MedCare® Pharmacy Network Agreement

This AGREEMENT is by and between MedImpact Healthcare Systems, Inc.® (“MedImpact”), a California corporation, and (“Member Pharmacy”) and supersedes any previous MedCare Agreement(s) that may have been previously executed between the parties. In consideration of the mutual covenants and other good and sufficient consideration, Member Pharmacy agrees to participate in MedImpact’s pharmacy networks in accordance with the following terms and conditions:

I. PROVISION OF PRESCRIPTION DRUG BENEFITS AND CLAIM SUBMISSIONS

Member Pharmacy will furnish to each Eligible Person such Prescription Drug Benefits to which the Eligible Person is entitled in accordance with this Agreement, the applicable Plan, and all applicable Laws. As a condition precedent to providing Prescription Drug Benefits, Member Pharmacy will require each person requesting such benefits to provide evidence of eligibility and proof of identification or other reasonable steps to determine that the holder of the card is eligible for Prescription Drug Benefits. MedImpact shall not be obligated to pay any claim for a Prescription Drug Benefit provided to a person who is not eligible. Member Pharmacy agrees to submit all claims for Prescription Drug Benefits provided to an Eligible Person in accordance with this Agreement.

II. COLLECTION FROM ELIGIBLE PERSONS

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 1.

III. NETWORK PARTICIPATION

Member Pharmacy agrees that it will participate in all MedImpact pharmacy networks in which: (a) Member Pharmacy participates in as of the date of the acceptance of this Agreement by MedImpact; (b) Member Pharmacy executes a pharmacy network addendum (if any) accepted by MedImpact for such pharmacy network(s); and/or (c) Member Pharmacy agrees to participate as evidenced by its provision of Prescription Drug Benefits to an Eligible Person of a Payer utilizing such pharmacy network(s). All such pharmacy network(s) in which Member Pharmacy participates are referred to as the “Networks”.

IV. PAYMENT

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 2.

V. TAXES

If any taxes, assessments and/or similar fees (“taxes”) are imposed on Member Pharmacy by a governmental authority based upon Member Pharmacy’s provision of Prescription Drug Benefits to Eligible Persons, Member Pharmacy may request reimbursement from Payer or Eligible Person for such taxes that are allowed and imposed by applicable Law in accordance with the Plan. Member Pharmacy must transmit the applicable tax amount allowed by Law through the online claim system. In no event does this give Member Pharmacy any additional or different rights than those allowed by Law. In no event shall MedImpact be liable for any such taxes, assessments or similar fees or the determination of the amount of such taxes, assessments or similar fees. Member Pharmacy shall assume the responsibility of making and shall timely make payments to the appropriate taxing authorities of the amount of any taxes received.
VI. COMPLIANCE WITH LAW

Member Pharmacy acknowledges that various state and federal mandates and guidelines may apply with respect to the Agreement and the pharmacy services provided under the Agreement. Member Pharmacy represents and warrants that it is, and shall remain, in compliance with all applicable laws, including but not limited to all applicable Medicare laws, regulations, and CMS instructions, all laws applicable to individuals and entities receiving Federal funds and all other applicable Federal and State laws, regulations, and governmental issuances, including but not limited to those governing participation in the Medicare Part D Program, Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act, the Rehabilitation Act of 1973, all applicable Federal and State anti-kickback statutes, and all Federal and State privacy and security requirements, including the privacy and security provisions contained in 42 CFR Section 403.812.

VII. INDEMNIFICATION AND LIMITATION ON LIABILITY

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 3.

VIII. REPRESENTATIONS AND WARRANTIES

Member Pharmacy represents and warrants that it is, and will maintain, in good standing, all federal, state, and local licenses and certifications as required by Law. Member Pharmacy further represents and warrants that it can legally dispense prescriptions for Medicare, Medicaid, and MediCal healthcare programs; and that it is not subject to exclusion, suspension or debarment from the Medicare, Medicaid, MediCal or other government healthcare programs. Member Pharmacy further represents and warrants that it has, and will maintain, policies for general and professional liability insurance in such forms and amounts reasonable for the industry, which shall in no event be less than the greater of the amount required by law or $1 million per occurrence and $3 million aggregate. Member Pharmacy agrees to immediately notify MedImpact in writing of any suspension, revocation, limitation, or disciplinary action taken by any State Board of Pharmacy or other licensing or regulatory authority (including Medicare, Medicaid, and MediCal) and of any suspensions, cancellations, or material changes of insurance coverage. Member Pharmacy acknowledges that failure to maintain the appropriate license, certifications, and/or insurance policies will result in immediate termination of Member Pharmacy from the Networks. Member Pharmacy must provide to MedImpact evidence of such licenses, certifications, and insurance policies upon request.

IX. INDEPENDENT CONTRACTORS; THIRD PARTY BENEFICIARIES; NON-ASSIGNABILITY

Member Pharmacy and MedImpact are independent entities. Member Pharmacy shall perform all services under this Agreement as an independent contractor, and shall exercise its own professional judgment in providing such services. Except for the indemnity provisions of this Agreement, no provision of this Agreement is for the benefit of any person or entity who is not a party hereto, and no such party will have any right or cause of action hereunder. This Agreement shall not be assigned, sub-contracted, delegated, or transferred by Member Pharmacy without the prior written consent of MedImpact.

X. TERM AND TERMINATION

This Agreement will be in effect from the date of acceptance by MedImpact and will continue in effect for a period of one (1) year and will automatically renew for successive periods of one (1) year unless either party gives written notice of non-renewal in accordance with Subsection 12 of Article XIV.

XI. ENTIRE AGREEMENT

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 4.
XII. NOTICE

Except as otherwise specified in Policies and Procedures in Article XIV, notices required to be given pursuant to the Agreement (including notices of dispute) shall be in writing, and be delivered in person, or by certified mail, air courier, or first class mail, and addressed to the Senior Vice President, Strategic Finance Operations, the Vice President, Contract Management, and the Senior Vice President, Corporate Services at MedImpact at the address below:

MedImpact Healthcare Systems, Inc.®
10181 Scripps Gateway Court
San Diego, CA 92131

XIII. ARBITRATION

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 5.

XIV. POLICIES AND PROCEDURES

1. CONTACT INFORMATION

Inquiries regarding the Agreement should be directed to:

MedImpact Healthcare Systems, Inc.
Attn: Pharmacy Network Management
10181 Scripps Gateway Court
San Diego, CA 92131
(800) 788-2949
pharmacyoperationssups@medimpact.com

2. PHARMACY PRACTICE TYPE/CERTIFICATION AND CHANGE NOTIFICATION

There are a variety of pharmacy provider practice types, including Retail Pharmacy, closed door/clinic pharmacy, closed door specialty pharmacy, mail order pharmacy, nursing home/long term care pharmacies, home infusion pharmacies, dispensing physicians, 340B, compounding, etc. (“Pharmacy Type”). A “Retail Pharmacy” shall mean a licensed pharmacy that primarily dispenses Prescription Drug Benefits via a retail, storefront location that accepts walk-in customers, and such other criteria set forth on MedImpact’s credentialing form, as may be amended from time to time. A Retail Pharmacy does not include closed door/clinic pharmacies, closed door specialty pharmacies, mail order pharmacies, nursing home/long term care pharmacies, home infusion pharmacies, dispensing physicians, or such other pharmacy types that do not meet the Retail Pharmacy criteria established on the credentialing form.

In the event Member Pharmacy is a Pharmacy Type other than a Retail Pharmacy, Member Pharmacy agrees that the parties must execute an addendum to the Agreement, under which Member Pharmacy accepts the additional and/or different standard terms and conditions, including rates, for the applicable Pharmacy Type. Unless and until such a separate addendum is signed by Member Pharmacy and MedImpact for Member Pharmacy’s participation as a non-Retail Pharmacy, by signing the Pharmacy Network Participation Acceptance Form, Member Pharmacy represents and warrants that it is a Retail Pharmacy. In the event Member Pharmacy is part of a PSAO, PSAO and Member Pharmacy acknowledge and agree that: (i) Member Pharmacy must comply with the requirements of this provision by entering into a separate addendum for the applicable Pharmacy Type; and (ii) such addendum with respect to the applicable Pharmacy Type shall control with respect to Member Pharmacy.
PSAO and Member Pharmacy further represent and warrant that by signing the Pharmacy Network Participation Acceptance Form, the information contained herein, in the Agreement, and all other information and documentation provided by PSAO and Member Pharmacy in connection with any credentialing and/or quality assurance initiatives hereunder (including Pharmacy Type) are true and accurate (“Pharmacy Information”). PSAO and Member Pharmacy acknowledge and agree that the representations and warranties under this provision and compliance herewith are each material terms of the Agreement.

PSAO and/or Member Pharmacy shall immediately notify MedImpact in writing of any change in the Pharmacy Information, which shall be reported to:

MedImpact Healthcare Systems, Inc.
Attn: Pharmacy Network Management
10181 Scripps Gateway Court
San Diego, CA 92131
pharmacyoperationssups@medimpact.com

PSAO and Member Pharmacy consent to the inspection and release of all Pharmacy Information by MedImpact and authorizes anyone in possession of Pharmacy Information and/or other information or documentation required by MedImpact for evaluation of Member Pharmacy’s credentialing, including qualifications and competence, to release such information to MedImpact for use in its credentialing activities.

