

Log # 45447  
Vendor # 6866H

Grant # A04802  
Commodity Code#99999

**STATE OF UTAH**  
**DEPARTMENT OF HEALTH AND HUMAN SERVICES GRANT AGREEMENT**

1. PARTIES: This grant agreement is between the State of Utah Department of Health and Human Services, referred to as STATE and/or DHHS, and the following GRANTEE: San Juan County, Government Entity.
2. GENERAL PURPOSE: The general purpose of this grant agreement is to provide oversight, direction and funding to the AAA for operation of the Utah Aging Waiver Program in its community.
3. AGREEMENT PERIOD: Effective date: July 1, 2025 Termination date: June 30, 2032 unless terminated early or extended in accordance with the terms and conditions of this grant agreement.
4. COSTS: GRANTEE will be paid a maximum of \$0.00 for costs authorized by this grant agreement. Additional information regarding costs: Funding will be added when awarded.
5. ATTACHMENT A: Subrecipient Terms  
ATTACHMENT B: Scope of Work
6. DOCUMENTS INCORPORATED INTO THIS GRANT AGREEMENT BY REFERENCE BUT NOT ATTACHED:  
A. All other governmental laws, regulations, or actions applicable to services provided herein.  
B. All assurances and all responses to any proposals provided by the GRANTEE.
7. This grant agreement, its attachments, and all documents incorporated by reference constitute the entire agreement between the parties and supersedes all prior written or oral agreements between the parties relating to the subject matter of this grant agreement.
8. Each signatory below represents that he or she has the requisite authority to enter into this grant agreement.

The parties sign and cause this grant agreement to be executed. This grant agreement is not fully executed until the State of Utah Approving Authority has signed this grant agreement.

SAN JUAN COUNTY

DEPARTMENT OF HEALTH AND HUMAN SERVICES

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_ Date \_\_\_\_\_

Tracy S. Gruber \_\_\_\_\_ Date \_\_\_\_\_

Title:

Executive Director

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**STATE OF UTAH APPROVING AUTHORITY**

STATE DIVISION OF FINANCE

By: \_\_\_\_\_

State Finance

Date

# Attachment A: Utah Department of Health and Human Services Subrecipient Terms

## 1. Definitions

**"Authorized Persons"** means the Subrecipient's employees, officers, partners, subcontractors, or other agents of the Subrecipient who need to access State Data to enable the Subrecipient to perform its responsibilities under this agreement.

**"Agreement Signature Page(s)"** means the DHHS cover page(s), including the page(s) signed by the parties.

**"C.F.R."** means the Code of Federal Regulations.

**"DHHS"** means the Utah Department of Health and Human Services.

**"Federal Pass Through Money"** means federal money received by the Subrecipient through a subaward or agreement but does not include federal money received as payment for goods or services purchased by DHHS.

**"Local Money"** means money that is owned, held or administered by a political subdivision of the State that is derived from fee or tax revenues but does not include money received as payment for goods or services purchased or contributions or donations received by the political subdivision.

**"State"** means the state of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities, instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.

**"State Data"** means all confidential information, non-public data, personal data, and protected health information that is created or in any way originating with the State whether such data or output is stored on the State's hardware, the Subrecipient's hardware, or exists in any system owned, maintained or otherwise controlled by the State or by the Subrecipient. State Data includes any federal data that DHHS controls or maintains, that is protected under federal laws, statutes, and regulations. DHHS may identify, during and after this agreement, additional reasonable types of categories of information that must be kept confidential under federal and State laws.

**"State Money"** means money that is owned, held, or administered by a State agency and derived from State fee or tax revenues but does not include contributions or donations received by the State agency.

**"Subrecipient"** means the non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal program as per 2 C.F.R. § 200.1.

**"Uniform Guidance"** means Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards for the specified federal awarding agency set forth in Title 2 of the Code of Federal Regulations.

2. **Governing Law and Venue:** This agreement is governed by the laws, rules, and regulations of Utah. Any action or proceeding arising from this agreement must be brought in a court of competent jurisdiction in the State. Venue is in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **Federal Award:** The Subrecipient shall comply with the terms of the federal award(s).
4. **Nonprofit Registration:** If the Subrecipient is a nonprofit corporation that receives an amount of money requiring an accounting report under the Utah Code, it shall register and maintain the nonprofit corporation's registration as a limited purpose entity in accordance with code requirements.
5. **Amendments:** Amendments to this agreement must be in writing and signed by the parties except for the following for which written notification from DHHS will constitute an amendment to the agreement without the Subrecipient's signature: 1) changes in the total agreement amount or rates; and 2) changes to financial reporting requirements.
6. **No Automatic Renewals:** This agreement will not automatically renew.

- 7. Laws and Regulations:** The Subrecipient shall comply with all applicable federal, state, and local laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements. Any federal regulation related to the federal funding, including CFR Appendix II to Part 200, will take precedence over any conflict with this Attachment A.
- 8. Conflict of Interest:** The Subrecipient represents that none of its officers or employees are officers or employees of DHHS or the State, unless written disclosure has been made to DHHS. The Subrecipient shall comply and cooperate in good faith with all conflict of interest and ethic laws.
- 9. Independent Capacity:** The Subrecipient and any subcontractors, in the performance of this agreement, shall act in an independent capacity and not as officers, employees, or agents of DHHS.
- 10. Reporting Receipt of Federal and State Funds.**
  - 10.1.** If the Subrecipient is a nonprofit corporation and receives Federal Pass Through Money or State Money, the Subrecipient shall disclose to DHHS, annually and in writing, whether it has received in the previous fiscal year or anticipates receiving any of the following amounts: (i) revenues or expenditures of Federal Pass Through Money, State Money that is not payment for goods or services purchased from the Subrecipient, and Local Money in the amount of \$750,000 or more; (ii) revenues or expenditures of Federal Pass Through Money, State Money that is not payment for goods or services purchased from the Subrecipient, and Local Money at least \$350,000 but less than \$750,000; or (iii) revenues or expenditures of Federal Pass Through Money, State Money that is not payment for goods or services purchased from the Subrecipient, and Local Money of at least \$100,000 but less than \$350,000. This disclosure must be made when entering into this agreement and annually thereafter no later than six months after the end of the Subrecipient's fiscal year.
  - 10.2.** The Subrecipient shall provide to DHHS a written description and itemized report at least annually detailing the expenditure of State Money, and the intended expenditure of any State Money that has not been spent. The Subrecipient shall provide to DHHS a final written itemized report when all the State Money is spent. DHHS may require the Subrecipient to return an amount of money that is equal to the State Money expended in violation of the terms of this section. Reports must be submitted no later than July 31<sup>st</sup> of each year and no later than 30 days after the expenditure of all State funds, whichever is earlier.
  - 10.3.** The Subrecipient shall comply with all federal and State reporting requirements, including as applicable, but not limited to, 2 C.F.R. 200 and Utah Code sections 51-2a-201, 51-2a-201.5, and 63G-6b-201.
  - 10.4.** Reports that are required to be sent to DHHS must be sent to [dhhsfinancialreports@utah.gov](mailto:dhhsfinancialreports@utah.gov).
- 11. Timely Reporting:** The Subrecipient shall timely submit all reports and back-up data required by this agreement or requested by the federal awarding agency or DHHS.
- 12. Invoicing:** Unless otherwise stated in the scope of work, the Subrecipient shall submit invoices along with any supporting documentation within 20 days following the last day of the month in which the expenditures were incurred or the services provided. The Subrecipient shall list this agreement number on all invoices and correspondence relating to this agreement. The Subrecipient shall submit all final billings under this agreement within 14 days of expiration or termination of this agreement, regardless of the Subrecipient's billing period. Notwithstanding the foregoing, the Subrecipient shall submit all billings for services performed on or before June 30th of a given fiscal year no later than July 14th of the following fiscal year, regardless of Subrecipient's billing period or the expiration or termination date of this agreement. DHHS may reject any invoice or claim for payment or reimbursement if received by DHHS after the requirements stated in this agreement, but in no case will DHHS pay for items billed later than twelve months after the fiscal year ending June 30th that the Subrecipient's services were provided or expected under the agreement, or for agreements with Medicaid, later than Medicaid deadlines.
- 13. Supporting Documentation:** The Subrecipient shall maintain documentation necessary to support the costs billed by the Subrecipient and shall submit the documentation with the billings, if requested. The Subrecipient shall store and file required documentation in a systematic and consistent manner.
- 14. Questioned Costs:** DHHS may question any billing by the Subrecipient if the billing is not supported by proper documentation.

