

# Independent Agent Agreement

Date:

**Re: Offer Letter of Agreement**

Dear: \_\_\_\_\_

This letter of agreement is to appoint you as an Independent Agent hereafter known as “IA” at Centers Plan for Health Living HMO hereafter known as “CPHL”. Details of this agreement are as follows:

**Start Date:** \_\_\_\_\_

**Status:** Independent contractor: W-9, commission only.

**I. Solicitation of Applications for MA Plans.** IA shall engage in the solicitation of enrollment into CPHL in accordance with CMS laws and regulations. IA acknowledges and agrees that sales and solicitation of applications for CPHL MA Plans by IA shall be limited to eligible Medicare beneficiaries on an individual basis, and specifically excludes sales to any type of group.

**II. Education and Training.** IA acknowledges and agrees that this appointment, and continuation of this appointment and Agreement is subject to the IA’s participation in, and successful completion of CPHL 's requirements including agent educational, training and certification programs as specified by CPHL from time to time.

**III.** As used in this Agreement the term " CPHL Requirements" shall mean and include written policies, procedures, rules, directives and guidelines in regard to (i) advertising, marketing and sales of CPHL, (ii) the CPHL Compliance Program, Code of Conduct and its Fraud, Waste and Abuse (FWA) Program, FWA Training and information on how to access the Compliance Officer; (ii) CPHL Sales/Marketing Oversight Program(s); and (iii) CPHL and IA participation in credentialing, education, training and certification programs provided by CPHL and/or its designee.

**IV.** As used in this Agreement, "IA" shall mean an individual who: (i) is licensed as an accident and health insurance agent under section 2103 of the NYS Insurance Law, (ii) has been appointed by CPHL and entered into the " CPHL Insurance Agent Appointment and Agreement."

**V.** As used in this Agreement, the term "**CMS Laws and Regulations**" shall mean and include: (i) 42 CFR Parts 417, 422 and 423; (ii) the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (the “MMA”); (iii) the Social Security Act, as amended; (iv) Part C and Part D of Title XVIII of the Social Security Act and all rules and regulations related to Part C and Part D that are from time to time adopted by CMS; (v) any laws and regulations enacted, adopted, promulgated, applied, followed or imposed by any governmental authority or court in respect of Medicare Advantage programs; and (vi) any and all administrative guidelines (including the CMS Marketing Guidelines), bulletins, manuals,

instructions, requirements, policies, standards, or directives from time to time adopted or issued by CMS.

**VI.** IA agrees to, will abide by and comply with the obligations imposed pursuant to CMS Laws and Regulations,

**VII. Representation of CPHL.** IA shall actively promote the sale of CPHL MA Plans and obtain applications from interested and eligible Medicare beneficiaries. In its representation of CPHL, IA shall not materially misrepresent CPHL. IA shall adhere to all CPHL Requirements, including FWA training and education programs and information on access to the CPHL Corporate Compliance Officer, and all CMS Laws and Regulations, and other federal rules and regulations in regard to marketing and sales of, and enrollment in CPHL MA Plans, made available to IA at initial education and training program.

**VIII. Advertising Sales Materials.** IA shall comply with all CPHL Requirements with respect to use of CPHL approved advertising and sales material. IA shall comply with all CMS Laws and Regulations and CPHL Requirements that pertain to advertising and solicitation of CPHL MA Plans. IA shall utilize only CPHL authorized sales materials. No advertising, circulars or other written material intended for promotional use or publication by IA which concerns CPHL or the MA Plans, shall be issued, used or published by IA unless and until it is (a) submitted to CPHL for review and (b) approved by CPHL in writing, following approval of such materials by CMS, where applicable. CPHL shall be solely responsible for obtaining CMS approval of marketing/sales materials, where applicable.

**IX. Supplies.** All material furnished to IA by CPHL, including forms, applications, proposals and related advertising, and sales material are the property of CPHL and, shall be used only in the manner intended and for the furtherance of CPHL 's business. Any materials in IA 's possession or control at the termination of this Agreement shall be promptly returned to CPHL.

**X. Rapid Disenrollment.** IA shall maintain a "Rapid Disenrollment" rate of no more than ten percent (10%) for each calendar year throughout the term of this Agreement. For purposes of this provision, "Rapid Disenrollment" means the voluntary disenrollment of an Enrollee from an MA Plan on or before ninety (90) days after the Enrollee's initial enrollment effective date. Disenrollments for all CPHL MA Plans marketed and promoted by IA are reported to CPHL by CMS on the "Monthly Membership Reconciliation" (MMR) file. If the Rapid Disenrollment rate exceeds ten percent (10%) for any calendar year, CPHL will review your agreement for potential termination.

**XI. Commissions.** CPHL agrees to pay commissions to IA in accordance with the commission schedule in Attachment A-1. IA shall accept such payments as compensation in full for all services performed and for all expenses incurred by IA under this Agreement.

**Commission:**

## **I. General Provisions Relating to Compensation;**

### **A. Definitions:**

1. **Initial Enrollment:** means the first new enrollment made by a beneficiary for effective date(s) on or after January 1<sup>st</sup> of the year(s) specified in the applicable Commission Compensation Schedule.
2. **Continued Enrollment:** means each plan year, after the Initial Enrollment plan year, in which the beneficiary remains enrolled in CPHL.
3. **Enrollment Change:** means a change from one MA/MA-PD plan to another MA/MA-PD plan after an Initial Enrollment.
4. **Six (6) Year Compensation Cycle:** means the Initial Enrollment year and the five (5) years of Continued Enrollment immediately following the initial Enrollment year.
5. **Initial Commission Amount (ICA):** means that amount to be paid to IA upon a beneficiary's Initial Enrollment. The ICA applicable to each plan year shall be as set forth at Attachment A-1.
6. **Renewal Commission Amount (RCA):** means that amount to be paid to IA for each year of the beneficiary's Continued Enrollment in the Plan up to a maximum of five years of Continued Enrollment. The RCA applicable to each plan year shall be as set forth at Attachment A-1.

