a completed intake assessment meeting State of Kansas criteria, a form to determine eligibility for Rehab services, and the Authorization for Affiliate Psychiatric Rehabilitation form to COMCARE's Community Support Service Program Director or their designee for review of eligibility. Authorization or discussion will occur within five (5) business days of receipt, approvals to be effective the date of submission. Contractor will ensure confidentiality and privacy using accepted internet security functions for electronic submission of these documents.

**7. Compliance with State of Kansas Administrative Regulations.** Contractor expressly agrees to maintain compliance with all KDADS administrative regulations as they pertain to affiliated mental health service Contractors. Specifically, Contractor agrees to:

- A. Provide all services in a manner consistent with COMCARE's mission statement and values. Contractor's services are designed to supplement the services provided by COMCARE and promote the strategic plan through increased availability of community-based services to individuals with mental illness and youth with serious emotional disturbances. COMCARE agrees to provide Contractor with a copy of the strategic plan, mission statement and values and updates upon request.
- B. Abide by and utilize policies and procedures consistent with COMCARE's policies and procedures for solicitation of consumer comments and suggestions. All policies and procedures for consumer comments and suggestions must comply with K.A.R. 30-60-30 and are subject to review and approval by COMCARE.
- C. Abide by and utilize policies and procedures consistent with COMCARE's policies and procedures for de-escalation techniques and emergency behavioral interventions. All policies and procedures for de-escalation techniques and emergency behavioral interventions must comply with K.A.R. 30-60-48 and are subject to review and approval by COMCARE.
- D. Abide by and utilize policies and procedures consistent with COMCARE's policies and procedures for accepting and resolving complaints. All policies and procedures for accepting and resolving complaints must comply with K.A.R. 30-60-51 and are subject to review and approval by COMCARE. Contractor expressly agrees to provide the information necessary for COMCARE to investigate complaints made regarding Contractor. Contractor agrees to provide the information requested to investigate complaints within a reasonable time frame as set by COMCARE.
- E. Abide by and utilize policies and procedures consistent with COMCARE's policies and procedures for a quality improvement program. All policies and procedures for Contractor's quality improvement program must comply with K.A.R. 30-60-55 and are subject to review and approval by COMCARE.
- F. Abide by and utilize policies and procedures consistent with COMCARE's policies and procedures for a risk management program. All policies and procedures for Contractor's risk management program must comply with K.A.R. 30-60-56 and are subject to review and approval by COMCARE.
- G. Abide by and utilize policies and procedures consistent with COMCARE's policies and procedures for a utilization review program. All policies and procedures for Contractor's utilization review program must comply with K.A.R. 30-60-57 and are subject to review and approval by COMCARE.

**8. Integrated Clinical Record.** Consistent with good patient care and State of Kansas mental health licensing requirements, County and Contractor agree that it is their mutual intent to provide an integrated clinical record system for clients receiving services from both parties. Both parties will comply with the provisions of state and federal regulations in regard to confidentiality of eligible participant records.

**9. Record Keeping.** All record keeping processes shall meet the guidelines and expectations for Medicaid reimbursement even if such reimbursement is not received. An audit process shall be set in place by Contractor. Contractor agrees to participate in data collection for Client Status Reports and the A.I.M.S. database established by the State of Kansas in fiscal year 2000. Contractor agrees to provide County with any documentation required for the A.I.M.S. system upon request and within the time frame designated by County.

**10. Warranties and Representation.** Goods or equipment delivered and/or services rendered hereunder must be made according to the terms of this Agreement both as to time and quantities, with County

reserving the right to cancel, reject or refuse any delivery made and/or service rendered prior to or subsequent to the times specified. In the event no quality is specified on the face hereof, the goods or equipment delivered and/or services rendered hereunder must be of the best quality. If delivery of goods or equipment and/or rendering of services cannot be maintained, Contractor must notify County immediately. Upon Contractor's failure to maintain delivery or otherwise perform hereunder, County reserves the right to procure such goods or equipment and/or services elsewhere, in whole or in part, and assess Contractor with any additional costs incurred, unless Contractor's default arises from causes beyond its control and without fault or negligence. This remedy is in addition to any other remedy which County may have pursuant to this Agreement or otherwise and/or any warranty that may be implied or imposed by operation of law.

**11. Notification.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

**County:** COMCARE of Sedgwick County  
Attn: Contract Notification  
271 W. 3<sup>rd</sup> Street N. Suite 600  
Wichita, Kansas 67202

and

Sedgwick County Counselor's Office  
Attn: Contract Notification  
Sedgwick County Courthouse  
525 N. Main, Suite 359  
Wichita, Kansas 67203-3790

**Contractor:** Mental Health Association of South Central Kansas  
Attn: Mary C. Jones  
555 N. Woodlawn, Suite 3105  
Wichita, Kansas 67208

**12. Management of Risk, Compliance, and Compliance Reporting Requirements.** Contractor expressly understands and agrees to maintain an internal auditing and monitoring program and to immediately report to COMCARE any suspected fraud, abuse or waste as it relates to compliance and billing practices, and to include submission of documentation of the investigation/review and outcome. Additionally, Contractor agrees to respond timely (i.e. within one week or sooner if the issue warrants immediate attention) to any and all issues identified as a result of a compliance investigation by COMCARE. Routine compliance efforts must be documented and communicated to COMCARE quarterly via a report due to the COMCARE Compliance Officer no later than the last day of the month following the end of the calendar quarter.

**13. Incorporation of MCO Requirements.** As County has entered into agreements with the three Managed Care Organizations (MCOs) selected by the State of Kansas to manage its Medicaid program, Contractor shall comply with MCO requirements as applicable. Contractor warrants that it can meet the standards of the MCO contracts. Contractor shall comply with all provisions and requirements set out in each MCO Provider Manual, as applicable, in connection with the provision of services to covered persons enrolled in the KanCare Medicaid program. Contractor agrees that covered services shall be provided in accordance with the three MCO contracts and any applicable Provider Manuals, as well as state and federal laws and regulations.



Provider Manuals will be made available to Contractor via the appropriate MCO website. To the extent Contractor is unclear about its duties and obligations; it shall request clarification from COMCARE.

**14. Termination.**

A. **Termination for Cause.** In the event of any breach of the terms or conditions of this Agreement by Contractor, or in the event of any proceedings by or against Contractor in bankruptcy or insolvency or for appointment of receiver or trustee or any general assignment for the benefit of creditors, County may, in addition to any other remedy provided it by law or in equity or other right reserved to it elsewhere in this Agreement, without any liability to Contractor on account thereof, by written notice, terminate immediately all or any part of this Agreement, procure the goods, equipment and/or services provided for herein elsewhere, on such terms and under such conditions as are reasonable in the sole discretion of County, and Contractor shall be liable to pay to County any excess cost or other damages caused by Contractor as a result thereof.