## 15. Payment:

- 15.1. Payment to the Subrecipient will be based on allowable costs incurred by the Subrecipient in providing services pursuant to this agreement. The Subrecipient shall maintain documented expenditures that comply with federal cost principles and any attached budget. Expenditures must be reasonable and necessary to carry out agreement requirements. The Subrecipient shall be responsible for any expenditures DHHS finds to be improper or unallowable, including personal expenses, and shall repay these expenditures from funds other than those provided pursuant to this agreement or any other agreement between DHHS and the Subrecipient. The Grantee consents to a follow-up audit and clawback of any state grant funds if an audit shows that such grant funds were inappropriately used. This provision will survive the expiration or termination of this agreement.
- 15.2. DHHS shall make payments within 30 days after a correct invoice is received. All payments to the Subrecipient will be remitted by mail, electronic funds transfer, or the State's purchasing card. If payment has not been made after 60 days from the date a correct invoice is received by DHHS, then interest may be added by the Subrecipient as prescribed in the Utah Prompt Payment Act. The acceptance by the Subrecipient of final payment, without a written protest filed with DHHS within 10 business days of receipt of final payment, will release DHHS and the State from all claims and all liability to the Subrecipient. DHHS's payment for the services will not be deemed an acceptance of the services and is without prejudice to any and all claims that DHHS or the State may have against the Subrecipient. The Subrecipient shall not charge end users electronic payment fees of any kind.
- 15.3. If funding to DHHS is reduced due to an order by the legislature or the governor, or is required by State law, or if applicable federal funding is not provided to DHHS, DHHS shall reimburse the Subrecipient for products delivered and services performed through the date of cancellation or reduction, and DHHS shall not be liable for any future commitments, penalties, or liquidated damages.
- 15.4. Upon 30 days written notice, the Subrecipient shall reimburse DHHS for funds DHHS is required to reimburse a third party funding source resulting from the actions of the Subrecipient or its subcontractors.

**16. Related Party Payments.** The Subrecipient shall not make payments to Related Parties in any category of expenditure (administrative costs, capital expenditures, or program costs) without the prior written consent of DHHS. Among other items, payments to Related Parties include: salaries, wages, compensation under employment or service agreements, or payments under purchase, lease, or rental agreements. Payments made by the Subrecipient to Related Parties without prior written consent may be disallowed and require repayment to DHHS. **"Related Parties"** means (a) any person related to the vendor's representative by blood or marriage including, but not limited to, father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, uncle, aunt, nephew, niece, grandson, granddaughter, or first cousin; and (b) all business associates of the vendor: (i) who are partners, directors, or officers in the same business entity as the vendor; (ii) who have authority to make decisions or establish policies in the same business entity as the vendor; or (iii) who directly or indirectly own 10% or more in the same business entity as the vendor.

**17. Repayment:** Upon written request by DHHS, any overpayments, disallowed expenditures, excess payments, or questioned costs will be immediately due and payable by the Subrecipient. In the alternative, DHHS may withhold any or all subsequent payments pursuant to this agreement until DHHS fully recoups these funds. In such cases, the Subrecipient shall not reduce the level of services required by this agreement.

**18. Budget Adjustments:** If this agreement is budget based, the budget attached to this agreement will be the basis for DHHS's payments to the Subrecipient. The Subrecipient shall not transfer budgeted funds from program costs to either administrative costs or capital expenditures without DHHS's prior written approval. The Subrecipient shall not transfer budgeted funds between administrative costs and capital expenditures without DHHS's prior written approval. The Subrecipient may transfer funds from administrative costs or capital expenditures to program costs without prior approval. The Subrecipient may transfer funds between subcategories within each major category without prior approval if there are no restrictions on expenditures within those subcategories.

**19. Excessive Expenditures:** If this agreement requires a budget, DHHS may question any amounts in excess of the total amount budgeted in either administrative costs or capital expenditures and may require the Subrecipient to refund

the excesses to DHHS. Amounts in excess of the total amount budgeted in program costs will not normally result in questioned costs unless DHHS has placed restrictions on subcategories within this major category. If this agreement restricts expenditures within defined subcategories, DHHS will consider any unapproved excesses to be a questioned cost.

**20. Nonappropriation of Funds, Reduction of Funds, or Changes in Law:** Upon 30 days written notice delivered to the Subrecipient, DHHS may terminate this agreement in whole or in part, or proportionately reduce the services and the amounts due, if DHHS reasonably determines that: (i) a change in federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this agreement; or (ii) a change in appropriations, available funds, or budgets affects DHHS's ability to pay under this agreement. A change of available funds as used in this paragraph includes, but is not limited to, a change in federal or State funding, whether as a result of a legislative act or by order of the President or the Governor. If a written notice is delivered under this section, DHHS shall reimburse the Subrecipient for the services properly ordered until the effective date of said notice. DHHS will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.

**21. Cost Accounting System:** The Subrecipient shall maintain an accounting system that provides a general ledger and cost accounting records adequate to assure that costs incurred are reasonable, allowable, allocable to agreement objectives, and separate from costs associated with other business activities of the Subrecipient. The Subrecipient shall ensure that its accounting system meets required reporting requirements and timely development of cost data in the required form.

**22. Insurance:**

- 22.1.** The Subrecipient shall at all times carry and maintain commercial general liability ("CGL") insurance from an insurance company authorized to do business in the State. The limits of the CGL insurance policy must be no less than \$1,000,000 per occurrence and \$3,000,000 aggregate.
- 22.2.** If the Subrecipient will use a vehicle in the performance of this agreement, the Subrecipient shall at all times carry and maintain commercial automobile liability ("CAL") insurance from an insurance company authorized to do business in the State. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in the performance of this contract whether owned, non-owned, leased, or hired. The minimum liability limit must be at least \$1,000,000 per occurrence, combined single limit.
- 22.3.** The Subrecipient shall provide proof of the CGL insurance policy and other required insurance policies to DHHS within 30 days of contract award. The Subrecipient shall add the State on the certificate of insurance with notice of cancellation.
- 22.4.** Failure to provide proof of insurance as required will be deemed a material breach of this contract. The Subrecipient's failure to maintain this insurance requirement for the term of this contract will be grounds for immediate termination of this agreement.

