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Ken Blum
Secretary of State
By: KBenz

DUPLICATE ORIGINAL

RESOLUTION NO. 2009 - 165

A RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN PIMA COUNTY AND THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM TO PROVIDE MATCHING FUNDS TO SECURE FEDERAL FUNDING FOR GRADUATE MEDICAL EDUCATION IN PIMA COUNTY

WHEREAS, there exists a critical physician shortage in Arizona, the effects of which are particularly evident in Pima County, and an important factor to help reduce the physician shortage is the maintenance of strong graduate medical education programs within the shortage area; and

WHEREAS, the University of Arizona's College of Medicine, which has been sponsoring a graduate medical program with University Medical Center as its primary teaching hospital for many years and more recently at the graduate medical program operated by University Physicians Healthcare with the primary teaching hospital at University Physicians Hospital at Kino Campus; and

WHEREAS, the Pima County Board of Supervisors wishes to support reduction of the physician shortage by strengthening and expanding the graduate medical education programs; and

WHEREAS, Pima County and the University of Arizona College of Medicine are able to secure federal Medicaid funding to support graduate medical education programs in Pima County by providing local matching funds to the Arizona Health Care Cost Containment System (AHCCCS); and

WHEREAS, the County will provide funds from the University of Arizona and the County to AHCCCS through an intergovernmental agreement to bring the resulting matching and federal funds to teaching hospitals in Pima County for graduate medical education programs;

NOW, THEREFORE, UPON MOTION DULY MADE, SECONDED AND CARRIED, BE IT RESOLVED THAT:

1. The intergovernmental agreement between Pima County and AHCCCS for transferring matching funding for the purpose of drawing down federal funding for graduate medical education is hereby approved;
2. The Chairman of the Board is hereby authorized and directed to sign the intergovernmental agreement for the Pima County Board of Supervisors;
3. The various officers and employees of Pima County are hereby authorized and directed to perform all acts necessary and desirable to give effect to this Resolution.

PASSED, ADOPTED AND APPROVED this 7th day of July, 2009 by the Board of Supervisors of Pima County.

[Signature]
Chairman of the Board of Supervisors

ATTEST: JUL 07 2009

[Signature]
Clerk of the Board of Supervisors

APPROVED AS TO FORM:
[Signature]
Deputy County Attorney

~~CONFIDENTIAL~~

INTERGOVERNMENTAL AGREEMENT

BETWEEN

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION (AHCCCS)
And
PIMA COUNTY (THE COUNTY)

WHEREAS, there exists a critical physician shortage in Arizona the effects of which are particularly evident in Pima County; and

WHEREAS, an important factor in reducing the physician shortage is the creation and maintenance of strong graduate medical education programs within the shortage area; and

WHEREAS, the University of Arizona's College of Medicine has for many years sponsored a graduate medical education program with University Medical Center, a nonprofit corporation, acting as the primary teaching hospital; and

WHEREAS, for varied reasons, University Medical Center's ability to expand the number of graduate medical education positions it is able to accommodate is limited; and

WHEREAS, the University of Arizona's College of Medicine will continue to sponsor the graduate medical education program operated by University Physicians Healthcare, a nonprofit corporation, doing business as University Physicians Healthcare at Kino Campus, acting as the primary teaching hospital for that new program, thereby significantly expanding the number of graduate medical education positions available in Pima County; and

WHEREAS, the Pima County Board of Supervisors wishes to support reduction of the physician shortage through strengthening existing programs and more specifically through the expansion of graduate medical education at University Physicians Hospital at Kino Campus; and

WHEREAS, AHCCCS is duly authorized to execute and administer Agreements under A.R.S. § 36-2903 *et seq.*; and

WHEREAS, Pima County, is duly authorized to enter into this Agreement under A.R.S. §§ 11-251 *et seq.*; and

WHEREAS, AHCCCS, and the County are authorized by A.R.S. § 11-951 *et seq.* to enter into Intergovernmental Agreements for cooperative action pertaining to reimbursement or advancements of funds for services performed; and

WHEREAS, as authorized by A.R.S. § 36-2903.01(H)(9)(f), the County and AHCCCS wish to enter into this Agreement in order to establish procedures to fund the non-federal share of the Medicaid payment for Graduate Medical Education (GME) programs in Pima County.

