K23-793

Ambulance Services FMP Participation Agreement
Cover Sheet

Ambulance Provider:	City of New Orleans – Emergency Medical Services Department
Entity type:	Political Subdivision of the State of Louisiana
Address for Notice:	Chief of EMS 2929 Earhart Blvd. New Orleans, LA 70125 with copy to: City Attorney City of New Orleans 1300 Perdido Street, Ste. 5E03 New Orleans, LA 70112
Automatic Renewal?	[x] This Amendment automatically renews as provided in Section 6.1. ___ This Amendment DOES NOT automatically renew as provided in Section 6.1.

Ambulance Services FMP Participation Agreement

This Ambulance Services FMP Participation Agreement ("Agreement") is made on the date executed by the parties but effective as of January 1, 2023 ("Effective Date") between Louisiana Ambulance Alliance IPA, LLC, a Louisiana limited liability company ("IPA"), the ambulance provider listed on the Cover Sheet, ("Ambulance Provider") and Humana Health Benefit Plan of Louisiana, Inc., a Louisiana corporation ("MCO") (Ambulance Provider, IPA and MCO are collectively referred to herein jointly as the "Parties" and each individually as a "Party").

BACKGROUND

WHEREAS, IPA is comprised of or contracts with one or more ambulance service companies, as identified on Exhibit A attached hereto (each a "Member" and collectively, "Members"), that provide ambulance services to Medicaid Enrollees, as defined below;

WHEREAS, Ambulance Provider and IPA have executed an agreement, attached hereto as Exhibit B, whereby Ambulance Provider assigns certain duties and makes certain representations and warranties to IPA regarding the subject matter of this Agreement;

WHEREAS, pursuant to LSA R.S. 36:251, *et seq.* the Louisiana Department of Health ("LDH") is responsible for the Medical Assistance Program, Title XIX of the Social Security Act, including the administration of state and federal funds in furtherance of the Medial Assistance Program ("Medicaid Program");

WHEREAS, LDH is required to administer the Medicaid Program to ensure operations are in accordance with federal and state laws, rules and regulations;

WHEREAS, LDH administers the Medicaid Program, in part, through the Bayou Health Program and has contracted with the Coordinated Care Network prepaid organizational model Medicaid Managed Care Organizations (collectively, "MCOs") to provide a health care delivery system that improves access to care and care coordination, promotes healthier outcomes for individuals enrolled in the Healthy Program ("Medicaid Enrollees"), and provides budget stability and savings to the Medicaid Program;

WHEREAS, on or about February 1, 2015, LDH contracted with the MCOs to provide core benefits and services that include ambulance services for Medicaid Enrollees ("MCO Agreement") through specified monthly capitation rates on a per member per month basis ("PMPM");

WHEREAS, LDH implemented a change to the Medicaid Program payment methodology to ensure consistent pricing for ambulance services included in the Medicaid Program and this changed the calculation of PMPM payments to MCOs;

WHEREAS, effective July 1, 2015, this change resulted in a PMPM increase over the base rate designated as "ambulance funds" for reimbursement of ambulance services (the "FMP");

WHEREAS, the FMP consists of a limited pool of funds, as budgeted by the State of Louisiana ("State");

WHEREAS, Ambulance Provider, IPA and its Members collectively represent that ambulance providers have experienced a reduction in their historical supplemental payments and, as a result, LDH has historically paid certain ambulance providers ("Eligible Providers") supplemental payments to ensure financial viability of said Eligible Providers so that Medicaid Enrollees have access to their services, for the purpose of improving health outcomes through coordination of care and quality of care, increasing access to medically necessary services, and obtaining cost effective and medically appropriate Medicaid covered services to individuals enrolled in the MCOs, meeting the goals of LDH;

WHEREAS, Ambulance Provider, IPA and its Members collectively represent that those Eligible Providers are in need of FMP (collectively, "Ambulance Providers") and have requested MCO to distribute its FMP funds received from LDH to them in order to ensure (i) their financial viability and (ii) that Medicaid Enrollees have access to ambulance services;