**23. Suspension of Work:** DHHS shall give the Subrecipient written notice should DHHS suspend the Subrecipient's responsibilities under this agreement. The Subrecipient's responsibilities may be reinstated upon advance written notice from DHHS.

**24. Indemnification:**

- 24.1.** If the Subrecipient is a governmental entity, the parties mutually agree that each party assumes liability for the negligent and wrongful acts committed by its own agents, officials, or employees, regardless of the source of funding for this agreement. Neither party waives any rights or defenses otherwise available under the Governmental Immunity Act.
- 24.2.** If the Subrecipient is a non-governmental entity, the Subrecipient shall be fully liable for the actions of its agents, employees, officers, partners, and subcontractors. The Subrecipient shall fully indemnify, defend, and save harmless DHHS and the State from all claims, losses, suits, actions, damages, and costs of every name and description arising out of the Subrecipient's performance of this agreement caused by any intentional act or negligence of the Subrecipient, its agents, employees, officers, partners, or subcontractors, without

limitation; provided, however, that the Subrecipient shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the sole fault of DHHS. The Subrecipient is solely responsible for all payments owed to any subcontractor arising from the Subrecipient's performance under this agreement and will hold DHHS harmless from any such payments owed to the subcontractor. This provision survives the expiration or termination of this agreement.

**24.3.** The parties agree that if there are any limitations of the Subrecipient's liability, including a limitation of liability clause for anyone for whom the Subrecipient is responsible, such limitations of liability will not apply to injuries to persons, including death, or to damages to property.

**25. Intellectual Property Indemnification:** The Subrecipient shall indemnify and hold DHHS and the State harmless from and against any and all damages, expenses (including reasonable legal fees), claims, judgments, liabilities, and costs in any action or claim brought against DHHS or the State for infringement of a third party's copyright, trademark, trade secret, or other proprietary right. The parties agree that if there are any limitations of the Subrecipient's liability, such limitations of liability will not apply to this section.

**26. No Subrogation or Contribution:** The Subrecipient has no right of subrogation or contribution from the State or DHHS for any judgment rendered against the Subrecipient.

**27. Debarment:** DHHS may immediately terminate this agreement if DHHS determines that the Subrecipient has been debarred, suspended, or otherwise lawfully excluded from participating in any agreement issued by a governmental entity, including but not limited to, being determined ineligible as a subcontractor of any governmental entity. The Subrecipient certifies that it is not currently suspended, debarred, or otherwise prohibited to enter this agreement. The Subrecipient shall immediately notify DHHS if the Subrecipient becomes suspended, debarred, or otherwise ineligible for this or any other agreement issued by a governmental entity.

**28. Termination and Default:**

**28.1. Termination for Convenience.** DHHS may terminate this agreement without cause, upon 30 days written notice to the Subrecipient. If the Subrecipient terminates this agreement without cause, DHHS may treat the Subrecipient's action as a default under this agreement.

**28.2. Termination for Cause.** Each party may terminate this agreement with cause. If the cause for termination is due to the default of a party, the non-defaulting party shall give written notice to the defaulting party of its intent to terminate. The defaulting party may cure the default within 10 days of the notice. If the default is not cured within the 10 days, the party giving notice may terminate this agreement 40 days from the date of the initial notice of default or at a later date. Time allowed for cure will not diminish or eliminate the Subrecipient's liability for damages.

**28.3. Miscellaneous Grounds for Termination.** In addition to other grounds for termination, DHHS may immediately terminate this agreement if DHHS receives a notice of a lien against the Subrecipient's payments or if the Subrecipient becomes debarred, becomes insolvent, files for bankruptcy or reorganization proceedings, is subject to IRS withholding, sells 30% or more of the company's assets or corporate stock, or gives notice of its inability to perform its obligations under this agreement. The Subrecipient shall provide DHHS with proof of financial viability upon request.

**28.4. Payment After Termination.** DHHS shall pay the Subrecipient for the services properly performed under this agreement up to the effective date of the notice of termination. The Subrecipient agrees that in the event of termination, the Subrecipient's sole remedy and monetary recovery from DHHS or the State is limited to full payment for all services properly performed as authorized under this agreement up to the date of termination, as well as any reasonable monies owed as a result of the Subrecipient having to terminate other contracts necessarily and appropriately entered into by the Subrecipient pursuant to this agreement.

**28.5. Default.** Any of the following events will constitute cause for DHHS to declare the Subrecipient in default of this agreement: (i) the Subrecipient's non-performance of its contractual requirements and obligations under this agreement; or (ii) the Subrecipient's material breach of any term or condition of this agreement. If the

Subrecipient defaults in any manner in the performance of any obligation under this agreement, or if audit exceptions are identified, DHHS may either adjust the amount of payment or withhold payment until satisfactory resolution of the default or exception. Default and audit exceptions for which payment may be adjusted or withheld include disallowed expenditures of federal or State funds as a result of the Subrecipient's failure to comply with federal regulations or State rules. In addition, DHHS may withhold amounts due the Subrecipient under this agreement, any other current agreement between DHHS and the Subrecipient, or any future payments due the Subrecipient to recover the funds. DHHS shall notify the Subrecipient of DHHS's action in adjusting the amount of payment or withholding payment. This agreement is executory until such repayment is made.

- 29. Remedies:** In addition to terminating this agreement upon default or breach of the Subrecipient, DHHS may do one or more of the following: (i) exercise any remedy provided by law or equity; (ii) impose liquidated damages; (iii) debar or suspend the Subrecipient from receiving future contracts from DHHS or the State; and (iv) demand a full refund of any payment DHHS has made to the Subrecipient for services that do not conform to this agreement.
- 30. Reviews:** DHHS may perform plan checks or reviews and require changes when needed. Such reviews do not waive the requirement of the Subrecipient to meet all of the terms and conditions of this agreement.
- 31. Performance Evaluation and Remediation:** DHHS may conduct a performance evaluation of the Subrecipient's services, including the Subrecipient's subcontractors. DHHS may make the results of any evaluation available to the Subrecipient. DHHS may make scheduled and announced visits. The Subrecipient shall allow DHHS monitors and auditors to have access to any records related to this agreement. The Subrecipient shall cooperate with all monitoring and audits. DHHS may require remediation. The Subrecipient shall comply with any remediation plan required by DHHS. The Subrecipient's failure to comply with a DHHS remediation plan will be deemed a material breach of this agreement.
- 32. Public Information:** The Subrecipient agrees that this agreement, related purchase orders, related pricing documents, and invoices will be public documents and may be available for public and private distribution in accordance with the State's Government Records Access and Management Act ("**GRAMA**"). DHHS and the State are not obligated to inform the Subrecipient of any GRAMA requests.
- 33. Publicity:** The Subrecipient shall not advertise or publicize matters relating to this agreement, or publicly use DHHS's name, without the prior written approval of DHHS. The Subrecipient shall impose this restriction on its subawardees and subcontractors, and shall require subawardees and subcontractors to impose this restriction on each lower tier of subawardees and subcontractors.
- 34. Information Ownership:** Except for confidential medical records held by direct care providers, DHHS shall own exclusive title to all information gathered, reports developed, and conclusions reached in performance of this agreement. The Subrecipient shall not use or disclose, except in meeting its obligations under this contract, information gathered, reports developed, or conclusions reached in performance of this agreement without prior written consent from DHHS. DHHS will own and retain unlimited rights to use, disclose, or duplicate all information and data (copyrighted or otherwise) developed, derived, documented, stored, or furnished by the Subrecipient under this agreement. The Subrecipient shall not use confidential federal, state, or local government information without prior written consent from DHHS, and shall bind any subcontractor to the same requirement.
- 35. Information Practices:** The Subrecipient shall establish, maintain, and practice information procedures and controls that comply with federal and State law including, as applicable, Utah Code Title 26B and the privacy and security standards promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**") & the Health Information Technology for Economic and Clinical Health Act of 2009 (the "**HITECH Act**"). DHHS may require the Subrecipient to enter into a business associate agreement if applicable. The Subrecipient shall receive or request from DHHS only information about an individual that is necessary to the Subrecipient's performance of its duties and functions. The Subrecipient shall use the information only for purposes of this agreement.
- 36. Secure Protection and Handling of State Data:**
  - 36.1.** If the Subrecipient is given access to or will be storing State Data as part of this agreement, the protection of State Data must be an integral part of the business activities of the Subrecipient to ensure that there is no

