



EXHIBIT C

EMPLOYEE ASSISTANCE PROGRAM

**OPTUM
HEALTH CARE SOLUTIONS, LLC**

PLAN DOCUMENT

Established January 1, 2018

Human Resources Department
City of Chula Vista

ADMINISTRATIVE SERVICES AGREEMENT

This Administrative Services Agreement ("Agreement") between **OptumHealth Care Solutions, LLC** ("Optum"), a California corporation, and its wholly owned subsidiary, **U.S. Behavioral Health Plan, California** ("USBHPC") and **City of Chula Vista** ("Customer") is effective **January 1, 2018** ("Effective Date"). This Agreement covers the services Optum is providing to Customer, either directly or in conjunction with one of Optum's affiliates.

Section 1 – Definitions

When these terms are capitalized in the Agreement they have the meanings set forth below. Defined terms may be used in the singular or plural.

Employee: A current or former employee of Customer or an affiliated employer.

Employee Assistance Program or EAP: Services designed to assist Customer's Employees, their dependents, and Customer in finding solutions for personal and workplace problems.

ERISA: Employee Retirement Income Security Act of 1974, as amended from time to time, including all rules and regulations promulgated thereunder.

Network: The group of Network Providers who entered into, or are governed by, contractual arrangements with Optum to provide health care services to Plan Participants.

Network Provider: The physician, or medical professional or facility which participates in a Network and accepts negotiated fees for providing health care services. A provider is only a Network Provider if they are participating in a Network at the time services are rendered to the Plan Participant.

Participant: Employee beneficiary or dependent who is covered by the Plan.

PHI: Any information Optum receives or provides on behalf of the Plan which is considered Protected Health Information as the term is defined in the privacy regulations of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (collectively, "HIPAA") and American Recovery and Reinvestment Act ("ARRA"), as each is amended from time to time.

Plan: The provisions of the plan of benefits to which this Agreement applies, as described in the Summary Plan Description.

Plan Administrator: The current or succeeding person, committee, partnership, or other entity designated by the terms of the instrument under which the Plan is operated as defined by ERISA and who is responsible for the Plan's operation.

Plan Document(s): Means documents provided to Participants that are required by ERISA and are prepared or provided by the Plan Administrator that describe either: the Services covered by this Agreement; eligibility requirements for participation and benefits offered under the Plan; or any other similar information. Examples of Plan Documents include but are not limited to the following:

Summary Plan Description, evidence or certificate of coverage, description of Services or a trust agreement.

Services: Means collectively, the products and services Optum provides and performs pursuant to this Agreement as set forth in **Exhibit A** attached hereto.

Summary Plan Description or SPD: The document(s) ERISA requires provided to Plan Participants describing the terms and conditions of coverage offered under the Plan.

Section 2 – Benefit Plan

2.1 Responsibility for the Plan and Plan Assets. Optum is not the Plan Administrator of the Plan. Any references in this Agreement, or elsewhere, to Optum “administering the Plan” are descriptive only and do not confer upon Optum anything beyond certain agreed upon claim administration duties. Except to the extent this Agreement specifically requires Optum to have the fiduciary responsibility for a Plan administrative function, Customer has the sole responsibility for all obligations of the Plan, the Plan Sponsor, and the Plan Administrator under ERISA and any other applicable laws and regulations, including but not limited to benefit design and preparation, distribution of Plan Documents, content and regulatory compliance of the Plan Documents.

2.2 Plan Consistent with the Agreement. Customer represents that Plan Documents are consistent with this Agreement. Customer will provide Optum with copies of Plan Documents or any communications describing Plan Documents prior to distributing these materials to Participants, Employees or third parties. Customer will amend Plan Documents or communications related thereto if Optum reasonably determines that references to Optum are not accurate, or a Plan provision is not consistent with this Agreement or the Services. Customer shall be responsible for printing, maintaining a supply of and distributing to Participants, within a reasonable period of time before coverage begins, the Plan Documents and all other information and forms necessary for Participants’ enrollment and continued eligibility for Services under the Plan.

2.3 Plan Changes. Customer will provide Optum with notice of any changes to the Plan and/or Plan Documents within a reasonable period of time prior to the effective date of the change to allow Optum to determine if the change will impact the Services. Any change by Customer that impacts the Services must be mutually agreed to in writing prior to implementation of such change. Optum will notify Customer if: (i) the change increases Optum’s cost of providing Services which would result in an increase in fees; or (ii) if in Optum’s reasonable discretion it is unable to implement or administer the change. If the parties cannot agree to a new fee within thirty (30) days of the notice of the new fee, or if Optum notifies Customer that Optum is unable to reasonably implement or administer the change, Optum shall have no obligation to implement or administer the change, and Customer may terminate this Agreement upon sixty (60) days written notice.

2.4 Affiliated Employers. Customer represents that together, Customer and any of Customer’s affiliates covered under the Plan make up a single “controlled group” as defined by ERISA. Upon request by Optum, Customer agrees to provide Optum with a list of Customer’s affiliates covered under the Plan.

Section 3 – Customer Responsibilities

3.1 Reliance on Data. Optum is not liable for any acts or omissions it makes in reliance on the direction or consent from an authorized representative of Customer. Optum is not responsible or liable for any acts or omissions made in reliance on erroneous data provided by Customer or agents,

or the failure of Customer to perform its obligations under this Agreement. Customer understands that Optum cannot timely or accurately perform its duties under this Agreement without complete, accurate, and timely information and that Optum shall have no liability to Customer or any Participant as a consequence of incomplete, inaccurate, or untimely information provided to Optum by Customer or its agents. Customer understands that an additional fee may be required if Optum is required to take corrective action as a result of such incomplete, inaccurate, or untimely information.

3.2 Authorizations, Data Integrity, and Disclosures. Customer is responsible for obtaining, prior to furnishing any data or information to Optum (either directly or through a third party), any necessary permissions, consents, or releases, including entering into business associate agreements if required by applicable federal, state or local laws and/or regulations, to allow Customer to deliver Customer data to Optum and Optum to use and disclose such Customer data as set forth under this Agreement or required by law. Optum shall not be responsible or liable for (a) errors in Customer data or data entry done by Customer or Customer's designated data sources, or (b) errors in services, programs, hardware, data files, or output Optum provides to or maintains for Customer pursuant to this Agreement, if the Optum errors resulted from errors in Customer's or Customer's data sources' input data, or from Customer's failure to comply with this Agreement. During and after the Term of this Agreement, Optum may use, reproduce, transfer and combine Customer data and any derivatives of that data for preparing commercially available normative and benchmark data and databases, and for internal and external research and analysis purposes.

3.3 Notices to Participants. In the event this Agreement terminates, Customer will notify all Participants that the Services Optum is providing under this Agreement are discontinued.

3.4 Providing Funds for Benefits. Optum is solely responsible for providing funds for all EAP benefits payable to Network Providers.

Section 4 – Services

4.1 Administrative Services. Optum will provide the administrative services described in **Exhibit A**.

4.2 Network Access, Management and Administration. To the extent applicable to the Services, Optum will provide Customer and Participants with access to Networks and Network Providers, as well as related administrative services including physician (and other health care professional) relations, clinical profiling, contracting and credentialing, and network analysis and system development. The make-up of the Network can change at any time. Notice will be given in advance or as soon as reasonably possible. Optum does not employ Network Providers and they are not agents or partners of Optum. Network Providers participate in Networks only as independent contractors. Network Providers and the Participants are solely responsible for any health care services rendered to Participants. Optum is not responsible for the medical outcomes or the quality or competence of any Network Provider rendering health care services, health care services provided through an Optum affiliate network, or payment for services rendered by a Network Provider through other network.

4.3 Customer Reporting Services. Optum will provide standard summaries of program activities to Customer as part of the Services. Optum reserves the right, from time to time, to change the content, format and/or type of its reports. Ad-hoc and non-standard reporting shall be mutually agreed upon by the parties and may be subject to additional fees.

Section 5 – Service Fees

5.1 Service Fees. Customer will pay Optum fees for the Services as set forth in **Exhibit A** of this Agreement. In addition to the Service fees specified in **Exhibit A**, Customer must also pay Optum any additional fee that is authorized by a provision elsewhere in this Agreement or is otherwise agreed to by the parties. If Customer delegates payment of Services fees to a broker or agent, it remains Customer's obligation to pay Optum, and payment to a broker or agent will not relieve Customer of that obligation in the event a broker or agent fails to pay Optum or a payment is untimely.

5.2 Changes in Service Fees. Optum will provide Customer with at least sixty (60) days prior written notice of revised Service fees. Service fee changes will be effective at the end of the notice period. If applicable, Optum will provide Customer with a notice reflecting the revised Service fees that will replace the existing **Exhibit A**. If Customer objects to a change in Service fees, Customer may terminate this Agreement by providing written notice to Optum within ninety (90) days after Customer receives written notice of the new fees. Customer must still pay any amounts due for the periods during which the Agreement is in effect and during post-termination transition services.

5.3 Payments. If Optum has agreed to allow Customer to self-bill, Customer will remit Service fees to Optum on or before the twentieth (20th) calendar day of the current month of Services. Customer shall calculate Service fees owed Optum based on the number of eligible Employees as of the first day of the current month of Services. With each payment of Service fees, Customer shall provide HIPAA compliant remittance detail that includes counts of all applicable Employees and any adjustments made to the Service fees, together with any supporting documentation of the adjustments involving the current month and/or up to the previous two months of Services provided.

5.4 Penalties. If monthly Service fees are not paid within ten (10) days after their due date ("Grace Period"), Customer will pay Optum interest on the fees owed at the interest rate of one percent (1%) for each thirty (30) day period or portion thereof for any outstanding balance. Optum billed Customers will be charged accrued interest in their next month's bill. Self-billing Customers must pay accrued interest for a late payment with their next monthly payment. If a self-billing Customer fails to pay accrued interest for a late payment, Optum reserves the right to revoke permission to self-bill or terminate the Agreement. Optum's decision to provide Customer with a Grace Period will be based on Optum's assessment of Customer's financial condition, as of the Effective Date, and Customer's compliance with material financial obligations. If Optum determines, based on reasonable information and belief, that Customer's financial condition has deteriorated, or Customer fails to comply with the material financial obligations specified in this Agreement, Optum may remove the Grace Period upon notice to Customer and either charge interest on payments not received after the due date or terminate the Agreement. Customer agrees to promptly reimburse Optum for any collection costs Optum incurs.

5.5 Reconciliation. Optum may periodically reconcile the total amounts Customer has paid with the total amounts Customer owes Optum. If the reconciliation indicates that Optum owes Customer money, Customer's next payment will be credited. If the reconciliation indicates that Customer owes Optum money, Optum will invoice Customer for the amount due.

Section 6 – Term of the Agreement

6.1 Term. This Agreement will commence on the Effective Date and continue for a period of one (1) year (Initial Term). The Agreement will auto-renew after the Initial Term for additional one (1) year periods (each such renewal, a "Renewal Term") unless and until this Agreement is terminated. The Initial Term and each subsequent Renewal Term are referred to herein as (the "Term").

