

CETS #:	25660
Agency Reference #:	

## INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES

A Contract Between the State of Nevada  
Acting by and through its

Public Entity #1:	<b>Department of Health and Human Services Division of Health Care Financing and Policy</b>
Address:	<b>1100 E. William St., Suite 101</b>
City, State, Zip Code:	<b>Carson City, NV 89701</b>
Contact:	<b>Debrah Martinez, Contract Manager</b>
Phone:	<b>(775) 684-3676 (main)</b>
Fax:	
Email:	<a href="mailto:dhcfppcu@dhcfp.nv.gov">dhcfppcu@dhcfp.nv.gov</a> / <a href="mailto:debrah.martinez@dhcfp.nv.gov">debrah.martinez@dhcfp.nv.gov</a>

Public Entity #2:	<b>Department of Health and Human Services Division of Welfare and Supportive Services</b>
Address:	<b>1470 E. College Parkway</b>
City, State, Zip Code:	<b>Carson City, NV 89706</b>
Contact:	<b>Monique Pomerleau, Contract Manager</b>
Phone:	<b>(775) 684-0500 (main)</b>
Fax:	
Email:	<a href="mailto:dwsscontracts@dwss.nv.gov">dwsscontracts@dwss.nv.gov</a>

Public Entity #3:	<b>Clark County</b>
Address:	<b>1600 Pinto Lane</b>
City, State, Zip Code:	<b>Las Vegas, NV 89106</b>
Contact:	<b>Margaret LeBlanc, Assistant Director</b>
Phone:	<b>(702) 455-3283</b>
Fax:	
Email:	<a href="mailto:Margaret.LeBlanc@clarkcountynv.gov">Margaret.LeBlanc@clarkcountynv.gov</a> / <a href="mailto:e2h@clarkcountynv.gov">e2h@clarkcountynv.gov</a> / <a href="mailto:leah.dwyer@clarkcountynv.gov">leah.dwyer@clarkcountynv.gov</a> / <a href="mailto:Jessica.colvin@clarkcountynv.gov">Jessica.colvin@clarkcountynv.gov</a>

WHEREAS, NRS 277.180 authorizes any one or more public agencies to contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform; and

WHEREAS, it is deemed that the services hereinafter set forth are both necessary and in the best interests of the State of Nevada.

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

- REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by appropriate official action of the governing body of each party.

<b>CETS #:</b>	<b>25660</b>
<b>Agency Reference #:</b>	

2. **DEFINITIONS**

<b>TERM</b>	<b>DEFINITION</b>
State	The State of Nevada and any State agency identified herein, its officers, employees and immune contractors.
Contracting Entity	The public entities identified above.
Fiscal Year	The period beginning July 1 <sup>st</sup> and ending June 30 <sup>th</sup> of the following year.
Contract	Unless the context otherwise requires, 'Contract' means this document titled Interlocal Contract Between Public Agencies and all Attachments or Incorporated Documents.

3. **CONTRACT TERM.** This Contract shall be effective as noted below, unless sooner terminated by either party as specified in *Section 4, Termination*.

Effective From:	07/01/2021	To:	June 30, 2023
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4. **TERMINATION.** This Contract may be terminated by either party prior to the date set forth in *Section 3, Contract Term*, provided that a termination shall not be effective until **30** days after a party has served written notice upon the other party. This Contract may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Contract shall be terminated immediately if for any reason State and/or federal funding ability to satisfy this Contract is withdrawn, limited, or impaired.

5. **NOTICE.** All communications, including notices, required or permitted to be given under this Contract shall be in writing and directed to the parties at the addresses stated above. Notices may be given: (a) by delivery in person; (b) by a nationally recognized next day courier service, return receipt requested; or (c) by certified mail, return receipt requested. If specifically requested by the party to be notified, valid notice may be given by facsimile transmission or email to the address(es) such party has specified in writing.

6. **INCORPORATED DOCUMENTS.** The parties agree that this Contract, inclusive of the following Attachments, specifically describes the Scope of Work. This Contract incorporates the following Attachments in descending order of constructive precedence:

ATTACHMENT A:	SCOPE OF WORK
ATTACHMENT B:	CONFIDENTIALITY ADDENDUM

Any provision, term or condition of an Attachment that contradicts the terms of this Contract, or that would change the obligations of the State under this Contract, shall be void and unenforceable.

7. **CONSIDERATION.** The parties agree that the services specified in *Section 6, Incorporated Documents* at a cost as noted below:

Total Contract Not to Exceed:	\$54,135,127.58
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Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

8. **ASSENT.** The parties agree that the terms and conditions listed in the incorporated Attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations expressly provided.