WHEREAS, Ambulance Provider, IPA and its Members collectively represent and warrant that all of the Ambulance Providers are members of IPA;

WHEREAS, Ambulance Provider, IPA and its Members collectively represent that the Ambulance Providers are eligible for FMP Supplemental Payments by virtue of being Eligible Providers as defined above;

WHEREAS, Ambulance Provider, IPA and its Members collectively represent that the Ambulance Providers have historically experienced economic losses in connection with making these essential ambulance services available to the public, including Medicaid Enrollees, and the continued provision of such services requires additional financial support;

WHEREAS, in order to effectuate LDH's implementation and payment of the pool of FMP funds, the Parties and Members seek and desire administrative efficiency in order to reimburse eligible Ambulance Providers their respective FMP amounts, and in order to achieve such efficiency and to avoid costly and likely disputes regarding payment amounts and timing, IPA, as authorized by the Members, will calculate each Ambulance Provider's proposed FMP Supplemental Payment amount using historical data, information obtained from the State's budgetary calculations, and other factors as authorized by the Ambulance Provider. The total of payments to Ambulance Providers will equal ninety seven and one-half percent (97.5%) of the MCO's net FMP payment received from LDH not including any Premium Tax Load (defined below) included in said payment. For the avoidance of doubt, Ambulance Provider FMP Supplemental Payments, as defined below, shall be calculated by applying the applicable percentage to the net FMP payment received from LDH, which shall be defined as the gross monthly FMP payment received from LDH less any applicable Premium Tax Load, less two and one-half percent (2.5%) of the FMP funds received as an administrative fee to be retained by the MCO; and

WHEREAS, it is the understanding of the Parties that the Premium Tax Load to reimburse MCO for the after-tax effect of the premium tax, which is anticipated to be 2.25% during the term of this Agreement, and the federal Health Insurer Fee may be included in the distributions of funds from LDH to the MCO that include the FMP funds, and that any such load attributable to such taxes and fees do not constitute FMP funds received by the MCO. It is further the understanding

of the Parties that LDH will make available through public documents the aggregate amount of FMP distributed by LDH each month to the MCOs and the amount of FMP distributed to each MCO; and

WHEREAS, it is the intent of the Parties and Members to implement a methodology for efficient and timely distribution of the FMP Supplemental Payments in a manner consistent with LDH requirements and state and federal laws, regulations and guidance.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Parties hereby agree as follows:

1. **Ambulance Services**

1.1 The Parties agree that the payment of FMP Supplemental Payments by MCO to IPA on behalf of each of the Ambulance Providers listed in Exhibit A attached hereto and made a part of this Agreement are only in relation to ambulance services provided by the Ambulance Providers to MCO's Medicaid Enrollees.

1.2 Ambulance Provider and IPA agree that the agreement between Ambulance Provider and IPA shall be incorporated herein as Exhibit B verbatim to the extent as if said agreement, including, but not limited to, the terms, conditions, representations warranties and indemnifications contained in said agreement were set forth herein. In addition, for the avoidance of doubt, and to the extent allowed by law, Ambulance Provider, IPA, and its Members collectively, extend, make and provide all representations, warranties and indemnification provisions and remedies contained in said Exhibit B to MCO as a material consideration for MCO entering into this Agreement.

2. **FMP Supplemental Payments**

2.1 Conditions for Receiving FMP Supplemental Payments. Except as otherwise provided herein, MCO shall pay to IPA, on behalf of each Ambulance Provider, a portion of the FMP payments received from LDH, in accordance with this Agreement ("FMP Supplemental Payments"). Ambulance Provider specifically authorizes MCO to make payments to IPA on behalf of the Ambulance Provider via one quarterly consolidated payment for all Ambulance Providers. IPA specifically assumes all responsibility and liability for distribution of FMP Supplemental Payments received from MCO to Ambulance Providers. Ambulance Provider hereby relieves MCO of any and all liability for any and all actions or inactions of IPA associated with this function. FMP Supplemental Payments paid to IPA, on behalf of the Ambulance Providers, by MCO shall not replace or supplant any other amounts paid or payable to an Ambulance Provider by MCO pursuant to a network provider agreement between an Ambulance Provider and MCO, or paid by MCO to or on behalf of an Ambulance Provider that is an out of network provider. In order to be eligible for FMP Supplemental Payments, an Ambulance Provider, must be an Eligible Provider, and must provide medical transportation services during the term of this Agreement to MCO's Medicaid enrollees. IPA and Ambulance Provider affirmatively represent that Ambulance Provider will continue to provide access to ambulance services to MCO's Medicaid Enrollees during the term of this Agreement.

