



## MEDICARE ADVANTAGE PROGRAM REQUIREMENTS ADDENDUM

THIS MEDICARE ADVANTAGE (“MA”) PROGRAM REQUIREMENTS ADDENDUM (the “Addendum”) is made and entered into by and between **LIBERTY Dental Plan Corporation** (collectively with any affiliates, subsidiaries and parent corporations, and as defined in the Agreement, “LIBERTY”) and [LEGAL NAME OF DENTAL OFFICE] (“Dental Office”) and supplements the Provider Agreement entered into by LIBERTY and Dental Office. This Addendum shall become effective as of the date specified by LIBERTY below.

**I. Definitions.** For purposes of this Addendum the following terms shall have the meanings set out below:

(1) “**Downstream Entity**” means any party that enters into a written arrangement, acceptable to Centers for Medicare and Medicaid Services (“CMS”), with persons or entities involved with the MA benefit, below the level of the arrangement between a health plan that operates a Medicare Part C program (“MA Plan”) and a First Tier Entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services. Dental Office is a Downstream Entity of LIBERTY.

(2) “**Dual Eligible Member**” means a Member who is entitled to medical assistance under Medicare and Medicaid.

(3) “**First Tier Entity**” means any party that enters into a written arrangement, acceptable to CMS, with an MA Plan to provide administrative services or health care services for a Member. LIBERTY is a First Tier Entity for various MA Plans.

(4) “**LIBERTY**” means LIBERTY Dental Plan Corporation or, if LIBERTY Dental Plan Corporation is not a party to the applicable contract(s) with the MA Plan, its subsidiary or affiliate that is the party to the applicable contract(s) with the MA Plan and/or is licensed or otherwise authorized to operate in the state(s) where Dental Office provides services under this Addendum.

(5) “**Medicare Advantage**” or “**MA**” means an alternative to the traditional Medicare program in which private plans run by health insurance companies provide health care benefits that eligible beneficiaries would otherwise receive directly from the Medicare program.

(6) “**Member**” means a Medicare Advantage eligible individual who has enrolled in or elected coverage through an MA Plan.

**II. MA Provider Enrollment Requirement.** Dental Office shall, and shall cause its employed and subcontracted providers to be enrolled as a practitioner in Medicare in an approved status while participating in LIBERTY’s dental network(s), and in order to provide or seek reimbursement for services rendered to MA members under the Agreement or Addenda, except as otherwise permitted by applicable law. Notwithstanding the foregoing, while Dental Office is in a Medicare opt out status (“Opted Out”), Dental Office shall not provide or seek (and shall prohibit any Opted Out providers it employs or subcontracts from providing or seeking) reimbursement for non-emergent services rendered to MA members under the Agreement or Addenda, except as otherwise permitted by applicable law. Dental Office shall immediately notify LIBERTY in writing any time it, or any of its employed or subcontracted providers who participate in LIBERTY’s network(s) opt(s) out of Medicare or otherwise cease(s) to be enrolled as a practitioner in Medicare in an approved status.

**III. MA Obligations and Requirements.** CMS requires that specific terms and conditions be incorporated into agreements between an MA Plan and a First Tier Entity, and a First Tier Entity and any Downstream Entity, to comply

with the Medicare laws, regulations and CMS instructions, including, but not limited to, the Medicare Prescription Drug, Improvement and Modernization Act of 2003, Pub. L. No. 108-173, 117 Stat. 2066. As a Downstream Entity of LIBERTY, Dental Office shall comply with the following terms and conditions as they pertain to services rendered to Members:

A. Audits; Access to Records and Records Retention. Dental Office shall permit, and shall cause its contractors and subcontractors to permit, LIBERTY, MA Plan, the Department of Health and Human Services (HHS), the Comptroller General, the Office of the Inspector General, the General Accounting Office, CMS and/or their designees to audit, evaluate, collect and inspect any books, contracts (including, but not limited to, any agreements between Dental Office and its employees, contractors and/or subcontractors providing services related to services provided to Members), computers or other electronic systems, documents, papers, medical records, patient care documentation and other records and information involved or in connection with the provision of services related to MA Plan's contract with CMS (collectively, "Books and Records"). Dental Office shall maintain, and shall cause its contractors and subcontractors to maintain, all Books and Records in an accurate and timely manner. Dental Office shall make available, and shall cause its contractors and subcontractors to make available, all Books and Records for such inspection, evaluation or audit during the Term of this Agreement and for a time period of not less than ten (10) years, or such longer period of time as may be required by law, from the end of the calendar year in which expiration or termination of the Provider Agreement occurs or from completion of any audit or investigation, whichever is greater, unless CMS, an authorized federal agency, or such agency's designee (i) determines there is a special need to retain records for a longer period of time; (ii) there has been a termination, dispute or allegation of fraud or similar fault by MA Plan, LIBERTY or Dental Office, in which case the retention period may be extended to six (6) years from the date of final resolution of the termination, dispute, or similar fault; (iii) CMS determines that there is a reasonable possibility of fraud or similar fault, in which case CMS may inspect, evaluate, and audit Books and Records at any time.