<b>CETS #:</b>	<b>25660</b>
<b>Agency Reference #:</b>	

9. **INSPECTION & AUDIT**

- A. Books and Records. Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and document as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all State and federal regulations and statutes.
- B. Inspection & Audit. Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.
- C. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three years and for five years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

- 10. **BREACH - REMEDIES.** Failure of either party to perform any obligation of this Contract shall be deemed a breach. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall not exceed \$150.00 per hour.
- 11. **LIMITED LIABILITY.** The parties will not waive and intend to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Actual damages for any State breach shall never exceed the amount of funds which have been appropriated for payment under this Contract, but not yet paid, for the fiscal year budget in existence at the time of the breach.
- 12. **FORCE MAJEURE.** Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, acts of public enemy, acts of terrorism, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.
- 13. **INDEMNIFICATION.** Neither party waives any right or defense to indemnification that may exist in law or equity.
- 14. **INDEPENDENT PUBLIC AGENCIES.** The parties are associated with each other only for the purposes and to the extent set forth in this Contract, and in respect to performance of services pursuant to this Contract, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or constructed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.
- 15. **WAIVER OF BREACH.** Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.
- 16. **SEVERABILITY.** If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

<b>CETS #:</b>	<b>25660</b>
<b>Agency Reference #:</b>	

17. **ASSIGNMENT.** Neither party shall assign, transfer or delegate any rights, obligations or duties under this Contract without the prior written consent of the other party.
18. **OWNERSHIP OF PROPRIETARY INFORMATION.** Unless otherwise provided by law any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Contract shall be the joint property of both parties.
19. **PUBLIC RECORDS.** Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.
20. **CONFIDENTIALITY.** Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Contract.
21. **FEDERAL FUNDING.** In the event, federal funds are used for payment of all or part of this Contract, the parties agree to comply with all applicable federal laws, regulations and executive orders, including, without limitation the following:
  - A. The parties certify, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to Executive Orders 12549 and 12689 and Federal Acquisition Regulation Subpart 9.4, and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.
  - B. The parties and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder, including 28 C.F.R. Section 35, inclusive, and any relevant program-specific regulations.
  - C. The parties and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964 (P.L. 88-352), as amended, the Rehabilitation Act of 1973 (P.L. 93-112), as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)
  - D. Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
22. **PROPER AUTHORITY.** The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract and that the parties are authorized by law to perform the services set forth in *Section 6, Incorporated Documents*.
23. **GOVERNING LAW – JURISDICTION.** This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the exclusive jurisdiction of and venue in the First Judicial District Court, Carson City, Nevada for enforcement of this Contract.
24. **ENTIRE AGREEMENT AND MODIFICATION.** This Contract and its integrated Attachment(s) constitute the entire agreement of the parties and as such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated Attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such Attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto, approved by the Office of the Attorney General.

<b>CETS #:</b>	<b>25660</b>
<b>Agency Reference #:</b>	

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.

**CLARK COUNTY**

\_\_\_\_\_  
James B. Gibson Date

Chair, Clark County Board of Commissioners  
Title

\_\_\_\_\_  
Lynn Marie Goya Date

Clark County Clerk  
Title

\_\_\_\_\_  
Steven B. Wolfson Date

Clark County District Attorney  
Title

Attested By:

\_\_\_\_\_  
Elizabeth A. Vibert Date

Clark County Deputy District Attorney  
Title

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS)  
DIVISION OF WELFARE AND SUPPORTIVE SERVICES (DWSS)**

\_\_\_\_\_  
Steve H. Fisher Date

Administrator, DWSS  
Title

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS)  
DIVISION OF HEALTH CARE FINANCING AND POLICY (DHCFP)**

\_\_\_\_\_  
Suzanne Bierman, JD, MPH Date

Administrator, DHCFP  
Title

**APPROVED BY BOARD OF EXAMINERS**

\_\_\_\_\_  
Signature – Board of Examiners

On: \_\_\_\_\_  
Date

Approved as to form by:

On: \_\_\_\_\_

\_\_\_\_\_  
Deputy Attorney General for Attorney General

\_\_\_\_\_  
Date

**ATTACHMENT A**  
**SCOPE OF WORK**  
  
**COUNTY MATCH**

**A. PURPOSE AND OBJECTIVES:**

The Department of Health and Human Services (DHHS) is the designated “single State agency” responsible for medical assistance provided in Nevada under authority of Title XIX of the Social Security Act. The Division of Welfare and Supportive Services (DWSS) and the Division of Health Care Financing and Policy (DHCFP) are responsible for implementing the State Plan under Title XIX, pursuant to Title 42, Chapter IV, Subchapter C of the Code of Federal Regulations, and Chapters 428 and 422 of Nevada Revised Statutes (NRS).

