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◊ Collaboration ◊ Catalyst ◊ Community

AHI Performing Provider System Term Sheet for DSRIP Participation Agreement

Introduction

Adirondack Health Institute (“**AHI**”) is establishing the AHI Performing Provider System (the “**AHI PPS**”) under New York State’s Delivery System Reform Incentive Payment Program (the “**DSRIP Program**”). The AHI PPS will implement a collaborative contracting model pursuant to which AHI will enter into a DSRIP Participation Agreement with each participant (“**Participant**”) in the AHI PPS. This Term Sheet provides an overview of the terms and conditions that will be included in the DSRIP Participation Agreement.

Background

The DSRIP Program is a partnership between New York State and the federal government under which the State will receive funds to distribute to Performing Provider Systems (each, a “**PPS**”) across the State as incentive payments to restructure the health care delivery system, with the primary goal of reducing avoidable hospital use by 25% over five years. The State’s receipt of funds from the federal government will be contingent on the State meeting predefined milestones and metrics, and the State will pay each PPS based upon the PPS achieving predefined results in system transformation, clinical management and population health.

The AHI PPS

The AHI PPS includes more than 100 organizations, including hospitals, primary care providers, mental health and substance abuse treatment providers, skilled nursing facilities, home and community providers, and others, that will serve all or parts of nine counties (Clinton, Essex, Franklin, Fulton, Hamilton, Saratoga, St. Lawrence, Warren and Washington) in northern New York State. The AHI PPS will address social factors that impact health, requiring engagement and collaboration with many stakeholders, including community-based organizations, from diverse sectors.

The AHI PPS will implement the following eleven projects, which were selected from a CMS-approved menu (the “**Projects**”): (1) creating an integrated delivery system focused on evidence-based medicine and population health management, (2) increasing the number of primary care practitioners with Primary Care Medical Home (“**PCMH**”) certification and/or Advance Primary Care Models, (3) creating a medical village using existing hospital infrastructure, (4) Hospital-home collaboration solutions, (5) implementation of patient activation activities to engage, educate and integrate the Medicaid population, (6) integrating primary care and behavioral health services, (7) providing behavioral health community crisis stabilization services, (8) increasing withdrawal management capabilities and appropriate enhanced abstinence services, (9) integration of palliative care into the PCMH model, (10) strengthening mental health/substance abuse infrastructure across systems and (11) increasing access to high quality chronic disease preventive care and management in multiple settings.

Role of AHI

AHI has been approved by New York State to lead the AHI PPS. In this role, AHI will be responsible for, among other things:

- Entering into the DSRIP contract with the New York State Department of Health (“**DOH**”)
- Planning and implementing each of the Projects, in collaboration with the Participants
- Overseeing the establishment of clinical protocols and procedures for each of the Projects
- Overseeing the governance process for the AHI PPS
- Collection and disbursement of funds received under the DSRIP Program (“**DSRIP Funds**”)
- Submitting to New York State all DSRIP-related reports required by the State, including reports relating to performance metrics
- Keeping the Participants informed of developments in the DSRIP Program
- Developing an information technology strategy for the AHI PPS and overseeing implementation of that strategy
- Developing and carrying out a plan to advance cultural competence and health literacy
- Facilitating communication and collaboration among the Participants
- As needed, entering into one or more scopes of work (each, a “**Scope of Work**”) with certain Participants that set forth any additional rights and responsibilities of such Participants with respect to the DSRIP Program, including, with respect to any Participants who will receive DSRIP Funds, the obligations of such Participants to carry out Project activities and goals and the DSRIP Funds that will be allocated to the Participants for such activities, including any conditions for disbursement
- Overseeing compliance by the Participants with the terms and conditions of the DSRIP Program, the DSRIP Participation Agreement and any Scopes of Work

Role of the Participants

Each of the Participants will be responsible for:

- Participating in such Projects as are mutually agreed upon by AHI and the Participant
- Collaborating with AHI and the other Participants in good faith to implement the selected Projects and achieve the DSRIP Program’s goals
- Implementing the clinical protocols and procedures for each of the selected Projects, provided that such protocols and procedures shall not override the professional judgment of the Participant and its clinical staff
- Reporting financial and clinical data to AHI to the extent necessary for AHI to meet its reporting obligations to New York State
- Participating in the governance process for the AHI PPS
- Cooperating with AHI in the development of an information technology strategy, and in the implementation of such a strategy
- Cooperating with AHI, to the extent practicable, in the development

of a plan to advance cultural competence and health literacy, and in the implementation of such a plan

- For Participants with additional rights and responsibilities beyond those set forth in the DSRIP Participation Agreement, entering into one or more Scopes of Work with AHI that set forth the rights and responsibilities of such Participants, including, with respect to any Participants who will receive DSRIP Funds, the obligations of such Participants to carry out Project activities and goals and the DSRIP Funds that will be allocated to the Participants for such activities, including any conditions for disbursement
- Ensuring that it conducts all DSRIP-related activities in accordance with all laws, regulations and guidance applicable to such Participant

Governance

The AHI PPS will be governed by a Steering Committee, which will be appointed by AHI and will consist of individuals who are representative of different types of Participants. Any decisions made or actions recommended by the Steering Committee will be subject to the review and approval of AHI.

