



# City of Philadelphia

City Council  
Chief Clerk's Office  
402 City Hall  
Philadelphia, PA 19107

**BILL NO. 190353**

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**Introduced May 2, 2019**

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**Councilmember Blackwell**

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**Referred to the  
Committee on Finance**

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## **AN ORDINANCE**

Authorizing the City of Philadelphia Department of Public Health, on behalf of the City, to enter into an intergovernmental agreement with the Commonwealth of Pennsylvania, Department of Human Services, whereby additional funds could be made available to City Federally Qualified Health Centers, under certain terms and conditions.

### *THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. The City of Philadelphia Department of Public Health, on behalf of the City, is hereby authorized to enter into an intergovernmental agreement (the "Agreement") with the Commonwealth of Pennsylvania, Department of Human Services ("Commonwealth") for a term of three (3) years, substantially in the form set forth in Exhibit A, pursuant to which additional funds could be made available to City Federally Qualified Health Centers, under certain terms and conditions.

SECTION 2. The City Solicitor shall include in said Agreement such terms and conditions as he may deem necessary to protect the interests of the City.

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## EXHIBIT A

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## INTERGOVERNMENTAL AGREEMENT

This Agreement (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2019, between the Commonwealth of Pennsylvania, Department of Human Services (“DHS”) and the City of Philadelphia, Department of Public Health (“Philadelphia” or “the City”).

WHEREAS, DHS is the single state agency responsible to administer the Medicaid Program in Pennsylvania, which is known as the Pennsylvania Medical Assistance (“MA”) Program;

WHEREAS, the City operates Federally Qualified Health Centers (“City FQHCs”), that participate as providers in the MA Program;

WHEREAS, the City FQHCs provide essential primary care and preventive services and serve as a vital safety net for numerous MA beneficiaries and uninsured Philadelphia residents;

WHEREAS, the City FQHCs incur substantial costs to provide health care services to MA beneficiaries and the uninsured; and,

WHEREAS, DHS will seek the approval of the Centers for Medicare & Medicaid Services to implement an MA Alternative Payment Methodology (“APM”), which upon CMS approval could make additional funds available to the City FQHCs to enable them to maintain and expand access to critical health care services in the City.

NOW, THEREFORE, the parties, with the intention of being legally bound, hereby agree as follows:

1. The services shall be provided in conformity with the following Riders and Attachments:

Rider 1	Standard Terms and Conditions.
Rider 2	Audit Clause
Attachment A	Schedule of Wraparound Report Submissions

The above riders and attachments are hereby incorporated by reference and made a part of this Agreement.

For purposes of Rider 1, the term “Contractor” means the City. The use of the term “FQHC” anywhere in this Agreement refers to a Federally Qualified Health Center or a FQHC Look-Alike entity meeting the requirements of Section 330 of the Public Health Services Act (“PHS”) and Section 1905(1)(2)(B) of the Social Security Act.

2. Effective Date and Term of Agreement.

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The agreement is effective the later of April 1, 2019, or the effective date of the approved State Plan Amendment. The term of the agreement is three (3) years or 12 quarters of executed intergovernmental transfers of payment between the City and DHS, whichever is longer (“Term”), provided however, that upon mutual agreement, the parties may extend this Agreement for one (1) two - year period, upon the same terms and conditions.

3. Information.

Upon DHS’s request, the City shall deliver to DHS background material and other information prepared or obtained by the City incident to the performance of this Agreement or as DHS determines necessary to support DHS’s claims for federal financial participation of payments made to the City FQHCs pursuant to the APM. This provision shall survive expiration or termination of this Agreement.

4. City’s Conflict of Interest.

The City assures that it presently has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services under this Agreement. The City further assures that in the performance of this Agreement, it will not knowingly employ any person having such interest.

5. Interest of the Commonwealth and Others.

No officer, member or employee of the Commonwealth and no member of its General Assembly, who exercises any functions or responsibilities under this Agreement, shall participate in any decision relating to this Agreement which affects his personal interest or the interest of any corporation, partnership or association in which he is, directly or indirectly, interested; nor shall any such officer, member or employee of the Commonwealth or member of its General Assembly have interest, direct or indirect, in this Agreement or any proceeds from this Agreement.

6. Audit Clause

This Agreement is subject to audit in accordance with the attached Audit Clause incorporated herein.

7. Notice.

Any written notice to any party under this Agreement shall be deemed sufficient if delivered personally, or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.), with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, sent to the address set forth below or to such other address or using a delivery method, including facsimile, telecopy, electronic or

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digital transmission (provided such delivery is confirmed), as such party may designate by notice given pursuant to this section:

For DHS:

Deputy Secretary  
Office of Medical Assistance Programs  
Room 515  
Health & Welfare Building  
625 Forster Street  
Harrisburg, PA 17120

With copy to:

Chief Counsel  
Department of Human Services  
Third Floor West  
Health & Welfare Building  
625 Forster Street  
Harrisburg, PA 17120

For the City:

Sami Jarrah  
Chief Operating Officer and Deputy Commissioner  
Department of Public Health  
1101 Market St, Suite 1320  
Philadelphia, PA 19107

And to:

City Solicitor  
One Parkway Building  
1515 Arch Street, 17th Floor  
Philadelphia, PA 19102

8. Responsibilities of the City.
  - a. The City will submit all documentation required by DHS to implement the APM for the City FQHCs in the manner and timeframes specified by DHS, including but not limited to:

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- (1) Submitting all past due quarterly wraparound reports for the City FQHCs as specified in Attachment A;
  - (2) Following the submission of wraparound reports listed in Attachment A, submitting all quarterly wraparound reports for the City FQHCs in accordance with in the timeframe specified by the Department throughout the term of the Agreement;
  - (3) Notifying DHS of the amount of annual City FQHC grant funds awarded by the Health Resources and Services Administration (“HRSA”);
  - (4) Notifying DHS, on an annual basis, of the amount of funds received from any source for the care and services provided to uninsured individuals by the City FQHCs; and
  - (5) Submitting such information to DHS as may be requested pursuant to Section 3 above.
- b. The City will provide DHS with a written agreement to participate in the APM for each FQHC operated by the City of Philadelphia by a person or persons authorized to do so on behalf of the FQHC. Written consents must be transmitted to DHS prior to the date of the first transfer of funds to the Commonwealth under section 8.c below.
  - c. Quarterly, the City shall make an electronic transfer into a restricted Commonwealth account in the general fund to be specified by DHS. The amount of the transfer must be specified in writing and approved by the Deputy Secretary for Medical Assistance Programs of DHS each quarter. The City shall transfer funds to the Commonwealth within ten (10) days of receipt of the written notice of the amount of the transfer. If the day on which a transfer is due falls on a weekend or City holiday, payment shall be made on the next business day. Quarterly payments under this section shall commence following the submission of the wraparound report for Quarter 1 of 2019 to DHS.
  - d. The City shall only transfer funds to the Commonwealth under this Agreement that satisfy the requirements of 42 CFR 433.51, and are not derived from an impermissible source, including but not limited to recycled Medicaid payments, federal money precluded from use as the state share, impermissible taxes, and non-bona fide provider-related donations.
  - e. The City will maintain all records relating to this Agreement and payments made to the City FQHCs pursuant to the APM that are required by federal and state

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laws and regulations as well as any additional requirements imposed by the Centers for Medicare and Medicaid Services (“CMS”).