B. **Termination for Convenience.** County shall have the right to terminate this Agreement for convenience in whole, or from time to time, in part, upon thirty (30) days' written notice. Upon receipt of such termination notice, Contractor shall not incur any new obligations and shall cancel as many outstanding obligations as reasonably possible. In such event, County's maximum liability shall be limited to payment for goods or equipment delivered and accepted and/or services rendered.

C. **Reduction in Funds.** It is understood that funding may cease or be reduced at any time. In the event that adequate funds are not available to meet the obligations hereunder, either party reserves the right to terminate this Agreement upon thirty (30) days' written notice.

**15. Hold Harmless.** Contractor shall indemnify County, and its elected and appointed officials, officers, managers, members, employees and agents, against any and all loss or damage to the extent such loss and/or damage arises out of Contractor's negligence and/or willful, wanton or reckless conduct in the provision of goods and equipment or performance of services under this Agreement. This indemnification shall not be affected by other portions of the Agreement relating to insurance requirements.

**16. Liability Insurance.** Contractor agrees to maintain the following minimum limits of insurance coverage throughout the term of this Agreement:

<b>Worker's Compensation</b> Applicable State Statutory Employer's Liability	
<b>Employer's Liability Insurance:</b>	\$100,000.00
<b>Contractor's Liability Insurance:</b> Form of insurance shall be by a Comprehensive General Liability and Comprehensive Automobile Liability	
<b>Bodily Injury:</b> Each occurrence Aggregate	 \$500,000.00 \$500,000.00
<b>Property Damage:</b> Each occurrence Aggregate	 \$500,000.00 \$500,000.00

<b>Personal Injury:</b>	
Each person aggregate	\$500,000.00
General aggregate	\$500,000.00
<b>Automobile Liability – Owned, Non-Owned, and Hired:</b>	
Bodily injury each person	\$500,000.00
Bodily injury each occurrence	\$500,000.00

Liability insurance coverage indicated above must be considered as primary and not as excess insurance. Contractor shall furnish a certificate evidencing such coverage, with County listed as an additional insured, except for professional liability, workers' compensation and employer's liability. Certificate shall be provided with bid/proposal submittals. Certificate shall remain in force during the duration of the project/services and will not be canceled, reduced, modified, limited, or restricted until thirty (30) days after County receives written notice of such change. All insurance must be with an insurance company with a minimum BEST rating of A- and licensed to do business in the State of Kansas. It is the responsibility of Contractor to require that any and all approved subcontractors meet the minimum insurance requirements. Contractor shall obtain the above referenced certificate(s) of insurance, and in accordance with this Agreement, provide copies of such certificates to County.

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

**17. Entire Agreement.** This Agreement and the documents incorporated herein contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor shall it be of any force or effect.

**18. Assignment.** Neither this Agreement nor any rights or obligations created by it shall be assigned or otherwise transferred by either party without the prior written consent of the other. Any attempted assignment without such consent shall be null and void.

**19. Amendments.** Neither this Agreement nor any rights or obligations created by it shall be amended by either party without the prior written consent of the other. Any attempted amendment without such consent shall be null and void.

**20. Subcontracting.** None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of County. In the event subcontracting is approved by County, Contractor shall remain totally responsible for all actions and work performed by its subcontractors. All approved subcontracts must conform to applicable requirements set forth in this Agreement and in its appendices, exhibits and amendments, if any.

**21. Severability Clause.** In the event that any provision of this Agreement is held to be unenforceable, the remaining provisions shall continue in full force and effect.

**22. Waiver.** Waiver of any breach of any provision in this Agreement shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by County shall not constitute a waiver.

**23. Force Majeure.** Contractor shall not be held liable if the failure to perform under this Agreement arises out of causes beyond the control of Contractor. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, strikes other than by Contractor's employees, and freight embargoes.

**24. Order of Preference.** Any conflict to the provisions of this Agreement and the documents incorporated by reference shall be determined by the following priority order:

- a. Sedgwick County Contractual Provisions Attachment
- b. Written modifications and addenda to the executed Agreement
- c. This Agreement document

**25. Environmental Protection.** Contractor shall abide by all federal, state and local laws, rules and regulations regarding the protection of the environment. Contractor shall report any violations to the applicable governmental agency. A violation of applicable laws, rules or regulations may result in termination of this Agreement for cause.

**26. Nondiscrimination and Workplace Safety.** Contractor agrees to abide by all federal, state and local laws, rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violation of applicable laws, rules or regulations may result in termination of this Agreement for cause.

**27. Retention of Records.** Unless otherwise specified in this Agreement, Contractor agrees to preserve and make available to County at reasonable times all of its books, documents, papers, records and other evidence involving transactions related to this Agreement for a period of five (5) years from the date of expiration or termination of this Agreement.

Matters involving litigation shall be kept for one (1) year following termination of litigation, including all appeals, if the litigation exceeds five (5) years.

**28. Ownership of Data.** All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by Contractor in relation to this Agreement shall be owned by County and shall be handed over and/or returned to County upon the expiration or termination of this Agreement. Contractor shall not release any such materials without written approval of the County.

**29. Intellectual Property Rights.** As applicable, all original software, software code, and/or intellectual property developed or created by County in relation to this Agreement shall remain the sole property of the County. Contractor shall surrender all original written materials, including, but not limited to any reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer-based training modules, electronically or magnetically recorded material, and any and all intellectual property to County upon the expiration or termination of this Agreement.


*[remainder of this page left intentionally blank]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

SEDGWICK COUNTY, KANSAS

\_\_\_\_\_  
David T. Dennis, Chairman  
Commissioner, Third District

MENTAL HEALTH ASSOCIATION OF  
SOUTH CENTRAL KANSAS

  
\_\_\_\_\_  
Mary C. Jones  
President and CEO

APPROVED AS TO FORM ONLY:

  
\_\_\_\_\_  
Michael L. Fessinger  
Assistant County Counselor

ATTESTED TO:

\_\_\_\_\_  
Kelly B. Arnold  
County Clerk

**APPENDIX A**  
**SEDGWICK COUNTY MANDATORY CONTRACTUAL PROVISIONS ATTACHMENT**

**Important:** This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in the Sedgwick County Mandatory Contractual Provisions Attachment, which is attached hereto, are hereby incorporated in this Agreement and made a part thereof. In the event of conflict between the provisions of this Agreement and the Sedgwick County Mandatory Contractual Provisions Attachment, the terms of the Sedgwick County Mandatory Contractual Provisions Attachment will control."