6.2 Services End. Services under this Agreement stop on the date this Agreement terminates, regardless of the date claims are incurred. If Optum agrees to continue providing certain services beyond the termination date, those services will be governed by the terms of this Agreement.

Section 7 – Termination

7.1 Termination Events. This Agreement will terminate under the following circumstances: (i) the Plan terminates; (ii) after the Initial Term, either party gives the other party at least ninety (90) days prior written notice; (iii) Optum gives Customer notice of termination because Customer did not pay the fees or other amounts Customer owed Optum when due under the terms of this Agreement; (iv) Customer fails to provide the required funds for payment of benefits under the terms of this Agreement; (v) a party elects to terminate because the other party is in material breach of this Agreement, other than by non-payment or late payment of fees owed by Customer or the funding of Plan benefits, and does not correct the breach within thirty (30) days after being notified in writing; (vi) any state or other jurisdiction prohibits a party from administering the Plan under the terms of this Agreement, or imposes a penalty on the Plan or Optum and such penalty is based on the Services specified in this Agreement, or (vii) as otherwise specified in this Agreement. In a Section 7.1(vi) event, the impacted party may immediately discontinue the Agreement's application in such state or jurisdiction and the Agreement will continue to apply in all other states. In all circumstances, notice shall be given to the other party when reasonably practical.

7.2 Post-Termination Transition Services. When the Agreement is terminated:

- a) Customer and Optum may mutually agree upon any transition services required and fees to Optum for such transition services;
- b) Optum will use commercially reasonable efforts to cause Network Providers to continue to provide services to any Participants undergoing treatment at the time of such termination until the earlier of:
 - (i) the current episode of treatment is complete; or
 - (ii) arrangements are completed for such Participants to be transferred to another provider; or
 - (iii) until thirty (30) days after the termination date of this Agreement; or
 - (iv) the time frame set forth in state statutes or regulations.

Section 8 – Records, Information, Audits

8.1 Records. Optum will keep records relating to the Services provided under this Agreement (“Records”) for the later of Optum’s record retention policy or requirements under applicable law.

8.2 Access to Information.

A. Customer Access. If Customer needs Records in order to administer the Plan, Optum will provide Customer access to those Records, if (a) it is legally permissible (b) the Records relate to Services under this Agreement, and (c) Customer gives Optum reasonable advance notice and an explanation of the need for such Records. Optum will provide Records to Customer, only while this Agreement is in effect and for a period of six

(6) months after the Agreement terminates, unless Customer demonstrates that the Records requested are required by law or for Plan administration purposes in which case such Records will continue to be available until the later of Optum's record retention policy or requirements under applicable law. Upon request by Customer, Optum will provide reasonable access to Records to an entity providing Plan administrative services to Customer other than an entity providing audit services, which will be governed by Section 8.3. Before Optum provides any Records, including PHI, to that entity, the parties must sign a mutually agreed-upon confidentiality agreement, and the parties must agree as to what information is minimally necessary to accomplish the Plan administrative service.

B. Government Access. The federal, state and local government and accrediting agencies including, but not limited to, the National Committee for Quality Assurance (the "NCQA") or to The American Accreditation HealthCare Commission/URAC, and any of their authorized representatives, shall have access to Optum Records and Customer authorizes Optum to release to these agencies all Records within its possession.

8.3 Audits. During the term of the Agreement, and at any time within six (6) months following its termination, Customer or a mutually agreeable independent auditor may audit Optum Records once each calendar year. Customer must provide sixty (60) days prior written notice to Optum of Customer's intent to audit. The scope, place, time, duration, and frequency of each audit must be reasonable and agreed to by Optum. All auditors shall agree to sign confidentiality agreements prior to conducting such audits. Audits will be limited to Records relating to the calendar year in which the audit is conducted, and/or the immediately preceding calendar year and be performed during normal business hours in accordance with generally accepted auditing procedures.

In addition to Customer's expenses and any applicable fees, Customer will also pay any extraordinary expenses Optum incurs in connection with the audit. For any audit initiated after this Agreement is terminated, Customer will pay all expenses incurred by Optum. Customer will provide Optum with a copy of all audit reports within ten (10) days after Customer receives the audit report(s) from the auditor.

8.4 Confidential Information. Each party acknowledges that in the course of performing under this Agreement, or in the course of discussing or negotiating this Agreement it may learn confidential, trade secret, or proprietary information concerning the other party or third parties to whom the other party has an obligation of confidentiality ("Confidential Information"). Without limiting the foregoing, Optum's Confidential Information shall include, without limitation, the terms of this Agreement, financial information, employee information, information regarding products, marketing plans, business plans, customer names and lists, software and associated algorithms, developments, improvements, know-how, code (object and source), programs, software architecture, technology and trade secrets, reports generated by or for Optum, Optum's methods of database creation, and Optum's translation, standardization, enhancement, and health data analysis techniques, health data reporting and profiling methods and formats. Without limiting the foregoing, Customer's Confidential Information shall include information regarding Customer's business, and information regarding Customer's premiums and claims data. Confidential Information shall not include PHI, which is subject to the Business Associate Addendum attached hereto. This provision shall survive the termination of this Agreement. Each party agrees that: (a) it will use the other party's Confidential Information only as may be necessary in the course of performing duties, receiving services or exercising rights under this Agreement; (b) it will treat such information as confidential and proprietary; (c) it will not disclose such information orally or in writing to any third party without the prior written consent of the other party; and (d) it will not otherwise appropriate such information to its own use or to the use of any other person or entity. Without limiting the foregoing, each party

agrees to take at least such precautions to protect the other party's Confidential Information as it takes to protect its own Confidential Information. Each party is solely responsible for all use of the other party's Confidential Information by anyone who gains access to the Confidential Information under such party's authorization. Upon termination or expiration (without renewal) of this Agreement, each party will return to the other party, or certify as destroyed, all tangible items containing any of the other party's Confidential Information that are held by that party or its employees, agents or contractors, other than one archival copy. Each party agrees to notify the other party if it becomes aware of any unauthorized use or disclosure of the other party's Confidential Information. If either party believes it is required by law or by a subpoena or court order to disclose any of the other party's Confidential Information, it shall, if legally permissible, promptly notify the other party and shall make all reasonable efforts to allow the other party an opportunity to seek a protective order or other judicial relief prior to any disclosure. Nothing in this Agreement shall be construed to restrict disclosure or use of information that was in the possession of or rightfully known by the recipient, without an obligation to maintain its confidentiality, prior to receipt from the other party; is or becomes generally known to the public without violation of this Agreement; is obtained by the recipient in good faith from a third party having the right to disclose it without an obligation of confidentiality; or is independently developed by the receiving party without reference to the other party's Confidential Information.

8.5 PHI. The parties agree will comply with all applicable requirements set forth in HIPAA and ARRA. The parties' obligations with respect to the use and disclosure of PHI are outlined in the Business Associate Addendum attached to this Agreement as **Exhibit B**.

Section 9 – Indemnification

9.1 Indemnification by Optum. Optum will indemnify customer and hold, customer, its officers, directors, employees, agents, successors and assigns harmless from and against any and all third-party losses, liabilities, penalties, fines, costs, damages (including taxes), and related costs and expenses, including reasonable attorneys' fees and costs (collectively "Losses"), that Customer may incur to the extent such Losses arise out of or are related to: (i) the gross negligence or willful misconduct of Optum or its vendors, subcontractors, and representatives in the performance of their obligations under this Agreement; or (ii) Optum's material breach of this Agreement. Notwithstanding the foregoing, Customer will remain solely responsible for payment of all Plan benefits and Optum's indemnification will not extend to indemnification of Customer or the Plan against any claims, liabilities, damages, judgments or expenses that constitute payment of Plan benefits.

9.2 Indemnification by Customer. Customer will indemnify, Optum and hold Optum, its officers, directors, employees, agents, successors and assigns harmless from and against any and all Losses to the extent such Losses arise out of or are related to: (i) the gross negligence or willful misconduct of Customer or Customer's vendors, subcontractors, and representatives in the performance of their obligations under this Agreement; or (ii) Customer's material breach of this Agreement.

9.3 LIABILITY. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR SPECIAL DAMAGES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CONSEQUENTIAL DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOST PROFITS, LOST REVENUES, AND LOST BUSINESS OPPORTUNITIES, WHETHER OR NOT THE OTHER PARTY WAS OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF THESE DAMAGES.

9.4 Indemnification Procedures. The indemnification obligations in Sections 9.1, and 9.2 herein are subject to the indemnified party (Indemnified Party): (a) notifying the indemnifying party (Indemnifying Party) promptly and in writing of the Loss, although the failure or delay to so notify by the Indemnified Party will not relieve the Indemnifying Party of its obligations under Section 9 of this Agreement so long as the failure or delay does not prejudice the defense of such claim; (b) providing reasonable assistance in defending the claim; and (c) consenting to the Indemnifying Party's sole authority to defend or settle such claim, provided that the Indemnifying Party will not agree to any stipulation, admission, or acknowledgement of fault, guilt, wrongdoing or liability on the part of the Indemnified Party without the Indemnified Party's prior written consent. An indemnified party may not assert any claims against the Indemnifying Party more than two (2) years after the expiration or termination of this Agreement.

9.5 Insurance. During the term of this Agreement, Optum shall maintain in effect commercial general liability insurance in the amount of \$1,000,000 per occurrence and \$3,000,000 aggregate and professional liability insurance coverage in the amount of \$5,000,000 per occurrence and \$5,000,000 aggregate.

Section 10 – Disputes

In the event that any dispute, claim, or controversy of any kind or nature relating to this Agreement arises between the parties, the parties agree to meet and make a good faith effort to resolve the dispute. Nothing herein is intended to prevent either party from seeking any other remedy available at law including seeking redress in a court of competent jurisdiction. This provision shall survive the termination of this Agreement.

Section 11 – Service Specific Terms

11.1 Plan Benefits Litigation.

A. Litigation against Optum. Optum will select and retain defense counsel to represent Optum's and the Plan's interest, if a demand is asserted, or litigation or administrative proceedings are begun by a Participant or Network Provider against Optum, or against the Plan and Optum jointly, to recover Plan benefits, related to Optum's duties under this Agreement ("Plan Benefits Litigation"). In actions against both Customer and Optum, and provided no conflict of interest arises between the parties, Optum will agree to joint defense counsel. Reasonable legal fees and costs Optum incurs will be paid by Customer if Optum gives Customer reasonable advance notice of Optum's intent to charge Customer for such fees and costs, and Optum consults with Customer in a manner consistent with Optum's fiduciary obligations under ERISA on Optum's litigation strategy. Both parties will cooperate fully with each other in the defense of Plan Benefits Litigation. Customer is responsible for the full amount of any Plan benefits paid as a result of such litigation. This provision shall survive the termination of this Agreement.

B. Litigation against Customer. If litigation or administrative proceedings are begun against Customer and/or the Plan, Customer will select and retain counsel, and Customer will be responsible for all legal fees and costs in connection with such litigation. Optum will cooperate fully in the defense of litigation arising out of matters relating to this Agreement. This provision shall survive the termination of this Agreement.