2.2 Amount, Form and Timing of FMP Supplemental Payments.

2.2.1 FMP Supplemental Payment. During the term of this Agreement, MCO shall pay directly to IPA, on behalf of each eligible Ambulance Provider listed in Exhibit A, the amount of the FMP Supplemental Payment determined by multiplying the percentage provided in IPA's quarterly invoice to MCO for each Ambulance Provider on Exhibit A times the MCO's **NET FMP PAYMENT** received from LDH.

2.2.2 Invoicing. IPA shall submit to MCO quarterly a FMP Supplemental Payment invoice on behalf of each Member on a form to be agreed upon by the Parties, together with a certification of eligibility to receive the payment. The FMP Supplemental Payment invoice shall set forth the specific dollar amount to be paid by MCO to an Ambulance Provider.

2.2.3 Ambulance Provider Payment Information. Prior to the submission of an FMP Supplemental Payment invoice by IPA, Ambulance Provider and IPA shall submit W-9 Information to MCO. In addition, IPA shall submit the following to MCO:

a) MCO EFT Request Form and
b) MCO Vendor Setup Form.

2.2.4 Accuracy of Ambulance Provider Payment Information. Ambulance Provider and IPA are continuously obligated to maintain most current information in Section 2.2.3 above. Failure to initially provide information or maintain updates may lead to suspension of FMP Supplemental Payments, as applicable, until such time as any shortcomings are rectified by Ambulance Provider and/or IPA.

2.2.5 Quarterly FMP Supplemental Payment. Within ten (10) business days of the receipt by MCO of all FMP Supplemental Payment invoices from IPA on behalf of its Members, MCO shall pay the amount(s) in such invoice(s) subject to any other operational requirements provided by MCO to facilitate payment.

2.2.6 FMP Supplemental Payment Amount Discrepancy. In the event a discrepancy is identified regarding (i) the amount of FMP that MCO has actually received from LDH, (ii) the total amount of FMP Supplemental Payment amounts due to the Ambulance Provider(s), (iii) the Members/Ambulance Providers represented by IPA or (iv) the addition or removal of an Eligible Provider (each a "FMP Discrepancy"), the Parties agree to mutually cooperate in good faith to resolve such FMP Discrepancy, where applicable to MCO. MCO agrees to notify IPA and IPA agrees to notify MCO, in writing, of any FMP Discrepancy it identifies no later than ten (10) business days from the receipt of information from which the FMP Discrepancy becomes apparent, providing a detailed explanation as to the nature and basis for the FMP Discrepancy, including, if applicable, documentation of FMP funds received by MCO that are associated with such FMP Discrepancy (an "FMP Discrepancy Notice"). IPA shall submit an updated invoice(s) to MCO consistent with the FMP Discrepancy Notice, and MCO agrees to remit payment to IPA on behalf of each Ambulance Provider within ten (10)

business days of its receipt of such updated invoice. For the avoidance of doubt, nothing contained herein shall be interpreted or construed to require MCO to monitor, interpret, or make determinations regarding the contractual relationship between the IPA and Ambulance Provider.

2.2.7 Suspensive Condition. MCO's payment of FMP Supplemental Payments is expressly conditioned on the MCO's receipt of FMP from LDH and Ambulance Provider's eligibility, as defined herein.

2.2.8 Limitation of MCO's Obligations. Under no circumstances shall this Agreement be interpreted or construed to require the MCO to distribute FMP Supplemental Payments which exceed One Hundred Percent (100%) of the net FMP payment received by MCO from LDH.