The parties agree that the following provisions are hereby incorporated into the Agreement to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the Agreement in which this attachment is incorporated.
2. **Choice of Law:** This Agreement shall be interpreted under and governed by the laws of the State of Kansas. The parties agree that any dispute or cause of action that arises in connection with this Agreement will be brought before a court of competent jurisdiction in Sedgwick County, Kansas.
3. **Termination Due To Lack of Funding Appropriation:** If, in the judgment of the Chief Financial Officer, sufficient funds are not appropriated to continue the function performed in this Agreement and for the payment of the charges hereunder, County may terminate this Agreement at the end of its current fiscal year. County agrees to give written notice of termination to Contractor at least thirty (30) days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided for in the Agreement, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided to County under the Agreement. County will pay to Contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any related equipment. Upon termination of the Agreement by County, title to any such equipment shall revert to Contractor at the end of County's current fiscal year. The termination of the Agreement pursuant to this paragraph shall not cause any penalty to be charged to the County or the Contractor.
4. **Disclaimer of Liability:** County shall not hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*).
5. **Acceptance of Agreement:** This Agreement shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
6. **Arbitration, Damages, Jury Trial and Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has consented to a jury trial to resolve any disputes that may arise hereunder. Contractor waives its right to a jury trial to resolve any disputes that may arise hereunder. No provision of any Agreement and/or this Contractual Provisions Attachment will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
7. **Representative's Authority to Contract:** By signing this Agreement, the representative of the Contractor thereby represents that such person is duly authorized by the Contractor to execute this Agreement on behalf of the Contractor and that the Contractor agrees to be bound by the provisions thereof.
8. **Federal, State and Local Taxes:** Unless otherwise specified, the proposal price shall include all applicable federal, state and local taxes. Contractor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Agreement. County is exempt from state sales or use taxes and federal excise taxes for direct purchases. These taxes shall not be included in the Agreement. Upon request, County shall provide to the Contractor a certificate of tax exemption.  
  
County makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.
9. **Insurance:** County shall not be required to purchase any insurance against loss or damage to any personal property to which this Agreement relates, nor shall this Agreement require the County to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), Contractor shall bear the risk of any loss or damage to any personal property to which Contractor holds title.
10. **Conflict of Interest.** Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any professional personnel who are also in the employ of the County and providing services involving this Agreement or services similar in nature to the scope of this Agreement to the County. Furthermore, Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any County employee who has participated in the making of this Agreement until at least two years after his/her termination of employment with the County.

11. **Confidentiality.** Contractor may have access to private or confidential data maintained by County to the extent necessary to carry out its responsibilities under this Agreement. Contractor must comply with all the requirements of the Kansas Open Records Act (K.S.A. 42-215 *et seq.*) in providing services and/or goods under this Agreement. Contractor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this Agreement shall be disseminated by either party except as authorized by statute, either during the period of the Agreement or thereafter. Contractor must agree to return any or all data furnished by the County promptly at the request of County in whatever form it is maintained by Contractor. Upon the termination or expiration of this Agreement, Contractor shall not use any of such data or any material derived from the data for any purpose and, where so instructed by County, shall destroy or render such data or material unreadable.
12. **Cash Basis and Budget Laws.** The right of the County to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and all other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the County shall at all times stay in conformity with such laws, and as a condition of this Agreement the County reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.
13. **Anti-Discrimination Clause.** Contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 *et seq.*) and the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs and activities; (b) to include in all solicitations or advertisements for employees the phrase "equal opportunity employer;" (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the Contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto; and (f) if it is determined that the Contractor has violated applicable provisions of the ADA, such violation shall constitute a breach of the Agreement and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto.

Parties to this Agreement understand that the provisions of this paragraph 13 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of this Agreement or whose contracts with the County cumulatively total \$5,000 or less during the County's fiscal year.

14. **Suspension/Debarment.** Contractor acknowledges that as part of the Code of Federal Regulations (2 C.F.R. Part 180) a person or entity that is debarred or suspended in the System for Award Management (SAM) shall be excluded from federal financial and nonfinancial assistance and benefits under federal programs and activities. All non-federal entities, including Sedgwick County, must determine whether the Contractor has been excluded from the system and any federal funding received or to be received by the County in relation to this Agreement prohibits the County from contracting with any Contractor that has been so listed. In the event the Contractor is debarred or suspended under the SAM, the Contractor shall notify the County in writing of such determination within five (5) business days as set forth in the Notice provision of this Agreement. County shall have the right, in its sole discretion, to declare the Agreement terminated for breach upon receipt of the written notice. Contractor shall be responsible for determining whether any sub-contractor performing any work for Contractor pursuant to this Agreement has been debarred or suspended under the SAM and to notify County within the same five (5) business days, with the County reserving the same right to terminate for breach as set forth herein.
15. **HIPAA Compliance.** Contractor agrees to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (codified at 45 C.F.R. Parts 160 and 164), as amended ("HIPAA"); privacy and security regulations promulgated by the United States Department of Health and Human Services ("DHHS"); title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, as amended ("HITECH Act"); the Genetic Information Nondiscrimination Act of 2008 ("GINA"); provisions regarding Confidentiality of Alcohol and Drug Abuse Patient Records (codified at 42 C.F.R. Part 2), as amended (collectively referred to as "HIPAA"), to the extent that the Contractor uses, discloses or has access to protected health information as defined by HIPAA. Under the final Omnibus Rule effective March 2013, Contractor may be required to enter into a Business Associate Agreement pursuant to HIPAA.
16. **Compliance with Law.** Contractor shall comply with all applicable local, state and federal laws and regulations in carrying out this Agreement, regardless of whether said local, state and federal laws are specifically referenced in the Agreement to which this attached is incorporated.
17. **Tax Set-Off.** If, at any time prior to or during the term of any executed agreement, Contractor is delinquent in the payment of real and/or personal property taxes to Sedgwick County, and the delinquency exists at the time payment is due under the agreement, County will offset said delinquent taxes by the amount of the payment due under the agreement and will continue to do so until the delinquency is satisfied, pursuant to K.S.A. 79-2012.