In the event of a conflict or missing information from PSAO and/or Member Pharmacy and the information on file with NCPDP regarding Member Pharmacy, MedImpact may rely on the information on file with NCPDP regarding Member Pharmacy, including for purposes of directories and payments hereunder.

3. CREDENTIALING AND QUALITY ASSURANCE

Member Pharmacy must comply with the credentialing and quality assurance initiatives required by MedImpact, including any special quality management requirements and programs established by MedImpact or Payers.

Member Pharmacy must meet all standards of operation as required by Law. Member Pharmacy must maintain an internal quality assurance program and, upon request, report on such program to MedImpact, along with remedial action plans.

4. PHARMACY SERVICES AND OPERATIONS

4.1. Administrative Policies

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 6.

4.2. Plan Network Selection

Plans may be connected to and/or removed from any Network. Member Pharmacy acknowledges and agrees that any Payer may not utilize all pharmacies in a Network for their respective Plan’s Networks. As a result, to the extent not prohibited by Law, Member Pharmacy may be excluded or removed from participating in a Network with respect to any specific Plan(s) upon notice to Member Pharmacy.

4.3. Verification of Eligible Persons

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 7.
4.4. Signature Log

Unless otherwise agreed to in writing by MedImpact, when providing Prescription Drug Benefits to Eligible Persons, Member Pharmacy must obtain the signature of the Eligible person, or his or her authorized representative, on a third party signature log to confirm that he or she has received the Prescription Drug Benefit provided. The third party signature log must be in accordance with industry standards and contain all information required by MedImpact. As permitted by Law, in lieu of a third party signature log, Member Pharmacy may maintain an electronic tracking system to record and confirm the receipt of Prescription Drug Benefits and such system must be in accordance with industry standards and contain all information required by MedImpact.

4.5. DUR Messaging

MedImpact's Online Claim System may provide messaging related to drug utilization review (“DUR”) and other clinical programs and services. Member Pharmacy must review all DUR and other messages transmitted by MedImpact and exercise its professional judgment in acting on such messages. DUR messages are not intended to replace the sound professional knowledge and judgment of the Member Pharmacy or prescribing physician. Drug use inconsistent with the DUR criteria may be appropriate in certain situations.

The information contained in DUR messages is derived from third party sources and is not independently developed by MedImpact. MedImpact utilizes industry materials and the advice and resources of outside vendors and healthcare professionals to provide DUR messages. The usefulness of DUR messages is necessarily limited by the amount of patient input into the Online Claim System, the amount of information provided by Payers, and the thoroughness and accuracy of industry information and information provided by third parties. DUR messages are intended as an aid to, and not a substitute for, the knowledge, expertise, skill and judgment of prescribers, Member Pharmacy, or other healthcare professionals. Member Pharmacy, prescribers, other healthcare professionals, and Payers are individually responsible for acting or not acting upon information generated and transmitted by MedImpact including without limitation upon DUR messages. MedImpact does not control the healthcare decisions made or actions taken by Member Pharmacy, prescribers, other healthcare professionals, Payers, or Eligible Persons. The DUR messages do not contain all currently available information on healthcare or pharmaceutical practices. MedImpact is not responsible for failing to include information in a DUR message, for the actions or omissions of contributors of information, or for misstatements or inaccuracies in industry materials utilized by MedImpact. All warranty disclaimers and exclusions made by contributors of information or data to MedImpact shall apply with respect to the DUR messages provided hereunder.

4.6. Formularies

Member Pharmacy must support all formulary initiatives and inform Eligible Persons when a non-formulary drug has been prescribed and use its best efforts to contact the prescribing physician to encourage formulary compliance. The final choice of specific drug selection for an Eligible Person rests solely with the prescribing physician.

4.7. Generic Dispensing

Member Pharmacy must dispense a generic drug whenever permitted and in accordance with applicable Laws. Member Pharmacy must use its best efforts to carry out MedImpact and/or Payer generic programs.

4.8. Clinical Programs

Subject to applicable Law, Member Pharmacy must provide to MedImpact any and all reasonably available information that MedImpact needs to perform clinical programs and services and conduct drug utilization review. Member Pharmacy must support all such clinical programs and services.

4.9. Rebate Programs
MedImpact has the right to submit all claims for Prescription Drug Benefits to pharmaceutical companies and/or rebate intermediaries or aggregators in connection with rebate and any similar programs. Member Pharmacy shall not submit any claims for Prescription Drug Benefits to any pharmaceutical company or others for the purpose of receiving any rebate or discount, except as authorized by MedImpact in writing.

4.10. Refills

Member Pharmacy shall not process an automatic refill for a Prescription Drug Benefit for an Eligible Person unless and until such refill has been authorized by the Eligible Person.

4.11. Nondiscrimination

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 8.

4.12. Eligible Person Grievances, Complaints, and Appeals

Member Pharmacy agrees to cooperate fully with MedImpact or the Payor in the investigation and resolution of Eligible Person complaints, grievances, and appeals (in accordance with applicable procedures related thereto) concerning Member Pharmacy and/or Prescription Drug Benefits provided under the Agreement, including providing MedImpact with requested documentation related thereto.

4.13. Professional Judgment and Conduct

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 9.

4.14. Documentation

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 10.

4.15. REMS Program

In the event that the Prescription Drug Benefit is approved by the FDA subject to a risk evaluation and mitigation strategy (REMS), Member Pharmacy agrees to comply with the approved REMS (including all pre and post dispensing requirements and ensuring that Member Pharmacy has a valid prescription in compliance with the REMS) and provide evidence of such compliance upon MedImpact’s request.

4.16. Third Party Vendor

MedImpact reserves the right to utilize qualified third party vendor(s), including but not limited to ChainDrugStore.net and Intellisoft, which may perform designated functions on behalf of MedImpact. Such functions may include but are not limited to: communications/messaging/notifications to Member Pharmacy, transmittal and receipt of documents (including but not limited to amendments, Authorization to Participate forms, certifications, and attestations), payment via electronic funds transfer (EFT), analytic tools, and credentialing. Such third party vendor(s) shall have executed agreement(s) with MedImpact containing non-disclosure/non-use/confidentiality provisions to protect the confidentiality of information including, but not limited to, information protected under the Health Insurance Portability and Accountability Act (HIPAA), intellectual property, and other confidential information of MedImpact and its third-party business partners.

5. CLAIMS SUBMISSION

5.1. Member Pharmacy must submit all claims for Prescription Drug Benefits provided to Eligible Persons to MedImpact, regardless of whether or not any additional amounts are owed to Member Pharmacy over the amount
paid by the Eligible Person. All such claims must be submitted electronically at the point of sale. If unable to transmit claims electronically at the point of sale, Member Pharmacy must submit to MedImpact no less frequently than once every seven (7) calendar days (or within such longer period required/permited by Law), claim forms detailing the Prescription Drug Benefits provided to Eligible Persons following the procedures set by MedImpact. MedImpact will furnish claim forms and identify the information to be contained therein. A reasonable handling fee of $5.00 per claim may apply in those situations in which Member Pharmacy submits claims non-electronically. Claims submitted more than seven (7) calendar days (or such longer period required/permited by Law) after the Prescription Drug Benefit was provided will not be paid.

5.2. BIN Number

When submitting claims electronically, Member Pharmacy must submit a Bank Identification Number (BIN) to route the claim properly to MedImpact.

5.3. DAW

Pharmacy must submit an accurate Dispense as Written (DAW) code, in accordance with the NCPDP specifications. DAW submissions may change the calculation of the claims adjudication depending on Payer specifications. Member Pharmacy will be liable for any miscalculations and/or adjustments resulting from incorrect submission of a DAW code.

DAW 0—No DAW Indicated
DAW 1—Substitution Allowed—Dispensed As Written By Prescriber
DAW 2—Substitution Allowed—Patient Requested Product Dispensed
DAW 3—Substitution Allowed—Pharmacist Selected Product Dispensed
DAW 4—Substitution Allowed—No Generic Available
DAW 5—Substitution Allowed—Brand Dispensed As Generic, Priced As Generic
DAW 6—Override
DAW 7—Substitution Not Allowed—Brand Mandated By Law
DAW 8—Generic not available in marketplace
DAW 9—Other

5.4. Rejected Claims

Rejected claims may be resubmitted in the same manner as the original claim, with corrected information.

5.5. Claim Reversals

Member Pharmacy must submit a claim reversal when an Eligible Person fails to pick up a filled prescription within fourteen (14) calendar days (or such longer period required by Law). Such reversal must be submitted online through MedImpact’s Online Claim System within three (3) business days following the fourteen (14) calendar day period (or such longer period required by Law).