### **B. ICA Payment(s) to be Advanced:**

1. For Initial Enrollments, ICA shall be paid to IA as follows: (1) RCA shall be paid in a lump sum payment, no later than thirty (30) days after the effective date of the beneficiary. and (ii) the remainder to be paid no later than thirty (30) days of CPHL 's receipt of notice from CMS confirming that the enrollment is an Initial Enrollment for that Member.
2. IA acknowledges and agrees that payment of the ICA as described above constitutes an advance payment, the right to which is accrued over the course of 12 months.
3. IA further acknowledges and agrees that, in the event that the beneficiary disenrolls from the selected MA Plan prior to completion of one year of enrollment, CPHL shall recoup unearned ICA, prorated as described below.

### **C. Recoupment of Advanced ICA Payments:**

1. Disenrollments effective prior to the 4<sup>th</sup> Month: CPHL shall recoup the full amount of ICA paid to IA in the event that the beneficiary disenrolls with a disenrollment effective date prior to the 4<sup>th</sup> month following Initial Enrollment effective date.
2. Disenrollments effective after the 4<sup>th</sup> month, and prior to the 12<sup>th</sup> month: CPHL shall recoup that amount of the ICA that represents the unearned portion of the commission; i.e., if the beneficiary disenrolls with a disenrollment effective date prior to the 7<sup>th</sup> month

following Initial Enrollment, CPHL shall recoup 50% of the ICA paid; if the beneficiary disenrolls with a disenrollment effective date prior to the 10<sup>th</sup> month following Initial Enrollment, CPHL shall recoup 25% of the ICA paid.

**D. RCA Payments:**

1. For each year of Continued Enrollment, up to a maximum of 5 years, CPHL shall pay to IA the RCA payment in 12 equal monthly installments.
2. CPHL shall make the monthly RCA payment to IA within thirty (30) days of receipt of the Monthly Membership Report from CMS, confirming the beneficiary's Continued Enrollment.

**II. Acknowledgements by IA and CPHL.**

**A. CMS Rules, Regulations & Guidances: CPHL and IA, acting on behalf of itself acknowledge and agree that:**

1. All compensation must comply with CMS regulations, rules, marketing guidelines, interpretations and instructions, currently in force and as may be amended from time to time;
2. The provisions set forth above are based on current CMS regulations and marketing guidelines and the interpretation of such regulations and guidelines by CMS as of the effective date of this Agreement;
3. In the event that the provisions set forth above do not comply with CMS regulations, rules, marketing guidelines or any amendment(s) thereto, the non-compliant provisions shall be revised to reflect and comply with current interpretive guidance provided by CMS and this Agreement, together with its Exhibits shall be automatically amended to reflect such regulations and/or guidance without further action of the Parties.
4. In the event that CMS regulations, rules, guidances and/or instructions require the parties to amend this Attachment A, this Attachment A shall be so amended effective immediately upon receipt of notice from CPHL without the necessity of further action by the parties,

**B. Amendments by CPHL.**

1. CPHL may amend the provisions set forth in this Attachment A by providing thirty (30) days advance notice to IA. If IA does not object to the amendment within the thirty (30) day notice period, the amendment shall take effect as of the date stated in the notice.
2. CPHL will provide to IA, on an annual basis a new Attachment A-1 which shall set forth the Six Year Compensation Cycle applicable to Initial Enrollments during the new plan year.

**ATTACHMENT A-1**

**2023 COMMISSION COMPENSATION SCHEDULE**

- 1. Initial Commission Amount.** CPHL shall compensate IA as follows for each individual properly enrolled for the 2023 Plan Year through the efforts of IA in accordance with the terms of the Agreement in those MA Plans offered by CPHL beginning with 01/01/2023 effective enrollments. CMS will identify to CPHL those beneficiaries enrolled in an MA Plan who were newly entitled or enrolled from original Medicare (a “CMS Deemed Initial Enrollment”). If upon receipt of the CMS report that a new enrollment was a CMS Deemed Initial Enrollment or a new enrollment to CPHL, CPHL will then pay the IA an Initial Commission Amount (ICA) as follows:

Initial Commission Amount
\$601 per enrollment

- 2. Renewal Commission Amount.** Beginning with the thirteenth (13<sup>th</sup>) month of continuous enrollment and annually thereafter, a renewal fee will be paid to IA for each individual properly enrolled in an CPHL MA Plan for the 2023 Plan Year. The renewal fee will be paid for each month of continuous enrollment on a monthly basis in an amount equal to one twelfth the Renewal Commission Amount no more than thirty (30) days after the effective month

Renewal Commission Amount
\$301 per enrollment

The terms set forth above shall apply to all enrollments occurring at any time during the 2023 calendar year (“Applicable Plan Year”).

**2023 Independent Agent commission distribution schedule:**

Effective Date	Distribution Date
1/1/2023	45 Days From Effective Date
2/1/2023	45 Days From Effective Date
3/1/2023	45 Days From Effective Date
4/1/2023	45 Days From Effective Date
5/1/2023	45 Days From Effective Date
6/1/2023	45 Days From Effective Date
7/1/2023	45 Days From Effective Date
8/1/2023	45 Days From Effective Date
9/1/2023	45 Days From Effective Date
10/1/2023	45 Days From Effective Date
11/1/2023	45 Days From Effective Date
12/1/2023	45 Days From Effective Date

Accepted By: \_\_\_\_\_ Date \_\_\_\_\_