**APPENDIX B**  
**COMCARE PROVISIONS, PURPOSE, GOALS AND OBJECTIVES**

**GENERAL PROVISIONS**

1. Contractor agrees that any services provided under this Agreement must be pre-approved by COMCARE staff.
2. Contractor shall deliver services only as determined by the client's treatment plan. Contractor agrees that all services provided shall comply with necessary requirements based on Medicaid service definitions.
3. It is understood that Contractor's records used in the preparation of all reports are subject to review by County to insure the accuracy and validity of the information reported.
4. Contractor agrees to provide clinical transactions and associated documentation within fourteen (14) calendar days of service delivery. All obligatory information including documentation (e.g. progress notes) related to service delivery will accompany the service transaction. Contractor agrees to submit reports to COMCARE's Patient Billing no later than fourteen (14) calendar days after the delivery of service. Contractor may be subject to suspension of payment until the aforementioned reports are received by COMCARE. Contractor will receive payment after completion of the agreed upon payment process. All applicable records will be maintained by Contractor on such forms as County shall designate.
5. Contractor expressly agrees that all services provided under this Agreement shall meet all applicable Medicaid, Kansas Health Solutions, MCO, KDADS, and Department of Children and Families requirements and guidelines for service delivery, documentation, credentialing, incident reporting, staff training and supervision. Contractor agrees to make available to COMCARE all documentation necessary to verify Contractor has met these service requirements and guidelines. (Medicaid service provisions outlined below).
6. It is mutually agreed by and between County and Contractor that this Agreement will be evaluated by County in terms of obtaining goals and listed objectives.
7. Contractor shall provide written notice to the Director of COMCARE if it is unable to provide the required quantity or quality of service. This written notice shall include a plan to address the issues affecting quantity and/or quality of services being provided.
8. COMCARE's Director of Quality Management must be notified by Contractor as soon as possible, but no later than 24 hours after Contractor is aware of an incident. In accordance with the MCO Provider Manual, the following incidents must be reported immediately:
  - a. Death of a mental health consumer receiving services from Contractor.
  - b. Suicide attempt.
  - c. Medication error.
  - d. Any event requiring the services of the fire department or law enforcement agency beyond the scope of contractor's routine delivery of services.
  - e. Abuse or alleged abuse involving a consumer.
  - f. An injury or illness (non-psychiatric) of a consumer that requires medical treatment more intensive than first aid.
  - g. A consumer who is out of contact with staff for more than 24 hours without prior arrangement,

- or a consumer who is in immediate danger because he/she is missing for any period of time.
- h. Any fire, disaster, flood, earthquake, tornado, explosion, or unusual occurrence that necessitates the temporary shelter or relocation of residents.
  - i. Seclusion or restraint (seclusion and/or restraint of clients on the SED or Psychiatric Rehabilitation Treatment Facility (hereinafter "PRTF") waiver must be reported by the fifth working day of the month to COMCARE's Director of Quality, Risk Management and Compliance).
  - j. Other incidents identified by Contractor as critical, adverse or unusual.
9. Contractor agrees to maintain a vehicle operation and usage policy governing Contractor's employees and any applicants for employment whose responsibilities would include transporting clients served under this contract. The policy must be equally as restrictive as County's vehicle operation and usage policy, although it may be more restrictive if Contractor deems appropriate. A copy of County's policy is available upon request.
  10. Contractor agrees that all referrals for services shall come from COMCARE. Contractor agrees to utilize the COMCARE Crisis Services Treatment Plan for COMCARE referred clients. COMCARE agrees to provide Contractor with a copy of the current Treatment Plan and System of Care referral form for each referral prior to service delivery.
  11. Contractor shall direct all inquiries regarding referrals to COMCARE's staff Resource Facilitator or designee.
  12. Contractor shall not exceed the number of hours listed on the Treatment Plan. Hours in excess of the number of hours on the Treatment Plan may be denied payment.
  13. Contractor agrees to provide any requested information for all client team meetings requested by COMCARE staff. This information will be provided in person whenever possible, or through written documentation.
  14. Contractor will meet with representatives from COMCARE on a minimum yearly basis to discuss successes, concerns, improvements and changes to be implemented.
  15. Consistent with good patient care and State of Kansas mental health licensing requirements, County and Contractor agree that it is their mutual intent to comply with the provisions of state and federal regulations in regard to confidentiality of eligible participant records.
  16. To ensure compliance with all state and federal regulations, Contractor agrees to notify COMCARE within one (1) business day of discovery of any improper coding violations.
  17. Contractor is responsible for obtaining all necessary training including MCO / KDADS required trainings for the delivery of contracted services. Supervisors must also meet the qualification and training requirements as defined by MCO / KDADS. Supervision of its provider staff will be delivered by the Contractor and will comply with all necessary requirements related to the specific service activity, including the nature and frequency of the contacts. Documentation of all staff members' qualifications, training, and supervision shall be made available to COMCARE.



18. Contractor agrees to submit a quarterly outcome report by the 30<sup>th</sup> day of the month following each calendar quarter. Reports should be in a format acceptable to County, a report template is provided. The report should be sent to COMCARE at [dhhsreports@sedgwick.gov](mailto:dhhsreports@sedgwick.gov). The outcome report should address the goals and objectives as stated in the Agreement. If the report is not received by the aforementioned deadline, Contractor may be subject to suspension of payment until the reports have been received and approved.

#### **STATE REPORTING**

Contractor agrees to its inclusion in the A.I.M.S. Database and will provide COMCARE with any documentation, both qualitative and quantitative, upon request and within the time frame designated by COMCARE.

#### **SERVICE GOALS AND OBJECTIVES**

Contractor agrees to report on service goals and objectives quarterly. Outcomes 1-3 are priority. Agreed upon goal(s) include the following:

1. **Adult Admissions: The rate of State Mental Health Hospital (hereinafter "SMHH") admissions for adults residing within the Community Mental Health Center (hereinafter "CMHC") catchment area who have been screened for admission to an inpatient psychiatric facility for psychiatric services.**

Measure: Admission Rate is determined by dividing the Numerator by the Denominator and multiplying the quotient by 10,000.

Numerator: The number of adult admissions to a SMHH as a result of a mental health inpatient screen performed by CMHC staff. Inpatient psychiatric facilities include state-operated psychiatric inpatient facilities, local/regional inpatient psychiatric facilities, and local/regional medical facilities providing psychiatric services.

Denominator: The number of all adults (age 18 and over) within the CMHC catchment area based on the most recent US Census County estimates available at the start of the contract period.

2. **Adult Re-admissions within 30 days of discharge: Percent of screening determinations resulting in readmissions of adults, age 18 and over, to any SMHH or private psychiatric hospital, occurring within 30 days of previous discharge.**

Numerator: Number of adults discharged from SMHH, or private psychiatric hospital, with a subsequent readmission occurring within 30 days.

