



Employee Assistance Program Agreement

<p>Intermountain’s Notice Information:</p> <p>IHC Health Services, Inc. Attention:</p> <p>_____</p> <p>Intermountain Healthcare 36 South State Street Salt Lake City, Utah 84111</p> <p>E-mail:</p>	<p>Employer’s Notice and Billing Information:</p>
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IHC Health Services, Inc., a Utah nonprofit corporation doing business as Intermountain Employee Assistance Program (herein referred to as “Intermountain”), and _____ (“Employer”) (collectively referred to as the “Parties”) enter this Agreement (this “Agreement”) for Intermountain to provide EAP Services, as described below.

This Agreement is effective on _____, 20__ (the “Effective Date”) and will continue for a term of one-year (the “Term”). Thereafter, the Agreement will continue for subsequent one year Terms. Either party may terminate this Agreement at any time, for any reason, with or without cause, upon thirty (30) calendar days prior written notice to the other party. Employer will pay Intermountain in accordance with Attachment C for all EAP Services provided prior to termination. The parties understand and agree that the rates outlined in Attachment C may be updated in accordance with Section 2.2 of Attachment A, “Annual Review.” Any change in payment rate will be documented with a signed renewal of this Agreement.

- The following attachments are part of this Agreement:
- Attachment A: EAP Services Terms
 - Attachment B: General Terms
 - Attachment C: Fee Schedule

IHC Health Services, Inc.	_____ (Employer Name)
Authorized Signature: _____	Authorized Signature: _____
Printed Name:	Printed Name:
Title:	Title:
Date:	Date:

ATTACHMENT A

EAP Services Terms

1. SERVICES.

- 1.1 **EAP Services.** Intermountain will Provide employee assistance programs (“EAP Services”) to all Employer employees who are eligible for the EAP Services (“Employees”). Intermountain offers the following EAP Services:
- (1) Problem Assessment
 - (2) Brief Counseling
 - (3) Supervisor and Management Consultation
 - (4) Supervisory Training
 - (5) Training and Workshops (Prevention Services)
 - (6) Eldercare Support
 - (7) Promotional Materials
 - (8) Crisis Response Services (access to a counselor 24/7)
 - (9) Utilization Reports
- 1.2 **Inform Employees.** The effectiveness of the EAP program and successful utilization depends on Employer’s efforts to inform and educate Employees. For this reason, Employer will promote the EAP Services to its Employees, including appropriate education about the offerings and how to utilize the EAP Services.
- 1.3 **Employee Population.** Within 10 days after each calendar quarter, Employer will provide Intermountain the total number of eligible Employees (“Employee Population”), which will be used for that quarter’s billing as described in Section 2.1 below.
- 1.4 **Access.** Access to crisis related assessment/counseling/referral services will be made available on the same day requested. Intermountain will use best efforts to offer appointments for all other EAP counseling services within 10 business days of the request. Intermountain cannot guarantee availability for appointments outside Employer’s principal state of business, but will make reasonable efforts to accommodate out of state requests.
- 1.5 **Records.** Intermountain will maintain records for EAP Services rendered to Employees according to applicable professional standards and laws (e.g. HIPAA). Intermountain will only release these records per the Employee’s prior written authorization, and in all cases, according to applicable laws. Employer will not have access to these records without the Employee’s prior written authorization in each instance.
- 1.6 **Utilization Report.** Intermountain will provide Employer with annual utilization reports. If Employer requests, Intermountain will provide utilization reports quarterly.
- 1.7 **Staff.** Intermountain will provide EAP Services through its employees or subcontractors (collectively, the “Staff”). Intermountain and its Staff will have the appropriate training, licensure, certifications, and accreditations to provide EAP Services.
- 1.8 **Insurance.** Each Party will maintain adequate general liability insurance for its activities under this Agreement. Intermountain may satisfy its insurance obligations through its self-insurance program.