inappropriate or unauthorized use of State Data. The Subrecipient shall safeguard the confidentiality, integrity, and availability of the State Data. The Subrecipient agrees to not copy, reproduce, sell, assign, license, market, transfer, or otherwise dispose of, give, or disclose such information to third parties or use such information for any purpose whatsoever other than the performance of this agreement. The improper use or disclosure of confidential information is strictly prohibited.

- 36.2.** Any and all transmission or exchange of State Data must take place via secure means. The Subrecipient shall create, store, and maintain any State Data on secure or encrypted computing devices or portable storage mediums. The Subrecipient agrees to protect and maintain the security of State Data with security measures including, but not limited to, maintaining secure environments that are patched and up to date with all appropriate security updates, network firewall provisioning, and intrusion detection. The Subrecipient agrees that any computing device or portable medium that has access to DHHS's network or stores any non-public State Data is equipped with strong and secure password protection.
- 36.3.** The Subrecipient shall: (i) limit disclosure of any State Data to Authorized Persons who have a need to know such information in connection with the current or contemplated business relationship between the parties to which this agreement relates, and only for that purpose; (ii) advise its Authorized Persons of the proprietary nature of the State Data and of the obligations set forth in this agreement and require Authorized Persons to keep the State Data confidential; (iii) keep all State Data strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and (iv) not disclose any State Data received by it to any third parties, except as permitted by this agreement or otherwise agreed to in writing by DHHS.
- 36.4.** The Subrecipient shall promptly notify DHHS of any misuse or misappropriation of State Data that comes to the Subrecipient's attention. The Subrecipient shall be responsible for any breach of this duty of confidentiality by any of its officers, agents, employees, subcontractors at any tier, and any of its respective representatives, including any required remedies or notifications under applicable law (Utah Code Ann. §§ 13- 44-101 through 301). This duty of confidentiality is ongoing and survives the term of this agreement. Notwithstanding the foregoing, if there is a discrepancy between a signed business associate agreement and this provision, the business associate agreement language will take precedence.
- 37. Artificial Intelligence:** The Subrecipient shall not use State Data in any generative artificial intelligence ("GAI") queries, training, or program creation without prior written permission from DHHS. The Subrecipient attests that its GAI models use only properly licensed material. The Subrecipient shall fully indemnify and hold DHHS harmless from all claims, loss, or damages related to the Subrecipient's use of GAI. Should the Subrecipient learn that State Data has been used in GAI queries without DHHS permission, the Subrecipient shall immediately notify DHHS. The Subrecipient shall inform DHHS of any GAI in the Goods or Services being contracted for prior to providing those Goods or Services to DHHS. The Subrecipient shall include annotations sufficient to comply with DTS Policy 4000-0008 (Generative AI Policy) when utilizing GAI in the creation of Goods and Services with the potential to impact DHHS intellectual property rights.
- 38. Ownership, Protection, and Return of Documents and Data upon Agreement Termination or Completion:** Except for records that must be retained for a longer period under section 42.2 and for confidential medical records held by direct care providers, all documents and data pertaining to work required by this agreement will be the property of DHHS, and must be returned to DHHS or disposed of within 30 days after termination or expiration of this agreement, regardless of the reason for agreement termination, and without restriction or limitation to future use. If such return or destruction is not feasible, the Subrecipient shall notify DHHS. The Subrecipient shall extend any protections, limitation, and restrictions of this agreement to any information retained after the termination of this agreement and shall limit further uses and disclosures to those purposes that make the return or destruction of the data infeasible. Any disposal of State Data must be disposed of in such a manner that it cannot be recovered or recreated. Notwithstanding the foregoing, if there is a discrepancy between a signed business associate agreement and this provision, the business associate agreement language will take precedence.
- 39. Intellectual Property Ownership:** DHHS and the Subrecipient recognize that each has no right, title, or interest, proprietary or otherwise in the intellectual property owned or licensed by the other, unless agreed upon by the parties in writing. All deliverables, documents, records, programs, data, articles, memoranda, and other materials not



developed or licensed by the Subrecipient prior to the execution of this agreement, but specifically created or manufactured under this agreement, is considered work made for hire, and the Subrecipient shall transfer any ownership claim to DHHS.

- 40. Equipment Purchase:** The Subrecipient shall obtain prior written DHHS approval before purchasing any equipment, as defined in the Uniform Guidance, with agreement funds.
- 41. Standard of Care:** The services of the Subrecipient and its subcontractors must be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services, which similarities include the type, magnitude, and complexity of the services that are the subject of this agreement. The Subrecipient shall be liable to DHHS and the State for claims, liabilities, additional burdens, penalties, damages, or third party claims, to the extent caused by wrongful acts, errors, or omissions that do not meet this standard of care.
- 42. Record Keeping, Audits, and Inspections:**
- 42.1.** For financial reporting, the Subrecipient shall comply with the Uniform Guidance and Generally Accepted Accounting Principles ("GAAP").
  - 42.2.** The Subrecipient shall maintain or supervise the maintenance of all records necessary to properly account for the Subrecipient's performance and the payments made by DHHS to the Subrecipient under this agreement. The Subrecipient shall maintain all supporting documents, financial and statistical records, and other records related to this agreement and the federal award for seven years from the date of submission of the final expenditure report or, for federal awards that are renewed quarterly or annually, from the date of submission of the quarterly or annual financial report as reported to DHHS, with the exception of those situations identified in 2 C.F.R. §200.333. DHHS shall have access to these records for as long as the records exist. This provision survives the expiration or termination of this agreement. The Subrecipient agrees to allow, at no additional cost, the State, federal auditors, and DHHS's staff, access to all such records. The Subrecipient shall retain these records as required by GAAP, federal or state law, or specific program requirements, whichever is longer. The Subrecipient shall allow, at no additional cost, the State, federal auditors, and DHHS staff, access to all such records.
  - 42.3.** The Subrecipient shall retain all records which relate to disputes, litigation, audits, and claim settlements arising from agreement performance or cost or expense exceptions, until all disputes, litigation, audits, claims, or exceptions are resolved.
  - 42.4.** The Subrecipient shall comply with federal and state regulations concerning cost principles, audit requirements, and agreement administration requirements, including, but not limited to, the Uniform Guidance. Unless specifically exempted in the scope of work, the Subrecipient shall comply with applicable federal cost principles and agreement administration requirements if State funds are received. Counties, cities, towns, and school districts are subject to the State Legal Compliance Audit Guide. The Subrecipient shall send copies of required reports to [dhhsfinancialreports@utah.gov](mailto:dhhsfinancialreports@utah.gov).
- 43. Employment Practices:** The Subrecipient shall abide by the following employment laws, as applicable: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 C.F.R. § 90 which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities; (v) Utah Executive Order No. 2006-0012, dated December 13, 2006, which prohibits unlawful harassment in the work place; (vi) Utah Code Ann. § 26B-7-503, Utah Indoor Clean Air Act which prohibits smoking in enclosed public places; (vii) Utah Executive Order No. 2006-0012 which prohibits all unlawful harassment in any workplace in which State employees and employees of public and higher education must conduct business; (viii) 41 CFR part 60, Equal Employment Opportunity, and the Executive Order 11246, as amended by Executive Order 11375, which implements those regulations; (ix) 45 C.F.R. part 83, which prohibits the extension of federal support to any entity that discriminates on the basis of sex in the admission of individuals to its health manpower and nurse training programs; and (x) 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. part 5), Agreement Work Hours and Safety Standards Act, for contracts that involve the