5.6. Compounds

Member Pharmacy shall submit Compound Claims for Eligible Persons in accordance with the most recent NCPDP requirements (e.g., D.0 Multi-Ingredient Compound (MIC) logic for compounded medications) and applicable payer sheets, including submission of compound indicator, final ingredient cost, final product quantity, U&C, and the NDC for each ingredient, quantity for each ingredient, ingredient cost for each ingredient, etc., which may be utilized for determination of reimbursement and coverage. Each ingredient is evaluated for coverage determination, DUR, and pricing at an ingredient level. A Compound Claim means a Prescription Drug Benefit claim for a mixture of two (2) or more ingredients when at least one of the ingredients in the preparation is an FDA approved federal legend drug or state restricted drug in a therapeutic amount, and which is not
otherwise generally available in an equivalent commercial form; it excludes the addition of only water or
flavoring to any prescription drug. The pricing methodology for reimbursement for Compound Claims is set forth
in Subsection 6 of this Article XIV.

5.7.  Prior Authorizations

Certain Prescription Drug Benefits require prior approval before they will be covered by a Payer. Such approval
is Plan specific. Follow the guidelines on the Plan Profile Sheet for directions on obtaining the requisite prior
approval.

5.8.  Format Submission Requirements

Member Pharmacy must transmit the required data for each claim in the then-current standard version of the
NCPDP format. The telecommunications interface equipment shall be the responsibility of the Member Pharmacy
and shall meet the minimum standards set by MedImpact from time to time. Member Pharmacy is responsible for
any claims processing fees through claims switch processors.

Without limiting the generality of the foregoing, Member Pharmacy shall ensure that all claims include Member
Pharmacy’s and the prescribers’ National Provider Identifier (“NPI”) (if the prescriber’s NPI is not available, another
non-NPI identifier such as the prescriber’s DEA number or the prescriber’s state license number, as
permitted by state Law, must be included).

Without limiting the generality of the foregoing, Member Pharmacy shall comply with MedImpact’s most
current payor sheet.

5.9.  E-Prescribing

Member Pharmacy shall support and comply with all electronic prescription standards, requirements, and
guidance adopted by CMS, the federal Drug Enforcement Administration, and other federal and state government
agencies as required by Law, when such final standards, requirements, and guidance are effective, and as such
standards, requirements, and guidance may be revised from time to time, including but not limited to: (i) NCPDP
SCRIPT Standard, Implementation Guide, Version 8 Release (8.1) or Version 10 Release 6 (10.6) for
communications concerning prescriptions or prescription-related information between Member Pharmacy and
prescribers; (ii) NCPDP SCRIPT 8.1 or 10.6 for communications concerning medication history between
MedImpact, Member Pharmacy and prescribers and refill status between Member Pharmacy and prescribers; (iii)
NCPDP Telecommunication Standard Specification, Version D, Release 0 (Version D.0) for communications
concerning eligibility between MedImpact and Member Pharmacy; (iv) the prescriber’s NPI; and (V) additionally, for
electronic prescriptions of controlled substances, The Department of Justice, Drug Enforcement
Administration’s Electronic Prescriptions for Controlled Substances Final Rule, 75 FR 16236 (March 31, 2010).
Without limiting the generality of the foregoing, in addition, Member Pharmacy shall ensure that all electronic
prescription claims include Member Pharmacy’s and the prescribers’ NPIs (if the prescriber’s NPI is not
available, another non-NPI identifier such as the prescriber’s DEA number or the prescriber’s state license
number, as permitted by state Law, must be included). Also, Member Pharmacy shall use NCPDP
Telecommunication Standard Version D.0 Field 419 DJ – Prescription Origin Code so that the source of origin
for prescriptions filled can be identified and reported.

6.  CLAIMS PAYMENT

6.1.  See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 15.
7. CHANGES TO TERMS AND CONDITIONS

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 16.

8. AUDIT

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 17.

9. ADVERTISING AND PROMOTION

Without the prior written consent of MedImpact, Member Pharmacy must not use words, symbols, trademarks or service marks which MedImpact uses, in advertising or promotional materials or otherwise, and Member Pharmacy must not advertise or publicly display that it is a Member Pharmacy without the prior written consent of MedImpact. Member Pharmacy must immediately cease any and all such usage immediately upon request of MedImpact or upon termination of this Agreement.

When a Member Pharmacy advertisement is directed to Eligible Persons of a Payer, Member Pharmacy must include, in a form and content agreeable to Member Pharmacy and MedImpact, a reference that it is a MedImpact Member Pharmacy with the MedCare® Network.

MedImpact may list Member Pharmacy by name, address, and telephone number for each of its locations in applicable directories, brochures, or other publications for distribution and/or use by MedImpact, Payers, and Eligible Persons.

10. CONFIDENTIALITY AND PROPRIETARY RIGHTS

All Eligible Persons' information related to Prescription Drug Benefits and other records identifying Eligible Persons shall be treated by Member Pharmacy as confidential and proprietary. Member Pharmacy agrees never to use Eligible Persons' information for competitive purposes, nor to provide such information to others for Member Pharmacy's pecuniary gain. Further, this information shall not be given to any third party, except to the extent that disclosure may be required pursuant to Law, or may be permitted by the Payer or MedImpact in writing.

All materials relating to pricing, contracts, programs, services, business practices, and procedures of MedImpact are proprietary and confidential. Member Pharmacy must maintain the confidential nature of such materials and return them to MedImpact upon termination of the Agreement. All information contained in the claims system or that was obtained by or through the administration and processing of claims is the property of MedImpact.

Member Pharmacy must promptly notify MedImpact if it becomes aware of any use of confidential information or data that is not authorized by MedImpact.

Member Pharmacy acknowledges that any unauthorized disclosure or use of information or data obtained from or provided by MedImpact would cause MedImpact immediate and irreparable injury or loss that cannot be fully remedied by monetary damages. Accordingly, if Member Pharmacy should fail to abide by these provisions, MedImpact is entitled to seek and obtain injunctive relief, monetary remedies or other such damages as available by Law against the Member Pharmacy.
11. COURT ORDERS, SUBPOENAS, OR GOVERNMENTAL REQUESTS

If MedImpact receives a court order, subpoena, or governmental request relating to Member Pharmacy, MedImpact may comply with such order, subpoena, or request, and Member Pharmacy must indemnify and hold harmless MedImpact for, from, and against any and all costs (including reasonable attorneys' fees and costs), losses, damages, or other expenses MedImpact may incur in connection with responding to such order, subpoena, or request.

12. MEMBER PHARMACY TERMINATION

12.1. The Agreement may be terminated as follows:

12.1.1. No Cause Termination

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 18.

12.1.2. Termination upon Insolvency

Either party may terminate this Agreement with written notice to the other immediately upon the filing by or against the non-terminating party of any action under the Federal Bankruptcy Act, or any other Law or act regarding insolvency, reorganization, arrangement, or extension for the relief of debtors, including the assignment of assets for the benefit of creditors, and the appointment of a receiver or trustee for transfer or sale of a material portion of the non-terminating party's assets.

12.1.3. Termination for Default

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 19.

12.1.4. Immediate Termination

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 20.

12.2. Rights and Remedies in the Event of Termination or Breach

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 21.

12.3. Cooperation with Transition of Care upon Termination

In the event of termination of this Agreement or in the event of Member Pharmacy’s termination from a particular network, it is understood and agreed that Member Pharmacy shall cooperate in the orderly transfer of care of Eligible Persons including but not limited to, the transfer of prescriptions to another provider.
12.4. Termination of PSAO Affiliated Pharmacy

To the extent that Member Pharmacy is a Pharmacy Services Administrative Organization (PSAO) and contracts with MedImpact as a PSAO, the termination of a pharmacy affiliated with such PSAO/Member Pharmacy shall not constitute a termination of this Agreement with respect to PSAO/Member Pharmacy unless it is otherwise specified.

13. MISCELLANEOUS

13.1. Assignment

Member Pharmacy may not assign the Agreement to any other person or entity without the prior written approval of MedImpact, which approval or denial is in the sole discretion of MedImpact. Any attempted assignment by Member Pharmacy without the prior written approval of MedImpact will be void and of no force and effect. In the event Member Pharmacy makes a valid assignment to a successor with the prior written approval of MedImpact, any successor to ownership will be responsible for all liabilities and obligations of its predecessor under the Agreement.

13.2. Notices to Member Pharmacy

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 22.

13.3. Waiver

Failure to exercise any of the rights under the Agreement for any one default will not be a waiver of the right to exercise any of the rights for subsequent defaults.

13.4. Applicable Law

See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 23.

13.5. Force Majeure

Neither party will be deemed to have breached the terms set forth in the Agreement to the extent that either MedImpact or Member Pharmacy is prevented from performing hereunder, all or any part, as a result of causes that are beyond the party's reasonable control, including, but not limited to, fire, flood, earthquakes, tornadoes, other acts of God, war, work strikes, civil disturbances, power or communications failure, court order, government intervention, a change in Law, or third party nonperformance.

