

**PROVIDER AGENCY/VENDOR/CONTRACTOR AGREEMENT**  
**Between Self-Direction Member/Participant/Employer of Record (EOR) and Provider**

Self-Direction Medicaid Waiver

This signed agreement must be received by Xerox (formerly ACS) before any payments can be issued to the provider agency/vendor/contractor for SERVICES. This agreement may not be required for certain services (for example, phone or internet services) and is not necessary for the purchase of most goods.

*Please contact Xerox if you are not clear about when this agreement is necessary.*

**Please check the appropriate checkbox to indicate the purpose of this form**

New Vendor

Vendor Pay (Rate) Change

Effective Date of Rate Change \_\_\_\_\_

The provider agency/vendor/contractor is contracted with the Self-Direction member/participant/EOR and works at the member/participant/EOR's direction. The provider agency/vendor/contractor and member/participant/EOR must follow the policies outlined below. This Agreement must be signed and a copy kept by the Self-Direction member/participant/EOR *and* the provider agency/vendor/contractor. Please send the signed Agreement to Xerox (formerly ACS), the Self-Direction Financial Management Agent (FMA).

**Provider/Vendor/Contractor Relationship with Medicaid**

I am a current Medicaid-participating provider. Yes \_\_\_\_\_ No \_\_\_\_\_

If *yes*, I am a Medicaid-participating provider in good standing. Yes \_\_\_\_\_ No \_\_\_\_\_

If *no*, please explain \_\_\_\_\_

Provider Medicaid ID number (if applies) \_\_\_\_\_

Under 8.314.6.7 NMAC and 8.308.12 K. NMAC, a Legally Responsible Individual (LRI) is defined as any person who has a duty under state law to care for another person. This category typically includes: the parent (biological, legal or adoptive) of a minor child; the guardian of a minor child who must provide care to the child; or a spouse. State approval must be obtained in order for an LRI to be paid for providing Self-Direction services.

**FOR MI VIA VENDORS/CONTRACTORS ONLY**

Is the vendor/contractor legally responsible for the Mi Via member/participant? \_\_\_\_\_ YES  
\_\_\_\_\_ NO

Will the provider agency be hiring or subcontracting with a person who is legally responsible for the member/participant and who will then provide the service(s) to the member/participant?  
\_\_\_\_\_ YES \_\_\_\_\_ NO

If you answered yes to any of the questions, please indicate the name of the legally responsible person who will be providing the service(s) to the member/participant and mark the box that best describes the person's relationship to the member/participant.

Name \_\_\_\_\_

Parent (biological, legal or adoptive) of member/participant who is a minor

Guardian of member/participant who is a minor

Spouse of the member/participant

If the person providing the service(s) is a Legally Responsible Individual (LRI) for the member/participant, State approval to be a paid provider must be submitted with the Provider Agency/Vendor/Contractor agreement. If the person will be a provider for more than one service, State approval must be submitted for each service.

**Parties to Agreement**

This Agreement is made on

(Date) \_\_\_\_\_, by and between

(Vendor name) \_\_\_\_\_, hereinafter called "provider agency"/ "vendor"/"contractor" and

(Member/Participant/EOR name) \_\_\_\_\_, hereinafter called "Member/Participant/EOR."

This Agreement will establish the rates for specific services and the responsibilities of the parties to each other.

**Payment (service code, rate and quantity must be approved in the member/participant's budget.)**

The provider agency/vendor/contractor shall be compensated for services at the following rate:

Service Code (from Self-Direction budget) \_\_\_\_\_  
Rate per billing unit (please specify billing unit) \$ \_\_\_\_\_ per \_\_\_\_\_  
  
Additional Service Code (if necessary) \_\_\_\_\_  
Rate per billing unit (please specify billing unit) \$ \_\_\_\_\_ per \_\_\_\_\_

**This agreement must be resubmitted for any change in rate or service code.**

**Activities** (describe exactly what duties will be performed):

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**Duration of Agreement**

This Agreement will be effective when both parties sign it. Either party may end this Agreement for the services planned herein at any time and without liability for doing so, by giving the other party at least five (5) days prior notice, except in an emergency situation. Notice may be provided either orally or in writing. It is the responsibility of the vendor and the Member/Participant/EOR (or their authorized representative) to provide notice of this termination by reporting it to the Xerox Call Center at 1-866-916-0310.