2.2.9 Adjustment of Eligible Providers and FMP Percentages. In the event the State adjusts its FMP budget projections or implements other changes to the FMP methodology resulting in a need to amend the list of Eligible Providers set forth on Exhibit A or the percentages of FMP Supplemental Payments due to each Ambulance Provider in the IPA's quarterly invoice, and the Parties and Members are unable to agree on amended percentages, IPA and Members stipulate and agree that (i) MCO is authorized to adjust such percentages and (ii) the making of a payment by MCO will not constitute a waiver of MCO's rights pursuant to this Agreement to make adjustments necessary due to future or retroactive changes to the FMP program.

2.2.10 Satisfaction of MCO Obligations. Ambulance Provider, IPA and its Members collectively agree that payment in accordance with Section 2 of this Agreement constitutes timely, full and complete satisfaction of MCO's obligations for its FMP payments in conformity with MCO's contractual obligations to LDH.

2.2.11 Ambulance Provider Eligibility. MCO's FMP Supplemental Payments shall only be made for Ambulance Providers that are eligible to receive such payments according to the terms of this Agreement.

2.2.12 Ambulance Provider Ineligibility. IPA shall notify MCO in the event that LDH issues any criteria that affect any Member's status to receive FMP Supplemental Payments. To the extent Ambulance Provider receives any FMP Supplemental Payment that is attributable to services rendered when it was not eligible for such payment, Ambulance Provider agrees to return the total FMP Supplemental Payment amount received during such ineligibility period within ten (10) days of (i) discovering that it was not eligible for such payment or (ii) receipt of MCO's written demand to return the FMP Supplemental Payment(s), whichever is sooner.

3. Cooperation Among Parties.

3.1 Computation of FMP Supplemental Payments. In the event of any disputes or disagreements regarding the computation of the FMP Supplemental Payments,

MCO and Ambulance Provider, and IPA agree to cooperate reasonably in all respects to resolve the dispute or disagreement.

3.2 Final FMP Supplemental Payment. The Parties recognize and agree that neither MCO, IPA nor Ambulance Provider find it desirable to have the FMP payment methodology set forth herein result in an over or underpayment to the Ambulance Provider. As such, the Parties agree to negotiate in good faith in the event that such over or underpayment occurs to allow for a final true up of all FMP Supplemental Payments due to Ambulance Provider under this Agreement.

4. **Separate Agreement.**

This Agreement is not intended to modify, enlarge or supplant any existing obligations between MCO and any Ambulance Provider under any network provider agreement or other agreement between MCO and an Ambulance Provider. The terms and conditions of this Agreement control the rights and obligations of the Parties concerning FMP Supplemental Payments, including rights related to process and payment and rights of appeal. As such, in the event of a conflict between the terms of this Agreement and any Exhibit, the terms of this Agreement shall control.

5. **Release and Indemnity.**

5.1 IN EXCHANGE FOR THE FMP SUPPLEMENTAL PAYMENTS MADE IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, AND NOT WITHSTANDING ANYTHING HEREIN OR IN ANY OTHER AGREEMENT, AMBULANCE PROVIDER, IPA AND ITS MEMBERS COLLECTIVELY IRREVOCABLY AND UNCONDITIONALLY RELEASE, ACQUIT AND FOREVER DISCHARGE, WITHOUT ANY ADDITIONAL CONSIDERATION OR THE NEED FOR ADDITIONAL DOCUMENTATION, THE MCO AND EACH OF ITS SUCCESSORS, AFFILIATES, OWNERS, ASSIGNS, AGENTS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES AND ATTORNEYS (COLLECTIVELY, THE "**MCO RELEASED PARTIES**") FROM ANY AND ALL CHARGES, COMPLAINTS, CLAIMS, JUDGMENTS, DEMANDS, ACTIONS, OBLIGATIONS OR LIABILITIES, DAMAGES, RIGHTS, COSTS, AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COSTS ACTUALLY INCURRED), OF ANY NATURE WHATSOEVER, KNOWN, UNKNOWN OR PRESENTLY UNKNOWABLE, CONTINGENT OR ABSOLUTE, WHETHER ASSERTED OR NOT, NOW EXISTING OR WHICH MAY SUBSEQUENTLY ACCRUE TO IPA OR AMBULANCE PROVIDER IN THE FUTURE, EMANATING FROM OR ARISING OUT OF FMP SUPPLEMENTAL PAYMENTS UNDER THIS AGREEMENT OR THE MCO'S AGREEMENT WITH THE AMBULANCE PROVIDER, MADE OR NOT MADE HEREUNDER OR THEREUNDER OR THE ADEQUACY OF ANY FMP SUPPLEMENTAL PAYMENT(S) MADE TO AMBULANCE PROVIDER, OTHER THAN MCO'S BREACH OF ITS AGREEMENT WITH THE IPA.