13.6. Applicability of Terms and Conditions to PSAO Affiliated Pharmacies

To the extent that Member Pharmacy is a PSAO and contracts with MedImpact as a PSAO, PSAO/Member Pharmacy represents and warrants that it is entering into the Agreement, and has authority to enter into this Agreement, on its own behalf and on behalf of the pharmacies affiliated with PSAO/Member Pharmacy. The terms and conditions of this Agreement bind PSAO/Member Pharmacy and each individual pharmacy affiliated with such PSAO/Member Pharmacy, and each pharmacy affiliated with PSAO/Member Pharmacy shall be deemed to have accepted all terms and conditions of the Agreement. PSAO/Member Pharmacy shall promptly provide MedImpact evidence of such authority upon MedImpact’s request. PSAO/Member Pharmacy shall develop, implement, and maintain efficient and accurate procedures for notifying pharmacies affiliated with PSAO/Member Pharmacy of their obligations under the Agreement, including any amendments or addenda thereto. PSAO/Member Pharmacy and pharmacies affiliated with PSAO/Member Pharmacy shall indemnify
14. DEFINED TERMS

14.1 Average Wholesale Price or AWP
Average Wholesale Price or AWP means the average wholesale price for a given pharmaceutical product as published by Medi-Span or other classification and pricing source which MedImpact may select. Aside from AWP pricing, MedImpact will utilize First Databank for all other drug attributes. The applicable AWP for prescriptions dispensed shall be based on the actual NDC submitted. If MedImpact determines the need to utilize another recognized source for AWP pricing or drug attributes, or a benchmark other than AWP, MedImpact will provide such notification of its change.

14.2 Copayment
Co-payment means the deductible, copayment, coinsurance, or other required payment by an Eligible Person, as communicated by the Online Claim System or such other written method utilized by MedImpact.

14.3 Eligible Persons
Eligible Person means a person entitled to a Prescription Drug Benefit pursuant to a Plan.

14.4 Law
Law means any federal, state, local or other constitution, charter, act statute, law, ordinance, code, rule, regulation, order, specified standards or objective criteria contained in any applicable permit or approval, or other legislative or administrative action of the United States of America, or any state or any agency, department, authority, political subdivision or other instrumentality thereof or a decree or judgment or order of a court.

14.5 MAC or Maximum Allowable Cost
MAC or Maximum Allowable Cost means the upper limit price for certain multiple-source drugs dispensed without regard to the specific manufacturer whose drug is dispensed.

14.6 Member Pharmacy
Member Pharmacy means the entity doing business as a licensed professional pharmacy, which participates in MedImpact's networks.

14.7 Online Claim System
The telecommunication system maintained by MedImpact and employed by Member Pharmacy and MedImpact to communicate Prescription Drug Benefits and claims information.

4.8 Payer
Payer (or “Payor”) means the entity that contracts with MedImpact for prescription benefit management services, including, but not limited to, trust funds, insurance companies, self-insured plans, health maintenance organizations, preferred provider organizations, or third party administrators.

14.9 Plan
Plan means that portion of a Payer's drug benefit plan that relates to a Prescription Drug Benefit with respect to Eligible Persons.
14.10  Policies and Procedures
Policies and Procedures mean Article XIV of the Agreement.

14.11  Prescription Drug Benefit
Prescription Drug Benefit means any drug or device covered, in whole or in part, by a Plan for an Eligible Person.

14.12  Usual and Customary or U&C
Usual and Customary or U&C means the lowest price Member Pharmacy would charge to a cash paying customer at that location for an identical prescription on that day. This price must include any applicable discounts, promotions, or other offers to attract customers.

15.  MEDIMPACT’S MEMBER PHARMACY GRIEVANCE RESOLUTION PROCESS
See Exhibit 1, Washington Pharmacy Network Addendum to MedCare Pharmacy Network Agreement, Section 24.

16.  DEFICIT REDUCTION ACT OF 2005 / FALSE CLAIMS ACTS
Under the Deficit Reduction Act of 2005, certain entities are required by law to establish policies and provide information regarding the federal False Claims Act and similar state laws, an employee’s right to be protected as a whistleblower, and policies and procedures for detecting and preventing fraud, waste, and abuse in state and federal health care programs (“DRA Policies”). Any contractor, subcontractor, agent, and other person which or who furnishes or otherwise authorizes the furnishing of Medicaid health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by these entities are required to adopt their DRA Policies, as may be amended from time to time. MedImpact will provide or make available to Member Pharmacy, the DRA Policies. To the extent Member Pharmacy or any of its employees furnish or otherwise authorize the furnishing of Medicaid health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by these entities, Member Pharmacy shall comply with the DRA Policies and shall require its employees and subcontractors (as approved by MedImpact) to comply with the DRA Policies.

XV.  WASHINGTON REGULATORY COMPLIANCE
The parties acknowledge that various federal and state mandates may apply with respect to this Agreement and the services provided to Eligible Persons. Member Pharmacy represents and warrants that it is, and shall remain in, compliance with all applicable Laws, including all Medicare Laws and regulations and instructions of Centers for Medicare and Medicaid Services (“CMS”) with respect to Medicare Part D, all Medicaid Laws, and applicable state Laws. The parties agree that by executing the Agreement, Member Pharmacy is executing the Washington Pharmacy Network Addendum, attached hereto as Exhibit 1, which is incorporated into the Agreement by this reference and shall not require a separate signature in order to be effective. The Washington Pharmacy Network Addendum may be modified from time to time by MedImpact in accordance with this Agreement. In the event of a conflict between any of the documents comprising the Agreement, the terms of the Washington Pharmacy Network Addendum shall control first as and to the extent required by Law.
Pharmacy Network Participation Acceptance Form

The undersigned agrees to participate in one or more of MedImpact’s pharmacy networks and to be bound by the MedCare® Pharmacy Network Agreement attached hereto and made part hereof without any modifications, deletions, or additions. By signing below, the undersigned represents and warrants that it has received and read the MedCare® Pharmacy Network Agreement. By signing below, the undersigned represents and warrants that the undersigned has been afforded ample opportunity to obtain legal or other assistance in reviewing and interpreting the MedCare® Pharmacy Network Agreement. The undersigned represents and warrants that the information contained herein is true and accurate.

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**Pharmacy Authorized Signature**

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**MedImpact Authorized Signature**

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Exhibit 1
WASHINGTON PHARMACY NETWORK ADDENDUM
TO MEDCARE PHARMACY NETWORK AGREEMENT

In the event any provision of this Addendum conflicts with the terms of the Agreement, the terms of this Addendum shall control with respect to Plans subject to the applicable Washington Law.

To the extent that Member Pharmacy provides Pharmacy Services to Eligible Persons of a health carrier, health carrier service contractor, health maintenance organization (“HMO”), or other insurer licensed under Washington Law (collectively and/or individually, “Payer”), Member Pharmacy agrees to comply with any requirements for participation as a Member Pharmacy in Washington as required by applicable Law.

Without limiting the generality of the foregoing, Member Pharmacy agrees as follows:

1. Collection from Eligible Persons.
   
a) Prior to providing Prescription Drug Benefits to an Eligible Person, Member Pharmacy will collect from each Eligible Person the applicable Copayment as communicated to Member Pharmacy via the online claims system or as otherwise notified in writing by MedImpact. Member Pharmacy cannot waive, discount, reduce, or increase the Copayment. Member Pharmacy will in no event, including, but not limited to, non-payment by MedImpact or any Payer, MedImpact or any Payer’s insolvency, or breach of this Agreement, bill, charge, collect a deposit from, seek compensation, remuneration, or reimbursement from, or have any recourse against, an Eligible Person or other persons acting on their behalf, other than Payer, for services provided pursuant to the Agreement. This provision does not prohibit collection of deductibles, copayments, coinsurance, and/or payment for non-covered services, which have not otherwise been paid by a primary or secondary carrier in accordance with regulatory standards for coordination of benefits, from Eligible Persons in accordance with the terms of the Eligible Person’s Plan. WAC 284-170-421(3)(a).

b) Member Pharmacy agrees, in the event of insolvency of MedImpact or a Payer, to continue to provide the services promised in the Agreement to Eligible Persons for the duration of the period for which premiums on behalf of the Eligible Person was paid or until the Eligible Person’s discharge from inpatient facilities (if applicable), whichever time is greater. WAC 284-170-421(3)(b).

c) Notwithstanding any other provision of this Agreement, nothing in the Agreement shall be construed to modify the rights and benefits contained in the Eligible Person’s Plan. WAC 284-170-421(3)(c).

d) Member Pharmacy may not bill the Eligible Person for covered services (except for deductibles, copayments, or coinsurance) where payment is denied because Member Pharmacy has failed to comply with the terms or conditions of the Agreement. WAC 284-170-421(3)(d).

e) The provisions of 1(a), 1(b), 1(c), and 1(d) of this Article II shall survive the termination of this Agreement regardless of the cause giving rise to termination and shall be construed for the benefit of Eligible Persons and supersedes any oral or written contrary agreement now existing or hereafter entered into between Member Pharmacy and Eligible Person or someone acting on Eligible Person’s behalf. WAC 284-170-421(3)(e).

f) To the extent permitted by the Agreement, if Member Pharmacy contracts with other providers or facilities who agree to provide covered services to Eligible Persons with the expectation of receiving payment directly or indirectly from MedImpact or Payer, such providers or facilities...
must agree to abide by the provisions of 1(a), 1(b), 1(c), 1(d) and 1(e) of this Article II. WAC 284-170-421(3)(f).

g) Member Pharmacies that willfully collect or attempt to collect an amount from an Eligible Person knowing that collection to be in violation of the Member Pharmacy constitutes a Class C felony under WAC 284-170-421 and RCW 48.80.030(5).

h) In the event MedImpact or Payer fails to pay for services as provided in the Agreement, the Eligible Person shall not be liable to the Member Pharmacy for sums owed by MedImpact or Payer. Member Pharmacy and its agents, trustees, or assignees may not maintain any action against an Eligible Person to collect sums owed by MedImpact and/or Payer. RCW 48.44.202(4)(a) and (b); RCW 48.46.243(4).