**Modification of Agreement**

This Agreement may be changed by agreement of both parties. Modification of the Agreement will require that you submit a new Agreement to Xerox, and must include prior approval to ensure that the budget can support the proposed changes. *Signed copies of all new agreements must be provided to Xerox before any changes in rates, units, and so on, can be made.* Changes in rates will NOT be done retroactively. Xerox must receive the Vendor Agreement at least 15 days before the effective date of any rate change. If there is an increase in the rate, the new rate must be approved in the member/participant's budget.

### **Scheduling of Provider Agency/Vendor/Contractor**

If the provider agency/vendor/contractor is **unable** to provide services at the scheduled time, they shall provide at least \_\_\_\_\_ hours advance notice to the Self-Direction member/participant/EOR. A **change** in time by the provider agency/vendor/contractor or Self-Direction member/participant/EOR must be scheduled at least \_\_\_\_\_ hours in advance.

In case of emergency, the provider agency/vendor/contractor will notify the Self-Direction member/participant/EOR or another designated person. Such person shall be identified in advance, in writing. If the provider agency/vendor/contractor is knowingly going to be late, they shall notify the Self-Direction member/participant, EOR, or designated representative by telephone.

### **Provider Agency/Vendor/Contractor Qualifications, Duties and Policies.**

Provider agency/vendor/contractor hereby agrees to the duties and policies as specified below. Qualifications, duties and policies of the provider agency/vendor/contractor include, but are not limited to, the following:

1. The provider agency/vendor/contractor attests (*confirms*) that it and/or its staff/workers meet the minimum qualifications, including a current license or certificate, as applicable, for providing services as required by the Self-Direction Program and described in the Self-Direction Program regulations (8.314.6 NMAC or 8.308.12 NMAC) and the Self-Direction Program Service Standards.
  - a. The provider agency/vendor/contractor attests that its staff/workers hold valid social security numbers and are authorized to work in the United States.
  - b. All provider agency and independent contractor licenses, credentials and other required documents must be available for review by Xerox or the state as requested, for the duration of this agreement.
  - c. Provider Agencies and independent contractors must maintain a copy of current professional and/or business licenses and/or professional credentials on file at all times.
2. The provider agency/vendor/contractor agrees to assist the Self-Direction member/participant by providing the services and performing the activities agreed upon with the Self-Direction member/participant/EOR, according to his/her approved budget, and Service and Support Plan.
3. Provider agency/vendor/contractor staff have the required skills to provide the services and perform the activities agreed upon with the Self-Direction member/participant/EOR, according to his/her approved Service and Support Plan and budget.
4. Provider agency/vendor/contractor staff that provides direct services will have completed and passed a criminal record check in accordance with Department of Health/Division of Health