employment of mechanics or laborers. The Subrecipient further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind of any of the Subrecipient's employees or persons served.

- 44. Federal Requirements:** The Subrecipient shall abide by the following federal statutes, regulations, and requirements: 2 C.F.R. § 200.326, Agreement Provisions as applicable; 45 C.F.R. § 46, 42 U.S.C. § 2899, 21 C.F.R. 50, & 21 C.F.R. 56 Protection of Human Subject in research activities; 45 C.F.R. part 84, prohibits discrimination of drug or alcohol abusers or alcoholics who are suffering from mental conditions from admission or treatment by any private or public hospital or outpatient facility that receives support or benefit from a federally funded program; 42 C.F.R. parts 2 and 2a which implements the Public Health Service Act, sections 301(d) and 543, which requires certain medical records that relate to drug abuse prevention be kept confidential when the treatment or program is directly or indirectly assisted by the federal government; 42 U.S.C. §§ 7401-7971q., the Clean Air Act and 33 U.S.C. §§ 1251-1387, the Federal Water Pollution Control Act, and all applicable standards, orders or related regulations; 31 U.S.C. § 1352, Byrd Anti-Lobbying Amendment; 42 U.S.C § 4331, the National Environmental Policy Act of 1969; 2 C.F.R. § 200.322, Procurement of recovered materials which outlines section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act; 37 C.F.R. § 401, Rights to Inventions Made; 42 C.F.R. part 50, Subpart B, Sterilizations; 42 C.F.R. part 50, Subpart C, Abortions and Related Medical Services; 59 FR 46266, Recombinant DNA and Institutional Biosafety; 7 U.S.C. § 2131, Animal Welfare; 42 C.F.R. part 92, Misconduct in Science; 42 U.S.C. §§ 4728-4763, Merit System Standards for governmental entities only; 42 U.S.C. §§ 6101-6107 & 45 C.F.R. Part 91 Age Discrimination Act of 1975; 42 U.S.C. § 12101 et seq. & 28 C.F.R. Part 35, Part 39 Americans with Disabilities Act; 45 C.F.R. Part 80, 42 U.S.C. § 2000d et. seq. Civil Rights Act of 1964 as amended Title VI; 40 U.S.C. §§ 3701-3704 & 29 C.F.R. Part 5 Contract Work Hours and Safety Standards Act; 45C.F.R. 2543.82, 18 U.S.C. § 874 & 29 C.F.R. Part 3 Copeland Anti-Kickback Act; 40 U.S.C. § 3142 & 29 C.F.R. Part 5 Davis-Bacon Act; 41 U.S.C. § 701 through 707, Drug Free Workplace Act of 1988; 20 U.S.C. § 1681et. seq. & 45 C.F.R. Part 86, Education Amendments of 1972, Title IX; 8 U.S.C. § 1324a, Employment Eligibility Verification; 29 U.S.C. § 206(d) Equal Pay Act; 29 U.S.C. § 201 et seq. Fair Labor Standards Act; 8 U.S.C. § 1324 Immigration Control and Reform Act; 42 U.S.C. § 10801 et seq. Protection and Advocacy for Individuals with Mental Illness Act; 45 C.F.R. Part 84.53 Public Health Service Act, Section 522 and Section 526; 29 U.S.C. § 794 & 45 C.F.R. Part 84 Rehabilitation Act of 1973, as amended, Section 504; 42 U.S.C. § 6322 Energy Policy and Conservation Act; 42 U.S.C. § 4106 Flood Disaster Act of 1973 and other flood hazard provisions; 42 U.S.C. § 4321 et seq. & 40 C.F.R. Part 1500 et seq. National Environmental Policy Act of 1969; 42 U.S.C. §§ 7181-7184, Pro-Children Act of 2001; 31 U.S.C. § 3729-3733 and Chapter 38 Civil False Claims Act; Public L. 109-171 (2006) Deficit Reduction Act of 2005; P.L. 109-282, as amended by Section 6202 of P.L. 110-252 FFATA; 5 U.S.C. § 1501, et. seq. Hatch Act; 42. U.S.C. § 290dd-2; 42 C.F.R. § 2 and 2a Substance Abuse and Mental Health confidentiality; 45 C.F.R. Part 75 HHS Award requirements; and the Subrecipient shall include in any contracts termination clauses for cause and convenience, along with administrative, contractual, or legal remedies in instances where subcontractors violate or breach agreement terms and provide for such sanctions and penalties as may be appropriate.
- 45. Background Screening:** The Subrecipient and any individuals associated with the Subrecipient shall comply with the background screening requirements in Utah Code §26B-2-120 and Utah Administrative Code R501-14.
- 46. Provider Code of Conduct:** If the Subrecipient and any individuals associated with the Subrecipient will be working with DHHS clients, the Subrecipient shall follow and enforce the DHHS Provider Code of Conduct. Before allowing any employee or volunteer to work with clients, the Subrecipient shall: 1) provide a current copy of the DHHS Provider Code of Conduct to each employee or volunteer currently working for the Subrecipient and to new employees or volunteers; and 2) retain in each employee's or volunteer's file a signed and dated statement in which that person certifies that he or she has read, understands, and will comply with the DHHS Provider Code of Conduct. Annually, the Subrecipient shall obtain the current DHHS Provider Code of Conduct poster and display the poster where its employees and volunteers can see it.
- 47. Abuse Reporting:** The Subrecipient shall comply with abuse reporting requirements in Utah Code §§ 80-2-602 and 26B-6-205.
- 48. Waiver:** A waiver of any right, power, or privilege will not be construed as a waiver of any subsequent right, power, or privilege.
- 49. Legal Fees:** In the event of any judicial action to enforce rights under this agreement, the prevailing party will be entitled its costs and expenses, including reasonable attorney's fees incurred in connection with such action.