2. Payment.

Member Pharmacy acknowledges that MedImpact operates only as an intermediary between Payers and Member Pharmacy with respect to payment. Payers have agreed with MedImpact to pay sufficient funds for claims to MedImpact and submitted by Member Pharmacy. MedImpact will pay Member Pharmacy for Prescription Drug Benefits provided to Eligible Persons in accordance with the payment rate information communicated to Member Pharmacy through the electronic claims system, less the applicable Copayment.

For amounts due Member Pharmacy under the Agreement, Member Pharmacy shall be paid in accordance with the following minimum standards:

i. Ninety-five percent (95%) of monthly volume of a Payer’s clean claims shall be paid within thirty (30) days of receipt by MedImpact; and

ii. Ninety-five percent (95%) of the monthly volume of all of a Payer’s claims shall be paid or denied within sixty (60) days of receipt by MedImpact, except as agreed to in writing by the parties on a claim-by-claim basis.

WAC 284-170-431(a).

The receipt date of a claim is the date MedImpact receives either written or electronic notice of the claim. MedImpact has established a reasonable method for confirming receipt of claims and responding to Member Pharmacy inquiries about claims via the online adjudication system and Member Pharmacy Help Desk. WAC 284-170-431(b) and (c).

Payer or MedImpact, as applicable, shall pay interest on undenied and unpaid clean claims more than sixty–one (61) days old until Payer or MedImpact, as applicable, meets the standards established in this Article IV. Interest shall be assessed at the rate of one percent (1%) per month, and shall be calculated monthly as simple interest prorated for any portion of a month. Interest shall be added to the amount of the unpaid claim without the necessity of the Member Pharmacy submitting an additional claim. Any interest paid under this Article IV shall not be applied to an Eligible Person’s deductible, copayment, coinsurance, or any similar obligation of an Eligible Person. WAC 284-170-431(2)(d).

A “clean claim” means a claim that has no defect or impropriety, including any lack of any required substantiating documentation, or particular circumstances requiring special treatment that prevents timely payments from being made on the claim under this Article IV. WAC 284-170-431(3).

Denial of a claim will be communicated to Member Pharmacy, including the specific reason why the claim was denied. If the denial is based upon medical necessity or similar grounds, MedImpact or Payer, as appropriate, will provide Member Pharmacy with the supporting basis for the decision. WAC 284-170-431(4).
The standards set forth in this Article IV do not apply to claims about which there is a substantial evidence of fraud or misrepresentation by Member Pharmacy or Eligible Persons, or instances where MedImpact has not been granted reasonable access to information under the Member Pharmacy’s control. WAC 284-170-431(6).

Member Pharmacy acknowledges, understands, and agrees that claim payment amounts are the sole and absolute responsibility of the Payer. Member Pharmacy further acknowledges, understands, and agrees that MedImpact is not obligated to pay Member Pharmacy for claims of a Payer if a Payer fails to provide MedImpact with sufficient funds for such payment, and MedImpact has no liability to Member Pharmacy for nonpayment or for any delay in payment from a Payer. Accordingly, Member Pharmacy agrees to recover any unpaid balances from Payer only and that Member Pharmacy shall have no claim against MedImpact, and shall not seek payment from MedImpact, above or beyond the amount of payments made to MedImpact by the applicable Payer regardless of the cause of any non-payment or delay in payment by Payer. Member Pharmacy acknowledges, understands, and agrees that MedImpact is not the Payer and that except as otherwise set forth in this Agreement, there are no third party beneficiaries under this Agreement.

In the event that a Payer makes an assignment for the benefit of creditors, files a voluntary or involuntary petition in bankruptcy, is adjudicated insolvent or bankrupt, or a receiver or trustee is appointed, MedImpact shall have the right, but not the obligation, to participate in such proceedings on behalf of Member Pharmacy. MedImpact has the right to deduct from amounts otherwise payable to Member Pharmacy the Member Pharmacy’s pro rata share of any reasonable costs and fees (including attorneys’ fees) incurred by MedImpact in any such proceedings. All such amounts shall become immediately due and owing by Member Pharmacy upon notification by MedImpact.

3. Indemnification and Limitation on Liability.

All liability arising from the provision of prescription drugs and services by Member Pharmacy, its employees, agents or representatives, including the professional judgment of Member Pharmacy, its employees, agents or representatives, will be the sole responsibility of Member Pharmacy. Member Pharmacy shall indemnify and hold harmless MedImpact, the Payers, and their respective employees, agents, representatives, members, eligible participants and dependents, against loss, expense, liability, or damage, including, without limitation, any and all claims, causes of action, judgments, awards, settlements, costs, fees, or debts of whatever nature, including without limitation reasonable attorneys’ fees and costs, arising out of or in connection with: (a) any actual or alleged malpractice, negligence, misconduct, or breach by Member Pharmacy, its employees, agents or representatives in the performance or omission of any act assumed by Member Pharmacy; or (b) the provision of pharmacy services, including the sale, compounding, dispensing, manufacturing, or use of a drug or device dispensed by Member Pharmacy, its employees, agents or representatives. Such indemnification shall include the duty to defend any such legal action against MedImpact, the Payers, and their respective employees, agents, members, representatives, eligible participants, and dependents. MedImpact is not responsible or liable for Member Pharmacy’s professional judgment in its provision of prescription drugs and services. This Article VIII will survive the termination of this Agreement.

Notwithstanding any other term of this Agreement, in no event shall either party be liable to the other party for special, indirect, incidental, exemplary, consequential (including but not limited to loss of profits) or punitive damages arising from the relationship of the parties or the conduct of business under this Agreement (even if the other party has been advised of or has foreseen the possibility of such damages).

Member Pharmacy shall not be required to provide indemnification or otherwise assume liability relating to activities, actions, or omissions of Payer in violation of the standard of care provisions set forth in RCW 48.43.545.

4. Entire Agreement.
This Agreement, the Pharmacy Network Participation Acceptance Form, any state-specific Pharmacy Network Addendum(s), and the Authorization to Participate forms related to the Networks constitute the entire Agreement between MedImpact and Member Pharmacy, all of which are incorporated herein by reference as if fully set forth herein and are referred to collectively as the “Agreement”. Except as incorporated herein by reference, any prior agreements, promises, negotiations, or representations concerning the subject matter covered by the Agreement are of no force and effect. In the event any provision or part thereof contained in the Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability or any other provision or part thereof of the Agreement. In the event of a conflict between any of the documents comprising the Agreement, the terms in the applicable state-specific Pharmacy Network Addendum shall control first, then the Agreement, Policies and Procedures in Article XIV, and the Authorization to Participate forms, in that order.

Unless otherwise required by this Agreement, including but not limited to changes affecting compensation and/or health care service delivery which are governed by Subsection 7 of Article XIV, this Agreement may be amended from time to time by MedImpact by providing reasonable notice of not less than sixty (60) days of such amendment to Member Pharmacy. Member Pharmacy may reject a material amendment by providing written notice to MedImpact of its intent not to accept such amendment prior to its taking effect. The rejection will not affect the terms of the existing contract. A material amendment has the same meaning as in RCW 48.39.005. Subject to any termination and continuity of care provisions of the contract, Member Pharmacy may terminate the Agreement without penalty if Member Pharmacy does not agree with the changes, subject to the 60-day notice requirement for no cause termination in WAC 284-170-421(9). MedImpact has the right to immediately terminate the Agreement in the event any amendment is rejected by Member Pharmacy. RCW 48.39.003; WAC 284-170-421(6).

5. Arbitration.

Dispute Resolution. Any and all disputes, controversies or claims (including without limitation tort claims, requests for provisional remedies or other interim relief and issues as to arbitrability of any matter) arising out of, in connection with, or relating to this Agreement, or the breach hereof, that cannot be settled through informal discussions between the parties or through Member Pharmacy availing itself of MedImpact’s Member Pharmacy grievance resolution process set forth in Subsection 15 of Article XIV shall be settled by non-binding arbitration administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and pursuant to the California Arbitration Act (such arbitration to be held in a location agreed upon by the parties before a single arbitrator and to commence within twenty (20) days of the appointment of the arbitrator by JAMS) if agreed upon by the parties. If agreed upon by the parties, the Expedited Procedures set forth in JAMS Comprehensive Rules 16.1 and 16.2 shall be employed. Any controversy, claim or dispute under $250,000.00 shall be handled in accordance with the JAMS Streamlined Arbitration Rules and Procedures if agreed upon by the parties. The arbitrator must follow the rule of Law of Washington, and may only award remedies provided in the Agreement. The expenses of the arbitration, including reasonable attorney’s fees, will be paid for by the party against whom the award of the arbitrator is rendered. In the event the parties cannot resolve the matter through arbitration, either party may pursue judicial remedy in a court of competent jurisdiction. Any dispute between the parties shall be addressed in a county mutually agreeable to the parties in the State of Washington. RCW 48.43.055; WAC 284-170-421(13); WAC 284-170-440. The arbitration proceeding provided for herein is a private proceeding and neither party shall disclose or publicize the decision of the arbitrator other than as required by Law. The parties further agree that the existence of this remedy will not preclude MedImpact from seeking or receiving injunctive relief hereunder.