Denominator: Total number of adult discharges from SMHH, or private psychiatric hospital occurring within 30 days of reporting period.

3. **Adult Penetration Rate: The per capita number of consumers with SPMI the CMHC serves.**

Numerator: Number of unduplicated consumers with SPMI that have received CSS services within the last 90 days.

Denominator: Number of persons living in CMHC catchment area in the adult age range

based on the most recent US Census County estimates available at the start of the contract period.

- 4. Access standards post SMHH for adults: Face-to-face services with clients, unless refused by client within 3 calendar days of discharge from a SMHH. If the consumer refuses services, the dates, times, and reasons why a face to face contact did not occur within the required timeframe shall be documented in the client's file.**

Numerator: Number of adults receiving CSS services who had a face to face contact within 3 calendar days of discharge from a SMHH.

Denominator: Number of adults receiving CSS services discharged from a SMHH during the previous month.

- 5. Medication appointment within 30 days of discharge from a SMHH (adults).**

Numerator: Number of adults receiving CSS services who had a medication appointment within 30 days of discharge from a SMHH.

Denominator: All SMHH discharges that occurred during the previous month.

- 6. Independent Living: The percentage of consumers with an SPMI who live independently. The CMHC shall report the percentage of consumers with an SPMI who are living independently.**

Numerator: Number of consumers with an SPMI that have received CSS services in the last six months who are living independently.

Denominator: Total number of consumers with an SPMI that have received CSS services in the last six months.

- 7. Children and Adolescents Re-admissions within 30 and 90 days of discharge: Percent of screening determinations resulting in readmissions of any youth in CBS, to any inpatient hospital for children and adolescents, private psychiatric hospital (including state hospital alternatives), or PRTF, within 30 and 90 days of previous discharge. Target goal is 15% or less recidivism.**

Numerator: Number of youth discharged from inpatient hospitalization for children and adolescents, private psychiatric hospital, or PRTF with a subsequent readmission within 30 or 90 days.

Denominator: Total number of youth discharges from inpatient hospitalization for children and adolescents, private psychiatric hospital, state hospital alternative, or PRTF occurring within 30 or 90 days of reporting period.

8. **At least 90% of those approved for CBS will receive services within 10 business days.**

Numerator: Number of children/youth approved for CBS.

Denominator: Number of children/youth who have received services within 10 business days of the approval to serve in CBS.

9. **Access standards post state hospital alternative or a PRTF: Face-to-face contact within 3 calendar days of discharge from a state hospital alternative (hereinafter "SHA") or a PRTF; defined as any mental health service except medication management or intake. Target goal is at least 90% of the time.**

Numerator: Number of children/adolescents receiving CBS services who had a face to face contact within 3 calendar days of discharge from a SHA or a PRTF.

Denominator: Number of children/adolescents receiving CBS services discharged from a SHA or a PRTF during the previous month

10. **Education: The percentage of youth with an SED receiving CBS who attend school regularly. The CMHC shall report the percentage of youth with an SED who received CBS services and are attending school regularly. Target goal is at least 98% of the time.**

Numerator: Number of youth with an SED that have received CBS services within the last six months who are attending school with less than 5 unexcused absences.

Denominator: Total number of youth with an SED that have received CBS services within the last six months.

## **DELIVERABLES AND REPORTING**

The CMHC shall report complete and accurate client-level demographic and service encounter data through AIMS for adults and youth with registration values of enrolled target, enrolled non-target, non-enrolled and pending. The CMHC shall also report complete and accurate client status through AIMS for adults and youth with registration values of enrolled targeted.

Performance reports are due by the 30<sup>th</sup> day of the month following the end of the calendar quarter. The report should be sent to COMCARE at [dhsreports@sedgwick.gov](mailto:dhsreports@sedgwick.gov)

## **METHOD OF BILLING AND PAYMENT**

Billing shall be supported with documentation. Payments shall be made to Contractor only for items and services provided to support the Agreement purpose. County reserves the right to disallow reimbursement for any items or service billed by Contractor if County believes that the item or service was not provided to support the contract purpose.

1. Appeals for non-payment based on Contractor discrepancies with COMCARE reconciliation may be sent to COMCARE's Executive Director. Payments shall be mailed to Contractor's address as set out in Section 18 of the Agreement.
2. Request for additional services (services over the amount authorized) must be documented in writing. Requests for additional hours will be reviewed. Approvals and denials will then be conveyed back to Contractor's staff. Approval must be received before services are provided.
3. For all assessments for medical necessity and treatment services performed by Contractor, if an external audit or other audit requires recoupment of Medicaid-billed services because of inadequate documentation, Contractor will be responsible for that recoupment amount and any penalties assessed against County. Further, if errors committed by Contractor and/or its staff or contractors put County into a level of penalty that would not have occurred without Contractor's errors, Contractor will be responsible for any and all recoupments and penalties assessed against County. County will be responsible for proper submission of billing to Medicaid and will be responsible for billing service codes and units of service claims as submitted by Contractor. If repayment of Medicaid-billed services is required because of an error on the part of County, County will be responsible for that repayment amount and any penalties assessed.

#### **PERFORMANCE EXPECTATIONS**

Contractor is expected to improve its performance on the outcome measures listed above. Performance improvement planning will be initiated based upon the trend specific to Contractor for each outcome. Discussion and further study will result if the trend for a given outcome begins to move in a negative direction. A performance improvement plan may be initiated at any time upon agreement between County and Contractor, but will be developed in the event of a negative trend that persists for three consecutive months.

Contractor will use recognized performance improvement methods to develop and implement a performance improvement plan to improve its performance on the identified outcome(s). If Contractor believes that improving performance on the outcome(s) is beyond its control, the Contractor may, within fifteen (15) days submit a written request to be exempted from developing and implementing a performance improvement plan. The request will include data to substantiate the reason(s) for requesting the exemption. County will evaluate the request and notify the Contractor in writing within fifteen (15) days of receiving the request whether the exemption request is justified. County will share available outcomes and trend lines with Contractor as they are received from the State.

**Sedgwick County Contract Outcomes**  
**QUARTERLY REPORT**

\_\_\_\_\_ Quarter

\_\_\_\_\_ Year

**Organization:**

**Program Name:**

**Contact Information**

**Name:**

**Address:**

**Phone:**

<b>GOAL 1:</b>				
<b>OUTCOME 1:</b>				
<b>MEASUREMENT TOOL:</b>				
<b><u>1<sup>st</sup> Quarter</u></b>	<b><u>2<sup>nd</sup> Quarter</u></b>	<b><u>3<sup>rd</sup> Quarter</u></b>	<b><u>4<sup>th</sup> Quarter</u></b>	<b><u>Year to Date</u></b>
Number:	Number:	Number:	Number:	Number:
Percentage:	Percentage:	Percentage:	Percentage:	Percentage:
<b>ACTUAL RESULTS</b>				
<b>RESULTS DISCUSSION:</b>				

<b>GOAL 2:</b>				
<b>OUTCOME 2:</b>				
<b>MEASUREMENT TOOL:</b>				
<b><u>1<sup>st</sup> Quarter</u></b>	<b><u>2<sup>nd</sup> Quarter</u></b>	<b><u>3<sup>rd</sup> Quarter</u></b>	<b><u>4<sup>th</sup> Quarter</u></b>	<b><u>Year to Date</u></b>
Number:	Number:	Number:	Number:	Number:
Percentage:	Percentage:	Percentage:	Percentage:	Percentage:

**ACTUAL RESULTS****RESULTS DISCUSSION:****GOAL 3:****OUTCOME 3:****MEASUREMENT TOOL:**

<u>1<sup>st</sup> Quarter</u>	<u>2<sup>nd</sup> Quarter</u>	<u>3<sup>rd</sup> Quarter</u>	<u>4<sup>th</sup> Quarter</u>	<u>Year to Date</u>
Number:	Number:	Number:	Number:	Number:
Percentage:	Percentage:	Percentage:	Percentage:	Percentage:

**ACTUAL RESULTS****RESULTS DISCUSSION:****GOAL 4:****OUTCOME 4:****MEASUREMENT TOOL:**

<u>1<sup>st</sup> Quarter</u>	<u>2<sup>nd</sup> Quarter</u>	<u>3<sup>rd</sup> Quarter</u>	<u>4<sup>th</sup> Quarter</u>	<u>Year to Date</u>
Number:	Number:	Number:	Number:	Number:
Percentage:	Percentage:	Percentage:	Percentage:	Percentage:

**ACTUAL RESULTS****RESULTS DISCUSSION:****OUTCOME REPORT SUMMARY:**

Please summarize any outcomes that **did not** meet the targeted goal or were unable to be reported on during this quarter.

## **APPENDIX C**

### **Kansas Department of Aging and Disability Services Permanent Administrative Regulations**

#### **Article 60.C LICENSING OF COMMUNITY MENTAL HEALTH CENTERS**

##### **30-60-2. Definitions**

(a) 'Affiliate' means any individual or agency that independently provides mental health services and that has entered into an affiliation agreement with a community mental health center in accordance with the provisions of K.A.R. 30-60-29.

(b) 'Affiliated center' means any community mental health center that is licensed by the secretary in accordance with this article, based upon the exception specified in K.S.A. 75-3307b(b) and amendments thereto.

(e) 'Contractor' means any individual or agency providing any service to a licensee in accordance with a contract, whether written or oral, entered into by the licensee and the contractor. This term shall not include a licensee. A contractor may also be an affiliate if the individual or agency has entered into an affiliation agreement with a center in accordance with the provisions of K.A.R. 30-60-29.

##### **30-60-13. Responsibility for compliance.**

(a) Each center shall comply with the requirements of this article.

(b) Each center shall ensure compliance with the applicable requirements of this article by any affiliated center, affiliate, or contractor with which the center has entered into an affiliation agreement or contract to provide any service specified in this article. (Authorized by K.S.A. 39-1604(r), 75-3307b; implementing K.S.A. 39-1603(r), 75-3307b, and 75-3304a; effective July 7, 2003.)

##### **30-60-28. Mission and vision statements; strategic plan; coordination with quality improvement program.**

(a) Each center shall develop, adopt, and display at appropriate locations a statement of its mission, including a concise statement of the purpose for which the center exists, the general nature of the services it provides, and the population to whom it provides those services.

(b) Each center shall develop and adopt a vision statement of its goals for the future and the values it holds with regard to the consumers it serves.

(c) Each center shall develop and adopt a statement of its strategic plan, including specific, measurable, short-term, and long-term goals, and the specific means or methods by which it intends to accomplish those goals.

(d) Each center shall ensure consistency between its strategic plan and its quality improvement program required by K.A.R. 30-60-55. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

##### **30-60-29. Affiliation agreement; notice to secretary of a center's refusal to enter into; investigation and recommendations; no agreement imposed.**

(a) Each center shall have a written affiliation agreement with each affiliated community mental health center that is licensed by the secretary in accordance with this article based upon the exception provided for in K.S.A. 75-3307b(b), and amendments thereto, and that provides any of the services described in this article within the service area of that center. Any center may enter into an affiliation agreement with any other provider of mental health services with which the center chooses to enter into an affiliation agreement.

(b) Each affiliation agreement shall contain the following:

(1) A description of the types of services that the affiliated center or other provider has agreed to provide, pursuant to the

terms of the affiliation agreement;

(2) Provisions concerning how and by what procedures a consumer requesting or receiving services from the center can be referred to the affiliated center or other provider;

(3) Provisions concerning how and by what procedures a consumer requesting or receiving services from the affiliated center or other provider can or should be referred to the center;

(4) Any necessary and appropriate financial arrangements between the center and the affiliated center or other provider;

(5) Provisions concerning how and by what procedures the affiliated center or other provider will assist the center in the collection of any data or statistics that the center may require in order to comply with K.A.R. 30-60-19;

(6) A statement that the affiliated center or other provider agrees to provide any of the services it provides in a manner consistent with the mission statement of the center and that the affiliated center or other provider accepts and will abide by the values of the center. This statement shall include a description of how the services that are to be provided by the affiliated center or other provider will augment or supplement the services of the center or how those services will promote the strategic plan of the center adopted in compliance with K.A.R. 30-60-28;

(7) An agreement specifying that the affiliated center or other provider is subject to and will abide by and utilize the policies and procedures that the center adopts in compliance with K.A.R. 30-60-30, concerning the solicitation of consumer comments and suggestions;

(8) An agreement specifying that the affiliated center or other provider is subject to and will abide by and utilize the policies and procedures that the center adopts in compliance with K.A.R. 30-60-48, concerning de-escalation techniques and emergency behavioral interventions;

(9) An agreement specifying that the affiliated center or other provider is subject to and will abide by and utilize the policies and procedures that the center adopts in compliance with K.A.R. 30-60-51, concerning accepting and resolving complaints;

(10) An agreement specifying that the affiliated center or other provider is subject to and will abide by and utilize the policies and procedures that the center adopts in compliance with K.A.R. 30-60-55, concerning the center's quality improvement program;

(11) An agreement specifying that the affiliated center or other provider is subject to and will abide by and utilize the policies and procedures that the center adopts in compliance with K.A.R. 30-60-56, concerning the center's risk management program;

(12) An agreement specifying that the affiliated center or other provider is subject to and will abide by and utilize the policies and procedures that the center adopts in compliance with K.A.R. 30-60-57, concerning the center's utilization review program; and

(13) Provisions specifying when and under what circumstances the affiliation agreement either expires or can be cancelled.