- 50. Subawards, Subcontracts and Assignment:** The Subrecipient shall not assign, sell, transfer, subcontract, subaward, or sublet rights or delegate responsibilities under this agreement, in whole or part, without the prior written consent of DHHS. The Subrecipient retains ultimate responsibility for performance of all terms, conditions, and provisions of this agreement that are subcontracted or performed by a subcontractor. When subcontracting, the Subrecipient agrees to use written subcontracts that conform to federal and State laws. The Subrecipient shall request DHHS approval for any assignment at least 20 days prior to its effective date.
- 51. Force Majeure:** Neither party will be held responsible for delay or default caused by fire, riot, acts of God, or war which is beyond the party's reasonable control. DHHS may terminate this agreement after determining that the delay or default will likely prevent successful performance of this agreement.
- 52. Severability:** The invalidity or unenforceability of any provision, term, or condition of this agreement will not affect the validity or enforceability of any other provision, term, or condition of this agreement, which will remain in full force and effect.
- 53. Survival of Terms:** Termination or expiration of this agreement will not extinguish or prejudice DHHS's right to enforce this agreement with respect to any default or defect in the services that has not been cured.
- 54. Notice:** Notice must be in writing and sent to [dhhscontracts@utah.gov](mailto:dhhscontracts@utah.gov).
- 55. Order of Precedence:** The terms of this agreement will be reasonably interpreted and construed to avoid any conflict among the provisions. If there is any conflict between this agreement's terms, or the terms of the federal award or applicable federal regulation, the order of precedence (listed in order of descending precedence) among the terms is: (1) the terms of the federal award and any applicable federal regulations; (2) Agreement Signature Page(s); (3) this Attachment A; (4) DHHS scope of work; (5) Any other attachments.
- 56. Time is of the Essence:** The Subrecipient shall complete services by any deadline stated in this agreement. For all services, time is of the essence. The Subrecipient shall be liable for all reasonable damages to DHHS and the State, and anyone for whom the State may be liable, as a result of the Subrecipient's failure to timely perform the services required under this agreement.
- 57. Dispute Resolution:** DHHS and the Subrecipient shall attempt to resolve agreement disputes through available administrative remedies prior to initiating any court action. Prior to either party filing a judicial proceeding, the parties agree to participate in the mediation of any dispute. DHHS, after consultation with the Subrecipient, may appoint an expert or panel of experts to assist in the resolution of a dispute. If DHHS appoints such an expert or panel, DHHS and the Subrecipient agree to cooperate in good faith in providing information and documents to the expert or panel in an effort to resolve the dispute.
- 58. Prohibited Discriminatory Practices:** The Subrecipient shall not use contract funds for any prohibited discriminatory practice as defined by Utah Code 53B-1-118.
- 59. Certification:** As required by 2 CFR 200.415, whenever the Subrecipient applies for funds, requests payment, and submits financial reports regarding federal awards under this agreement, the Subrecipient hereby certifies as follows: "I certify to the best of my knowledge and belief that the information provided herein is true, complete, and accurate. I am aware that the provision of false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative consequences including, but not limited to violations of U.S. Code Title 18, Sections 2, 1001, 1343 and Title 31, Sections 3729-3730 and 3801-3812."
- 60. Entire Agreement:** This agreement constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.

(Revised: 3/10/2025)

ATTACHMENT B  
SCOPE OF WORK  
MEDICAID AGING WAIVER

Article 1  
PURPOSE

- 1.1 **Purpose.** The Department of Health and Human Services, Division of Aging and Adult Services ("DHHS") has a pass-through agreement with Utah's Area Agencies on Aging ("AAAs"). DHHS provides oversight of, direction, and funding to the AAAs for the operation of the Utah Aging Waiver Program ("Waiver") in its community.

Article 2  
DEFINITIONS

- 2.1 **Definitions.** In this contract, the following definitions apply:

**"Adult Protective Services (APS)"** is the state agency with the responsibility and authority to investigate abuse, neglect, and exploitation of vulnerable adults.

**"Demographic Intake and Risk Screening Form"** means an assessment used to determine if minimum requirements are met and nursing facility level of care is needed.

**"DHHS Institutional Review Board (IRB)"** is a DHHS board that conducts reviews of human subjects and ethical consultations of projects, activities, policies, agreements and laws engaged by DHHS.

**"Division of Integrated Health (DIH)"** is the state agency that administers Utah's Medicaid program and other medical programs for Utah residents.

**"Doctor of medicine (MD)"** means a medical professional who graduated from medical school.

**"Doctor of osteopathic medicine (DO)"** means a medical professional who graduated from an osteopathic medical school.

**"Minimum Data Set for Home Care (MDS-HC)"** is an assessment used to determine whether the client meets nursing facility level of care criteria and determines the service needs required for safe residence in a home or community-based setting.

**"Provider Reimbursement Information System for Medicaid (PRISM)"** is the online platform used by healthcare providers to submit claims and manage patient information for Utah Medicaid and waiver programs.

**"Registered nurse (RN)"** means a licensed medical professional who provides hands-on care in different medical and community settings.

**“Special Circumstances Involuntary Disenrollment (SCID)”** means a non-routine removal from a program due to circumstances specific to the participant.

**“State Implementation Plan (SIP)”** means the description of how each waiver program will be operated, including assurances that promote the health and welfare of waiver recipients and ensure financial accountability.

### Article 3 POPULATION SERVED

- 3.1 **Population Served.** The population served are a limited number of Utah adults aged 65 or older who require nursing facility level of care and meet the financial eligibility requirements for Medicaid.

### Article 4 QUALIFICATIONS

- 4.1 **Qualifications.** The AAA shall:

- (1) provide Waiver services in accordance with the requirements of the DHHS Medicaid Aging Waiver Program Training Manual, which includes the SIP and all DIH approved forms;
- (2) employ an RN or MD or DO trained by the DHHS Waiver program to make level of care eligibility determinations;
- (3) ensure that the RN, MD or DO, or a team consisting of an RN and a Social Service Worker or a Certified Care Manager, prepare a comprehensive care plan which will determine the precise benefits a client receives;
- (4) send all level of care determinations, assessments, and comprehensive care plans to DHHS for review and confirmation prior to the provision of any services to the applicant or client;
- (5) pay for services provided by the AAA prior to receiving written confirmation from DHHS, and if DHHS does not agree with the AAA's decision, from a funding source other than this grant;
- (6) ensure that when a AAA employee providing Case Management services for a Waiver client is also doing any of the operating functions designated to the AAA, the Waiver RN approves the functions in writing as the Operating Agency;
- (7) ensure the RN employed by the AAA conducts a full reassessment when a substantial change occurs in a client's health status, including:
  - (A) MDS-HC and MDS-HC Supplement;
  - (B) Level of Care determination form;
  - (C) comprehensive care plan; and

- (D) Person-Centered Care Plan; and
- (8) ensure the Waiver RN conducts a Level of Care screening form at the conclusion of an inpatient stay in a medical institution.

Article 5  
SERVICE AND ADMINISTRATIVE REQUIREMENTS

5.1 **Service Requirements.** The AAA shall:

- (1) complete a comprehensive care plan based on the assessed needs of the client and include both formal and informal supports necessary to meet those needs once services are initiated;
- (2) complete a comprehensive care plan for each Waiver client within 14 calendar days of the date the client is determined eligible for services, which plan must address the following:
  - (A) the correct Healthcare Common Procedure Coding System, a set of standardized codes that represent medical procedures, for each service needed by the client;
  - (B) the correct service unit definition, number of units, and frequency of those units required for each service;
  - (C) the name of the service provider(s) that will be providing the services identified; and
  - (D) changes to the comprehensive care plan must first be approved by the AAA; the AAA shall verify that the comprehensive care plan is reviewed at least quarterly by the provider of Case Management services;
- (3) notify DHHS whenever an APS referral is made by the AAA or another agency concerning a Waiver client;
- (4) complete a Nutritional Screening form for all Waiver clients initially and annually;
- (5) complete a Critical Incident form within 24 hours of discovery of an incident, in accordance with the DHHS Standard Operating Procedure, Critical Incidents and Events Reporting Requirements, as outlined in the DHHS Waiver training manual, accessible through the DHHS Waiver Program Manager;
- (6) assist in the transition of clients from the Waiver program to a nursing facility of the client's choice when the client or the client's representative requests placement;
- (7) obtain written approval from DHHS prior to starting SCID proceedings;
- (8) disenroll clients in accordance with the DHHS Medicaid Home and Community Based Program Disenrollment protocol, as outlined in the DHHS Waiver training manual, accessible through the DHHS Waiver Program Manager;

- (9) continually and promptly review updated conflict of interest disclosure statements and submit a copy to DHHS whenever an existing or potential conflict of interest is disclosed;
- (10) implement a written policy that requires AAA representatives, including employees and volunteers, to do the following:
  - (A) submit a conflict-of-interest disclosure statement upon hire and annually thereafter;
  - (B) promptly disclose in writing to the AAA any existing, potential, or contemplated conflicts of interest as they arise;
  - (C) review annually all conflict-of-interest disclosure statements and their own operations to reasonably assure DHHS that the AAA avoids prohibited conflicts of interest;
  - (D) maintain conflict of interest disclosure statements in personnel files; and
  - (E) be trained on certification and disclosure requirements and laws governing conflicts of interest;
- (11) allow DHHS to investigate potential conflicts of interest, require information or remedial action from the AAA, and allow DHHS to disapprove transactions or require repayment of transactions;
- (12) obtain prior written approval from required federal or state agencies before conducting research involving human subjects or their private data;
- (13) obtain prior written approval from the IRB and fully comply with any requirements imposed by the IRB for DHHS clients involved in research conducted by the AAA;
- (14) notify clients in writing of their right to request a Fair Hearing under 42 Code of Federal Regulations Part 431, subpart E, whenever an adverse action is taken including:
  - (A) a client is not given the choice of home and community-based services as an alternative to institutional care;
  - (B) a client is denied the service(s) of their choice or the provider(s) of their choice; or
  - (C) a client's services are denied, suspended, reduced or terminated;
  - (D) notifications must contain:
    - i. the reason for the adverse action;
    - ii. the timeframe for filing an appeal;

- iii. how to file an appeal; and
  - iv. the client's right to continued benefits during the appeal process; and
  - (E) the AAA shall advise the DHHS Aging Waiver Health Program Manager whenever a request for a Fair Hearing is filed;
- (15) establish an informal grievance process to help expedite resolution of Waiver disputes and encourage, but not require individuals to use it;
- (16) provide notice of the AAA's grievance process to individuals any time an adverse action is taken, which notice must include:
- (A) the right to contest adverse actions to the AAA;
  - (B) a detailed description of the grievance process;
  - (C) the right to appeal the decision of the AAA to the DHHS Aging Waiver Health Program Manager; and
  - (D) the right to forgo or interrupt the grievance process and request a Fair Hearing by following the instructions in the Fair Hearing notice;
- (17) advise the DHHS Aging Waiver Health Program Manager of all grievance appeals received;
- (18) agree not to charge clients any fees for services;
- (19) notify DHHS if the enrollment of a new client will exceed the slots or funding allocated to the AAA in this grant agreement before the client is enrolled as a Waiver client and is authorized to receive services;
- (20) ensure the DHHS representative has current contact information for the AAA throughout the duration of this agreement and throughout the duration of the AAA's record retention responsibilities;
- (21) promptly notify DHHS of changes to the contact information for the individual authorized to receive legal and other notices regarding the grant including;
- (A) name and title;
  - (B) telephone number;
  - (C) email address;
  - (D) street address; and



- (22) provide Utah 211 with information about the AAA's services in a form determined by Utah 211.

5.2 DHHS shall:

- (1) authorize the filling of slots from the statewide applicant list for the provision of services according to the greatest risk of nursing home placement based on:
  - (A) the risk score from the Demographic Intake and Risk Screening form;
  - (B) the date the referral was received; and
  - (C) equitable distribution of waiver openings in all geographic areas;
- (2) notify the AAA of the number of slots allocated each fiscal year in the Slot Allocation memos, which constitute an amendment to this agreement, and may:
  - (A) increase or decrease the number of allocated slots at any time;
  - (B) issue Slot Allocation memos on its own initiative without the consent of the AAA, or in response to a request from the AAA;
  - (C) tie slots to individual Waiver enrollees (persons eligible to receive Waiver services) as follows:
    - i. individual enrollees must receive at least one Waiver service during each month of the fiscal year;
    - ii. an enrollee's slot cannot be used again in the same fiscal year by another enrollee; and
    - iii. any allocated slots not in use on July 1<sup>st</sup> of each fiscal year cannot be filled unless prior written approval is obtained from the DHHS Aging Waiver Health Program Manager;
  - (D) treat any decrease in slots as not eliminating slots that have been filled during the fiscal year; and
  - (E) hold the AAA responsible for monitoring its use of allocated slots and notifying DHHS in writing when there is a need to increase slots before the AAA has filled all of the allocated slots;
- (3) notify the AAA of annual funding allocation and any funding changes for the services provided pursuant to this agreement in a Waiver Funding Allocation memo, which memos constitute an amendment to this agreement, and may:

- (A) be issued by DHHS on its own initiative without the consent of the AAA, or in response to a request from the AAA;
- (B) increase or decrease the funding available to the AAA where the amount of funding from any given funding source may vary from fiscal year to fiscal year during the agreement period;
- (C) include the funding sources of this grant; and
- (D) include additional requirements or restrictions that apply to the funding;
- (4) investigate potential conflicts of interest;
- (5) require information or remedial action from the AAA; and
- (6) disapprove transactions or require repayment of transactions.

## Article 6 RECORD KEEPING RESPONSIBILITIES

### 6.1 **Record Keeping.** The AAA shall:

- (1) maintain all supporting documents associated with this agreement, including:
  - (A) Waiver Funding Allocation memo;
  - (B) Slot Allocation memo for each of the fiscal years covered by this agreement;
  - (C) federal awards that are the source of the federal funds passed through to the AAA including applicable federal terms;
  - (D) the SIP and Waiver manual;
  - (E) the Medicaid manual; and
  - (F) all statutes, regulations, and governmental policies that apply to this agreement;
- (2) ensure a Demographic Intake and Risk Screening form is kept on file for all applicants;
- (3) maintain individual files in the state's electronic medical records system on all clients receiving Waiver services that contain the following information:
  - (A) initial documentation that the client is eligible for Medicaid using the UTAH-DOH-BES Form 927;

- (B) a minimum of initial and annual determinations that the client meets Waiver criteria, completed prior to the time the client initially began receiving Waiver services and before they continue receiving services annually;
  - (C) a level of care screening for any time when a substantial change occurs in a client's health status, and at the conclusion of an inpatient stay in a medical institution;
  - (D) a minimum of initial and annual MDS-HC and its supplement forms with the accompanying comprehensive care plan;
  - (E) documentation verifying copies of all client-signed documents were sent or given to the client;
  - (F) a comprehensive care plan;
  - (G) quarterly reviews of a client's status and comprehensive care plan from the Case Management Agency;
  - (H) annual documentation of the client's choice of service provider for all identified service needs, including case management;
  - (I) annual documentation that a client has a functioning fire extinguisher, smoke and CO detectors, or justification for not having these;
  - (J) annual documentation, and condition, of all currently used medical equipment in the home; and
  - (K) if personal attendant services are used, annual documentation of each personal attendant's background screening approval from the DHHS Office of Licensing, a first aid certification, and a current back-up plan;
- (4) maintain files for each service provider containing current and historical copies of the following documentation:
- (A) each service provider's Medicaid provider number;
  - (B) all licenses, certifications, and other standards required by the SIP;
  - (C) documentation of all AAA service providers monitoring activities and findings pursuant to its quality assurance plan;
  - (D) financial documentation for accruals; and
  - (E) slot counts for new fiscal year; and

- (5) allow independent auditors, state and federal auditors, and agreement reviewers access to any records related to this agreement including all personnel, training, client, treatment, accounting, and financial records.