2. COMPENSATION AND PAYMENT TERMS

- 2.1 **Invoices and Payment.** Intermountain will issue invoices to Employer quarterly based on the Employee Population for that prior quarter. Employer will pay each invoice within 30 calendar days of receipt. If it does not, Employer will pay Intermountain interest at 1.5% per month for all amounts unpaid after 30 calendar days. Employer will pay all Intermountain costs and expenses, (including reasonable attorneys’ fees and court costs) resulting from enforcing this Agreement.
- 2.2 **Annual Review.** Intermountain will annually review the flat fee payment rate or the per employee per month (“PEPM”) payment rate identified in Attachment C and may propose fee adjustments. If the parties agree on an adjustment, this Agreement will be adjusted and renewed accordingly.

2.3 **Taxes.** Employer is responsible for any taxes arising from this Agreement, except for taxes on Intermountain's net income.

3. **WARRANTIES.** Except as provided in this Agreement, there are no other express or implied warranties.

ATTACHMENT B

General Terms

1. **DEFAULT AND REMEDIES.** If a Party fails to perform any obligation under this Agreement or if a Party makes a representation or warranty in this Agreement that is inaccurate or misleading (in each case, a “Default”) and does not cure that Default within 15 days after receiving written notice from the other Party, then the non-default Party may (1) immediately terminate this Agreement upon written notice to the defaulting Party, (2) require the defaulting Party to immediately return or destroy (as directed by the non-defaulting Party) any Confidential Information, or (3) exercise any other remedy under this Agreement, under any other agreement between the Parties, or under applicable law.
2. **CONFIDENTIAL INFORMATION.** Each Party will keep confidential the other Party’s Confidential Information and maintain it a safe and secure place. “Confidential Information” means this Agreement’s terms; proprietary and confidential information, trade secrets, know-how, software, technology, specifications, and non-public business or financial information; member, patient, customer and employee data; and any other information which reasonably should be understood to be confidential.
3. **EXCEPTIONS TO CONFIDENTIALITY.** A Party is not subject to the confidentiality obligations of this Agreement regarding Confidential Information if the Party can prove the confidential information: (a) is or becomes publicly available without breach of this Agreement, but only from the date that it becomes publicly available; (b) was rightfully in its possession without an obligation of confidentiality owed to the disclosing party before received; (c) was disclosed to it by a third party without obligation of confidentiality owed to the disclosing party; or (d) is independently developed by the receiving party without using any of the Confidential Information. If a judicial or governmental request or order seeks Confidential Information, or the receiving party is required by any applicable law, the receiving party may disclose that Confidential Information as requested or ordered, or as required by that law.
4. **PATIENT DATA, PII, AND PCI.** If required by applicable law, the Parties will enter into a mutually agreeable business associate agreement (“BAA”) and data security agreement (“DSA”). The BAA and DSA are independent, stand-alone agreements and survive any termination of this Agreement. This Agreement does not amend, alter, or limit the BAA or DSA. With respect to Patient Data, PII, and PCI, if a conflict arises between this Agreement and the BAA or DSA, the BAA or DSA, as applicable, governs.
5. **INDEMNIFICATION.** Each Party indemnifies the other from any third-party claim, lawsuit, action, and legal expense relating to the indemnifying party’s negligent act or omission, intentional misconduct, misrepresentation, or breach of this Agreement. This Section survives this Agreement’s termination.
6. **LIMITATION OF LIABILITY.** IN NO EVENT WILL EITHER PARTY, OR ANY OF ITS SUBSIDIARIES, AFFILIATES, FACILITIES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, OR ANY OF THEIR RESPECTIVE SUCCESSORS OR ASSIGNS, BE LIABLE TO THE OTHER FOR SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, INCIDENTAL OR OTHER INDIRECT DAMAGES, LOSSES, OR EXPENSES.
7. **GENERAL COMPLIANCE WITH LAWS.** Both Parties will comply with all applicable federal, state, and local laws, statutes, regulations, rules, orders, and ordinances.
8. **DISPUTE RESOLUTION.** Before either Party files a claim in court against the other, it will meet with the other Party in good faith to resolve any controversies or claims that arise under this Agreement.
9. **INJUNCTIVE RELIEF.** For Agreement breaches that may result in damages not adequately redressed by monetary damages or legal remedies alone, each Party is entitled to seek injunctive and other equitable relief without being required to post a bond.
10. **ASSIGNMENT.** Neither Party may assign this Agreement without the other Party’s prior written consent. This Agreement binds and benefits the Parties’ successors and permitted assigns.
11. **CHANGE OF CONTROL.** If a third party acquires a controlling interest (i.e., 50% ownership or more) of Employer, then (a) Employer will notify Intermountain within 15 days of that acquisition, and (b) upon that acquisition, Intermountain may terminate this Agreement immediately upon written notice to Employer.
12. **GOVERNING LAW; VENUE; ATTORNEYS’ FEES.** Utah laws, excluding its conflict-of-law provisions, govern this Agreement, and both Parties submit to the exclusive jurisdiction of state and federal courts in Utah. The prevailing