6. Administrative Policies.

Member Pharmacy shall provide Prescription Drug Benefits to Eligible Persons in accordance with the terms of the Agreement (including these Policies and Procedures), the prescriber’s directions, the applicable Plan, applicable Law, and Member Pharmacy’s professional judgment. Member Pharmacy may refuse to provide Pharmacy Services to an Eligible Person based on that professional judgment, which
must be documented. Member Pharmacy shall use its best efforts to maintain an adequate supply of medications. The Agreement, and any addenda or attachments thereto, sets forth Member Pharmacy’s responsibilities with respect to applicable administrative policies and programs, including but not limited to: payment terms, utilization review, quality assessment and improvement programs, credentialing, grievance, appeal and adverse benefit determination procedures, data reporting requirements, pharmacy benefit substitution processes, confidentiality requirements, and applicable federal and state requirements.

RCW 48.43.505; WAC 284-170-421(5).

7. Verification of Eligible Persons.

Eligibility of persons is verified through the Online Claim System. If you have any questions regarding eligibility, please contact 1-800-788-2949. MedImpact is not obligated to reimburse any claim for a Prescription Drug Benefit provided to a person whose eligibility was not properly verified. Coverage for emergency and non-emergency care that had prior authorization under the Agreement and a Plan’s written policies at the time the care was rendered shall not be retrospectively denied. Nothing contained in the Agreement may have the effect of modifying benefits, terms, or conditions contained in a Plan. In the event of any conflict between the Agreement and a Plan, the benefits, terms, and conditions of the Plan shall govern with respect to coverage provided to Eligible Persons.

RCW 48.43.525; WAC 284-170-421(1) and (2).

8. Nondiscrimination.

Member Pharmacy must not discriminate against an Eligible Person on the basis of race, color, national origin, gender, religion, disability, medical condition, political convictions, age, sexual orientation, and marital or family status. Unless professional judgment dictates otherwise, Member Pharmacy must provide Prescription Drug Benefits and related services to all Eligible Persons.

Member Pharmacy shall provide services under the Agreement to Eligible Persons without regard to the Eligible Persons’ enrollment in a plan as a private purchaser of a plan or as a participant in publicly financed programs of health care services. This requirement does not apply to circumstances when the Member Pharmacy should not render services due to limitations arising from lack of training, experience, skill, or licensing restrictions.

WAC 284-170-421(11).


Member Pharmacy must comply with all applicable Laws and provide all services and products in a professional manner and in compliance with the highest industry standards, with care, skill, and diligence. Member Pharmacy must at all times exercise professional judgment in providing pharmacy services to an Eligible Person. Member Pharmacy is under no obligation to provide a Prescription Drug Benefit which, in his/her professional judgment, should not be dispensed.

Member Pharmacy shall not be precluded or discouraged from informing an Eligible Person of the care he or she requires, including various treatment options, and whether in Member Pharmacy’s view such care is consistent with medical necessity, medical appropriateness, the health coverage criteria, or otherwise covered by the Eligible Person’s medical coverage agreement with a Payer. Member Pharmacy is not prohibited or discouraged and shall not be penalized for advocating on behalf of an Eligible Person when practicing in compliance with the law. Nothing in this Subsection 4.13 shall be construed to authorize Member Pharmacy to bind a Payer or MedImpact to pay for any service. Nothing in the Agreement precludes or discourages Eligible Persons or those paying for their coverage from discussing the comparative merits of different carriers with Member Pharmacy, even if critical of a Payer. RCW 48.43.510(6) and (7); WAC 284-170-421(7). Member Pharmacy shall not be penalized because it, in good faith, reports to state or federal authorities any act or practice by the Payer or MedImpact that jeopardizes patient health or welfare or that may violate state or federal law. WAC 284-170-421(12).

10. Documentation.
Member Pharmacy must maintain accurate, complete, up-to-date, and otherwise in conformance with generally accepted standards and good pharmacy practice, all documents and records related to the provision of Prescription Drug Benefits to Eligible Persons. Such documents and records include, but are not limited to:

- Original prescriptions
- Signature and/or electronic tracking logs
- Daily prescription logs
- Wholesaler, manufacturer and distributor invoices
- Refill information
- Prescriber information
- Patient profiles/doctor orders

Member Pharmacy must maintain such documents and records in a readily obtainable location for a period of six (6) years from the date of service or such longer period as required by Law.

Subject to applicable state and federal laws related to the confidentiality of medical or health records, Member Pharmacy shall make records available to appropriate state and federal authorities involved in assessing the quality of care or investigating complaints, grievances, appeals, or review of any adverse benefit determinations of enrollees. Member Pharmacies must cooperate with audit reviews of encounter data in relation to the administration of health plan risk adjustment and reinsurance programs. WAC 284-170-421(8).

11. Subcontractors. The following provision shall be added to the Agreement as Article XIV, Subsection 4.17, “Subcontractors”:

   To the extent permitted by the Agreement, in the event Member Pharmacy subcontract with providers in connection with the Agreement, Member Pharmacy shall require that its subcontracts comply with the provisions set forth in this addendum. WAC 284-170-401.

12. Subrogation. The following provision shall be added to the Agreement as Article XIV, Subsection 4.18, “Subrogation”:

   MedImpact shall not unreasonably delay payment of a claim by reason of the application of a coordination of benefits provision. Subject to the terms of the Agreement, MedImpact shall pay claims in accordance with the payment schedule set forth in the Agreement. WAC 284-51-215.

13. Utilization Review. The following provision shall be added to the Agreement as Article XIV, Subsection 4.19, “Utilization Review”:

   Clinical protocols, medical management standards, and other review criteria of a Payer are available to Member Pharmacy upon written request to the extent required by law. RCW 48.43.520; WAC 284-43-2000(1).

14. Contracting Outside Plan. The following provision shall be added to the Agreement as Article XIV, Subsection 4.20, “Contracting Outside Plan”:

   Member Pharmacy acknowledges and agrees that Payers may not prohibit directly or indirectly Eligible Persons from freely contracting at any time to obtain any health care services outside the health care plan on any terms or conditions the Eligible Persons choose. Nothing in this Subsection 4.20 shall be construed to bind a Payer or MedImpact for any services delivered outside the Plan. RCW 48.43.085284-170-421.

15. Claims Payment.
6.1 MedImpact will reimburse Member Pharmacy according to the Agreement and will provide Member Pharmacy with a report showing the record of all claims submitted, processed, and paid in each processing cycle. Unless otherwise agreed to in writing by an officer of MedImpact, claims will be paid at the lower of: (1) Member Pharmacy’s Usual and Customary price; (2) the applicable AWP discount and dispensing fee; or (3) MAC plus the applicable dispensing fee. In no case shall reimbursement to Member Pharmacy exceed Member Pharmacy’s Usual and Customary price.

6.2 Drug classification (e.g., legend vs. over-the-counter, brand vs. generic) will be as published by the First Data Bank Service in its Blue Book and AWP pricing will be the price as published by Medi-Span or such other nationally recognized classification and pricing source which MedImpact may select.

6.3 MedImpact is not obligated to reimburse Member Pharmacy for a claim if Member Pharmacy has breached any of the provisions or terms set forth in the Agreement with respect to that claim.

6.4 For the services MedImpact provides to Member Pharmacy under this Agreement, MedImpact charges Member Pharmacy a fee per transaction. These fees will be immediately due and owing by Member Pharmacy to MedImpact and MedImpact has the right to deduct such amounts from any amounts payable to Member Pharmacy. A transaction means each claim, reversal, reject, resubmission, or other electronic communication sent to MedImpact through the Online Claim System. Any modifications to this transaction fee requirement must be in writing and signed by an officer of MedImpact.

6.5 Except in cases of fraud or as provided below, MedImpact or Payer may not (i) request a refund from Member Pharmacy of a payment previously made to satisfy a claim unless it does so in writing to Member Pharmacy within twenty-four (24) months after the date the payment was made; or (ii) request that a contested refund be paid any sooner than six (6) months after receipt of the request. Any such request will specify why MedImpact and/or Payer believes Member Pharmacy owes the refund. If Member Pharmacy fails to contest the request in writing to MedImpact within thirty (30) days of its receipt, the request is deemed accepted and the refund must be paid.

MedImpact and/or Payer (as applicable) may not, if doing so for reasons related to coordination of benefits with another carrier or entity responsible for payment of a claim: (i) request a refund from Member Pharmacy of a payment previously made to satisfy a claim unless it does so in writing to Member Pharmacy within thirty (30) months after the date the payment was made; or (ii) request that a contested refund be paid any sooner than six (6) months after receipt of the request. Any such request will specify why MedImpact and/or Payer (as applicable) believes Member Pharmacy owes the refund, and include the name and mailing address of the entity that has primary responsibility for payment of the claim. If Member Pharmacy fails to contest the request in writing to MedImpact within thirty (30) days of its receipt, the request is deemed accepted and the refund must be paid.