NOW, THEREFORE, County and AHCCCS (collectively, the "Parties"), pursuant to the above, and in consideration of the matters and things hereinafter set forth, do mutually agree as follows:

- 1.0 **DEFINITIONS:** Unless otherwise defined in this Agreement, all terms have the same meaning as set forth in Title 36 of the Arizona Revised Statutes or Title 9, Ch. 22., Art. 7 of the Arizona Administrative Code (A.A.C.) as appropriate.

- 1.1 **Agreement:** This document, together with any and all attachments, appendices, exhibits, schedules and future amendments as agreed to by the Parties.
- 1.2 **AHCCCS:** Arizona Health Care Cost Containment System.
- 1.3 **CFR:** Code of Federal Regulations – the official compilation of Federal rules and requirements.
- 1.4 **County:** Pima County, a political subdivision of the State of Arizona.
- 1.5 **CMS:** Centers for Medicare and Medicaid Services, a Federal agency within the U.S. Department of Health and Human Services.
- 1.6 **Day:** A calendar day, unless specified otherwise.
- 1.7 **Eligible Pima County Hospital(s):** Those teaching hospitals located in Pima County that meet the definition and requirements set forth in A.A.C. R9-22-712.05, specifically University Medical Center and University Physicians Healthcare Hospital at Kino Campus.
- 1.8 **FFP:** Federal Financial Participation refers to the Federal matching rate that the Federal government makes to the Title XIX program portion of AHCCCS, which are the monies that AHCCCS can claim from CMS for the Federal share of AHCCCS Program service and administration costs.
- 1.9 **State:** The State of Arizona.
- 1.10 **Non-Federal Share:** The percentage of payment for GME programs contributed by the State or paid to the State by Pima County or another permissible local entity to qualify for FFP.

2.0 **PURPOSE:**

The purpose of this Agreement is to provide a framework that complies with Federal and State laws, regulations, rules and appropriate CMS approval for AHCCCS and the County to fund the non-federal share of the Medicaid payment for GME programs in Pima County for the period of July 1, 2008 through June 30, 2009. The Agreement is entered into pursuant to A.R.S. § 36-2903.01 and A.A.C. R9-22-712.05(F) to provide AHCCCS with the appropriate non-federal share in order to qualify for additional federal funds which will be provided to Eligible Pima County Hospital GME programs in Pima County.

3.0 **SCOPE:**

3.1 **ELIGIBILITY REQUIREMENTS.**

Monies generated through this agreement may only be utilized for permissible GME costs and distributed to those hospitals located in Pima County that are defined as eligible health care facilities in A.R.S. §36-2903.01 and A.A.C. R9-22-712.05. AHCCCS Administration will determine which GME programs in Pima County are approved and eligible to receive distribution of Medicaid payment for GME programs for the period of July 1, 2008 through June 30, 2009 and the amount of any distribution. Eligibility and distribution amount determinations will be consistent with applicable Federal statutes, regulations and rules, A.R.S. § 36-2903.01, A.A.C. R9-22-712.05 and this Agreement.

3.2 **CONTACT INFORMATION.**

3.2.1 **AHCCCS.**

Questions, comments and concerns regarding the duties and responsibilities of the

AHCCCS are to be directed to:

Michael Veit, Contracts Administrator
 AHCCCS
 701 E. Jefferson, MD 5700
 Phoenix, AZ 85034
 Phone: 602-417-4762
 Fax: 602-417-5957
 E-Mail: Michael.veit@azahcccs.gov

3.2.2 THE COUNTY

Questions, comments and concerns regarding the duties and responsibilities of the County are to be directed to:

Dennis Douglas, Deputy County Administrator
 130 W. Congress, 10th Floor
 Tucson, AZ 85701-1333
 Phone: 520-740-8228
 Fax: 520-740-8171
 E-Mail: Dennis.Douglas@pima.gov

3.3 AHCCCS RIGHTS AND OBLIGATIONS.

3.3.1 Receipt and Distribution of funds.

AHCCCS will utilize the funds provided by County to obtain FFP and distribute the combined funds to Eligible Pima County Hospitals for Medicaid payment for GME programs for the period of July 1, 2008 through June 30, 2009. AHCCCS will obtain FFP funds and distribute the combined funds to the Eligible Pima County Hospitals within 10 (ten) days of receipt of the County funds. AHCCCS will not retain any portion of the Non-Federal Share or the FFP under this Agreement. Both the Non-Federal Share and the FFP may only be used for Medicaid GME payments.