11.2 EAP Services in California. Exhibit C shall apply to EAP Services provided to Participants within the State of California. In the event of any conflict or inconsistency between the terms and

conditions of this Agreement and Exhibit C, Exhibit C shall take precedence and control, but only to the extent required by any applicable California statute, regulation, or regulatory approval under the Knox-Keene Act or its associated regulations, as amended, and only with respect to the subject matter of Exhibit C.

Section 12 – Miscellaneous

12.1 Subcontractors. Optum can use subcontractors, including affiliates, to perform Services under this Agreement. Optum will be responsible for their services to the same extent that Optum would have been had Optum performed the Services without the use of an affiliate or subcontractor.

12.2 Assignment. Neither party may assign any of its rights or obligations under this Agreement without the written consent of the other party, provided, however, that Optum may assign or transfer this Agreement to an entity controlling, controlled by, or under common control with Optum, or a purchaser of all or substantially all of Optum's assets, subject to notice to Customer of the assignment.

12.3 Governing Law. This Agreement is governed by and construed in accordance with the laws of the State of Minnesota, except as to any applicable federal laws, without giving effect to the principles of conflicts of law thereof.

12.4 Entire Agreement. This Agreement, with its exhibits, constitutes the entire agreement between the parties governing the subject matter of this Agreement. This Agreement replaces any prior written or oral communications or agreements between the parties relating to the subject matter of this Agreement. Any Article, paragraph, section, title, or other heading contained in this Agreement are for convenience of reference only, and are not to be deemed a part of this Agreement nor do they in any way define, limit, construe the terms, scope, intent, and/or meaning of this Agreement or any provision therein.

12.5 No Third Party Beneficiaries. This Agreement is solely between Optum and Customer. Nothing in this Agreement is intended to (i) confer or create any rights, remedies, obligations, duties, claims, interests, warranties, or representations whatsoever under or by reason of this Agreement on or to any person other than Customer and Optum and their respective successors and assigns; (ii) relieve, discharge, or shift any obligation or liability of any third party to Optum or Customer; or (iii) give any third party any right of subrogation or action over or against Customer or Optum. This provision shall survive termination of this Agreement.

12.6 Regulatory Filing. In the event that Customer is required to file this Agreement with federal, state and local governmental authorities, Customer shall be responsible for filing the Agreement with such authorities as required by any applicable law or regulation. If, following any such filing, the governmental authority requests changes to this Agreement, Optum and Customer shall jointly discuss Customer's response to the governmental authority. In the event any federal, state or local governmental authority requires a change to this Agreement that either Optum or Customer deems to be material, either party may request renegotiation of the affected provisions of this Agreement.

12.7 Waiver/Estoppel. Nothing in this Agreement is considered to be waived by any party, unless the party claiming the waiver receives the waiver in writing. No breach of the Agreement is considered to be waived unless the non-breaching party waives it in writing. A waiver of one provision does not constitute a waiver of any other. A failure of either party to enforce at any time any of the provisions of this Agreement, or to exercise any option which is herein provided in this Agreement, will in no way be construed to be a waiver of such provision of this Agreement.

12.8 Notices. Any notice, demand, or communication required under this Agreement shall be hand delivered or sent by commercial overnight delivery service, or if mailed, by pre-paid, first class mail to the contact names and addresses listed in the signature block with a copy sent to Optum's General Counsel. The addresses to which notices are sent may be changed by proper notice.

12.9 Use of Names. The parties agree not to use each other's name, logo, service marks, trademarks or other identifying information without the written permission of the other; provided, however, Customer grants Optum permission to use Customer's name, logo, service marks, trademarks or other identifying information ("Customer Marks") to the extent necessary for Optum to carry out its obligations under this Agreement. Customer represents that Customer Marks do not infringe the rights of others or inaccurately portray the Services or mislead Participants and are used by Customer in accordance with all applicable laws.

12.10 Force Majeure. Each party will take commercially reasonable steps to prevent and recover from disruptive events that are beyond its control and represents that it has backup systems in place in case of emergencies or natural disasters. If either party shall be, wholly or in part, unable to perform any or part of its duties or functions under this Agreement because an act of war, riot, terrorist action, weather-related disaster, earthquake, governmental action, unavailability or breakdown of equipment, or other industrial disturbance which is beyond the reasonable control of the party obligated to perform and which by the exercise of reasonable diligence such party is unable to prevent (each a "Force Majeure Event"), then, and only upon giving the other party notice by telephone, facsimile or in writing within a reasonable time and in reasonably full detail of the Force Majeure Event, such party's duties or functions shall be suspended during such inability; provided, however, that in the event that a Force Majeure Event delays such party's performance for more than thirty (30) days following the date on which notice was given to the other party of the Force Majeure Event, the other party may terminate this Agreement. Neither party shall be liable to the other for any damages caused or occasioned by a Force Majeure Event. Government actions resulting from matters that are subject to the control of the party shall not be deemed Force Majeure Events.

12.11 Compliance with Laws. Customer shall substantially comply with and ensure the Plan substantially complies with all applicable laws and regulations. Except as provided below, Optum shall obtain and maintain any applicable licenses or regulatory approvals necessary for it to perform its services under this Agreement and shall substantially comply with all applicable laws and regulations.

12.12 Independent Medical Judgment. Customer and Optum both acknowledge and agree that Participants' treating physician(s) and other health care providers, including but not limited to Network Providers, shall be solely responsible to provide treatment and/or services to Participants and to make all decisions related to patient care and shall exercise their independent medical judgment as to all such matters. Nothing in this Agreement shall be deemed to create any rights of Optum, Customer, or any other person or entity to intervene in any manner with or otherwise interfere with the independent medical judgment of Participants' health care providers with regard to treatment or utilization issues, nor shall it render Optum, Customer, or any other person or entity responsible for the method or means by which any health care provider renders treatment or service to a Participant.

12.13 No Incentive Payments. Optum receives no incentive payment based on reduction of services or the charges thereof, reduction of length of stay, or utilization of alternative treatment settings to reduce amounts of necessary or appropriate medical care.

12.14 Counterparts. This Agreement may be signed electronically or in multiple counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one instrument.

12.15 Severability. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, then the remaining portions of the Agreement shall be construed as if not containing such provision, and all other rights and obligations of the parties shall be construed and enforced accordingly.

12.16 Survival of Terms. Any provisions of this Agreement, or any attachments, and exhibits, which by their nature, extend beyond the expiration, or termination of this Agreement, and those provisions that are expressly stated to survive termination, shall survive the termination of this Agreement, and shall remain in effect until all such obligations are satisfied.

12.17 Legal Advice. It is understood and agreed that the Services do not include and Optum will not provide, investment, tax or legal advice. If the Customer requires legal or other expert advice, the Customer should consult its own legal counsel.

12.18 Improvements and Modification of Services. Optum reserves the right to upgrade, improve, modify or discontinue any Services provided or made available to Customer under this Agreement.

[Signature Page Follows]

ACCEPTED AND AGREED:

OptumHealth Care Solutions, LLC
11000 Optum Circle
Eden Prairie, MN 55344

City of Chula Vista
276 Fourth Ave.
Chula Vista, CA 91910

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

Date: _____

Date: _____

Internal Control No.: 00408579.0

U.S. Behavioral Health Plan, California acknowledges the terms of this Agreement, and is subject to the terms of the document attached hereto as **Exhibit C** in accordance with section 11.2 herein.

U.S. Behavioral Health Plan, California
425 Market Street
San Francisco, CA 94105

Signature: _____

Print Name: _____

Print Title: _____

Date: _____

EXHIBIT A – SERVICES AND FEES

The following are the administrative services Optum has agreed to provide to Customer at the rates set forth herein. Customer may request that Optum provide services in addition to those set forth in this Exhibit A. If Optum agrees to provide them, those services will be subject to the requirements of Section 12.5 of the Agreement. Customer will pay an additional fee, determined by Optum, for any additional services.

Product	Components	Rate Type	Rate Period	\$ Fee
Employee Assistance Program (EAP)	8 Visits	Per Employee	Per Month	\$1.74
	Bank of 6 CIRS/Training Hours	Per Employee	Per Month	Included

Additional On-Site Support Service hours are available on a fee-for-service basis. Services are billed at an hourly rate plus travel time. Any onsite or training hours can be purchased according to the rates in the grid below.

On-Site Support Service	Fee for Service
Management Development Programs	\$175/on-site hour
Employee Development Programs	\$175/on-site hour
Wellness Seminars	\$175/on-site hour
Information Resource Events	\$175/on-site hour
Critical Incident Response Services	\$225/on-site hour
Travel Time & Trainer Downtime	\$100/hour

Rate Effective Period: 1/1/2018 - 12/31/2019.

These rates are based on an enrolled population of 972 Employees. If enrollment changes by more than 10%, then we reserve the right to revise the rates.

Rates are guaranteed for 2 years.

EXHIBIT B – BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum (“BAA”) is incorporated into and made part of the Agreement by and between OptumHealth Care Solutions, LLC, on behalf of itself and its subsidiaries and affiliates (“Business Associate”), and City of Chula Vista (“Covered Entity”), that involve the use or disclosure of PHI (as defined below). The parties agree as follows.

1. DEFINITIONS

1.1 All capitalized terms used in this BAA not otherwise defined herein have the meanings established for purposes of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, as amended and supplemented (collectively, “HIPAA”).

1.2 “Breach” means the acquisition, access, use or disclosure of PHI in a manner not permitted by the Privacy Rule that compromises the security or privacy of the PHI, subject to the exclusions in 45 C.F.R. § 164.402.

1.3 “PHI” means Protected Health Information, as defined in 45 C.F.R. § 160.103, and is limited to the Protected Health Information received from, or received, created, maintained or transmitted on behalf of, Covered Entity.

1.4 “Privacy Rule” means the federal privacy regulations, and “Security Rule” means the federal security regulations, as amended, issued pursuant to HIPAA and codified at 45 C.F.R. Parts 160 and 164 (Subparts A, C & E).

1.5 “Services” means the services provided by Business Associate to Covered Entity to the extent they involve the receipt, creation, maintenance, transmission, use or disclosure of PHI.

2. RESPONSIBILITIES OF BUSINESS ASSOCIATE

With regard to its use and/or disclosure of PHI, Business Associate agrees to:

2.1 not use and/or further disclose PHI except as necessary to provide the Services, as permitted or required by this BAA and in compliance with the applicable requirements of 45 C.F.R. § 164.504(e), or as Required by Law; provided that, to the extent Business Associate is to carry out Covered Entity’s obligations under the Privacy Rule, Business Associate will comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of those obligations.

2.2 implement and use appropriate administrative, physical and technical safeguards and comply with applicable Security Rule requirements with respect to ePHI, to prevent use or disclosure of PHI other than as provided for by this BAA.

2.3 without unreasonable delay, report to Covered Entity (i) any use or disclosure of PHI not provided for in this BAA and/or (ii) any Security Incident of which Business Associate becomes aware in accordance with 45 C.F.R. § 164.314(a)(2)(i)(C). For the purposes of reporting under this BAA, a reportable “Security Incident” shall not include unsuccessful or inconsequential incidents that do not represent a material threat to confidentiality, integrity or availability of PHI (such as scans, pings, or unsuccessful attempts to penetrate computer networks).

2.4 report to Covered Entity within ten business days: (i) any Breach of Unsecured PHI of which it becomes aware in accordance with 45 C.F.R. § 164.504(e)(2)(ii)(C). Business Associate shall

provide to Covered Entity a description of the Breach and a list of Individuals affected (unless Covered Entity is a plan sponsor ineligible to receive PHI). Business Associate shall provide required notifications to Individuals and the Media and Secretary, where appropriate, in accordance with the Privacy Rule and with Covered Entity's approval of the notification text. Business Associate shall pay for the reasonable and actual costs associated with those notifications and with credit monitoring, if appropriate.

2.5 in accordance with 45 C.F.R. § 164.502(e)(1)(ii) and 45 C.F.R. § 164.308(b)(2), ensure that any subcontractors of Business Associate that create, receive, maintain or transmit PHI on behalf of Business Associate agree, in writing, to the same restrictions on the use and/or disclosure of PHI that apply to Business Associate with respect to that PHI, including complying with the applicable Security Rule requirements with respect to ePHI.

2.6 make available its internal practices, books and records relating to the use and disclosure of PHI to the Secretary for purposes of determining Covered Entity's compliance with the Privacy Rule, in accordance with 45 C.F.R. § 164.504(e)(2)(ii)(I).

2.7 within ten business days after receiving a written request from Covered Entity or an Individual, make available to Covered Entity or an Individual information necessary for an accounting of disclosures of PHI about an Individual, in accordance with 45 C.F.R. § 164.528.

2.8 provide access to Covered Entity or an Individual, within ten business days after receiving a written request from Covered Entity or an Individual, to PHI in a Designated Record Set about an Individual, sufficient for compliance with 45 C.F.R. § 164.524.

2.9 to the extent that the PHI in Business Associate's possession constitutes a Designated Record Set, make available, within ten business days after a written request by Covered Entity or an Individual, PHI for amendment and incorporate any amendments to the PHI as requested in accordance with 45 C.F.R. § 164.526.

3. RESPONSIBILITIES OF COVERED ENTITY

Covered Entity:

3.1 shall identify the records it furnishes to Business Associate that it considers to be PHI for purposes of the Agreement, and provide to Business Associate only the minimum PHI necessary to accomplish the Services.

3.2 in the event that the Covered Entity honors a request to restrict the use or disclosure of PHI pursuant to 45 C.F.R. § 164.522(a) or makes revisions to its notice of privacy practices of Covered Entity in accordance with 45 C.F.R. § 164.520 that increase the limitations on uses or disclosures of PHI or agrees to a request by an Individual for confidential communications under 45 C.F.R. § 164.522(b), Covered Entity agrees not to provide Business Associate any PHI that is subject to any of those restrictions or limitations, unless Covered Entity notifies Business Associate of the restriction or limitation and Business Associate agrees in writing to honor the restriction or limitation.

3.3 shall be responsible for using administrative, physical and technical safeguards to maintain and ensure the confidentiality, privacy and security of PHI transmitted to Business Associate pursuant to the Agreement, in accordance with the requirements of HIPAA.

3.4 shall obtain any consent or authorization that may be required by applicable federal or state

laws prior to furnishing Business Associate the PHI for use and disclosure in accordance with this BAA.

3.5 if Covered Entity is an employer sponsored health plan, Covered Entity represents that to the extent applicable, it has ensured and has received certification from the applicable Plan Sponsor that the Plan Sponsor has taken the appropriate steps in accordance with 45 C.F.R. § 164.504(f) and 45 C.F.R. § 164.314(b) to enable Business Associate on behalf of Covered Entity to disclose PHI to Plan Sponsor, including but not limited to amending its plan documents to incorporate the requirements set forth in 45 C.F.R. § 164.504(f)(2) and 45 C.F.R. § 164.314(b). Covered Entity shall ensure that only employees authorized under 45 C.F.R. § 164.504(f) shall have access to the PHI disclosed by Business Associate to Plan Sponsor.

4. PERMITTED USES AND DISCLOSURES OF PHI

Business Associate may:

4.1 use and disclose PHI as necessary to provide the Services to Covered Entity.

4.2 use and disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that any disclosures are Required by Law or any third party to which Business Associate discloses PHI provides written assurances that: (i) the information will be held confidentially and used or further disclosed only for the purpose for which it was disclosed to the third party or as Required by Law; and (ii) the third party promptly will notify Business Associate of any instances of which it becomes aware in which the confidentiality of the information has been breached, in accordance with 45 C.F.R. § 164.504(e)(4).

4.3 De-identify any PHI received or created by Business Associate under this BAA in accordance with the Privacy Rule.

4.4 provide Data Aggregation services relating to the Health Care Operations of the Covered Entity in accordance with the Privacy Rule.

4.5 use PHI for Research projects conducted by Business Associate, its Affiliates or third parties, in a manner permitted by the Privacy Rule, by obtaining documentation of individual authorizations, an Institutional Review Board, or a privacy board waiver that meets the requirements of 45 C.F.R. § 164.512(i)(1), and providing Covered Entity with copies of such authorizations or waivers upon request.

4.6 make PHI available for reviews preparatory to Research in accordance with the Privacy Rule at 45 C.F.R. § 164.512(i)(1)(ii).

4.7 use the PHI to create a Limited Data Set (“LDS”) and use or disclose the LDS for the health care operations of the Covered Entity or for Research or Public Health purposes as provided in the Privacy Rule.

5. TERMINATION

5.1 Covered Entity may terminate this BAA and the Agreement if Business Associate materially breaches this BAA, Covered Entity provides written notice of the breach to Business Associate, and Business Associate fails to cure the breach within the reasonable time period set by Covered Entity.

5.2 Within thirty (30) days after the expiration or termination for any reason of the Agreement and/or this BAA, Business Associate shall return or destroy all PHI, if feasible to do so, including all PHI in possession of Business Associate's subcontractors. In the event that return or destruction of the PHI is not feasible, Business Associate may retain the PHI subject to this Section 5.2. Business Associate shall extend any and all protections, limitations and restrictions contained in this BAA to Business Associate's use and/or disclosure of any PHI retained after the expiration or termination of the Agreement and/or this BAA, and shall limit any further uses and/or disclosures solely to the purposes that make return or destruction of the PHI infeasible.

6. MISCELLANEOUS

The terms of this BAA shall be construed to allow Covered Entity and Business Associate to comply with HIPAA. Nothing in this Addendum shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever. Sections 4 and 5.2 shall survive the expiration or termination of this BAA for any reason.

EXHIBIT C - USBHPC Employee Assistance Program Agreement

U.S. BEHAVIORAL HEALTH PLAN, CALIFORNIA

EMPLOYEE ASSISTANCE PROGRAM AGREEMENT

425 MARKET STREET, 12th FLOOR
SAN FRANCISCO, CA 94105

This Employee Assistance Program Agreement (this "Agreement") between **U.S. Behavioral Health Plan, California** ("USBHPC," "our," "us, or "we" in this Agreement), a California corporation licensed as a Knox-Keene Health Care Service Plan, and **City of Chula Vista** ("you" or "your" in this Agreement), is effective as of **January 1, 2018** ("Effective Date"). This Agreement covers the services we are providing to you in conjunction with your employee welfare benefit plan ("Plan"). This Agreement is structured so that the General Provisions appear first and the related Attachments and Product Schedules follow. The Agreement consists of this page, a table of contents, the body of this Agreement, and the Attachments and Product Schedules. USBHPC identifies this arrangement as Account Number: 00408579.0

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Section 1 Definitions

1.1 Affiliated Employer. An entity that is affiliated with you and whose employees or former employees are covered by the ERISA Plan.

1.2 Combined Evidence of Coverage and Disclosure Form. A document provided to each Participant which summarizes the key terms and provisions of this Agreement and describes the coverage to which the Participant is entitled under this Agreement including, but not limited to, the principal benefits, Exclusions and Limitations applicable to such coverage. The Combined Evidence of Coverage and Disclosure Form for the Employee Assistance Program is set forth as Attachment C, which is attached.

1.3 Covered Services. Employee Assistance Program ("EAP") services that are covered under the terms of the EAP Benefit Plan, as set forth in the EAP Benefit Plan Summary.

1.4 Department. Department of Managed Health Care.

1.5 Dependent. An Employee's dependent as defined by you. If not defined by you, "dependent" shall mean an individual who is a member of an Employee's household and who is eligible and enrolled in accordance with all applicable requirements established by you.

1.6 EAP Benefit Plan or EAP Plan. The services to which Participants are entitled under the attached Combined Evidence of Coverage and Disclosure Form (Attachment C), as such document may be amended from time to time in accordance with this Agreement.

1.7 EAP Benefit Plan Summary. The summary of Covered Services, Exclusions and Limitations applicable to the EAP. The Benefit Plan Summary is attached to the Combined Evidence of Coverage and Disclosure Form, which is attached to the Agreement as Attachment C.

1.8 Employee. A current or former employee of you or an Affiliated Employer who is an eligible Participant.

1.9 Employee Assistance Program ("EAP"). Services designed to assist your Employees, their dependents, and you in finding solutions for personal and workplace problems as described in detail in the attached Product Schedules and in the Combined Evidence of Coverage and Disclosure Form, Attachment C to this Agreement.

1.10 ERISA. Employee Retirement Income Security Act of 1974, as amended from time to time.

1.11 ERISA Plan. The employee benefit plan to which this agreement applies, and which is administered by you.

1.12 Limited English Proficient ("LEP"). A Participant who has an inability or a limited ability to speak, read, write, or understand the English language at a level that permits that individual to interact effectively with health care providers or USBHPC employees.

1.13 Medical Director. A licensed physician certified or eligible for certification by the American Board of Psychiatry and Neurology who has been designated by USBHPC to oversee the provision of Covered Services to Participants.

1.14 Participant. Your Employee, or a dependent of your Employee, entitled to benefits or coverage under the terms and conditions of the EAP Benefit Plan.

1.15 Participating Provider. A Provider who has entered into a contract with us to provide Covered Services to Participants.

1.16 Product Schedule. A document that describes in detail the services purchased by you under this Agreement. There may be more than one Product Schedule.

1.17 Provider. Any practitioner who or that is qualified and duly licensed or certified by the State of California to furnish EAP services to Participants.

1.18 Total Monthly Fee. The fees for Covered Services rendered under this Agreement as represented in Attachment A.

Section 2 Our Services

2.1 Our Services, Including Principal Benefits and Coverage. We will provide the Covered Services that are identified on the first page of this Agreement, and that are described in the attached Product Schedules and, where applicable, in the Combined Evidence of Coverage and Disclosure Form set forth in Attachment C. We shall give at least thirty (30) days written notice to you prior to decreasing any benefits to which Participants are entitled under this Agreement.

2.2 Participating Provider Network. We will enter into arrangements with Providers in order to arrange for Covered Services (which are described in the attached Product Schedules) for Participants at rates we negotiate with such Providers. We cannot warrant or represent to you or to Participants that a particular Provider will be available or will continue to be available to a particular Participant or to Participants in general. We will also perform the following services with respect to our Provider network:

- a) We will perform a review of the credentials, licensure and experience of Participating Providers.
- b) We shall provide written notice within a reasonable time to a Participant regarding the termination or breach of a contract with USBHPC by, or the inability to perform services of, any Participating Provider, if that Participant may be materially and adversely affected by such termination, breach or inability to perform.
- c) In the event that a contract between USBHPC and a Participating Provider terminates while a Participant is under the care of such Participating Provider, USBHPC shall retain financial responsibility for such care, provided the services are Covered Services. Such responsibility shall continue until the Covered Services being rendered are completed, or until USBHPC makes reasonable and clinically appropriate arrangements for the provision of such Covered Services by another Provider, whichever occurs first.
- d) We shall be responsible for compensating Participating Providers for Covered Services provided to Participants in accordance with the requirements of this Agreement and the requirements of any contract between USBHPC and the Provider. By statute, all contracts between USBHPC and Participating Providers are required to provide that, in the event USBHPC fails to pay the Participating Provider for Covered Services for which

USBHPC is financially responsible, no Participant shall be liable to the Participating Provider for such non-payment.

- e) The relationship between USBHPC and each Participating Provider is an independent contractor relationship. Participating Providers are not agents or employees of USBHPC, nor is USBHPC, or any employee of USBHPC, an employee or agent of any Participating Provider. USBHPC shall not be liable for any claims or demands on account of damages arising out of or in any manner connected with, any injury suffered by a Participant relating to EAP services received by the Participant from any Participating Provider.

2.3 Telephone "Help Line". We shall make available a "Help Line" with access to trained counselors for you and Participants through our toll-free telephone line. Such counselors shall be made available twenty-four (24) hours a day, seven (7) days a week.

2.4 Record-Keeping. We shall establish and maintain a record-keeping system concerning the services to be performed under this Agreement. All such records shall be our property and shall be available for inspection by you pursuant to Section 5. We will retain such records as long as we are required to do so by law.

2.5 Statistical Reports. We shall provide standard statistical summaries of program activities at no charge. At your request and for an additional fee, we shall provide, within a time period mutually agreed to by both parties, ad hoc or non-standard specialized reporting of data regarding the services outlined in this Agreement.

2.6 Health Fairs. We shall participate in health fairs for your Employees in a frequency mutually agreed to by us; however, you shall provide thirty (30) days prior notification of health fairs for scheduling purposes.

2.7 Notices to You. Any notice we are required to give you pursuant to this Agreement, may be given to a representative designated by you pursuant to Section 3.7.

2.8 Language Assistance Services. For Participants with limited English proficiency ("LEP"), we will provide language assistance services to ensure that LEP Participants are able to communicate effectively with our personnel in their preferred spoken language, are able to obtain written communication from us in a threshold language, and are able to either be referred to Participating Providers who have attested to fluency in the LEP Participant's own language or be provided with interpretation services. Language assistance services will be provided at no cost to the LEP Participant.

Section 3 Your Responsibilities

3.1 Offer of Coverage. You shall offer our services to all eligible Employees and dependents of your health benefit program(s) or to a designated unit or units of eligible Employees and dependents as mutually agreed.

3.2 Eligibility and Enrollment. To be eligible for enrollment in the EAP Benefit Plan, a person must meet the eligibility guidelines set forth by you. Participants are automatically enrolled for coverage under the EAP Benefit Plan by you.

3.3 Compensation. You will pay us for services rendered under this Agreement pursuant to the Total Monthly Fee reflected in Attachment A of this Agreement.

3.4 ERISA Plan Documents. If you are offering the EAP benefits to your Employees under an ERISA Plan, you will be solely responsible for the preparation and contents of the ERISA Plan Document, Summary Plan Description, and a description of the EAP services, and/or a Trust Agreement, including all related amendments thereto, and proof of compliance of such documents with ERISA and applicable laws. You will provide us with these controlling documents governing the operation of the ERISA Plan prior to the commencement of services under this Agreement. You shall be responsible for printing, maintaining a supply of and distributing the Summary Plan Description and all other information and forms necessary for Participant's enrollment and continued eligibility for services under this Agreement.

3.5 ERISA Plan Changes. If you are offering the EAP benefits to your Employees under an ERISA Plan, you will notify us in writing if you change the ERISA Plan's benefits related to the EAP services or other relevant Plan provisions, including termination of the ERISA Plan, within a reasonable period of time prior to the change becoming effective. We can decide when changes can be made. We can decide whether or not we will continue providing our services as a result of those changes. We have the option of giving you thirty (30) days' written notice of termination of this Agreement following our receipt of your notice of the change. If we decide to continue providing our services, you will pay us for any reasonable costs that we incur to put the changes in place. In addition, the fees you are required to pay under this Agreement may be changed by us in accordance with Attachment A of this Agreement.

3.6 ERISA Plan Consistent with this Agreement. If you are offering the EAP benefits to your Employees under an ERISA Plan, you represent that the ERISA Plan documents, including the Summary Plan Description that describe your EAP are consistent with this Agreement. You will provide us with copies of the ERISA Plan documents and Participant communications prior to distributing these materials to Participants or third parties. You will amend them if we determine that references to us are not acceptable, or any ERISA Plan or EAP provision is not consistent with this Agreement or the services that we are providing.

3.7 Notice to Participants. Within a reasonable period of time before coverage begins, you will give Participants the information and documents they need to obtain benefits under this Agreement, including any definition of "dependent" that varies from the definition set forth in Section 1.6. You shall further arrange for a representative to serve as a liaison between you and Participants. Such representative shall disseminate to Participants with the next regular written communication sent to Participants, but in no event later than thirty (30) days following your receipt of any notice intended for Participants that you receive from us pursuant to this Agreement. Such representative shall also disseminate to Participants all applicable Combined Evidences of Coverage and Disclosure Forms, brochures, newsletters and other materials and information relating to our EAP Benefit Plan, when requested by us. In the event either party provides written notice of termination of this Agreement in accordance with Section 8.2, you will promptly notify all Participants of the impending discontinuance of our services by promptly mailing notice of termination to each Participant in accordance with Section 8.2. You will promptly notify Participants who fail to meet the eligibility guidelines set by you.

3.8 Other Information. You shall permit us, at reasonable times, to examine your pertinent records with respect to eligibility and Total Monthly Fee payments hereunder. You will furnish us with any other information we reasonably require to perform our obligations under this Agreement, including publicly available financial information.

3.9 Responsibility for the ERISA Plan. If you are offering the EAP benefits to your Employees under an ERISA Plan, you accept total responsibility for the ERISA Plan for purposes of this Agreement including, but not limited to, its benefit design and compliance with any laws that apply to you or the ERISA Plan; provided however, we will administer the appeals process and retain the ultimate authority with respect to eligibility determinations and benefits under the ERISA Plan. We are not the Plan Administrator of the ERISA Plan.

3.10 List of Affiliated Employers. If applicable, you will provide us with a list of your Affiliated Employers prior to the Effective Date. You will provide prior written notice of any changes to this list. You represent that together you and the Affiliated Employers make up a single “control group” as defined by ERISA.

3.11 HIPAA Compliance. We agree to perform the obligations applied to a Covered Entity as defined by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). You agree to cooperate with us to the extent necessary so that we may fulfill said obligations as set forth by HIPAA.

Section 4 Choice of Providers

4.1 Assignment of Participating Provider; Coordination of Covered Services. Each Participant who requests that Covered Services be provided pursuant to this Agreement will be assigned by USBHPC to a Participating Provider who will coordinate the Covered Services to be received by the Participant from such Participating Provider. If a Participant desires to change such Participant’s assignment to a particular Participating Provider, or to receive Covered Services from a Provider other than a Provider that has been arranged by the Participating Provider, the Participant shall so inform USBHPC. USBHPC shall consider all such requests but shall have sole discretion to determine whether the Participant will be assigned to another Participating Provider or permitted to obtain Covered Services from a Provider other than a Provider that has been arranged by the Participating Provider.

4.2 Liability of Participant for Payment. If a Participant chooses to obtain EAP services from a Provider other than a Provider that has been arranged by the Participating Provider, the Participant shall be liable for payment for such services, notwithstanding whether the services would otherwise have qualified as Covered Services unless USBHPC gives prior written certification for the receipt of such services by the Participant from such Provider. No loss of benefits shall ensue to Participants who change from one Participating Provider to another with USBHPC approval.

Section 5 Access to Information

5.1 Access to Information. If you need information that we have in our possession (a) in order to administer the ERISA Plan or (b) in order to determine whether we are performing our obligations under the Agreement we will give you access to that information, if legally permissible, as long as the information relates to our services under this Agreement, and you give us sixty (60) days prior notice of the need for the information or such shorter notice period as may be agreed to by you and us. By requesting such information, you acknowledge and represent to us that you have obtained any required Participant consents or authorizations to release such information and you certify to us that you have the proper documentation and procedures in place for receiving and handling confidential information that comply with any then current applicable law. We will provide access to information only while this Agreement is in effect and for a period of six (6) months after the

Agreement terminates, unless you demonstrate that access to the information beyond this time period is required by law for ERISA Plan purposes.

We will also provide reasonable access to information to an entity providing services to you, such as an auditor or other consultant, if you request it. You agree that you will obligate any such third party to comply with applicable law regarding the use of confidential information.

Section 6 Indemnification and Insurance

6.1 You Indemnify Us. You will indemnify us and hold us harmless against any and all losses, liabilities, penalties, fines, costs, damages, and expenses, that we incur in connection with this Agreement, including reasonable attorneys' fees, which arise out of your gross negligence or willful misconduct in the performance of your obligations under this Agreement or your material breach of this Agreement, as determined by a court or other tribunal having jurisdiction of the matter.

6.2 We Indemnify You. We will indemnify you and hold you harmless against any and all losses, liabilities, penalties, fines, costs, damages, and expenses, that you incur in connection with this Agreement, including reasonable attorneys' fees, which arise out of our gross negligence or willful misconduct in the performance of our obligations under this Agreement or our material breach of this Agreement, as determined by a court or other tribunal having jurisdiction of the matter.

6.3 Insurance. We will maintain the following insurance:

- a) Professional liability insurance in the minimum amounts of Five Million Dollars (\$5,000,000) for any one (1) incident, and Five Million Dollars (\$5,000,000) in the aggregate for the policy year;
- b) Commercial general liability insurance with minimum coverage of not less than One Million Dollars (\$1,000,000) per claim for bodily injury and property damage;
- c) Workers' compensation insurance coverage for our employees in an amount and form meeting all applicable legal requirements.

Section 7 Disputes

In the event that any dispute, claim, or controversy of any kind or nature relating to this Agreement arises between the parties, the parties agree to meet and make a good faith effort to resolve the dispute. If the dispute is not resolved within thirty (30) days after the parties first met to discuss it, and either party wishes to pursue the dispute further, that party shall refer the dispute to non-binding mediation under the Commercial Mediation Rules of the American Arbitration Association ("AAA"). In no event may the mediation be initiated more than one year after the date that the aggrieved party had actual notice of the facts giving rise to the dispute. A single mediator engaged in the practice of law, shall conduct the mediation under the then current rules of the AAA. If the dispute involves rights or duties arising under ERISA, the mediator shall also be knowledgeable about ERISA and employee benefit plan administration. The mediation shall be held in a mutually agreeable site. If the parties are not able to resolve their differences through the mediation process within thirty (30) days of referring the matter to the mediator, either party shall be free to pursue all legal and equitable remedies otherwise available to it. Each party shall pay one-half of the mediation fees and

shall bear its own attorney fees; provided, however, that each party shall indemnify the other as provided in Sections 6.1 and 6.2 of this Agreement.

Section 8 Term and Termination

8.1 Term. This Agreement shall become effective on the Effective Date and shall remain in effect for an initial period of 12 months (the "Initial Term"). After the Initial Term, this Agreement shall automatically renew from year to year for additional twelve (12) month periods ("Subsequent Terms") under the same terms and conditions unless terminated by either party, in accordance with Section 8.2 below, at least thirty (30) days prior to the end of the current Term. Provided, however, that USBHPC reserves the right to change the Monthly Payment Schedule in accordance with Attachment A, and any other term or condition of this Agreement, upon thirty (30) days prior written notice to you.

8.2 Termination of Agreement. This Agreement may be terminated in the manner specified below. You shall promptly mail to each Participant a legible, true copy of any notice of termination of this Agreement, and shall promptly provide USBHPC with proof of such mailing including, but not limited to, the date thereof, in compliance with Section 3.7. Any notice of termination provided in accordance with this Section 8.2 shall become effective as of 12:01 a.m. on the 31st day after such notice is provided to the other party. Benefits hereunder shall terminate for all Participants as of the effective date of termination.

- a) Upon thirty (30) days written notice to us of your intent not to renew prior to the end of the Term.
- b) Upon the effective date of termination mutually agreed to by both parties;
- c) Upon our thirty (30) days written notice that you did not pay the fees or other amounts you owed us under this Agreement;
- d) Upon thirty (30) days prior written notice that you do not accept a change in the Total Monthly Fees pursuant to the Total Monthly Fee Changes Section in Attachment A;
- e) Upon thirty (30) days prior written notice by either party that the other party is in material breach of this Agreement, (other than for non-payment or late payment by you of fees owed), if the breaching party does not correct the breach within thirty (30) days after being notified in writing by the other party.

8.3 Termination of a Participant's Coverage and Reinstatement. You determine the eligibility of all Participants, as set forth in Section 3.2. A Participant's coverage shall terminate upon your determination that the Participant does not meet the eligibility guidelines set by you. During the term of this Agreement, if a Participant's coverage terminates for any reason, you shall determine if the Participant is eligible for reinstatement.

8.4 Return of Total Monthly Fees for Unexpired Period. In the event of any termination of this Agreement, or of a Participant's coverage by you, USBHPC shall, within thirty (30) days following such termination, return to you the pro rata portion of any Total Monthly Fee paid to USBHPC that corresponds to any unexpired period for which payment had been made, together with amounts due on claims, if any, less any amounts due to USBHPC from you. This obligation shall not apply in the event of fraud or deception in the use of USBHPC services or facilities, or in the event you permit

such fraud or deception by another. If this Agreement is terminated due to your failure to pay a Total Monthly Fee when due, and a Participant is undergoing treatment for an ongoing condition at the time of such termination, we shall continue to be financially responsible only for those EAP services provided after such termination that had already received prior written certification as Covered Services, and had already commenced, as of the date of such termination.

8.5 Director Review of Termination. Any Participant who in good faith believes that his or her coverage has been terminated or not renewed because of the Participant's or a Participant's health status or requirements for health care services may request a review of such termination or non-renewal by the Director of the California Department of Managed Health Care. If the Director determines that a proper complaint exists under Section 1365 of the California Health and Safety Code, the Director will so notify USBHPC. USBHPC shall, within fifteen (15) days after receipt of such notice, either request a hearing or reinstate the Participant. If after the hearing the Director determines that the termination or non-renewal is contrary to applicable law, USBHPC shall reinstate the Participant retroactive to the time of the termination or non-renewal and shall be liable for the expenses incurred by the Participant after such termination or non-renewal for EAP services that would otherwise have received authorization as Covered Services.

Section 9 Miscellaneous

9.1 Notices. Unless otherwise specified in this Agreement, any notice or other communication required or permitted under this Agreement shall be in writing. All written notices, including notices of termination provided to Participants in accordance with Section 8.2, shall be deemed to have been delivered when delivered in-person; or if delivered by first-class mail or commercial overnight delivery, on the date mailed, proper postage prepaid and properly addressed to the appropriate party at the address set forth below, or in the case of Participants, to the last address known to the employer. Unless otherwise specified herein, the date a notice is delivered to either party to this Agreement shall be considered the effective date of the notice.

To: U.S. Behavioral Health Plan, California
425 Market Street 14th Floor
San Francisco, CA 94105-2426

To: City of Chula Vista
276 Fourth Ave.
Chula Vista, CA 91910

9.2 Assignment. Except as provided in this paragraph, neither party can assign this Agreement or any rights or obligations under this Agreement to anyone without the other party's written consent, which shall not be unreasonably withheld. Notwithstanding the foregoing, and subject to the Department's approval, we may assign this Agreement, including all of our rights and obligations, to our affiliates, to an entity controlling, controlled by, or under common control with us, or a purchaser of all or substantially all of our assets, subject to notice to you of the assignment.

9.3 Amendment. Except as may otherwise be set forth in this Agreement, the Agreement may be amended only by both parties agreeing to the amendment in writing, executed by a duly authorized person of each party. Both parties also agree to take such action as is necessary to amend this Agreement from time to time as necessary to comply with applicable federal and state laws and

regulations. You agree to cooperate with and assist us in order for us to meet our obligations under applicable privacy laws and regulations.

9.4 Waiver. Nothing in this Agreement is considered to be waived by you or USBHPC unless the party claiming the waiver receives the waiver in writing. No breach of the Agreement is considered to be waived unless the non-breaching party waives it in writing. The waiver by either party of any breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any other breach of this Agreement.

9.5 Governing Law. The validity and interpretation of this Agreement and the rights and obligations of the parties under this Agreement shall be governed by the laws of the State of California.

9.6 Compliance with Applicable Law. USBHPC is subject to the requirements of Chapter 2.2 of Division 2 of the California Health and Safety Code and Division 1, Title 28 of the California Code of Regulations, as well as any successor provisions to any of the foregoing provisions. Any term or condition required by such provisions to be included in the Agreement shall be incorporated into this Agreement by this reference, whether or not specifically provided in this Agreement.

9.7 Participants Bound by This Agreement. By this Agreement, you make coverage under USBHPC's Employee Assistance Program available to Participants who are eligible and duly enrolled in accordance with the requirements of this Agreement. This Agreement shall be subject to amendment and termination in accordance with the terms of this Agreement without the necessity of either party obtaining the consent or concurrence of any Participant. By electing such coverage or accepting its benefits, all Participants legally capable of contracting, and the legal representatives of all Participants incapable of contracting, agree to be bound by all of the terms and conditions of this Agreement.

9.8 Nondisclosure and Confidentiality. Neither party shall release any information regarding the terms set forth in this Agreement to any person or entity without the prior written consent of the other, except such information as may be necessary to disclose to agents, affiliates, attorneys, accountants, governmental regulatory agencies, or participants in order to carry out the terms of this Agreement, except as otherwise required by applicable law or provisions of this agreement. Both parties shall keep confidential, and shall take the usual precautions to prevent the unauthorized disclosure of any and all records required to be prepared or maintained in accordance with this Agreement.

9.9 USBHPC Policies, Procedures, Rules and Interpretations. USBHPC may adopt reasonable policies, procedures, rules and interpretations to promote the orderly and efficient administration of this Agreement in a manner which is fair, reasonable and consistent with the purposes of the Knox-Keene Health Care Service Plan Act of 1975 as amended. You and all Participants are required to comply with all such policies, procedures, rules, and interpretations.

9.10 Severability. If any clause, sentence, provision, or other portion of this Agreement is, or becomes, illegal, null, void, or unenforceable for any reason, or is held by a court of competent jurisdiction to be so, the remainder of this Agreement shall remain in full force and effect.

9.11 Entire Agreement. This Agreement, with its attachments or Product Schedules or any subsequent addenda, amendments or attachments, constitutes the entire Agreement between the parties governing the subject matter of this Agreement. This Agreement supersedes any prior

written or oral communications or agreements between the parties relating to the subject matter of this Agreement. The headings and titles within this Agreement are for convenience only.

**Attachment A
Fees**

1. Total Monthly Fees:

Type of Service	Total Monthly Fee
Employee Assistance Program: Up to eight (8) Assessment and Referral sessions per Participant per problem per calendar year with a Participating Provider	\$1.74 per Employee
Participating Provider Network	Included

2. Total Monthly Fee Due Date and Payments:

The first day of a month of coverage hereunder is the “Total Monthly Fee Due Date.” You agree to remit to us on or before the Total Monthly Fee Due Date the applicable Total Monthly Fee set forth immediately above, for each Employee enrolled. If the Total Monthly Fee payment is not made in full by you on or prior to the Total Monthly Fee Due Date, a thirty (30) day grace period shall be granted for payment without interest charge. Any Total Monthly Fee payments, which remain outstanding subsequent to the grace period, shall be subject to a late penalty charge of one percent (1.00%) for each thirty (30) days period or portion thereof which the Total Monthly Fee payment remains outstanding. If this Agreement is terminated for any reason, you shall continue to be held liable for all Total Monthly Fee payments due and unpaid at the time of such termination including, but not limited to, all applicable Total Monthly Fee payments and late penalty charges for any time the Agreement was in force during a grace period.

3. Total Monthly Fee Adjustments:

In the event that an Employee is enrolled hereunder on or before the fifteenth (15th) day of a month, you agree to remit to us on or before the next Total Monthly Fee Due Date an additional Total Monthly Fee for such Employee for the month in which the Employee is enrolled. In the event that an Employee is enrolled hereunder after the fifteenth (15th) of the month, no Total Monthly Fee is due. In the event that an Employee is terminated hereunder on or before the fifteenth (15th) day of a month, no Total Monthly Fee is due for such Employee for the month. In the event that an Employee is terminated after the fifteenth (15th) of a month, the Total Monthly Fee is due for such Employee for that month. You may offset any subsequent Total Monthly Fee payment by any amount paid on behalf of an Employee terminated on or before such fifteenth (15th) day. You must identify on the monthly remittance the number of Employees that are being offset for such month.

4. Total Monthly Fee Changes:

We may change the Total Monthly Fee at the end of the Initial Term and during any Subsequent Term by giving no less than thirty (30) days prior written notice to you. The Total Monthly Fees shall not be revised more often than one (1) time at the end of the Initial Term or during any Subsequent Term. Notwithstanding the foregoing, if a change in this Agreement is necessitated by a change in applicable law or regulations or in the interpretation of applicable law or regulations by a court of competent jurisdiction or by any governmental body which has authority to regulate either party or the subject matter of this Agreement, and if such change results in an increase of our risk or

expenses under this Agreement, or if there is a material change in the number of your eligible Participants, we may change the Total Monthly Fee at any time upon thirty (30) days prior written notice to you. Any such change shall not be taken into account in determining whether the limit of one (1) change per Initial Term or Subsequent Term has been reached.

Attachment B
Products and Services
Employee Assistance Program Services Product Schedule

1. Definitions.

Community Assistance Resource. A third party public or private facility, service, program, business, occupation or profession that provides services for the personal, educational, emotional or financial cares and concerns of individuals, including by way of example, services relating to education, medicine, mental health, substance abuse, law and finance.

DOT: United States Department of Transportation.

DOT Regulations: Regulations promulgated by the DOT pursuant to the Omnibus Transportation Employee Testing Act of 1991, and as codified at 49 C.F.R. Part 40.

Formal Referral. The term used in regards to a management referral whereby the manager identifies a performance problem that the Employee must address, and suggests the EAP as a resource that might be helpful in support of this goal.

Informal Referral. The term used in regards to a management referral whereby a manager suggests to an Employee that the EAP could be helpful to assist with a personal problem.

Mandatory Referral. The term used in regards to a management referral whereby a manager identifies a performance problem and requires that the Employee work with the EAP as a condition of employment retention.

2. Participant Effective Dates of Coverage for EAP Services. Subject to your payment of the applicable Total Monthly Fee, as set forth in Attachment A, coverage for EAP services under this Agreement shall become effective for each Participant on the date specified by you.

3. Access to EAP Services. We will implement a plan to help the Participant resolve the issue prompting the request for EAP services through a joint effort between us and the Participant, which joint effort may include supportive counseling and problem-solving or when we deem appropriate, identifying a Community Assistance Resource for the Participant.

4. Employee Assistance Program ("EAP") Services. We shall provide the Covered Services described under the caption "EAP Benefit Plan Summary" in the Combined Evidence of Coverage and Disclosure Form set forth in attached Attachment C, which is incorporated herein by reference, subject to all Exclusions and Limitations as well as all other terms and conditions in this Agreement. The EAP benefit is available to Members to receive confidential help for a wide range of personal and work-related concerns.

We shall provide the following services:

- (a) Unlimited twenty-four (24) hour toll-free telephone access
- (b) Telephonic consultation
- (c) Assessment of Participant's needs during the Participant's initial phone call

- (d) Up to eight (8) sessions per Participant per problem per calendar year with a Participating Provider
- (e) Referral to community resources
- (f) Follow-up
- (g) Management consultation and support services as a result of Informal Referrals, Formal Referrals and Mandatory Referrals from an Employee's supervisor or manager

5. Workplace Services

- (a) **Human Resource Consultation.** We shall provide consultation and support to your human resource representatives on a variety of workplace concerns related to behavioral health twenty-four (24) hours per day.
- (b) **Benefits Orientations.** Upon request, we shall provide manager orientations to introduce our services to your managers upon thirty (30) days' prior written notice for scheduling purposes. We shall provide one (1) orientation for every five hundred (500) Employees covered under this Agreement. Annual training hours may be used to cover the cost of any additional orientations.
- (c) **United States Department of Transportation (DOT) Services.** If your Employees are subject to DOT regulations, we shall provide access to participating "Substance Abuse Professionals" as defined in DOT regulations, who will provide consultation, coordination of services, and assistance in instances where your Employees who work in safety sensitive positions test positive for drugs or alcohol as described in the DOT Regulations.

6. Exclusions and Limitations. "Exclusions and Limitations" means any service specifically listed or described under the caption "Exclusions and Limitations" in the attached Combined Evidence of Coverage and Disclosure Form, Attachment C to this Agreement.

Communication Materials Product Schedule

For the duration and subject to the terms of the Agreement, we will provide the following educational and information materials:

1. Educational Materials

Written Information. We will provide individual Employees up to four (4) pieces of written information per consultation.

2. Participant Materials

We will provide you with one (1) brochure or flyer (including a perforated wallet card) that describes the benefit for every eligible Employee and a mutually agreed upon number of posters. We will also provide you with a sample Manager's Resource Guide.

All materials will include the toll-free telephone access number and the Account number, where appropriate.

Attachment C

U.S. BEHAVIORAL HEALTH PLAN, CALIFORNIA (“USBHPC”)

EMPLOYEE ASSISTANCE PROGRAM

425 MARKET STREET, 12th FLOOR
SAN FRANCISCO, CA 94105

**Combined Evidence of Coverage
and Disclosure Form**

Employee Assistance Program (EAP)

Effective Date: January 1, 2018

This Combined Evidence of Coverage and Disclosure Form (“EOC”) discloses the terms and conditions of coverage. However, the EOC constitutes only a summary of your Employee Assistance Program. The document entitled "Employee Assistance Program Agreement" must be consulted to determine the exact terms and conditions of your coverage. A specimen copy of the Employee Assistance Program will be furnished upon request. You are automatically enrolled for coverage in this Employee Assistance Program by your employer, however, to the extent that you are not automatically enrolled, you have the right to review this EOC prior to enrollment. If you have special health care needs, read this EOC completely and carefully to determine if this benefit provides coverage for your special needs.

**425 Market Street, 12th Floor
San Francisco, CA 94105**

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Article 1 Definitions

1.1 Behavioral Health Professional.

A person with a clinical master's degree in behavioral health that is licensed in his or her field.

1.2 Counseling.

A therapeutic clinical process based on face- to- face interaction between a Participant and/or a Participant's family and a practitioner and/or other persons with similar clinical conditions for the purpose of identifying the Participant's problems and needs, setting goals and interventions, resolving problems, and promoting new behaviors.

1.3 Covered Services.

Employee Assistance Program ("EAP") services that are covered under the terms of the EAP Benefit Plan, as set forth in the EAP Benefit Plan Summary.

1.4 Department.

"Department" means the California Department of Managed Health Care.

1.5 Dependent.

Your dependent as defined by your employer. If not defined by your employer, dependent shall mean an individual who is a member of your household and who is eligible and enrolled in accordance with all applicable requirements established by your employer.

1.6 Employee Assistance Program or "EAP".

Services designed to assist Participants in finding solutions for personal and workplace problems as described in Article 2 of this Combined Evidence of Coverage and Disclosure Form.

1.7 EAP Benefit Plan.

The services to which Participants are entitled under this Combined Evidence of Coverage and Disclosure Form, as such document may be amended from time to time.

1.8 EAP Benefit Plan Summary.

The Summary of Covered Services, Exclusions and Limitations applicable to the EAP. The Benefit Plan Summary is attached to this Combined Evidence of Coverage and Disclosure Form.

1.9 Exclusions and Limitations.

Any service listed or described as excluded in this Combined Evidence of Coverage and Disclosure Form.

1.10 Expedited Review of Grievances.

The written procedures established by USBHPC to resolve Participant grievances involving an imminent and serious threat to the health of the clients, including but not limited to, severe pain, potential loss of life, limb, or major bodily function. These are set forth in Article 3 of this Combined Evidence of Coverage and Disclosure Form.

1.11 Grievance Procedure.

The written procedures established by USBHPC to resolve Participant and provider grievances, as set forth in Article 3 of this Combined Evidence of Coverage and Disclosure Form.

1.12 Independent Medical Review.

The state regulatory processes available to the Participant in addition to USBHPC's grievance process to resolve a disputed health care service, as set forth in Article 3 of this Combined Evidence of Coverage and Disclosure Form.

1.13 Limited English Proficient (LEP).

A Participant who has an inability or a limited ability to speak, read, write, or understand the English language at a level that permits that individual to interact effectively with health care providers or USBHPC employees.

1.14 Participant.

An employee, or a dependent of an employee, who is entitled to benefits or coverage under the terms and conditions of the EAP Benefit Plan.

1.15 Participating Provider.

A Provider that has entered into a contract with USBHPC to provide Covered Services to eligible Participants.

1.16 Provider.

Any practitioner who or that is qualified and duly licensed or certified by the State of California to furnish EAP services to Participants.

1.17 Total Monthly Fee(s).

The fee(s) for Covered Services rendered under the Agreement between us and your employer.

Article 2 Employee Assistance Program

Your employer or plan administrator has selected USBHPC to provide a benefit called an Employee Assistance Program (EAP). The EAP benefit is available to you and your dependents to receive confidential help for a wide range of personal and work-related concerns. You can receive a referral to a licensed behavioral health professional for a specific number of face-to-face Counseling sessions (as specified in the attached EAP Benefit Plan Summary) covered under your EAP Benefit Plan, and/or receive assistance in identifying appropriate community resources.

2.1 How to Access Care.

Participants can call USBHPC's toll-free number at (866) 248-4094, 24 hours a day, seven days a week. When Participants call USBHPC, Participants will be immediately connected to a skilled Behavioral Health Professional with a clinical master's degree and at least four years of clinical experience, who will help Participants find the right resource for his or her particular situation. The Behavioral Health Professional may request some general information beginning with the Participant's name, social security number, employer, home and work telephone numbers, home address, date of birth, as well as a brief description of the Participant's reason for seeking assistance. The Behavioral Health Professional will work with the Participant to identify a licensed professional who best meets the Participant's needs, e.g. close to the Participant's work or home, who can help the Participant sort through his or her concerns and make next step decisions in treating the issues he or she has described, and who is part of USBHPC's network of Participating Providers. Special needs will be addressed.

For Participants with limited English proficiency ("LEP"), USBHPC will provide language assistance services to ensure that LEP Participants are able to communicate effectively with USBHPC personnel in their preferred spoken language, are able to obtain written communication from USBHPC in a threshold language, and are able to either be referred to Participating Providers who have attested to fluency in the LEP Participant's own language or be provided with interpretation services at the Counseling session. Language assistance services will be provided at no cost to the LEP Participant.

2.2 Range of Services.

USBHPC offers a full range of assessment and referral services to Participants through the EAP. These include individual, couple, and family assessments for most types of personal problems including:

- Single Parenting
- Eating Disorders
- Dual Careers
- Anxiety
- Depression
- Parent- child Conflict
- Job "Burnout"
- Work Related Problems
- Life Transition
- Aging Parents
- Death & Dying
- Unresolved Grief
- Marital Problems
- Sexual Problems
- Retirement Concerns
- Career Change
- Financial/Legal Concerns
- Physical Abuse
- Alcohol or Drug Problems
- Problems of Adolescence
- Stress
- Compulsive Gambling

2.3 Community Resources.

Eligible Participants can also receive a referral through the EAP to services offered by the community and other local resources such as:

- a) Dependent care and related referral services, including resources for childcare, as well as for elderly or disabled Participants;
- b) Legal consultation, including a free consultation with an attorney and a follow-up referral to a conveniently located attorney at a discounted fee;

- c) Financial consultation, ranging from individual sessions focusing on personal finances, to seminars covering such issues as saving for college and retirement planning; and
- d) Self-help groups.