The Steering Committee will be supported by a Finance Committee; a Clinical Governance and Quality Committee; an IT and Data-Sharing Committee; a Workforce Committee; a Community and Beneficiary Engagement Committee; and a Network Committee. The members of each of these committees will be appointed by the Steering Committee. Any decisions made or actions recommended by any of these committees will be subject to the review and approval of the Steering Committee and AHI. A description of the responsibilities of each of the committees will be developed and made available to the Participants.

The AHI PPS will also have a Project Advisory Committee, consistent with DSRIP requirements.

Funds Distribution and Use

DSRIP Funds will be utilized for the following purposes:

- To fund central services and project-specific implementation, staffing and related costs to meet milestones, metrics and DSRIP administration needs, including costs incurred by AHI
- To provide Participants with transitional funding to offset costs incurred by Participants or revenue lost by Participants in implementing the Projects
- To provide Participants with performance bonuses, to be distributed to Participants contingent on Participant performance

AHI will be responsible for:

- Receiving and managing DSRIP Funds
- Implementing a plan, which will be developed by the Finance Committee and subject to the approval of the Steering Committee and AHI, for disbursing DSRIP Funds to Participants (the “**AHI Funds Flow and Distribution Plan**”).
- Entering into one or more Scopes of Work with each Participant who will receive DSRIP Funds
- Distributing funds to Participants in accordance with the AHI Fund Flow and Distribution Plan and the relevant Scopes of Work.

Each Participant that receives DSRIP Funds will be responsible for:

- Expending DSRIP Funds solely for the purposes specified in the applicable Scope of Work

- Documenting all expenditures of DSRIP Funds and retaining such records for inspection by AHI, DOH, CMS or other federal or state oversight agencies
- Returning any DSRIP Funds to AHI in the event that (i) AHI has provided DSRIP Funds to Participant to provide a service, hire staff, make a capital investment or for other specific purpose as set forth in a Scope of Work, and Participant fails to expend the funds for such purpose; or (ii) DOH or the New York State Office of Medicaid Inspector General (“OMIG”), or AHI in consultation with DOH or OMIG, determines that the Participant’s use of the DSRIP Funds constituted fraud, waste, or abuse. Participant shall make the repayment of DSRIP Funds within thirty calendar days’ written notice from AHI stating the basis for the repayment demand, unless Participant has submitted the matter to the dispute resolution process described under “Dispute Resolution,” below, and the process has not concluded.

Each Participant understands that AHI does not guarantee or warrant in any way the receipt, timing or amount of DSRIP Funds, if any, that Participant might receive, and that funding is dependent on a number of factors, some of which are beyond the control of AHI, including, but not limited to, the receipt of funding from federal government by the DOH and by AHI from DOH, performance of the Participant in accordance with any applicable Scope of Work executed by the Participant and AHI, and realization of the outcomes mandated by the DSRIP Program and such Scope of Work.

**Information
Technology**

AHI will be responsible for:

- Assessing the current data exchange capacity of Participants, and developing an IT strategy to facilitate secure data exchange among AHI and its Participants to support DSRIP goals and project management and activity
- Making available population health management technology to enable care coordination and data analysis, and making training available to Participants to facilitate access and use of such technology
- Establishing and overseeing policies and procedures for security and privacy (“**Privacy and Security Policies**”), consistent with HIPAA, state privacy laws, and the DOH Data Exchange Application and Agreement which must be executed by all Participants that access Medicaid claims data provided by DOH

Participants will be responsible for:

- Cooperating in and providing information necessary for AHI’s assessment of Participants’ capabilities to conduct secure data exchange with AHI and other Participants
- Utilizing the population health management technology made available by AHI to enable care coordination and data analysis
- Complying with AHI’s Privacy and Security Policies, including identifying a security and privacy officer responsible for overseeing compliance with AHI’s Privacy and Security Policies

Workforce

AHI will be responsible for:

- Collecting and analyzing information from Participants to assess the current AHI PPS workforce, and to develop a plan to transition to the workforce required to implement the Projects

- Develop a workforce retraining and recruitment plan for the AHI PPS workforce and oversee implementation of the plan

Participants will be responsible for:

- Providing information to AHI regarding current Participant workforce to enable AHI to assess the current AHI PPS workforce, and develop a plan to transition to the workforce required to implement the Projects
- Cooperate with AHI with respect to the implementation of the workforce retraining and recruitment plan, including but not limited to making staff available for workforce retraining
- Complying with all applicable labor and employment laws, regulations and guidance, including any requirements of the New York State Department of Labor

Remedying Underperformance of a Participant

AHI will adopt a policy regarding peer review and procedures for poorly performing Participants that includes the following:

- The Clinical Governance and Quality Committee (“CGQC”) will receive reports regarding poorly performing Participants
- The CGQC will investigate those reports and create a summary of the investigation
- The CGQC will provide the poorly performing Participant with a copy of the summary, and will schedule a meeting with the poorly performing Participant
- After the meeting (which will be confidential), the CGQC will weigh the evidence and then either request remediation or termination of the poorly performing Participant
- If the CGQC requests remediation, the Participant will have thirty calendar days to submit a plan of action; if the CGQC requests termination, the matter will be submitted to the Steering Committee
- The plan of action will have a reasonable implementation period, periodic landmarks, and may include financial penalties
- If the Participant does not fulfill the plan of action, or fails to submit a plan of action, the CGQC will request termination of the Participant, and the Steering Committee shall hold a meeting (which will be confidential), which the Participant may attend and at which the Participant may advocate for itself, at which the Steering Committee will review the request for termination, the investigation summary, and any plan of action
- After doing so, the Steering Committee will determine whether to terminate the Participant, or to refer the Participant back to the CGQC for a new or amended plan of action.

Confidentiality

The DSRIP Participation Agreement will contain provisions requiring each party to protect the confidential information of the other party.

Record Retention and Auditing

Each party shall retain all records relating to its activities related to the DSRIP Program for a period of not less than six years, or as otherwise required by DSRIP and applicable law and regulation.

AHI shall have the right to audit Participant records related to Participant’s performance of its obligations under the DSRIP Participation Agreement and Participant’s expenditure of DSRIP Funds, except for funds paid as a performance bonus to Participant.

Participant shall provide AHI with all information reasonably requested by AHI and access to Participant's facilities to the extent required by AHI in connection with any such audit.

All audits will be conducted during regular business hours, and AHI will provide Participant with ten business days prior written notice of such audits.

Dispute Resolution

The parties shall attempt to resolve all disputes between AHI and Participant relating to the DSRIP Participation Agreement through an informal dispute resolution process, as follows:

- In the event of a dispute, one party will send a notice to the other party containing a detailed description of the issue under dispute, the good faith basis for the dispute, and a recommendation for resolution
- Within fifteen business days after receipt of such notice, the parties will meet and confer in good faith at a mutually agreeable location to attempt to resolve the dispute promptly
- If the parties are unable to resolve the dispute through the informal dispute resolution process described above, the parties will submit the dispute to binding arbitration conducted by a single, neutral and impartial arbitrator, mutually acceptable to the parties, who is an attorney with reasonable experience in the health care industry. Any such arbitration shall be conducted in Essex County, New York and in accordance with the then-current rules of arbitration established by the American Health Lawyers Association.
- Each party shall be responsible for its own costs in connection with any dispute resolution or arbitration.

Term

The DSRIP Participation Agreement will terminate on December 31, 2019, unless earlier terminated in accordance with the termination provisions below.

Termination

The DSRIP Participation Agreement will terminate automatically in the event of the termination of the DSRIP contract between AHI and DOH.

Either party may terminate the DSRIP Participation Agreement, subject to DSRIP requirements and any required approval by DOH, as follows:

- By providing written notice to the other party sixty calendar days in advance of the mid-point assessment by DOH of the DSRIP Program
- Immediately, if and when the other party is excluded from Medicare or Medicaid or any federal or state health care program, including but not limited to DSRIP.

AHI may terminate the DSRIP Participation Agreement:

- Beginning at the mid-year assessment by DOH or at any other time as permitted by DOH, upon thirty calendar days' written notice to a Participant in the event that: (i) the process to sanction the Participant as a poor performing provider has concluded, and AHI has determined that removal from the AHI PPS is the appropriate sanction
- Immediately upon written notice if any license, certification or government approval of Participant necessary to the performance of the DSRIP Participation Agreement is suspended, terminated, revoked, or surrendered.

Insurance

Each party, at its own cost and expense, will obtain and maintain, through the term of the DSRIP Participation Agreement, liability insurance coverage of such types and in such amounts as are customary for a business performing the obligations of such a party under the DSRIP Participation Agreement, including but not limited to:

- Comprehensive general liability insurance;
- Cyber-liability insurance;
- Directors and officers liability insurance; and
- Professional liability insurance

Each party will provide proof of insurance upon request by the other party.

Amendment

The DSRIP Participation Agreement may only be amended in writing signed by both parties, except that AHI reserves the right to amend the DSRIP Participation Agreement upon written notice to Participant as necessary in order to comply with any applicable laws, regulations and guidance, or with the DSRIP agreement between AHI and New York State.

Governing Law and Jurisdiction

The DSRIP Participation Agreement will be governed by the laws of the State of New York. Venue for any legal action arising under the DSRIP Participation Agreement will be Essex County, New York.