3.3.2 Non-Appropriation.

Payments made to AHCCCS by the County pursuant to this Agreement are conditioned upon the availability to the County of funds authorized for expenditure in the manner and for the purpose(s) stated herein. The County is not liable for any purchases or subcontracts entered into by AHCCCS in anticipation of such funding. AHCCCS is not responsible for any payments to an Eligible Pima County Hospital under this Agreement if the County has not provided the non-federal share for such payments.

3.3.3 AHCCCS Payment Recoupment from hospitals.

3.3.3.1 AHCCCS will require hospitals receiving distributions as a result of this Agreement to reimburse AHCCCS upon demand and AHCCCS will deduct from future payments to the receiving hospital(s) any amount:

3.3.3.1.1 Received by the hospital from AHCCCS for GME that have been inaccurately reported or paid or are found to be for an excluded expense;

3.3.3.1.2 Paid by AHCCCS for which a hospital's books, records, and other documents are not sufficient to clearly confirm that the

hospital was entitled to the amount paid;

3.3.3.1.3 Identified as a questioned cost as the result of a financial management review or audit.

3.3.3.2 AHCCCS is responsible to satisfy any reporting or FFP reimbursement requirements imposed by CMS as a result of a recoupment made as a result of the paragraph 3.3.3.1 of this Agreement or applicable Federal laws, regulations and rules. In the event AHCCCS recoups GME monies from a hospital(s), AHCCCS will return to County, without demand, that portion of the recoupment representing the non-federal share contributed under this Agreement.

3.3.3.3 Except as provided in the forgoing provisions of this paragraph, neither AHCCCS nor County will require a receiving hospital to reimburse or otherwise compensate or return any of the funds provided to the hospital as a result of this Agreement. Eligible Pima County Hospitals will receive one hundred percent (100%) of all Medicaid GME payments and those hospitals are not required by this or any other agreement to return any portion of the payment to AHCCCS or the County.

3.3.4 Monitoring.

AHCCCS will monitor expenditures covered by this Agreement and notify County as soon as practicable regarding any irregularities, disallowed expenses or recoupments.

3.5 THE COUNTY'S RIGHTS AND OBLIGATIONS.

3.5.1 Payment of funds

3.5.1.1 The County will pay AHCCCS a total of Five Million Eight Hundred Sixty-seven Thousand Seven Hundred Sixty Dollars and Thirty-six Cents (\$5,867,760.36) on or before August 15, 2009. The funds paid by County to AHCCCS is comprised of Two Million Nine Hundred Thirty-three Thousand Eight Hundred Eighty Dollars and Eighteen Cents (\$2,933,880.18) of Pima County general fund dollars and Two Million Nine Hundred Thirty-three Thousand Eight Hundred Eighty Dollars and Eighteen Cents (\$2,933,880.18), transferred to County via separate agreement, from the University of Arizona College of Medicine's state general fund appropriation for clinical teaching support.

3.6 GENERAL FINANCIAL RESPONSIBILITIES

3.6.1 AHCCCS Reporting

3.6.1.1 Expenditure Report.

AHCCCS will submit to the County a report showing actual distribution of funds to the Eligible County Hospitals. The distribution report shall be submitted within fifteen (15) days after the date of distribution.

3.7 GENERAL PROVISIONS.

3.7.1 Entire Agreement.

This document, its attachments and appendices, including any approved subcontracts,

amendments and modifications made thereto, shall constitute the entire Agreement between the Parties, and supersedes all other understandings, oral or written.

3.7.2 Exercise of Rights.

Failure to exercise any right, power or privilege under this Agreement will not operate as a waiver thereof, nor will a single or partial exercise thereof preclude any other or further exercise of that or any other right, power, or privilege.

3.7.3 Contract Term.

The term of this Agreement is for one (1) year beginning July 1, 2009 and ending June 30, 2010 and is not effective until signed by both parties. This Agreement must be filed with the Secretary of State.

3.7.4 Compliance with Laws, Rules and Regulations.

AHCCCS, the County and their subcontractors must comply with all applicable Federal and State laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Agreement. The laws and regulations, of the State of Arizona govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement. Any action relating to this Agreement must be brought by arbitration to the extent required by A.R.S. § 12-1518 or in an appropriate court. Any arbitration award will be enforced in an appropriate court.