B. Provision of Books and Records. Dental Office shall require its employees, contractors and/or subcontractors and those individuals or entities performing administrative services for or on behalf of Dental Office (a) to provide any of the above-referenced individuals or entities with timely access to records, information and data necessary for (1) MA Plan to meet its obligations under its contract with CMS and/or (2) CMS to administer and evaluate the MA program; and (b) to submit all reports and clinical information required by MA Plan under its contract with CMS. In pursuance thereof, Dental Office shall provide to LIBERTY applicable information and/or Books and Records as may be reasonably requested by MA Plan in connection with services rendered to Members.

C. Privacy and Accuracy of Records. Dental Office shall comply with all applicable state and federal laws, rules and regulations, Medicare program requirements, the requirements in the MA Plan's contract with CMS, and MA Plan requirements regarding privacy, security, confidentiality, accuracy and disclosure of records (including, but not limited to, medical records, personally identifiable information and/or protected health information and enrollment information), including, without limitation, (i) the federal Health Insurance Portability and Accountability Act of 1996 and the rules and regulations promulgated thereunder (collectively, "HIPAA"), (ii) 42 C.F.R. § 422.504(a)(13), (iii) 42 C.F.R. § 422.118, and (iv) 42 C.F.R. § 422.516 and 42 C.F.R. § 422.310 regarding certain reporting obligations to CMS. Dental Office shall release such information only (a) in accordance with applicable state and/or federal law, or (b) pursuant to a valid court order or subpoena consistent with state and federal law.

D. Hold Members Harmless. Dental Office shall not hold a Member liable for the payment of any fees that are the legal obligation of an MA Plan and/or LIBERTY. For example, a Member shall not incur any liability in the event the applicable MA Plan and/or LIBERTY becomes insolvent or suffers other financial difficulties or in the event of a contract breach or an issue with Dental Office billing.

E. Hold Dual Eligible Members Harmless. With respect to those Members who are Dual Eligible Members, Dental Office acknowledges and agrees that it shall not hold such Dual Eligible Members liable for Medicare Part A and Part B cost-sharing when a state is responsible for paying such amounts. Dental Office shall accept MA Plan's and/or LIBERTY's payment as payment in full or bill the appropriate state source if MA Plan has not assumed such state's financial responsibility under an agreement between MA Plan and such state. Dental Office shall not impose cost-sharing that exceeds the amount of cost-sharing that would be permitted with respect to the individual under

Medicaid if the individual were not enrolled in such plan. LIBERTY shall inform Dental Office of Medicare and Medicaid benefits and rules for Members who are Dual Eligible Members.

F. MA Plan's Contractual Obligations. All services provided to Members by Dental Office, or other activities performed by Dental Office for Members, shall be consistent with and comply with the requirements of the MA Plan's contract with CMS.

G. Prompt Payment of Claims. LIBERTY will process and pay or deny claims for services provided by Dental Office in accordance with the Provider Agreement and any and all applicable laws, including, but not limited to, any and all applicable prompt payment laws.

H. Delegation. Dental Office acknowledges and agrees that if the MA Plan delegates the selection of providers, contractors or subcontractors to another organization, including LIBERTY, the MA Plan retains the right to approve, suspend or terminate any such arrangement.

I. Compliance with MA Plan's Policies and Procedures. Dental Office shall comply with all policies and procedures of MA Plan to the extent applicable. Such policies include, without limitation, written standards for the following: (i) timeliness of access to care and member services; (ii) policies and procedures that allow for individual medical necessity determinations (e.g., coverage rules, practice guidelines, payment policies); (iii) Dental Office consideration of Member input into Dental Office's proposed treatment plan; (iv) MA Plan's accreditation standards; and (v) MA Plan's compliance program, which encourages effective communication between Dental Office and MA Plan's Compliance Officer and participation by Dental Office in education and training programs regarding the prevention, correction and detection of fraud, waste and abuse and other initiatives identified by CMS. The aforementioned policies and procedures are identified in MA Plan's Provider Manual, which is incorporated herein by reference and may be amended from time to time by MA Plan.