Party in any litigation proceedings is entitled to recover its reasonable attorneys' fees, other fees, and costs incurred in the litigation, in addition to any other relief to which that Party may be entitled.

13. **FORCE MAJEURE.** "Force Majeure" means any delay caused by acts of nature, strikes, lockouts, other labor troubles, riots, civil commotion, insurrection, war or other reason not the delayed party's fault (financial inability excepted). If a Force Majeure prevents a Party from discharging its obligation under this Agreement, that Party will not be in breach of this Agreement, and the performance period for that Party's obligations will extend for a period equivalent to the delay period caused by the Force Majeure. A Party claiming Force Majeure excuses its performance, will give prompt written notice to the other Party of the Force Majeure, use its best efforts to avoid or remove that Force Majeure, and continue to perform to the extent possible.
14. **NO PUBLICITY.** Employer will not distribute any publicity regarding this Agreement or use Intermountain as a business reference in any form without receiving prior written approval from an Intermountain vice president.
15. **NOTICES.** Each notice under this Agreement must be in writing, addressed to the appropriate party as set forth on the Agreement's cover page, and delivered to the other Party by email and by either overnight courier or first class U.S. Mail (postage prepaid and return receipt requested).
16. **RELATIONSHIP; THIRD PARTY BENEFICIARIES; NON-SOLICITATION.** The Parties are independent contractors, and this Agreement does not constitute — and must not be construed to create — a partnership, agency, joint venture, or employment relationship. Nothing in this Agreement gives one Party the right, power, or authority to bind the other. Unless it states otherwise, this Agreement does not create any right in, or inure to the benefit of, any third parties.
17. **CUMULATIVE REMEDIES; SURVIVAL.** All remedies provided in this Agreement, at law, or in equity, are cumulative and do not limit a Party's other available rights or remedies. In addition to the provisions that are expressly made to survive this Agreement, the Agreement's provisions that by their nature are intended to survive, will survive this Agreement's termination.
18. **MISCELLANEOUS.** This Agreement contains the entire agreement and understanding between the Parties relating to this Agreement's subject matter. The Parties may amend this Agreement only in a written document signed by both Parties. No failure by either party to enforce or exercise any right under this Agreement constitutes a waiver. If an Agreement provision is invalid or unenforceable, then the remainder of this Agreement will remain in full force and effect. Each section heading in this Agreement is for convenience only and does not modify or restrict any Agreement term. The Parties may sign this Agreement in counterparts, each when signed and delivered will be deemed an original, and together constitute one and the same instrument. The Parties may sign and deliver this Agreement by facsimile or other electronic means, such as e-mail. A Party's duly authorized representative will sign this Agreement, and each signature constitutes conclusive proof of that person's authority to bind the Party represented by that person.

ATTACHMENT C

Fee Schedule

EMPLOYEE POPULATION: _____. The Employee Population will be updated by Employer in accordance with Section 1.3 of this Agreement.

PAYMENT TERMS

FLAT FEE: _____ per year. The Flat Fee represents an Annual Invoice Rate that can be paid in a lump sum or quarterly disbursements.

PEPM FEE: _____ per employee per month. The Monthly Invoice Rate is calculated as $\text{PEPM Fee} \times \text{Employee Population}$.