MedImpact may at any time request a refund from Member Pharmacy of a payment previously made to satisfy a claim if: (i) a third party, including a government entity, is found responsible for satisfaction of the claim as a consequence of liability imposed by law, such as tort liability; and (ii) MedImpact and/or Payer (as applicable) is unable to recover directly from the third party because the third party has either already paid or will pay Member Pharmacy for the services covered by the claim.

Nothing in this Subsection 6.5 prohibits Member Pharmacy from choosing at any time to refund to MedImpact any payment previously made to satisfy a claim.

For purposes of this Subsection 6.5, “refund” means the return, either directly or through an offset to a future claim, of some or all of a payment already received by Member Pharmacy.
This Subsection 6.5 neither permits nor precludes Member Pharmacy from recovering from an Eligible Person any amounts paid to Member Pharmacy for benefits to which Eligible Person was not entitled under the terms and conditions of the Plan or other benefit agreement or policy.

This Subsection 6.5 does not apply to claims for services provided through dental-only health Payers, health care services provided under Title XVIII (Medicare) of the Social Security Act, or Medicare supplemental Plans regulated under chapter 48.66 RCW. RCW 48.43.600.

6.6 Except in cases of fraud or as provided below, Member Pharmacy may not (i) request additional payment from MedImpact or Payer (as applicable) to satisfy a claim unless it does so in writing to MedImpact or Payer within twenty-four (24) months after the date that the claim was denied or payment intended to satisfy the claim was made; or (ii) request that the additional payment be made any sooner than six (6) months after receipt of the request. Any such request must specify why Member Pharmacy believes MedImpact or Payer owes the additional payment.

Member Pharmacy may not, if doing so for reasons related to coordination of benefits with another carrier or entity responsible for payment of a claim: (i) Request additional payment from MedImpact or Payer to satisfy a claim unless Member Pharmacy does so in writing to MedImpact or Payer within thirty (30) months after the date the claim was denied or payment intended to satisfy the claim was made; or (ii) request that the additional payment be made any sooner than six (6) months after receipt of the request. Any such request must specify why Member Pharmacy believes MedImpact or Payer owes the additional payment, and include the name and mailing address of any entity that has disclaimed responsibility for payment of the claim.

This Subsection 6.6 does not apply to claims for services provided through dental-only health Payers, health care services provided under Title XVIII (Medicare) of the Social Security Act, or Medicare supplemental Plans regulated under chapter 48.66 RCW. RCW 48.43.605.


Notwithstanding anything in the Agreement to the contrary, Member Pharmacy shall have reasonable notice of not less than sixty (60) days of changes that affect Member Pharmacy compensation and that affect health care service delivery unless changes to federal or state law or regulations make such advance notice impossible, in which case notice shall be provided as soon as possible. Subject to any termination and continuity of care provisions of the Agreement, Member Pharmacy may terminate the Agreement without penalty if Member Pharmacy does not agree with the changes. No change to the Agreement may be made retroactive without the express consent of Member Pharmacy. WAC 284-170-421(6).

17. Audit.

MedImpact and Member Pharmacy and the authorized agents of each party have the right to audit compliance with the Agreement, including common errors in the submission of claims, and the audited party must comply with all requests for documentation and records, and provide auditors with or access to examine and/or copy any and all documents and records that the auditing party deems necessary to determine whether the audited party is compliant with the Agreement. The audited party must promptly comply with all requests for documentation and records. The following shall apply to audits involving Washington Member Pharmacies as and to the extent applicable by Wash. Rev. Code Ann. §§ 19.340.040 through 19.340.080:

17.1 No claim may be audited more than twenty-four months after the date the claim was adjudicated;

17.2 At least fifteen days' advance written notice must be provided of an on-site audit;

17.3 An on-site audit may not be conducted during the first five (5) days of any month without consent of the party being audited;
17.4 The must be conducted in consultation with a pharmacist who is licensed by Washington or another state if the audit involves clinical or professional judgment;

17.5 An on-site audit may not be conducted of more than two hundred fifty (250) unique prescriptions of Member Pharmacy in any twelve-month period except in cases of alleged fraud;

17.6 More than one on-site audit may not be conducted of Member Pharmacy in any twelve-month period;

17.7 Audits of Member Pharmacy must be conducted under the same standards and parameters that the entity uses to audit other similarly situated pharmacies;

17.8 Any outstanding claims of Member Pharmacy must be paid no more than forty-five (45) days after the earlier of the date all appeals are concluded or the date a final report is issued under RCW 19.340.080(3);

17.9 Dispensing fees or interest may not be included in the amount of any overpayment assessed on a claim unless the overpaid claim was for a prescription that was not filled correctly;

17.10 Costs associated with clerical errors or other errors that do not result in financial harm to the entity or a consumer may not be recouped;

17.11 Member Pharmacy may not be charged for a denied or disputed claim until the audit and the audit appeals procedure are final.

17.12 A finding that a claim was incorrectly presented or paid must be based on identified transactions and not based on probability sampling, extrapolation, or other means that project an error using the number of patients served who have a similar diagnosis or the number of similar prescriptions or refills for similar drugs.

17.13 Information obtained during an audit may not be disclosed except to MedImpact, the Payor, the Member Pharmacy subject to the audit, the holder of the policy or certificate of insurance that paid the claim, governmental and regulatory agencies, and as otherwise required by Law.

17.14 Member Pharmacy will be allowed the following as evidence of validation of a claim:

17.14.1 An electronic or physical copy of a valid prescription if the prescribed drug was, within fourteen (14) days of the dispensing date: (a) picked up by the patient or the patient's designee; (b) delivered by Member Pharmacy to the patient; or (c) sent by Member Pharmacy to the patient using the United States postal service or other common carrier (to the extent mail service delivery is permitted under the Agreement);

17.14.2 Point of sale electronic register data showing purchase of the prescribed drug, medical supply, or service by the patient or the patient's designee; and

17.14.3 Electronic records, including electronic beneficiary signature logs, electronically scanned and stored patient records maintained at or accessible to the Member Pharmacy's central operations, and any other reasonably clear and accurate electronic documentation that corresponds to a claim.

17.15 Member Pharmacy will be provided with a preliminary report of the audit no later than forty-five (45) days after the date on which the audit was completed and will be sent by mail or common carrier with a return receipt requested, or electronically with electronic receipt confirmation.
17.16 Member Pharmacy shall have no fewer than forty-five (45) days after receiving the preliminary audit report to contest the report or any findings in the report and to provide additional documentation in support of the claim. MedImpact shall consider a reasonable request for an extension of time to submit documentation to contest the report or any findings in the report.

17.17 If an audit results in the dispute or denial of a claim, Member Pharmacy shall be permitted to resubmit the claim using any commercially reasonable method, including facsimile, mail, or electronic mail.

17.18 Member Pharmacy will be provided with a final report of the audit no later than sixty (60) days after the later of the date the preliminary report was received or the date Member Pharmacy contested the report. The final report will include a final accounting of all moneys to be recovered by MedImpact.

17.19 Recoupment of disputed funds from Member Pharmacy or repayment of funds to MedImpact by Member Pharmacy, unless otherwise agreed to by MedImpact and Member Pharmacy, shall occur after the audit and the audit appeals procedure are final. If the identified discrepancy for an individual audit exceeds forty thousand dollars ($40,000), any future payments to Member Pharmacy may be withheld by MedImpact until the audit and the appeals procedure are final.

17.20 The audit of records by MedImpact shall be limited to Eligible Persons and to the extent necessary to perform the audit.

17.21 Pursuant to RCW 19.340.040(1), MedImpact has established, in writing, a procedure for a Member Pharmacy to appeal MedImpact’s findings with respect to a claim, and will provide Member Pharmacy with notice regarding the procedure, in writing or electronically, prior to conducting an audit of a Member Pharmacy's claims.

18. No Cause Termination.

The parties shall provide at least sixty (60) days’ written notice to each other before terminating the contract without cause. WAC 284-170-421(9). In the event of termination of the Agreement without cause, Member Pharmacy shall continue to provide services to Eligible Persons in accordance with the terms and conditions of the Agreement for at least sixty (60) days following notice of termination to the Eligible Persons or, in group coverage arrangements involving periods of open enrollment, only until the end of the next open enrollment period. RCW 48.43.515(7).

19. Termination for Default.

If there is any material default by either party in the performance of the terms and conditions of this Agreement, the non-defaulting party may terminate this Agreement upon ten (10) days’ prior written notice, provided, however, that the defaulting party has not cured such default within ten (10) days prior to the end of such ten (10) day period. This paragraph shall not be construed to prevent either party from seeking injunctive relief, including specific performance, against the other prior to the expiration of the cure period. Member Pharmacy’s non-adherence to any of the provisions in the Agreement, including the Pharmacy Network Participation Acceptance Form, the Pharmacy Network Addendum(s), and the Authorization to Participate forms will constitute a material default of this Agreement.