Improvement DOH/DHI regulations. **Criminal background checks are mandatory.**

- a. Provider agencies are responsible for completing background checks on all of their staff. All staff must have passed such a screening before providing direct services to the member/participant. Confirmation must be available to Xerox and the state for review as requested, for the duration of this agreement.
  - b. If the agency staff or independent contractor has a professional license, like a registered nurse or therapist, their licensing board has already completed a background check. They do not need to do another one for Self-Direction.
  - c. If a vendor or independent contractor is not a licensed practitioner and is subject to the Caregivers Criminal History Screening Act, they will need to complete a background check through Xerox. The background check for vendors is exactly the same as the process for employees. These vendors/contractors must receive clearance from Xerox before they can begin to provide services to the member/participant.
  - d. Any agency, vendor or contractor staff that has not completed a criminal background check must be employed or contracted on a provisional (*temporary*) basis pending the results of the criminal background check. A Consolidated Online Registry (COR) background check must be completed before any direct service is provided (even if on a provisional or temporary basis). Proof that a criminal records check is in process must be on file with the agency prior to the staff person providing any direct services, and must be available to Xerox and the state for review as requested.
5. All qualification documentation (*required information*) must be completed by the provider agency/vendor/contractor and be on file with the provider agency/vendor/contractor prior to and while providing services. Licenses and/or other qualification requirements must be verified before services are provided and payment made. Additional information such as a Nature of Services Questionnaire may be requested by Xerox in order to determine whether a proposed vendor/contractor meets the classification criteria.
  6. Provider agency/vendor/contractor acknowledges and understands that funds available for payment are authorized by the Self-Direction New Mexico Medicaid Self-Directed Waiver in advance of services being provided. Payment to the provider agency/vendor/contractor shall only be made as authorized by Self-Direction and upon submitting a **complete Payment Request Form** and invoice to Xerox (according to payment procedures).
  7. Provider agency/vendor/contractor staff shall only perform services within the authorized payment amount, quantity and duration, as they will not be paid by the state of New Mexico for services provided in excess of (over) the authorized amount.
  8. The member/participant will pay any services provided over the authorized amount (as documented in the approved budget) to the provider agency/vendor/contractor.
  9. The provider agency/vendor/contractor will not be paid for services not provided.
  10. Payment for services may be in the form of a check or via direct deposit. The provider

agency/vendor/contractor can change their preference of payment at any time, subject to the processes and timelines outlined in the Direct Deposit Agreement and associated instructions.

11. Provider agency/vendor/contractor agrees that it will withhold, as applicable, and pay all required federal income, Medicare, Social Security, New Mexico state and local taxes (as applicable) that are owed in regard to service(s) provided.
12. Payment for services provided by the provider agency/vendor/contractor is from federal and state funds. Any false claims, statements, documents or concealment of material facts will be prosecuted under applicable federal and state laws.
13. A provider agency/vendor/contractor that provides services is considered a Medicaid provider and must document services and maintain documentation as set forth in the Self-Direction Program Regulations (8.314.6.12 NMAC or 8.308.12 NMAC).
14. In the event of illness, emergency, or incident preventing the provider agency/vendor/contractor from providing scheduled services to the Self-Direction member/participant, the provider agency/vendor/contractor agrees to notify the member/participant/EOR as soon as possible and in the manner agreed upon by both parties as described in this Agreement.
15. The provider agency/vendor/contractor agrees to participate in training and/or orientation, if requested by the Self-Direction member/participant/EOR, in providing the services that are the subject of this agreement.
16. The provider agency/vendor/contractor agrees to keep all information regarding the Self-Direction member/participant confidential in compliance with HIPAA and other federal and state laws, and to respect the Self-Direction member/participant's privacy.
17. The provider agency/vendor/contractor understands that it is engaged by the Self-Direction member/participant/EOR and *not* the State of New Mexico or Xerox.
18. The provider agency/vendor/contractor, its employees, customers' employees, officers, directors, shareholders, sub-contractors and agents are not employees of the member/participant/EOR, the State of New Mexico, Xerox or its subcontractors. The provider agency/vendor/contractor agrees that it provides services to the member/participant as an independent contractor of the member/participant/EOR, and that no employer/employee relationship shall exist between the member/participant/EOR, Xerox or its subcontractors and the provider agency/vendor/contractor related to the services being rendered under this agreement.
19. Misrepresentation of time worked, services provided, and/or other related information is considered fraud. If the Self-Direction member/participant/EOR or the provider agency/vendor/contractor willfully or intentionally misrepresents information, this agreement may be terminated (*ended*) and the Self-Direction member/participant/EOR or provider will be referred to the HSD Medicaid Fraud Unit.
20. The provider agency/vendor/contractor attests (confirms) they have reviewed the Mi Via

Service Standards and Regulations, or Centennial Care Managed Care Policy Manual, as they apply to the services they are providing and agrees to provide these services in accordance with program rules.