J. Delegation (Accountability) Provisions. In the event Dental Office is delegated any of an MA Plan's activities or responsibilities under its contract with CMS as a subcontractor or delegate of LIBERTY, the following requirements apply:

(1) Delegated Activities and Reporting. All delegated activities and reporting responsibilities thereto are set forth in the Provider Agreement.

(2) Revocation. In the event CMS or MA Plan determines that Dental Office does not satisfactorily perform the delegated activities or any plan of correction or does not timely perform the requisite reporting or disclosure requirements, any and all of the delegated activities or reporting requirements may be revoked upon notice by CMS or the MA Plan to Dental Office and/or LIBERTY.

(3) Monitoring. Any delegated activities will be monitored by the MA Plan on an ongoing basis. Dental Office shall participate cooperatively with all monitoring by the MA Plan.

(4) Credentialing. The credentials of medical professionals affiliated with Dental Office and/or LIBERTY will be reviewed by MA Plan, or Dental Office's and/or LIBERTY's credentialing process will be reviewed and approved by MA Plan and MA Plan will audit the credentialing process on an ongoing basis.

(5) No Assignment of Responsibility. Dental Office understands that Dental Office may not delegate, transfer or assign any of Dental Office's or LIBERTY's obligations with respect to Members without MA Plan's and/or LIBERTY's prior written consent.

(6) Compliance with Laws and Regulations. Dental Office shall comply, and shall require any and all of its employees, contractors and subcontractors to comply, with all applicable Medicare laws, rules and regulations, reporting requirements, CMS instructions, and all other applicable state and federal laws, rules and regulations, as may be amended from time to time, including, without limitation, (i) laws, rules and regulations designed to prevent or ameliorate fraud, waste and abuse, including, but not limited to, applicable provisions of federal criminal law, the False Claims Act, and the anti-kickback statute; (ii) applicable state laws regarding patients'

advance directives as defined in the Patient Self-Determination Act, as may be amended from time to time; (iii) HIPAA administrative simplification rules; and (iv) laws, rules and regulations and CMS instructions and guidelines regarding marketing. Additionally, Dental Office shall maintain full participation status in the federal Medicare program and shall ensure that it and none of its employees, contractors, or subcontractors are or have been excluded, debarred, suspended or are otherwise ineligible to participate in the federal health care programs or in federal procurement or non-procurement programs nor are included on the list of sanctioned individuals maintained by (a) the U.S. Department of Health and Human Services' Office of Inspector General, (b) the System Administration Management, and (c) any state agency where Dental Office provides services. If Dental Office or any of its employees or subcontractors is sanctioned or added to one of these three lists, Dental Office must notify LIBERTY within five (5) days of discovery.

K. **Accountability.** Dental Office hereby acknowledges and agrees that MA Plan oversees the provision of services by Dental Office to Members and that MA Plan shall be accountable to CMS for any functions and responsibilities described in the MA regulations.

L. **Benefit Continuation.** Upon termination of Dental Office's status as a participating provider by LIBERTY or an MA Plan (unless such termination was related to safety or other concerns), Dental Office shall continue to provide health care benefits/services to Members in a manner that ensures medically appropriate continuity of care for the time period required by applicable law.

M. **Physician Incentive Plans.** The parties agree (i) that no payments made to Dental Office are financial incentives or inducements to reduce, limit or withhold medically necessary services to Members; and (ii) that any incentive plans applicable to Dental Office are and shall be in compliance with applicable state and federal laws, rules and regulations and in accordance with MA Plan's contract with CMS. Upon request and as applicable, Dental Office shall disclose, and shall permit LIBERTY to disclose, to an MA Plan the terms and conditions of any "physician incentive plan" as defined by CMS and/or any state or federal law, rule or regulation.

**III. Conflict.** Except as provided herein, all provisions of the Provider Agreement not inconsistent with the provisions of this Addendum shall remain in full force and effect. The provisions of this Addendum shall supersede and replace any inconsistent provisions to such Provider Agreement to ensure compliance with required CMS provisions, and shall continue concurrently with the term of the Provider Agreement.

Agreed and accepted by:

**[DENTAL OFFICE]:**

**LIBERTY Dental Plan Corporation:**

\_\_\_\_\_  
Authorized Signature

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Print Name of Signatory

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Title

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Date

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Signature

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Print Name of Signatory

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Title

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**Effective Date**