5.2 Ambulance Provider, IPA and its Members collectively hereby agree to protect, defend, indemnify and hold harmless, the MCO from and against any and all liability, loss, damage, expense or claims of any nature whatsoever, including defense costs, penalties, fines, and legal fees, brought by any third party (including, but not limited to any Ambulance Provider, other provider of ambulance services, any health care provider or any federal or state regulatory or enforcement authority, such as LDH or CMS), incurred in connection with, arising from or as a result of the operation of this Agreement, including but not limited to (i) Ambulance Provider and/or IPA's breach of any representation and warranty made by Ambulance Provider and/or IPA in this Agreement, (ii) Ambulance Provider and/or IPA's negligence, fault or intentional misconduct or its failure to comply with the obligations under this Agreement, (iii) the FMP program or this Agreement, (iv) any FMP Supplemental Payment(s) made or not made pursuant to this Agreement or (v) the adequacy of any FMP Supplemental Payments made by any MCO to any third party.

5.3 Ambulance Provider, IPA and its Members collectively recognize that the FMP Supplemental Payments provided for herein contain governmental Medicaid funds. As a result of IPA's submission of Ambulance Provider's claims for FMP funds pursuant to this Agreement, Ambulance Provider and IPA represent and warrant to MCO that Ambulance Provider was previously identified by LDH as eligible for supplemental reimbursement and that the conditions supporting this identification have not materially changed. IPA and Ambulance Provider represent and warrant that Ambulance Provider is eligible to receive the FMP Supplemental Payment provided for herein and that MCO is entitled to rely on said representation in making FMP Supplemental Payments pursuant to this Agreement.

5.4 Pursuant to the terms of this Agreement, Ambulance Provider, IPA, and its Members collectively agree that the MCO shall be entitled to recoup from funds owed by MCO to Ambulance Provider, either for ambulance services or FMP Supplemental Payments, any and all amounts owed by Ambulance Provider to MCO pursuant to the terms of this Agreement.

6. Term and Termination

6.1 Term. This Agreement shall have an initial term of one (1) year beginning on the Effective Date and shall remain in effect until all FMP Supplemental Payments attributable to the period from January 1, 2023 through December 31, 2023 are made and finalized, unless terminated as provided herein. If so indicated in the Cover Sheet, this Amendment will be automatically renewed for additional periods of one (1) year until terminated as provided herein unless MCO provides IPA and Ambulance Provider with a proposed amendment to this Agreement at least thirty (30) days prior to December 31st of the then current year. If the Parties are unable to reach an agreement on the proposed Amendment by December 31st of the then current year, this Agreement shall terminate on December 31st.

6.2 Change in Law. Any Party shall have the right to terminate this Agreement in order to comply with any legal order, rule or regulation issued by a federal or state department, agency or commission, or any provision of law, including any rule or regulation which invalidates or is inconsistent with the terms of this Agreement, which would cause one of the Parties to be in

violation of the law, rule or regulation. In such event in the opinion of a Party, the Parties agree to discuss in good faith a resolution, amendment or termination of this Agreement.

7. General Conditions

7.1 Compliance with Applicable Laws. IPA and Ambulance Provider agree and warrant that it will comply with all applicable laws, rules, and regulations in the performance of this Agreement and said requirements are incorporated herein to the same extent as if set forth verbatim herein.

