

## Exhibit H – Physician Incentive Plan Regulation Guidance

### 1. Background/Authority:

This Contract requires that Contractor complies with the requirements set forth in 42 CFR 422.208 and 422.210 by disclosing information about Practitioner Incentive Plans (PIP) to OHA. If Contractor utilizes compensation arrangements placing physicians or Physician Groups at Substantial Financial Risk (as defined in this Exhibit) Contractor must also assure provision of adequate PIP Stop-loss Protection and conduct beneficiary surveys.

These Contract requirements implement federal law and regulations to protect Members against improper clinical decisions made under the influence of strong financial incentives. Therefore, it is the financial arrangement under which the physician is operating that is of interest and potential concern. Consequently, Contractors must report on the “bottom tier” - that is, the arrangement under which the participating physician is operating. The reporting requirement is imposed on Contractors because that is the entity or Physician Group with which OHA has a contractual relationship and the entity, which is ultimately responsible, under the statute, for making sure that adequate safeguards are in place.

A Physician Incentive Plan (PIP) is defined as “any compensation to pay a physician or Physician Group that may directly or indirectly have the effect of reducing or limiting services furnished to any Member”. The compensation arrangements negotiated between Subcontractors of an Managed Care Organization (MCO) (e.g., physician-hospital organizations, IPAs) and a physician or group are of particular importance, given that the compensation arrangements with which a physician is most familiar will have the greatest potential to affect the physician’s referral behavior. For this reason, all Subcontracting tiers of the Contractor’s arrangements are subject to the regulation and must be disclosed to OHA.

Note that PIP rules differentiate between Physician Groups and Intermediate Entities. Examples of Intermediate Entities include Individual Practice Associations (IPAs) that contract with one or more Physician Groups, as well as physician-hospital organizations. IPAs that contract only with individual physicians and not with Physician Groups are considered Physician Groups under this rule.

### 2. Surveys:

Contractor shall conduct a customer survey of both Members and disenrollees if any physician or Physician Groups in the Contractor’s network are placed at Substantial Financial Risk for Referral Services, as defined by the Physician Incentive Regulations. If a survey is required it must be conducted in accordance with Section 7, of this Exhibit H.

### 3. Disclosure to Members:

At Member’s request, Contractor must provide information indicating whether it or any of its contractors or Subcontractors use a PIP that may affect the use of Referral Services, the type of incentive arrangement(s) used, and whether PIP Stop-loss Protection is provided. If Contractor is required to conduct a survey, it must also provide Members with a summary of survey results.

### 4. Monitoring:

- a. Contractor shall file the CMS PIP Disclosure Form (OMB No. 0938-0700).
- b. CMS PIP Disclosure Form (OMB No. 0938-0700), is subject to review by OHA and subject to correction/clarification.

- c. Contractor shall submit Exhibit G reporting form (to be developed or modified to comply with CFR) to OHA on an annual basis, no later than August 15<sup>th</sup>

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## Exhibit I – Grievance System

Contractor shall establish internal Grievance procedures under which Members, or Providers acting on their behalf, may challenge any Action. Contractor shall maintain its Grievance System in accordance with this exhibit, OAR 410-141-3260 through 410-141-3266, and 42 CFR 438.400 through 438.424.

### 1. Grievance System

Contractor shall have a system in place for Members that includes a Grievance process, an Appeal process and access to a Contested Case Hearing.

#### a. Filing Requirements

- (1) A Member or Member Representative may file a Grievance, a Contractor level Appeal and may request a Contested Case Hearing;
- (2) A Provider acting on behalf of the Member and with the Member's written consent, may file a Grievance, file an Appeal or request an Contested Case Hearing.

#### b. Timing

Within 60 days from the date on the Notice of Action (NOA):

- (1) The Member or Provider may file an Appeal; and
- (2) The Member or Provider acting on behalf of the Member, with written consent may request a Contested Case Hearing.

The entire process must be no less than 20 days and no more than 90 days.

#### c. Procedures

- (1) The Member may file a Grievance either orally or in writing; and
- (2) The Member or Provider may file an Appeal either orally or in writing, and unless an expedited resolution is requested, must follow an oral filing with a written and signed Appeal.

### 2. Notice of Action

When Contractor intends to take any Action the Contractor shall mail a written NOA to the Member.

- a. Contractor shall only use OHA approved NOA format. The NOA form shall meet the language and format requirements in Exhibit B, Part 3, Section 3 and include at a minimum the following information:

- (1) Date of the notice;