20. Immediate Termination:

MedImpact may terminate this Agreement immediately upon written notice to Member Pharmacy in the event of (i) Member Pharmacy’s breach of any representations or warranties set forth in this Agreement; (ii) failure by Member Pharmacy to meet any licensing or credentialing requirements as defined by any state or federal agency or by any nationally recognized accreditation agency program standards or by
MedImpact or any applicable Payer; (iii) the right to control the operation of the business of Member Pharmacy is transferred or given to a different person or entity; or (iv) Member Pharmacy’s fraudulent submission of false claim information. Further, MedImpact may terminate Member Pharmacy from participating in any specific Payer’s network without cause upon a 60-day written notice to Member Pharmacy (or such longer period as required by applicable Law). WAC 284-170-421(9).


In the event of termination of this Agreement for any reason, in addition to all other rights and remedies MedImpact may have at Law, equity, or under this Agreement, MedImpact shall have the right to deduct from any amounts owing to Member Pharmacy any amounts which Member Pharmacy owes to MedImpact.

In the event Member Pharmacy breaches any provision of the Agreement, in addition to all other termination rights, MedImpact shall have the right to (i) suspend any and all obligations of MedImpact under and in connection with this Agreement, (ii) impose reasonable investigation and handling fees, and/or (iii) offset against any amounts owed to Member Pharmacy under this Agreement or under any other agreement between MedImpact and Member Pharmacy, any amounts required to be paid by Member Pharmacy to MedImpact, in accordance with the overpayment provisions set forth in Subsection 6.5 of Article XIV. These rights and remedies are in addition to any and all other rights and remedies that may be available to MedImpact under the Agreement or at Law or equity. RCW 48.43.600.

Termination of the Agreement for any reason shall have no effect upon the rights or obligations of the parties arising out of any transactions occurring prior to the effective date of such termination.

22. Notices to Member Pharmacy.

All notices by MedImpact to Member Pharmacy pursuant to the Agreement may be given via the claims system, by facsimile, e-mail, or mail at the facsimile number, e-mail address or mailing address as set forth in the Member Pharmacy’s Pharmacy Network Participation Acceptance Form.

All notices will be deemed received when delivered in person, by e-mail, or by facsimile, or, if sent by mail; the notice will be deemed received on the sixth business day after the date such notice was mailed.

23. Applicable Law

This Agreement shall be construed and enforced in accordance with the laws of the State of Washington, without regard to conflict of law principles.


Member Pharmacy is entitled a fair dispute resolution mechanism. In addition to the dispute resolution process set forth in the Agreement, Member Pharmacy shall contact MedImpact at the address listed in the “Notice” provision of the Agreement for the procedures for processing and resolving disputes. WAC 284-170-421(13). In all events, the following shall apply:

a. Member Pharmacy shall have the opportunity to be heard regarding a complaint after submitting a written request to MedImpact for review. If MedImpact fails to grant or reject a request within thirty (30) days after it is made, Member Pharmacy may proceed as if the complaint had been rejected. A complaint that has been rejected by MedImpact may be submitted to nonbinding mediation in accordance with the mediation and arbitration provisions in Article XIII. This Subsection 15.1 is solely for resolution of provider complaints. Complaints by, or on behalf of, an Eligible Persons are not subject to these grievance processes. RCW 48.43.055.
b. With respect to billing disputes, MedImpact shall render a decision within sixty (60) days of receipt of a written complaint from Member Pharmacy. WAC 284-170-440(5).

c. In all events, Member Pharmacy shall have not less than thirty (30) days after the action giving rise to a dispute for Member Pharmacy to complain and initiate the dispute resolution process. WAC 284-170-440.

25. Maximum Allowable Cost Lists. To the extent applicable and required by RCWA 19.340.100, the following shall apply with respect to MedImpact’s Maximum Allowable Cost lists in connection with Member Pharmacies in Washington:

a. MedImpact’s Maximum Allowable Cost lists are readily accessible to and usable by Washington Member Pharmacies subject to such Maximum Allowable Cost lists. Washington Member Pharmacies can contact mac@medimpact.com for instructions on accessing MedImpact’s applicable Maximum Allowable Cost lists, which are available online 24/7, 365 days a year (except for scheduled maintenance) through the Pharmacy Verification Network (PVN) at www.pharmacyverification.com.

b. The national drug pricing compendia or other data sources used by MedImpact to determine the maximum allowable cost for the drugs on a Maximum Allowable Cost list are identified on the MedImpact Maximum Allowable Cost lists.

c. MedImpact’s Maximum Allowable Cost list may be updated daily, but in all cases every seven (7) business days. Because MedImpact’s Maximum Allowable Cost list may be updated daily, MedImpact hereby provides notice that the most current MedImpact Maximum Allowable Cost lists, including all changes in the price of drugs, are available to Washington Member Pharmacies online in a readily accessible and usable format 24/7, 365 days a year (except for scheduled maintenance) through the Pharmacy Verification Network (PVN) at www.pharmacyverification.com.

d. Dispensing fees are not included in the calculation of Maximum Allowable Cost.

e. Within thirty (30) calendar days of claim submission, Washington Member Pharmacies subject to the Maximum Allowable Cost lists may appeal a maximum allowable cost for a specific drug or drugs on MedImpact’s Maximum Allowable Cost lists if it does not meet the requirements of RCWA 19.340.100 or if MedImpact’s reimbursement for a drug subject to Maximum Allowable Cost pricing is less than the net amount that the Washington Member Pharmacy paid to the supplier of the drug. An appeal requested under this section must be completed within thirty (30) calendar days of the Washington Member Pharmacy submitting the appeal. If after thirty (30) days the Washington Member Pharmacy has not received the decision on the appeal from MedImpact, then the appeal is considered denied. MedImpact shall uphold the appeal of a Washington Member Pharmacy with fewer than fifteen (15) retail outlets within the state of Washington under its corporate umbrella if Member Pharmacy can demonstrate that it is unable to purchase a therapeutically equivalent interchangeable product from a supplier doing business in Washington at MedImpact’s list price. Washington Member Pharmacies can initiate an appeal of the MAC pricing and reimbursements made under MAC pricing by submitting an email to mac@medimpact.com, detailing the challenge to the MedImpact maximum allowable cost, along with supporting information and/or documentation. Washington Member Pharmacies may contact MedImpact to speak to a person regarding an appeal at 858-790-7165 or by sending an email request to mac@medimpact.com. Effective July 1, 2017, if a Washington Member Pharmacy's appeal is denied or if Washington Member Pharmacy is unsatisfied with the appeal outcome, it can request review by the insurance commissioner within thirty (30) calendar days of the appeal decision. The commissioner will reach decision within thirty (30) calendar days of appeal and provide decision to the parties within seven (7) calendar days. This post appeal right applies only to pharmacies with fewer than fifteen (15) retail outlets in Washington under its
corporate umbrella.

f. This Section 25 applies only with respect to Maximum Allowable Cost lists owned and/or controlled by MedImpact.

g. MedImpact’s Maximum Allowable Cost lists are CONFIDENTIAL AND PROPRIETARY to MedImpact and contain material MedImpact may consider Trade Secrets. By providing Washington Member Pharmacies access to the MedImpact Maximum Allowable Cost lists hereunder, they are being provided for specified use by the Washington Member Pharmacy and may not otherwise be used, reproduced, transmitted, published, or disclosed to others without prior written authorization from MedImpact. MedImpact maintains the sole and exclusive ownership, right, title, and interest in and to its Maximum Allowable Cost lists. Without limiting the generality of the foregoing, Washington Member Pharmacies shall not attempt to replicate the information contained in the MedImpact Maximum Allowable Cost lists and shall not use the information contained therein in a manner that places MedImpact at a commercial disadvantage. Washington Member Pharmacies shall allow only designated individuals who agree to the confidentiality protections herein to have access to the information in the MedImpact Maximum Allowable Cost Lists.

26. **Pharmacy Prior Authorization.** Member Pharmacy may make a pharmacy prior authorization request. If an authorization number is required to be transmitted on a claim for Prescription Drug Benefits, MedImpact shall provide the authorization number to Member Pharmacy after approval of the preauthorization request and upon receipt of a claim for that authorized medication. WAC 284-170-470(5).

27. **Pharmacy Emergency Fills.** Except for the force majeure situations described in WAC 284-170-470(9), “Emergency Fill” (as defined below) by a Member Pharmacy will be authorized and the claim payment for the emergency fill will be approved when (a) Member Pharmacy cannot reach the applicable prior authorization department (e.g., Payer or MedImpact, as applicable) by phone because it is outside of that department’s business hours; or (b) Member Pharmacy reaches the applicable prior authorization department, but the prescriber cannot be reached for full consultation. “Emergency fill” means a limited dispensed amount of a Prescription Drug Benefit that allows time for the processing of a preauthorization request. Emergency fill only applies to those circumstances where an Eligible Person presents at Member Pharmacy with an immediate therapeutic need (as defined by regulation) for a prescribed Prescription Drug Benefit that requires a prior authorization. WAC 284-170-470(7) and (9); WAC 284-170-130.