This Interlocal Agreement authorizes DWSS and DHCFP to provide the administrative services necessary to implement the program of medical assistance to individuals who meet financial and medical eligibility criteria as defined below and the County to provide the non-federal share to DHCFP for medical, administrative, and transactions costs incurred as a result of this medical assistance program.

**B. DWSS AGREES:**

1. To determine Medicaid eligibility based on criteria established and set forth in DHCFP’s Title XIX State Plan and related policies and procedures. The criteria DWSS uses to determine eligibility includes a percentage of the Supplemental Security Income Federal Benefit Rate (SSI/FBR) prescribed annually by the DHHS Director. Eligible Medicaid recipients covered by this contract meet institutional level of care criteria and are provided with either institutional or community-based waiver services.
2. To determine county of residence in accordance with NRS 428.020. Disputes concerning county of residence will be referred by the disputing County to the Nevada Association of Counties (NACO), which it is specifically agreed, has authority to issue a final decision.
3. To provide a copy of newly approved applications, either by paper or an electronic PDF document, or provide electronic access to the necessary eligibility information the County may need.
4. To provide DWSS’s hearing process to those individuals or their guardians/authorized representatives who disagree with the eligibility determination.
5. Medicaid eligibility can only be determined to be effective no earlier than three (3) months before the month of application.

**C. DHCFP AGREES:**

1. To process claims for medical services through the Medicaid fiscal agent.
2. To reimburse qualified providers for services covered in the Medicaid State Plan at the same rate as for all Medicaid patients.
3. To resolve provider inquiries and complaints regarding reimbursement.

4. To process patient liability for hospital and/or nursing home costs as determined by DWSS and to apply cost avoidance claims processing procedures when third party liability has been established.
5. To invoice the County retrospectively on or around the fifteenth of the following month for the non-federal share of Medicaid costs based on actual expenditures as determined by the criteria established and set forth in DHCFP's Title XIX State Plan and related policies and procedures.
6. To send monthly itemized reports retrospectively to the County that include the names of eligible county patients, dates of service, dates of payment, and total dollar amount of all payments made to Medicaid. The monthly reports will reflect all credits or debits as a result of claim adjustments by the fiscal agent and medical services credits, including Medicaid Estate Recovery (MER) and Medicaid Qualified Income Trust (QIT) Recoveries, which will be calculated and applied against the amount owed for the month.
7. To determine the amount owed by each County for the non-federal share of Medicaid costs, including medical claims payments, Medicare Part B premiums, Medicare Part D payments, and administrative costs.
  - a. The federal share of medical claims payments, Medicare Part B premiums, and Medicare Part D payments are calculated by the Federal government at least annually.
  - b. Administrative costs include, but are not limited to, the cost for staffing, processing claims, institutional audits, and mainframe computer use. Administrative costs will be re-determined each fiscal year based on negotiation with the fiscal agent and DWSS studies. DHCFP will notify the County of the administrative cost per case each fiscal year and provide the County with the methodology used to determine the administrative costs.
8. In order meet State Fiscal Year End closing deadlines, DHCFP shall submit June invoices no later than July 8<sup>th</sup> of each year.
9. To determine and provide biennial projections to be included as an attachment to the contract. DHCFP will monitor monthly invoices and projections to determine if a contract amendment is necessary to align with the requirements of NRS 428.

**D. COUNTY AGREES:**

1. To accept DWSS's criteria for Medicaid eligibility.
2. To allow eligibility disputes to be appealed through DWSS's hearing process by the applicant or authorized representative/guardian.
3. To refer disputes concerning county of residence to NACO whose decision will be final. The disputing County originally billed is responsible for payment of claims until the dispute is resolved, at which time NACO will issue a written determination to notify the counties involved in the dispute and to notify DHCFP to make adjusting entries.
4. To accept and abide by DHCFP's determination of medically necessary services.
5. Eligible recipients, pursuant to this Agreement, will be entitled to receive the full range of medical services contained in the Nevada Medicaid Program State Plan.
6. No state appropriation is available to fund this program. From the time of billing, county funds must be paid within thirty (30) calendar days from the date of the invoice to be used as the non-federal share of costs.

7. Payments made by the County shall be derived from public funds that meet the requirements of 42 C.F.R. 433.51 and NRS Chapter 428, such as general county tax revenues or other general revenues of the County.