21. The provider agency/vendor/contractor attests they are in compliance with the reporting requirements set forth in the ABUSE, NEGLECT, EXPLOITATION, AND DEATH REPORTING, TRAINING AND RELATED REQUIREMENTS FOR COMMUNITY PROVIDERS REGULATIONS (7.1.14 NMAC)
22. If providing Customized Community Supports and/or Employment Supports, the vendor attests (confirms) that services and supports are provided in a community based integrated setting which supports and provides opportunities for participants to access and engage with community resources and activities with others in their community.

### **Self-Direction Member/Participant/EOR Responsibilities**

1. The Self-Direction member/participant, EOR or their representative agrees to provide orientation to the provider agency/vendor/contractor in providing the services requested by the Self-Direction member/participant/EOR and authorized in the member/participant's approved Service and Support Plan and budget.
2. The Self-Direction member/participant, EOR, or their representative agrees to establish a mutually agreeable schedule for the provider agency/vendor/contractor services, either orally or in writing.
3. The Self-Direction member/participant, EOR, or their representative, agrees to provide adequate (fair) notice of changes to the scheduled services to the provider agency/vendor/contractor in the event of unforeseen circumstances or emergencies, but such notice cannot be guaranteed.
4. Misrepresentation of time, services, individuals and/or other information is forbidden. If the Self-Direction member/participant/EOR or provider agency/vendor/contractor knowingly misrepresents information, the member/participant may lose the option of participating in Self-Direction.
5. The Self-Direction member/participant/EOR, or their representative is responsible to ensure payments are made to provider agencies/vendors/contractors for services provided.
6. The Self-Direction member/participant/EOR understands that at any time, the provider agency/vendor/contractor can change their preference of payment from check to direct deposit subject to the processes and timelines outlined in the Direct Deposit Agreement and associated instructions.

7. The Self-Direction member/participant, EOR or their representative understands that if there is a conflict about the services provided, including but not limited to type, quantity or duration, it is the responsibility of the Self-Direction member/participant/EOR to resolve this directly with the provider of service following New Mexico laws governing such conflicts.
8. The Self-Direction member/participant, EOR or their representative, may not receive cash, rebate money, or return goods for cash for any service or goods paid for through the Self-Direction New Mexico Self-Directed Medicaid Waiver. Member/Participants who arrange to receive rebates or refunds on the unauthorized return of goods or services may be terminated from the Self-Direction Waiver program.

**Mutual Responsibilities**

The parties agree to follow the regulations, policies and procedures of the Self-Direction New Mexico Self-Directed Medicaid Waiver, including the enrollment and payment processes established by Xerox, the Self-Direction FMA, the Self-Direction Regulations (8.314.6 NMAC or 8.308.12 NMAC) and the Service Standards or Centennial Care Managed Care Policy. The provider agency/vendor/contractor and Self-Direction member/ participant/EOR agree to hold harmless, release, and forever discharge the State of New Mexico, Xerox and its subcontractors from any claims and/or damages that might arise out of any action or omissions by the provider agency/vendor/contractor or Self-Direction member/participant/EOR.

**The member/participant/EOR and provider agency/vendor/contractor must sign below to begin a service relationship through this program.** By signing, the provider agency/vendor/contractor and the member/participant/EOR listed herein verify all qualifications and agree to the duties, responsibilities and policies as outlined in this Agreement.

**PROVIDER AGENCY/VENDOR/CONTRACTOR AGREEMENT**

**Please complete and sign in ink.**

**Member/Participant/EOR Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**(if Guardian) Relationship to Member/Participant:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Provider Agency/Vendor/Contractor Signature** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Provider Agency/Vendor/Contractor Telephone Number** \_\_\_\_\_