7.2 Survival of Certain Terms. In the event that a network provider agreement between MCO and Ambulance Provider is terminated for any reason other than "for cause" as defined in said agreement, the terms and conditions of this Agreement shall survive termination and continue in full force and effect. Specifically, the terms and conditions of this Agreement shall remain in effect until all FMP Supplemental Payments under this Agreement have been made and finalized for the period. In the event of termination of this Agreement, the contract provisions that would normally survive such termination, including but not limited to Section 5 of this Agreement shall survive and MCO's obligations to pay FMP Supplemental Payments for any period during which this Agreement was in effect.

7.3 Limitation of MCO Obligations. MCO's disbursement of the percentage of FMP funds attributable to Ambulance Provider pursuant to the terms of this Agreement shall constitute complete satisfaction of MCO's FMP payment obligations under this Agreement.

7.4 No Third Party Beneficiary to MCO Agreement. Nothing contained herein shall intend or be construed to make Ambulance Provider or IPA an intended or unintended third party to the MCO Agreement.

7.5 No Third Party Beneficiary to Agreement. Nothing contained herein shall intend or be construed to make any other entity an intended or unintended third party beneficiary to this Agreement.

7.6 No Cause of Action. The Parties hereby agree and acknowledge that the terms, conditions and obligations of the MCO contained herein are permissible only in that they provide for a vehicle for the distribution of FMP funds to the Ambulance Provider. As such, except for MCO's breach of its payment obligations contained in this Agreement, no cause of action shall inure to the Ambulance Provider or IPA. Except for MCO's breach of this Agreement, Ambulance Provider and IPA agree that they shall not institute, pursue, solicit, encourage or assist any proceedings or claims against or adverse to MCO Released Parties arising from or attributable to MCO in connection with the foregoing.

7.7 No Rule of Construction. The Parties acknowledge that all Parties and their counsel hereto have read and fully negotiated all language used in this Agreement. The Parties acknowledge that because all Parties had an opportunity for their counsel to participate in negotiating and drafting this Agreement, no rule of construction shall apply to this Agreement, which construes ambiguous or unclear language in favor of or against any Party.

7.8 Waiver. No waiver by any Party of any breach or violation of any provision of this Agreement shall operate as, or be construed to be, a waiver of any subsequent breach of the same or any other provisions

7.9 Notices. Any notice, demand, or communication required, permitted, or desired to be given shall be deemed effectively given when personally delivered or sent by fax with a copy sent by overnight courier, addressed as follows:

If to MCO:
Humana Health Benefit Plan of Louisiana, Inc.
One Galleria Boulevard, Suite 1200
Metairie, LA 70001
ATTN: Market President

With a copy to:
Humana, Inc.
PO Box 1438
Louisville, KY 40201
ATTN: Law Department

If to IPA:
301 Main Street Suite 600
Baton Rouge, LA 70825
Attention: Manager

With a copy to:
Gregory D. Frost
Breazeale, Sachse & Wilson, LLP
301 Main Street
Suite 2300
Baton Rouge, LA 70801

If to Ambulance Provider
(see cover sheet)

or to such other address, and to the attention of such other person(s) or officer(s) as a Party may designate in writing.

7.10 Invalid. In the event any portion of this Agreement is found to be void, illegal, or unenforceable, the validity or enforceability of any other portion shall not be affected.

7.11 Entire Agreement. This Agreement supersedes any prior agreements, promises, negotiation, or representations, either oral or written, relating to the subject matter of this Agreement.

7.12 Agreement. This Agreement may not be modified without the express written approval of all Parties.

7.13 Recitals. The above and foregoing preamble recitals are true and correct and incorporate herein by reference.

(The remainder of this page has been intentionally left blank.)

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below:

IPA

By: _____

Title: _____

Date: _____

Ambulance Provider

By: _____

Title: LaToya Cantrell, Mayor, City of New Orleans, Emergency Medical Services

Date: August 17, 2023

Form and Legality Approved:
Law Department

By: _____

Name: Andrew Gregorich

Humana Health Benefit Plan of Louisiana, Inc.

By: _____

Title: _____

Date: _____

EXHIBIT A

AMBULANCE PROVIDERS

EXHIBIT B

AMBULANCE PROVIDER IPA AGREEMENT