## Article 7 SERVICE PROVIDERS

### 7.1 **Medicaid Aging Waiver Service Providers.** The AAA shall:

- (1) agree not to contract with any Medicaid providers for Medicaid waiver services provided pursuant to this contract;
- (2) require all Medicaid service providers to enroll in PRISM to receive a provider number and become a provider for Waiver services;
- (3) require the Medicaid service provider to sign a voluntary fiscal reassignment agreement, if the AAA bills Medicaid and submits claims on their behalf; and;
- (4) bill Medicaid using the provider's payment contract number.

## Article 8 REPORTING REQUIREMENTS

### 8.1 **Cost.** The AAA shall differentiate administrative costs from program costs. Personnel who have both administrative and program duties, or who have duties related to multiple programs, must allocate their time to each program as appropriate, and shall maintain time sheets or other comparable supporting documentation detailing the time spent in each program. Costs that support more than one program must be appropriately allocated to the applicable program.

### 8.2 **Reporting Requirements.** The AAA shall:

- (1) submit all Demographic Intake and Risk Screening forms to DHHS for a statewide applicant list;
- (2) submit a request to [dhhsfinancialreports@utah.gov](mailto:dhhsfinancialreports@utah.gov) if the AAA needs an extension to submit required reports to DHHS, which request must include:
  - (A) requested length of extension;
  - (B) justification for the requested extension; and
  - (C) name, phone number, and email address of the person requesting the extension;
- (3) submit an Aging Waiver monthly report on or before the 10<sup>th</sup> of the following month; and
- (4) submit the fiscal audit documentation within 10 business days of the DHHS Aging Waiver Auditor's request.

## Article 9 OUTCOMES

- 9.1 **Outcomes.** The desired outcome is the prevention or delay of unnecessary nursing home admissions for Utah adults aged 65 and older. Aging Waiver Program clients will benefit from staying in their homes and receiving long-term services and supports including in-home personal care assistance, personal emergency response systems, home modifications for safety and accessibility, and respite care.
- 9.2 **Outcome Measures.** DHHS shall monitor the AAA's performance through scheduled and unannounced visits and annual audits. The AAA shall collaborate with DHHS and any contractors of DHHS in assessing the effectiveness of its services and programs.
- 9.3 **Outcome Reporting.** The AAA shall develop, implement, and maintain an internal quality management system that evaluates the AAA's programs and establishes a system of self-correcting feedback that may be externally validated by DHHS.

## Article 10 PAYMENT TERMS, FUNDING, AND BILLING INFORMATION

- 10.1 **Payment.** Payments made to the AAA shall be the AAA's total compensation for agreement services provided.
- 10.2 **AAA Funding.**
- (a) The AAA's funding will be determined annually for each fiscal year of the agreement period and may vary from year to year.
  - (b) If the AAA fails to spend the full amount of its annual funding allocation by June 30th of the fiscal year for which the allocation was made, the unexpended portion of the allocation will lapse, and the AAA will have no further claim to it.
  - (c) DHHS may reduce its funding if DHHS determines the AAA is underutilizing funds.
  - (d) All non-federal requirements or restrictions attached to additional funding will require an amendment to this agreement.
  - (e) Funds may be used only for the purposes stated in this agreement.
  - (f) The Aging Waiver Program is the payer of last resort for authorized client services. The AAA shall not seek payment from waiver funds for non-authorized services or services otherwise available through the Medicaid State Plan.
  - (g) DHHS shall notify the AAA of any reduction of funds and will reimburse the AAA for services performed before the reduction.

- (h) Other sources of funding may be available to the AAA, in addition to funds received from DHHS, including Medicaid, private insurance, or other state, federal, and county programs. All funding from sources other than DHHS are non-party resources.
- (i) The AAA shall not obtain duplicate recovery, or reimbursement from both DHHS and any other source, for individual services, provided pursuant to this agreement. When the AAA obtains funds from both DHHS and another source for services provided under this agreement, the AAA shall reimburse DHHS for the full amount of the recovery; or if the amount of the recovery is greater than the amount the AAA received from DHHS, the AAA shall reimburse DHHS for the amount received from DHHS.
- (j) The AAA's access to all or any portion of the discretionary amount, funds held in reserve by DHHS from the AAA's administrative budget until the AAA determines if funds are required, is at the discretion of DHHS and requires DHHS prior written consent.
- (k) DHHS shall pay the AAA no more than the maximum amount, consisting of an approved budget amount and a discretionary amount as stated in the waiver funding allocation memo for the applicable fiscal year.
- (l) DHHS shall advise the AAA of the total amount it may expend for allowable client services provided by the AAA or its Medicaid providers pursuant to this grant agreement in the waiver funding allocation memo for the applicable fiscal year.
- (m) DHHS shall make no payments to the AAA or its Medicaid providers for client services. The AAA and its Medicaid providers shall submit all claims for client services directly to the DIH in accordance with state Medicaid billing practices and procedures.
- (n) The AAA is responsible for the following when DHHS directs the AAA to add a client to the program:
  - (1) ensure administrative funds are available;
  - (2) avoid exceeding the client services budget; and
  - (3) determine if there is capacity in the slot count to accommodate the addition.
- (o) The AAA shall not add clients without DHHS approval.

### 10.3 AAA Billing.

- (a) Payments will be made through the state of Utah, Division of Finance Electronic Funds Transfer ("EFT") system.
- (b) The AAA shall ensure it is enrolled in the EFT system by submitting a completed form FI 171 and W-9 form to [fvendor@utah.gov](mailto:fvendor@utah.gov), prior to the submission of invoices. Failure to enroll in the EFT system will result in a delay of all payments.

- (c) Invoices must be submitted using the DHHS invoice form with all required supporting documentation.
- (d) Invoices must include the service code "AMW" and billing code "4191".
- (e) The AAA shall submit itemized monthly invoices for authorized services to [Daasbilling@utah.gov](mailto:Daasbilling@utah.gov) with the following information:
  - (1) payment address, phone number, and signature;
  - (2) contract number;
  - (3) uniquely identifiable invoice number;
  - (4) invoice date;
  - (5) invoice amount; and
  - (6) detailed description of how funds were spent.
- (f) Invoices not submitted on the DHHS invoice form, submitted without the required information or supporting documentation, or submitted after the stated deadlines may be denied and returned to the AAA for completion.