(c) (1) If a center refuses to enter into an affiliation agreement with either of the following types of agencies, the agency may notify the secretary of that refusal:

(A) Any agency that wishes to become an affiliated provider and that would otherwise be entitled to any benefits that would be associated with being an affiliate of a community mental health center; or

(B) Any agency that would otherwise be entitled to a license as an affiliated community mental health center by virtue of the exception specified in K.S.A. 75-3307b(b) and amendments thereto.



(2) Upon notification of a center's refusal to enter into an affiliation agreement, the division or any other individual or agency may be requested by the secretary to investigate the circumstances leading to this refusal and to make recommendations to either or both parties. (Authorized by K.S.A. 75-3307b(b); implementing K.S.A. 75- 3307b(b) and 75-3304a; effective July 7, 2003.)

**30-60-30. Solicitation and consideration of consumer comments and suggestions.**

(a) Each center shall adopt and adhere to written policies and procedures that provide for regular and ongoing solicitation of comments and suggestions from its consumers. Each center shall utilize both formal and informal means of soliciting these comments or suggestions and shall ensure the solicitation of a diverse group of consumers to whom the center, and each affiliated provider with which the center has an affiliation agreement, provides services.

(b) Each center shall ensure coordination between the solicitation of consumer comments and suggestions and its quality improvement program required by K.A.R. 30- 60-55.

(c) Records that demonstrate each center's compliance with this requirement shall be centrally maintained for at least five years. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65- 4434(f), and 75-3304a; effective July 7, 2003.)

**30-60-48. De-escalation techniques and emergency behavioral interventions.**

(a) Each center shall adopt and adhere to written policies and procedures that require the following:

(1) Each staff member, volunteer, and contractor shall utilize only de-escalation techniques or emergency behavioral interventions that the staff member, volunteer, or contractor has been appropriately trained in or is professionally qualified to utilize. Each use of these techniques and interventions shall be consistent with the rights of consumers as listed in K.A.R. 30-60-50.

(2) No practice utilized shall be intended to humiliate, frighten, or physically harm a consumer.

(3) No practice that becomes necessary to implement shall continue longer than necessary to resolve the behavior at issue.

(4) Physical restraint or seclusion shall be used as a method of intervention only when all other methods of de-escalation have failed and only when necessary for the protection of that consumer or others.

(5) Each instance of the utilization of a physical restraint or the use of seclusion shall be documented in the consumer's clinical record required by K.A.R. 30-60-46 and reviewed by supervising staff and the center's risk management program required by K.A.R. 30-60-56.

(6) Each instance in which the utilization of a de-escalation technique or emergency behavioral intervention results in serious injury to the consumer shall be reported to the division.

(b) Each center shall ensure that each affiliated provider with which the center has an affiliation agreement adheres to the center's policies and procedures adopted in compliance with subsection (a) of this regulation. (Authorized by K.S.A. 39-1603(d) and (t), 65-4434(f), and 75- 3306b; implementing K.S.A. 39-1603, 39-1604(d), 65- 4434(f), 75-3304a, and 75-3307b; effective July 7, 2003.)

**30-60-51. Complaints; review; appeals; procedures; records.**

(a) Each center shall adopt and adhere to written policies and procedures that allow for any consumer, individual, or agency to make a written complaint about any member of the staff or any aspect of the center's operations, requirements, or services, or those of any affiliated center or other provider with which the center has an affiliation agreement. These policies and procedures shall include the following requirements and provisions, at a minimum:

(1) Notice shall be displayed at appropriate locations stating that any consumer, individual, or agency has the right to make a complaint. This notice shall also describe the procedures by which a complaint can be made.

(2) No particular form shall be required in order to make a complaint, but appropriate forms shall be made available at

appropriate locations for use by any consumer, individual, or agency wishing to make a complaint.

(3) Procedures shall exist so that a complaint can be made confidentially if a consumer, individual, or agency so desires.

(4) The staff of the center shall be trained to be alert to, listen for, and identify a complaint of a significant nature that is made either orally or incompletely by a consumer receiving any services from the center, or from any affiliated center or other provider with which the center has an affiliation agreement. The staff shall be required to assist that consumer to write out the complaint if made orally or to more specifically record that complaint for the consumer if the consumer fails or is unable to completely write out the complaint.

(5) The executive director shall review in a timely manner every complaint made, conduct any investigation as appropriate, and take any appropriate actions.

(6) If the complaint is the result of a discontinuation or reduction of any service that had been provided to a consumer, the executive director may, at the executive director's discretion, require that the service that was discontinued or reduced be restored to its former level pending the outcome of the executive director's investigation and determination.

(7) If a complaint received by a center concerns any matter involving the staff or any action, decision, policy, or requirement of an affiliated center or other affiliate, the executive director of the center may refer the complaint to the executive director of that affiliated center or other affiliate for that director's response. The response of the executive director of the affiliated center or other affiliate may be included in or attached to the center's response when a response is made or if a response is required to be made to a consumer.

(8) The executive director of the center shall reply, in writing, to every complaint concerning any aspect of either the center's operations, requirements, or services, or those of any affiliated center or other provider with which the center has an affiliation agreement, that is made by a consumer receiving services from the center, any affiliated center, or any other provider with which the center has an affiliation agreement, not later than 30 days following receipt of that complaint. This reply shall state the executive director's findings and determinations with regard to that complaint.

(9) A system shall be established to analyze all complaints made during specified periods of time to determine whether any trend or pattern appears and, if so, to attempt to identify the cause of those complaints or any other issue presented and to deliver this information either to the executive director or to another appropriate party.

(10) Any consumer who is dissatisfied with a determination of the executive director may appeal that determination to the division.

(11) Each appeal of a determination of the executive director shall be made in writing, within 30 days of receipt of that determination. Each appeal shall be addressed to the executive director of the center and shall state specifically the determination that is being appealed and the reasons why the consumer believes that the determination of the executive director is wrong.

(12) Upon receipt of such an appeal, the executive director may contact the consumer who is appealing and offer to meet personally with that consumer to see if some agreement or other resolution can be reached, or to offer mediation of the dispute to the consumer.