9. Responsibilities of DHS.

- a. DHS will submit an amendment to Pennsylvania’s Medicaid State Plan to CMS to authorize an APM for the City FQHCs.
- b. Prior to each transfer of funds under section 8.c above, DHS will calculate a payment amount for the City FQHCs in accordance with the approved APM. Each quarter, DHS will utilize the City FQHC wraparound report from the previous quarter to assess actual services provided by the City FQHCs and determine an appropriate quarterly transfer amount. The funds transferred by the City to the Commonwealth each quarter will provide the non-federal share of Medical Assistance payments to the City FQHCs resulting from the APM and provide for an administrative fee to DHS.
- c. Prior to the transfer of funds from the City to the Commonwealth, DHS will provide the City with written notice of the amount due, as set forth in section 8c.
- d. DHS will provide the City with sufficient information to allow for the timely electronic transfer of the funds into a restricted Commonwealth account.

10. CMS Approval Required.

The implementation of the payments under the APM set forth in this Agreement is contingent upon CMS approval.

11. Consequences of CMS Disallowance or Disapproval.

- a. Indemnification by City to the State. If, after the City has completed one or more quarterly transfers of funds to the Commonwealth and DHS has made payments to the City FQHCs in accordance with the APM, CMS disallows all or some of the Federal Financial Participation related to the transferred funds or payments for which transferred funds were used, then the City shall pay DHS only the disallowed Federal Financial Participation, including any interest and penalty, or otherwise indemnify and hold DHS harmless at the discretion of DHS. This section applies to all transfers completed and payments made under the APM throughout the Term of this Agreement.
- b. Return of Funds by the State to the City. If, after the City has completed the first quarterly transfer of funds to the Commonwealth but before DHS makes the corresponding payment to the City FQHCs in accordance with the APM, CMS, for

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any reason, does not permit or revokes approval of the APM, then DHS is required to return the same amount of funds transferred by the City under the terms of sections 8.c. and 9.b. above to the City within twenty-one (21) calendar days of DHS receiving such notification.

12. Counterparts

This Agreement may be executed by the parties hereto in any number of separate counterparts and all of such counterparts, when together, shall be deemed to constitute one and the same instrument.

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In Witness Whereof, intending to be legally bound hereby, the parties hereto have caused this Agreement to be executed by its duly authorized officials.

## **Pennsylvania Department of Human Services**

\_\_\_\_\_  
Secretary or designee

\_\_\_\_\_  
DHS Office of General Counsel

\_\_\_\_\_  
Governor's Office of General Counsel

\_\_\_\_\_  
Office of Attorney General

**The City of Philadelphia**  
Acting through its Department of Public Health

\_\_\_\_\_  
Health Commissioner

and its Department of Revenue

\_\_\_\_\_  
Revenue Commissioner

Approved as to Form  
City Solicitor

Per \_\_\_\_\_  
Chief Deputy City Solicitor

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## Draft ATTACHMENT A

### Schedule of Wraparound Submissions

No.	Wrap	Service Dates	Proposed Submission Timing	Note
1	2017 Q1	1/1/2017 – 3/31/2017	** On or before 4/1/2019	
2	2017 Q2	4/1/2017 – 6/30/2017	** On or before 5/1/2019	
3	2017 Q3	7/1/2017 – 9/30/2017	** On or before 6/1/2019	
4	2017 Q4	10/1/2017 – 12/31/2017	** On or before 7/1/2019	
5	2018 Q1	1/1/2018 – 3/31/2018	** On or before 8/1/2019	
6	2018 Q2	4/1/2018 – 6/30/2018	** On or before 9/1/2019	
7	2018 Q3	7/1/2018 – 9/30/2018	** On or before 10/1/2019	
8	2018 Q4	10/1/2018 – 12/31/2018	** On or before 11/1/2019	
9	2019 Q1	1/1/2019 – 3/31/2019	** On or before 12/1/2019	
10	2019 Q2	4/1/2019 – 6/30/2019	** On or before 1/1/2020	
11	2019 Q3	7/1/2019 – 9/30/2019	** On or before 2/1/2020	
12	2019 Q4	10/1/2019 – 12/31/2019	** On or before 4/1/2020	

For subsequent Wraps, the City and Commonwealth shall mutually agree in writing to submission deadlines.