2.4 Confidential Services.

USBHPC believes that maintaining the confidentiality of EAP services is a fundamental right to which everyone is entitled. All records, including medical information, referrals and evaluations, are kept confidential in accordance with federal and state laws. USBHPC does not disclose private information to anyone without explicit written instructions from the Participant or as requested by the noncovered custodial parent of a child, except within federal and state guidelines, which require that information be released.

Participants, who are adult patients, have the right to inspect their medical records and provide USBHPC, in writing, with corrections to any item or statement that the Participant believes to be incomplete or incorrect in their medical records.

- a) Corrections for each incomplete or incorrect item in the Participant's record are limited to two hundred and fifty (250) words.
- b) The Participant must also clearly state in writing that the Participant wishes his or her written corrections to be made part of his or her record.
- c) USBHPC will attach the Participant's corrections to the Participant's records and include such corrections whenever USBHPC makes a disclosure of the incomplete or incorrect portion of a Participant's records to any third party.

A STATEMENT DESCRIBING USBHPC'S POLICIES AND PROCEDURES FOR PRESERVING THE CONFIDENTIALITY OF MEDICAL RECORDS IS AVAILABLE AND WILL BE FURNISHED TO PARTICIPANTS UPON REQUEST.

2.5 Participant Coverage/EAP Benefit Plan Summary.

The EAP offers coverage for up to eight (8) Counseling visits/sessions per Participant per problem per calendar year at no charge to you. All visits must be precertified by a USBHPC Behavioral Health Professional and provided by a Participating Provider to ensure coverage under the EAP Benefit Plan.

2.6 Exclusions and Limitations.

No payment will be made by USBHPC for any of the following:

- a) Physician services, including services from a psychiatrist
- b) Hospital services (inpatient and outpatient services)
- c) Diagnostic laboratory and diagnostic and therapeutic radiological services
- d) Home health services
- e) Emergency health care services

- f) Drugs and medications

2.7 Choice of Providers.

Each Participant who requests that Covered Services be provided will be assigned by USBHPC to a Participating Provider who will coordinate the Covered Services to be received by the Participant from that Participating Provider. If a Participant desires to change his or her assignment to a particular Participating Provider, the Participant should inform USBHPC. USBHPC will consider all such requests, but will have sole discretion to determine whether the Participant will be assigned to another Participating Provider or permitted to obtain Covered Services from a provider other than a provider that has been arranged by USBHPC.

If your Participating Provider is terminated by USBHPC from the Participating Provider network, you may request that USBHPC arrange for the continuation of Covered Services for up to ninety (90) days from the Participating Provider's date of termination. Continuation of Covered Services will allow appropriate time for you to transition to another Participating Provider. Continuation of Covered Services is subject to the eight (8) Counseling session maximum per problem each calendar year in accordance with the EAP Benefit Plan Summary and only applies if you have an acute condition, serious chronic condition or are pregnant.

2.8 Prepayment Fees.

The employer prepays all applicable monthly fees for coverage under the EAP. EAP benefits are available at no charge to Participants.

2.9 Liability of Participant for Payment.

If a Participant chooses to obtain EAP services from a provider other than a Participating Provider that has been arranged by USBHPC, the Participant will be liable for payment for such services, even if the services would otherwise have qualified as Covered Services, unless USBHPC gives prior written authorization for the receipt of such services by the Participant from such provider. No loss of benefits shall ensue to Participants who change from one Participating Provider to another Participating Provider with USBHPC's approval.

2.10 Eligibility and Renewal.

To be eligible to enroll for the EAP, Participants must meet the eligibility requirements established by the employer in accordance with the contract between the employer and USBHPC (the "Employee Assistance Program Agreement"). The Employee Assistance Program Agreement is available for review upon request. Each Participant becomes eligible for coverage upon the employer's payment of a Total Monthly Fee paid on behalf of the Participant. After the initial term of the Employee Assistance Program Agreement, coverage will automatically renew for twelve (12)-month terms unless canceled.

2.11 Termination of Coverage.

Your coverage will terminate upon your employer's determination that you do not meet the eligibility requirements established by your employer, or if the Employee Assistance Program Agreement terminates for any reason, including if your employer has failed to pay the Total Monthly Fee. USBHPC may terminate the Employee Assistance Program Agreement if your employer has failed to pay the Total Monthly Fee when it is due and USBHPC has notified and billed your employer for

such Total Monthly Fee. If your coverage terminates, or if the Agreement is terminated due to your employer's failure to pay the Total Monthly Fee when due, and you are undergoing treatment for an ongoing condition at the time of such termination, we shall continue to be financially responsible only for those EAP services provided after such termination that had already received prior written certification as Covered Services, and had already commenced, as of the date of such termination. Your employer will provide you with written notice if your employer and USBHPC mutually agree to terminate the Employee Assistance Program Agreement, or if the Agreement is terminated for other reasons.

2.12 Reinstatement.

While the Employee Assistance Program Agreement is in effect, the employer determines the eligibility of all Participants, including reinstatement if a Participant's coverage has terminated for any reason.

2.13 Director Review of Termination.

Any Participant, who in good faith believes that his or her coverage was terminated or not renewed because of the Participant's health status or requirements for health care services, may request a review of the termination or non-renewal by the California Department of Managed Health Care. If the Director determines that a proper complaint exists under Section 1365 of the California Health and Safety Code, the Director will notify USBHPC of that fact. USBHPC must, within fifteen (15) days after receipt of the notice, either request a hearing or reinstate the Participant. If, based on the hearing, the Director determines that the termination or non-renewal is contrary to applicable law, the Participant must be reinstated retroactive to the time of the termination or non-renewal. Under such circumstances, USBHPC would be liable for the expenses incurred by the Participant after the termination or non-renewal for EAP services that would otherwise have received certification as Covered Services.

2.14 Compensation of Providers.

USBHPC will be responsible for compensating Participating Providers for Covered Services provided to Participants in accordance with the requirements of any contract between USBHPC and the provider. Participating Providers bill USBHPC directly for services rendered. All contracts between USBHPC and Participating Providers require that, in the event USBHPC fails to pay the Participating Provider for Covered Services for which USBHPC is financially responsible, no Participant will be liable to the Participating Provider for such non-payment.

Article 3 Grievance Procedures

3.1 Grievance Procedures.

Every Participant has the right to communicate a complaint to USBHPC either by telephone at 800-999-9585, or in writing to the:

Grievance & Appeals Department
U.S Behavioral Health Plan, California
425 Market Street, P.O. Box 2839
San Francisco, CA 94126

Or by facsimile at 1-800-984-7584;
Or at the USBHPC Web site: www.liveandworkwell.com

A complaint must be communicated in the method stated above within 180 calendar days of the initial non-authorization or the event giving rise to the complaint.

An exception to the one hundred and eighty (180) calendar day filing requirement can be made by the Complaint Coordinator on the basis of either a telephone call or written request by the complainant which reasonably explains their inability to meet the filing deadline (e.g. Participant seeking a second opinion or a medical condition precluded Participant from making complaint).

USBHPC will provide the Participant with written acknowledgment within five (5) calendar days of such receipt of the complaint, including the date received, the name, telephone number and address of a representative of USBHPC who may be contacted regarding the status of the complaint. USBHPC will investigate the complaint and resolve it. All complaints by Participants concerning the adequacy or competency of clinical services will be immediately referred to the USBHPC Medical Director. A Participant will receive written notification of the resolution of his or her complaint within thirty (30) calendar days of USBHPC's receipt of the complaint. USBHPC will supply the Participant with its Grievance Procedure and complaint forms upon request.

The limited English proficient ("LEP") Participant has the right to free language assistance services. If requested by the LEP Participant, USBHPC provides assistance in the filing of any complaint including assisting the LEP Participant with access to an interpreter.

Complaint acknowledgment and resolution letters are sent in English with a notice informing Participants of the availability of free language assistance services. These services include oral interpretation and, for grievance documents, translation services in the most frequently spoken languages.

3.2 Expedited Review of Grievances.

For Participant grievances involving an imminent and serious threat to the health of the Participant, including but not limited to, severe pain, potential loss of life, limb, or major bodily function, USBHPC shall immediately inform the Participant, in writing, of the Participant's right to notify the Department and provide the Participant and the Department with a written statement on the disposition or pending status of the grievance no later than three (3) calendar days from receipt of the grievance.

3.3 Request for Voluntary Mediation and DMHC Review of Grievances.

In addition to your other rights set forth in Article 3, you, or an agent acting on your behalf, may request voluntary mediation with USBHPC prior to exercising your right to submit a grievance to the Department of Managed Health Care. The use of mediation services shall not preclude your right to submit a grievance to the Department upon completion of mediation. In order to initiate mediation, you, or the agent acting on your behalf, and USBHPC shall voluntarily agree to mediation. Expenses for mediation shall be borne equally by both sides. The Department shall have no administrative or enforcement responsibilities in connection with the voluntary mediation.

The California Department of Managed Health Care is responsible for regulating health care service plans. If you have a grievance against your health plan, you should first telephone your health plan at (800-999-9585) and use your health plan's grievance process before contacting the Department. Utilizing this grievance procedure does not prohibit any potential

legal rights or remedies that may be available to you. If you need help with a grievance involving an emergency, a grievance that has not been satisfactorily resolved by your health plan, or a grievance that has remained unresolved for more than 30 days, you may call the Department for assistance. You may also be eligible for an Independent Medical Review (IMR). If you are eligible for IMR, the IMR process will provide an impartial review of medical decisions made by USBHPC related to the medical necessity of a proposed service or treatment, coverage decisions for treatments that are experimental or investigational in nature and payment disputes for emergency or urgent medical services. The Department also has a toll-free telephone number (1-888-HMO-2219) and a TDD line (1-877-688-9891) for the hearing and speech impaired. The Department's Internet Web site <http://www.hmohelp.ca.gov> has complaint forms, IMR application forms and instructions online.

Article 4 Public Policy Committee

USBHPC has established a Public Policy Committee, which participates in establishing public policy for USBHPC's EAP including, but not limited to, the comfort, dignity and convenience of Participants. For more information about the Public Policy Committee and Participant participation, interested parties may write to the Chair of the Public Policy Committee at 3111 Camino del Rio North, Suite 800, San Diego California, 92108, Attention: Compliance Department.

**U.S. BEHAVIORAL HEALTH PLAN, CALIFORNIA
EAP BENEFIT PLAN SUMMARY**

Employee Assistance Program - Up to eight (8) Visits

COVERED SERVICES

EAP

BENEFITS

Visits 1-8, \$0 Copayment

Up to eight (8) Visits per Participant per problem per calendar year

Exclusions and Limitations

No payment will be made by us for:

1. Physician services, including services from a psychiatrist
2. Hospital services (inpatient and outpatient services)
3. Diagnostic laboratory and diagnostic and therapeutic radiological services
4. Home health services
5. Emergency health care services
6. Drugs and medications

***ALL SERVICES MUST BE PRE-CERTIFIED AND
PROVIDED BY USBHPC PARTICIPATING PROVIDERS***