**E. ALL PARTIES AGREE:**

1. It is specifically understood this Agreement is designed to expand Medicaid income eligibility criteria to include those individuals whose net countable income is specified above in B.1, including Medicaid receiving institutional and community-based (waiver) services. It is further specifically understood that the non-federal share of Medicaid expenditures for those qualifying individuals will be paid by the County from public funds per 42 C.F.R. 433.51.
2. It is specifically understood by all parties that Medicaid eligibility can only be determined to be effective no earlier than three (3) months before the month of application.
3. All payments under this Agreement are contingent upon the availability of the necessary funds from the federal government. In the event sufficient funds, as determined by DHCFP, are not available for any reason, DHCFP shall not be obligated to make any payments to the County under this Agreement. DHCFP will notify the County of the insufficient funds as soon as practicable after making that decision. This provision is a condition precedent to DHCFP's obligation to make any payments under the Agreement. Nothing in this Agreement shall be construed to provide the County with a right of payment over any other entity. If payments, which are otherwise due to the County under this Agreement, are deferred because of the unavailability of sufficient funds, such payments will be made to the County if sufficient funds later become available.
4. For all counties with a population below 100,000, the total billable amount for both populations will not exceed the eight (8) cent cap as established by NRS 428.285(4).
5. The parties shall cooperate to present an amendment to the Board of County Commissioners for consideration as needed to conform the contract amount if it exceeds or is anticipated to exceed projected values. The County shall not attempt to exceed the "not to exceed" value of the contract if an amendment has not been approved by the Board of County Commissioners to do the same.

## ATTACHMENT B

### STATE OF NEVADA DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### CONFIDENTIALITY ADDENDUM

BETWEEN

*The Division of Health Care Financing and Policy*  
Herein after referred to as the "Division"

*and*

*Clark County*  
Herein after referred to as the "Contractor"

This CONFIDENTIALITY ADDENDUM (the Addendum) is hereby entered into between Division and Contractor.

WHEREAS, Contractor may have access, view or be provided information, in conjunction with goods or services provided by Contractor to Division that is confidential and must be treated and protected as such.

NOW, THEREFORE, Division and Contractor agree as follows:

#### I. DEFINITIONS

The following terms shall have the meaning ascribed to them in this Section. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear.

1. **Agreement** shall refer to this document and that particular inter-local or other agreement to which this addendum is made a part.
2. **Confidential Information** shall mean any individually identifiable information, health information or other information in any form or media.
3. **Contractor** shall the name of the organization described above.
4. **Required by Law** shall mean a mandate contained in law that compels a use or disclosure of information.

#### II. TERM

The term of this addendum shall commence as of the effective date of the primary inter-local or other agreement and shall expire when all information provided by Division or created by Contractor from that confidential information is destroyed or returned, if feasible, to Division pursuant to Clause VI (4).

#### III. LIMITS ON USE AND DISCLOSURE ESTABLISHED BY TERMS OF CONTRACT OR LAW

Contractor hereby agrees it shall not use or disclose the confidential information provided, viewed or made available by Division for any purpose other than as permitted by Agreement or required by law.

IV. PERMITTED USES AND DISCLOSURES OF INFORMATION BY CONTRACTOR

Contractor shall be permitted to use and/or disclose the confidential information accessed, viewed or from Division for the purpose(s) required in fulfilling its responsibilities under the primary inter-local or other agreement.

V. USE OR DISCLOSURE OF INFORMATION

Contractor may use information as stipulated in the primary inter-local or other agreement if necessary for the proper management and administration of Contractor; to carry out legal responsibilities of Contractor; and to provide data aggregation services relating to the health care operations of Division. Contractor may disclose information if:

1. The disclosure is required by law; or
2. The disclosure is allowed by the inter-local or other agreement to which this Addendum is made a part; or
3. The Contractor has obtained written approval from the Division.

VI. OBLIGATIONS OF CONTRACTOR

1. **Agents and Subcontractors.** Contractor shall ensure by subcontract that any agents or subcontractors to whom it provides or makes available information, will be bound by the same restrictions and conditions on the access, view or use of confidential information that apply to Contractor and are contained in Agreement.
2. **Appropriate Safeguards.** Contractor will use appropriate safeguards to prevent use or disclosure of confidential information other than as provided for by Agreement.
3. **Reporting of Improper Use or Disclosure.** Contractor to notify the Division in writing immediately upon discovery of any use or disclosure of confidential information not provided for by Agreement.
4. **Return or Destruction of Confidential Information.** Upon termination of Agreement, Contractor will return or destroy all confidential information created or received by Contractor on behalf of Division. If returning or destroying confidential information at termination of Agreement is not feasible, Contractor will extend the protections of Agreement to that confidential information as long as the return or destruction is infeasible. All confidential information of which the Contractor maintains will not be used or disclosed.
5. Nothing herein abrogates or lessens any obligations related to confidential information as Required by Law.