(13) The appeal of the executive director's determination shall proceed as provided for in this regulation. The executive director shall forward to the division the consumer's written appeal and both the original complaint and the executive director's written reply to that complaint when any of the following circumstances occurs:

(A) The executive director does not choose to make any offer for a meeting or for mediation.

(B) The consumer refuses any offer for a meeting or for mediation.

(C) Thirty days have elapsed following receipt of the appeal, and no agreement or resolution has been reached within that time period through the use of any meeting or meetings, or through a process of mediation.

(14) One or more employees of the division shall be assigned by the department to make an investigation and conduct any proceedings necessary to decide the outcome of the appeal. That employee or panel of employees shall give due regard to the rights and interests of both the consumer who is appealing and the center or the affiliated center or other affiliate against which the complaint was made. These procedures shall include the right of the consumer to be represented in the appeal by any individual of that consumer's choice.

(15) If the appeal resulted from a complaint that any service that had been provided to the consumer was discontinued or reduced, the division employee or panel of employees assigned to hear the appeal shall have the authority to require a licensee to restore that service to its former level during the pendency of the appeal.

(16) Following any investigation or proceeding that is determined appropriate, the division employee or panel of employees assigned to hear the appeal shall make a written decision with regard to the issues appealed. This decision shall be sent to the following individuals:

(A) The consumer and the individual that the consumer selected to represent the consumer, if applicable;

(B) The executive director of the center; and

(C) The executive director of the affiliated center or other affiliate, if applicable.

(17) The decision of the division's employee or panel of employees may be appealed to the office of administrative hearings within the Kansas department of administration in accordance with article 7.

(18) Records of every complaint and appeal made, and of the final determination or decision made with regard to each complaint, shall be centrally maintained for at least five years.

(b) No consumer shall be denied any service or otherwise penalized solely for any of the following reasons:

(1) Having made a complaint;

(2) Having refused any offer to meet, to meet again, or to engage in mediation;

(3) Failing to continue any process of mediation even though begun;

(4) Failing to resolve or settle the complaint; or

(5) Making or pursuing an appeal.

(c) Nothing in this regulation shall be construed to limit the right of any person to bring any action against a licensee that is permitted by law. (Authorized by K.S.A. 39-1603(r), 65-4434(f), and 75-3307b; implementing K.S.A. 39-1603, 65-4434(f), 75-3307b, and 75-3304a; effective July 7, 2003.)

### **30-60-55. Quality improvement program; records.**

(a) Each center shall adopt and adhere to written policies and procedures that provide for a comprehensive quality improvement program designed to continually measure, assess, and improve the quality of the services that are provided by the center, any affiliated center, or any other provider with which the center has an affiliation agreement. These policies and procedures shall require the following:

(1) An ongoing means by which the program measures the degree of consumer satisfaction with the services, from consumers who are currently being or who have recently been provided these services by the center, any affiliated center, or any other provider with which the center has an affiliation agreement;

(2) An ongoing means of furnishing feedback to the staff that provides those services with regard to each consumer's satisfaction or dissatisfaction; and

(3) Procedures that ensure that information gathered or generated by the center's risk management program, required by K.A.R. 30-60-56, and the center's utilization management program, required by K.A.R. 30-60-57, is available to and utilized by the center's quality improvement program.

(b) Records that demonstrate the center's compliance with this regulation shall be centrally maintained for at least five years. (Authorized by K.S.A. 65-4434(f), 39-1603(r), and 75-3307b; implementing K.S.A. 39-1603, 75-3307(b), 65-4434(f), and 75-3304a; effective Oct. 28, 1991; amended July 7, 2003.)

**30-60-56. Risk management program; records.**

(a) Each center shall adopt and adhere to written policies and procedures that provide for a comprehensive risk management program designed to review and evaluate clinical and administrative activities for the following purposes:

(1) Identifying and analyzing incidents that present a risk of harm to consumers, staff, and other individuals, including the public at large, or a risk of financial loss to the center or to any affiliated center or other provider with which the center has an affiliation agreement; and

(2) Determining actions that might reduce the risks specified in paragraph (a)(1).

(b) Incidents that the risk management program specified in subsection (a) shall review shall include the following, at a minimum:

(1) Any suicide or homicide, attempted suicide or homicide, or other unexpected death involving a consumer who is currently receiving or has recently received any services from the center, the affiliated center, or any other provider with which the center has an affiliation agreement;

(2) Any act or series of acts resulting in significant destruction of property belonging to the center, or to the affiliated center or other provider with which the center has an affiliation agreement, committed by any consumer who is currently receiving or has recently received any services from the center or the affiliated center or other affiliate;

(3) Any act or omission that falls or might fall below the applicable standard of care or professional obligation; and

(4) Any allegation of abuse, neglect, or exploitation of a consumer who is currently receiving or has recently received any services from the center, the affiliated center, or any other provider with which the center has an affiliation agreement, committed by a member of the staff of the center, any contractor, the affiliated center, or other affiliate.

(c) These policies and procedures shall include the following requirements:

(1) Staff members shall be afforded the opportunity to confidentially report any incident that a staff member believes is appropriate for review by the risk management program.

(2) Each action that the center, affiliated center, or any other provider with which the center has an affiliation agreement takes in response to any incident that comes to the attention of the risk management program shall conform to all statutory requirements for the reporting of suspected incidents of either child abuse, neglect, or exploitation, or the abuse, neglect, or exploitation of an adult.

(d) Records demonstrating the center's compliance with this regulation shall be centrally maintained for at least five years. (Authorized by K.S.A. 39-1603(r) and 75-3307b; implementing K.S.A. 39-1603(r), 75-3307b, and 75-3304a; effective July 7, 2003.)

**30-60-57. Utilization review program; records.** (a) Each center shall adopt and adhere to written policies and procedures that provide for a comprehensive utilization review program designed to facilitate the delivery of high-quality, cost-effective, appropriate services by the center and by each affiliated provider with which the center has an affiliation agreement.

(b) The policies and procedures specified in subsection (a) shall include the following:

(1) A means to ensure monitoring of the usage of the services of the center and of each affiliated provider with which the center has an affiliation agreement;

(2) A means to determine whether inappropriate or unnecessary services are being provided to any consumer; and

(3) A means to determine whether appropriate or necessary services have not been provided to any consumer.

(c) Records demonstrating the center's compliance with this regulation shall be centrally maintained for at least five years. (Authorized by K.S.A. 75-3307b; implementing K.S.A. 39-1603, 39-1604(d), 39-1608(a) and (c), 65- 4434(f), and 75-3304a; effective July 7, 2003.