Non-Discrimination. The parties shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this IGA. The parties shall comply with the provisions of Executive Order 75-5, as amended by Executive Order 99-4, which is incorporated into this IGA by reference, as if set forth in full herein.

ADA. The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

3.7.5 Amendments.

3.7.6.1 This Agreement, including its term, may be modified only through a duly authorized written amendment, executed with the same formality as the Agreement.

3.7.6 Section 3.7.5, above, notwithstanding, AHCCCS and the County will give notice to each other of any change:

- 3.7.6.1 of address;
- 3.7.6.2 of telephone number;
- 3.7.6.3 authorized signatory or designee; or
- 3.7.6.4 name and/or address of the person to whom notices are to be sent.

3.7.7 Termination.

3.7.7.1 Pursuant to A.R.S. § 38-511, either party to this Agreement may terminate this Agreement without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement is or becomes at any time while the Agreement or an extension of the Agreement is in effect an employee of or a consultant to any other party to this Agreement with respect to the

subject matter of the Agreement. The cancellation will be effective when AHCCCS or the County receives written notice of the cancellation unless the notice specifies a later time.

3.7.8 Records.

The parties agree to retain all financial books, records, and other documents and will contractually require each subcontractor to retain all data and other records relating to the acquisition and performance of the Agreement for a period of five (5) years after the completion of the Agreement. All records are subject to inspection and audit by the parties at reasonable times. Upon request, the parties will produce a legible copy of any or all such records.

3.7.9 Severability.

The provisions of this Agreement are severable. If any provision of this Agreement is held by a court to be invalid or unenforceable, the remaining provisions continue to be valid and enforceable to the full extent permitted by law.

3.7.10 Indemnification.

Each party (as Indemnitor) agrees to indemnify, defend and hold harmless the other party (as Indemnitee) from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

3.7.11 Notices.

Notices to the County should be sent to the person indicated by the County stated in this Agreement. The County will send notices required by this Agreement to the AHCCCS Contact person indicated in this Agreement. An authorized Procurement Officer or an authorized County representative may change the respective person to whom notice is required by providing the other with written notice and an amendment to the Agreement is not necessary.

3.7.12 No Third Party Beneficiaries

Nothing in the provisions of this IGA is intended to create duties or obligations to or rights in third parties not parties to this IGA or effect the legal liability of either party to the IGA.

3.7.13 No Joint Venture

Nothing in this Agreement is intended to create a joint venture between the Parties and it will not be so construed. Neither AHCCCS' nor County's employees will be considered officers, agents or employees of the other or be entitled to receive any employment-related fringe benefits from the other.

3.8 NON APPROPRIATION

- 3.8.1 Funding for this Agreement is contingent upon the availability of funds authorized annually for the specific program services provided under this Agreement. An authority may be from a Federal, State, or other funding source or a combination of these sources.

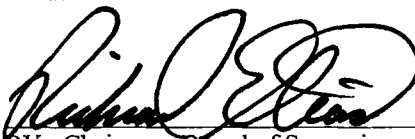
3.8.2 Notwithstanding any other provision in this Agreement, this Agreement may be terminated if for any reason the Pima County Board of Supervisors does not appropriate sufficient monies for the purpose of maintaining this Agreement.


NOW THEREFORE, AHCCCS and the County agree to abide by the terms and conditions set forth in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year specified below.

PIMA COUNTY

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)


BY: Chairman, Board of Supervisors Date JUL 07 2009


BY: Michael Veit, Contracts Administrator Date JUL 02 2009

ATTEST:

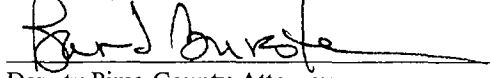

Lori Godshuan JUL 07 2009

Clerk of Board Date

Approved as to Content:


Dennis Douglas, Deputy County Administrator Date 7-6-09

In accordance with A.R.S. § 11-952, this Agreement has been reviewed by the undersigned who has determined that this Agreement is in the appropriate form and is within the power and authority granted to Pima County.


Deputy Pima County Attorney

In accordance with A.R.S. § 11-952, this Agreement is in the proper form and is within the power and authority granted to AHCCCS under A.R.S. §§ 36-2903 et seq. And 36-2932 et seq.


Legal Counsel for AHCCCS

Secretary of State filing information: